AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

109th Congress
2nd Session

JOINT COMMITTEE PRINT

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2005

VOLUME I

R E P O R T

SUBMITTED TO THE

COMMITTEE ON INTERNATIONAL RELATIONS
U.S. HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

BY THE

DEPARTMENT OF STATE

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

Available via the World Wide Web:
http://www.house.gov/international_relations/

MAY 2006

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

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2005—VOLUME I

109th Congress
2nd Session

JOINT COMMITTEE PRINT

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2005

VOLUME I

R E P O R T

SUBMITTED TO THE

COMMITTEE ON INTERNATIONAL RELATIONS
U.S. HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

BY THE

DEPARTMENT OF STATE

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

Available via the World Wide Web:
http://www.house.gov/international_relations/

MAY 2006

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

U.S. GOVERNMENT PRINTING OFFICE

26–464PDF WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON INTERNATIONAL RELATIONS

HENRY J. HYDE, Illinois, *Chairman*

JAMES A. LEACH, Iowa
CHRISTOPHER H. SMITH, New Jersey, *Vice Chairman*
DAN BURTON, Indiana
ELTON GALLEGLY, California
ILEANA ROS-LEHTINEN, Florida
DANA ROHRABACHER, California
EDWARD R. ROYCE, California
PETER T. KING, New York
STEVE CHABOT, Ohio
THOMAS G. TANCREDO, Colorado
RON PAUL, Texas
DARRELL ISSA, California
JEFF FLAKE, Arizona
JO ANN DAVIS, Virginia
MARK GREEN, Wisconsin
JERRY WELLER, Illinois
MIKE PENCE, Indiana
THADDEUS G. McCOTTER, Michigan
KATHERINE HARRIS, Florida
JOE WILSON, South Carolina
JOHN BOOZMAN, Arkansas
J. GRESHAM BARRETT, South Carolina
CONNIE MACK, Florida
JEFF FORTENBERRY, Nebraska
MICHAEL McCAUL, Texas
TED POE, Texas
TOM LANTOS, California
HOWARD L. BERMAN, California
GARY L. ACKERMAN, New York
ENI F.H. FALEOMAVAEGA, American Samoa
DONALD M. PAYNE, New Jersey
SHERROD BROWN, Ohio
BRAD SHERMAN, California
ROBERT WEXLER, Florida
ELIOT L. ENGEL, New York
WILLIAM D. DELAHUNT, Massachusetts
GREGORY W. MEEKS, New York
BARBARA LEE, California
JOSEPH CROWLEY, New York
EARL BLUMENAUER, Oregon
SHELLEY BERKLEY, Nevada
GRACE F. NAPOLITANO, California
ADAM B. SCHIFF, California
DIANE E. WATSON, California
ADAM SMITH, Washington
BETTY McCOLLUM, Minnesota
BEN CHANDLER, Kentucky
DENNIS A. CARDOZA, California
RUSS CARNAHAN, Missouri

THOMAS E. MOONEY, SR., *Staff Director/General Counsel*
ROBERT R. KING, *Democratic Staff Director*

COMMITTEE ON FOREIGN RELATIONS

RICHARD G. LUGAR, Indiana, *Chairman*

CHUCK HAGEL, Nebraska
LINCOLN CHAFEE, Rhode Island
GEORGE ALLEN, Virginia
NORM COLEMAN, Minnesota
GEORGE V. VOINOVICH, Ohio
LAMAR ALEXANDER, Tennessee
JOHN E. SUNUNU, New Hampshire
LISA MURKOWSKI, Alaska
MEL MARTINEZ, Florida
JOSEPH R. BIDEN, Jr., Delaware
PAUL S. SARBANES, Maryland
CHRISTOPHER J. DODD, Connecticut
JOHN F. KERRY, Massachusetts
RUSSELL D. FEINGOLD, Wisconsin
BARBARA BOXER, California
BILL NELSON, Florida
BARACK OBAMA, Illinois

KENNETH A. MYERS, JR., *Staff Director*
ANTONY J. BLINKEN, *Democratic Staff Director*

CONTENTS

Page

FOREWORD vii
LETTER OF TRANSMITTAL ix
PREFACE xi
OVERVIEW AND ACKNOWLEDGMENTS xiii
INTRODUCTION xvii

VOLUME I

AFRICA:
- Angola 1
- Benin 14
- Botswana 22
- Burkina Faso 31
- Burundi 39
- Cameroon 58
- Cape Verde 82
- Central African Republic 87
- Chad 111
- Comoros 126
- Congo, Democratic Republic of the 130
- Congo, Republic of 152
- Cote d'Ivoire 161
- Djibouti 182
- Equatorial Guinea 190
- Eritrea 204
- Ethiopia 214
- Gabon 236
- Gambia, The 244
- Ghana 253
- Guinea 268
- Guinea-Bissau 283
- Kenya 288
- Lesotho 306
- Liberia 313
- Madagascar 324
- Malawi 334
- Mali 345
- Mauritania 353
- Mauritius 366
- Mozambique 372
- Namibia 385
- Niger 393
- Nigeria 404
- Rwanda 427
- Sao Tome and Principe 448
- Senegal 452
- Seychelles 467
- Sierra Leone 472
- Somalia 487
- South Africa 499
- Sudan 514
- Swaziland 533

Page

AFRICA—CONTINUED
Tanzania ... 544
Togo ... 569
Uganda ... 584
Zambia ... 604
Zimbabwe ... 619

EAST ASIA AND THE PACIFIC:
Australia ... 649
Brunei ... 659
Burma ... 667
Cambodia ... 697
China (includes Tibet, Hong Kong and Macau) ... 717
Tibet ... 758
Hong Kong ... 765
Macau ... 778
China (Taiwan only) ... 784
East Timor ... 796
Fiji ... 807
Indonesia ... 815
Japan ... 845
Kiribati ... 854
Korea, Democratic People's Republic of ... 858
Korea, Republic of ... 870
Laos ... 880
Malaysia ... 894
Marshall Islands ... 915
Micronesia, Federated States of ... 920
Mongolia ... 924
Nauru ... 934
New Zealand ... 939
Palau ... 946
Papua New Guinea ... 950
Philippines ... 958
Samoa ... 975
Singapore ... 980
Solomon Islands ... 996
Thailand ... 1002
Tonga ... 1026
Tuvalu ... 1031
Vanuatu ... 1035
Vietnam ... 1040

EUROPE AND EURASIA:
Albania ... 1067
Andorra ... 1081
Armenia ... 1084
Austria ... 1095
Azerbaijan ... 1103
Belarus ... 1123
Belgium ... 1150
Bosnia and Herzegovina ... 1158
Bulgaria ... 1174
Croatia ... 1189
Cyprus ... 1208
Czech Republic ... 1229
Denmark ... 1241
Estonia ... 1246
Finland ... 1252
France ... 1259
Georgia ... 1272
Germany ... 1293
Greece ... 1303
Hungary ... 1320
Iceland ... 1329
Ireland ... 1337
Italy ... 1343
Kazakhstan ... 1353

Page

EUROPE AND EURASIA—CONTINUED
Kyrgyz Republic 1373
Latvia 1391
Liechtenstein 1399
Lithuania 1403
Luxembourg 1414
Macedonia 1418
Malta 1432
Moldova 1437
Monaco 1452
Netherlands, The 1455
Norway 1463
Poland 1468
Portugal 1481
Romania 1487
Russia 1509
San Marino 1554
Serbia and Montenegro (includes Kosovo) 1558
Kosovo 1572
Slovak Republic 1595
Slovenia 1605
Spain 1612
Sweden 1621
Switzerland 1629
Tajikistan 1637
Turkey 1651
Turkmenistan 1675
Ukraine 1688
United Kingdom 1716
Uzbekistan 1726

VOLUME II

NEAR EAST AND NORTH AFRICA:
Algeria 1753
Bahrain 1769
Egypt 1786
Iran 1816
Iraq 1845
Israel and the occupied territories 1868
Occupied territories 1890
Jordan 1910
Kuwait 1928
Lebanon 1944
Libya 1960
Morocco 1967
Western Sahara 1983
Oman 1987
Qatar 1995
Saudi Arabia 2005
Syria 2023
Tunisia 2044
United Arab Emirates 2061
Yemen 2079

SOUTH ASIA:
Afghanistan 2099
Bangladesh 2111
Bhutan 2128
India 2135
Maldives 2173
Nepal 2180
Pakistan 2200
Sri Lanka 2219

WESTERN HEMISPHERE:
Antigua and Barbuda 2235
Argentina 2240

Page

WESTERN HEMISPHERE—CONTINUED
Bahamas 2249
Barbados 2256
Belize 2262
Bolivia 2271
Brazil 2282
Canada 2306
Chile 2314
Colombia 2324
Costa Rica 2349
Cuba 2359
Dominica 2375
Dominican Republic 2379
Ecuador 2393
El Salvador 2404
Grenada 2416
Guatemala 2420
Guyana 2436
Haiti 2446
Honduras 2459
Jamaica 2472
Mexico 2482
Nicaragua 2495
Panama 2507
Paraguay 2520
Peru 2531
Saint Kitts and Nevis 2547
Saint Lucia 2551
Saint Vincent and the Grenadines 2556
Suriname 2561
Trinidad and Tobago 2571
Uruguay 2579
Venezuela 2585

APPENDIXES:
A. Notes on Preparation of the Country Reports and Explanatory Notes .. 2599
B. Reporting on Worker Rights 2602
C. Selected International Human Rights Conventions 2604
D. International Human Rights Conventions 2610
E. FY 2005 Selected U.S. Assistance Programs—Actual Obligations 2611
F. 61st Session UN Commission on Human Rights Voting Record 2619
G. 61st Session UN Commission on Human Rights Voting Table 2623
H. Universal Declaration of Human Rights 2625

FOREWORD

The *Country Reports on Human Rights Practices* contained herein were prepared by the Department of State in accordance with sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended. They also fulfill the legislative requirements of section 504 of the Trade Act of 1974, as amended.

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

HENRY J. HYDE,
Chairman, Committee on International Relations.

RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations.

LETTER OF TRANSMITTAL

U.S. DEPARTMENT OF STATE,
Washington, DC, March 8, 2006.

Hon. HENRY J. HYDE,
Chairman, Committee on International Relations.

DEAR MR. CHAIRMAN: On behalf of the Secretary of State, we are pleased to transmit to you the *Country Reports on Human Rights Practices for 2005*, prepared in compliance with sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended, and Section 504 of the Trade Act of 1974, as amended.

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

Sincerely,

JEFFREY T. BERGNER,
Assistant Secretary, Legislative Affairs.

Enclosure:
As stated.

PREFACE

All men and women desire and deserve to live in dignity and liberty. As President Bush said: "The advance of freedom is the great story of our time." Promoting human rights and democracy is a worldwide phenomenon and there is a growing global discussion of democracy and the universal values protected by democratic governance.

The increasing demand for democratic governance reflects recognition that the best guarantor of human rights is a thriving democracy with representative, accountable institutions of government, equal rights under the rule of law, a robust civil society, political pluralism, and independent media.

The United States and other free nations have a duty to defend human rights and help spread democracy's blessings. We must help countries develop the democratic institutions that will ensure human rights are respected over the long term. We must help fragile democracies deliver a better life for their citizens. We must call countries to account when they retreat from their international human rights commitments. And we must always stand in solidarity with the courageous men and women across the globe who live in fear yet dream of freedom.

By defending and advancing human rights and democratic principles, we keep faith with our country's most cherished values and lay the foundation for lasting peace. Fulfilling the promise of the United Nations Universal Declaration of Human Rights and building vibrant democracies worldwide will take generations, but it is work of the utmost urgency that cannot be delayed.

With these thoughts in mind, I am pleased to transmit the Department of State's *Country Reports on Human Rights Practices for 2005* to the United States Congress.

CONDOLEEZZA RICE,
Secretary of State.

OVERVIEW AND ACKNOWLEDGEMENTS

HUMAN RIGHTS REPORTS

WHY THE REPORTS ARE PREPARED

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

The responsibility of the United States to speak out on behalf of international human rights standards was formalized in the early 1970s. In 1976 Congress enacted legislation creating a Coordinator of Human Rights in the Department of State, a position later upgraded to Assistant Secretary. In 1994 the Congress created a position of Senior Advisor for Women's Rights. Congress has also written into law formal requirements that U.S. foreign and trade policy take into account countries' human rights and worker rights performance and that country reports be submitted to the Congress on an annual basis. The first reports, in 1977, covered only the 82 countries receiving U.S. aid; this year 196 reports are submitted.

HOW THE REPORTS ARE PREPARED

In 1993, the Secretary of State strengthened further the human rights efforts of our embassies. All sections in each embassy were asked to contribute information and to corroborate reports of human rights violations, and new efforts were made to link mission programming to the advancement of human rights and democracy. In 1994 the Bureau of Human Rights and Humanitarian Affairs was reorganized and renamed as the Bureau of Democracy, Human Rights and Labor, reflecting both a broader sweep and a more focused approach to the interlocking issues of human rights, worker rights and democracy. The *2005 Country Reports on Human Rights Practices* reflect a year of dedicated effort by hundreds of State Department, Foreign Service, and other U.S. Government employees.

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

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

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

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

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

Within the Bureau of Democracy, Human Rights and Labor, the editorial staff of the Country Reports Team consists of: Editor-in-Chief—Nadia Tongour; Deputy Editor-in-Chief—LeRoy G. Potts; Senior Advisor—Gretchen Birkle; Senior Editors—Cortney Dell, Daniel Dolan, Stephen Eisenbraun, Leonel Miranda, Sandra J.

Murphy, Julie Turner and Jennifer M. Pekkinen. Editors—Joseph S. Barghout, Jonathan Bemis, Sarah Buckley, Ryan J. Casteel, Sharon C. Cooke, Stuart Crampton, Frank B. Crump, Mollie Davis, Douglas B. Dearborn, Sajit Gandhi, Joan Garner, Solange Garvey, Jerome L. Hoganson, Victor Huser, Stan Ifshin, David T. Jones, Anne Knight, Gregory Maggio, Gary V. Price, Elizabeth Ramborger, Peter Sawchyn, James Todd, Meghan Brown, David Dixon, Emily Farell, Zachary Spencer, and Christine Waring. Editorial Assistants—Sally I. Buikema, Nicole Bibbins Sedaca, and Carol Finerty; Technical Support—Linda C. Hayes, and Tanika N. Willis.

INTRODUCTION TO THE COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2005

These reports describe the performance of countries across the globe in putting into practice their international commitments on human rights. These basic rights, reflected in the UN Universal Declaration of Human Rights, have been embraced by people of every culture and color, every background and belief, and constitute what President Bush calls the "non-negotiable demands of human dignity."

The Department of State published the first annual country reports on human rights practices in 1977 in accordance with congressional mandate, and they have become an essential element of the United States' effort to promote respect for human rights worldwide. For nearly three decades, the reports have served as a reference document and a foundation for cooperative action among governments, organizations, and individuals seeking to end abuses and strengthen the capacity of countries to protect the fundamental rights of all.

The worldwide championing of human rights is not an attempt to impose alien values on citizens of other countries or to interfere in their internal affairs. The Universal Declaration calls upon "every individual and every organ of society . . . to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance . . ."

President Bush has committed the United States to working with other democracies and men and women of goodwill across the globe to reach an historic long-term goal: "the end of tyranny in our world."

To be sure, violations of human rights and miscarriages of justice can and do occur in democratic countries. No governmental system is without flaws. Human rights conditions in democracies across the globe vary widely, and these country reports reflect that fact. In particular, democratic systems with shallow roots and scarce resources can fall far short of meeting their solemn commitments to citizens, including human rights commitments. Democratic transitions can be tumultuous and wrenching. Rampant corruption can retard democratic development, distort judicial processes, and destroy public trust. Nonetheless, taken overall, countries with democratic systems provide far greater protections against violations of human rights than do nondemocratic states.

The United States' own journey toward liberty and justice for all has been long and difficult, and it is still far from complete. Yet

over time our independent branches of government, our free media, our openness to the world, and, most importantly, the civic courage of impatient American patriots help us keep faith with our founding ideals and our international human rights obligations.

These country reports offer a factual basis by which to assess the progress made on human rights and the challenges that remain. The reports review each country's performance in 2005, not one country's performance against that of another. While each country report speaks for itself, cross-cutting observations can be made. Six broad observations, supported by country-specific examples, are highlighted below. The examples are illustrative, not exhaustive.

First, countries in which power is concentrated in the hands of unaccountable rulers tend to be the world's most systematic human rights violators. These states range from closed, totalitarian systems that subject their citizens to a wholesale deprivation of their basic rights to authoritarian systems in which the exercise of basic rights is severely restricted.

In 2005 the Democratic People's Republic of Korea (DPRK or North Korea) remained one of the world's most isolated countries. The systematically repressive regime continued to control almost all aspects of citizens' lives, denying freedoms of speech, religion, the press, assembly, association, and movement, as well as workers' rights. In December 2005, the regime further receded into isolation by calling for significant drawdowns of the international nongovernmental organization (NGO) presence in the country.

In Burma where a junta rules by diktat, promises of democratic reform and respect for human rights continued to serve as a façade for brutality and repression. Forced labor, trafficking in persons, use of child soldiers, and religious discrimination remained serious concerns. The military's continuing abuses included systematic use of rape, torture, execution, and forced relocation of citizens belonging to ethnic minorities. The regime maintained iron-fisted control through the surveillance, harassment, and imprisonment of political activists, including Nobel Laureate and opposition leader Aung San Suu Kyi, who remained under house arrest without charge.

In 2005 the Iranian government's already poor record on human rights and democracy worsened. In the June presidential elections, slightly more than a thousand registered candidates—including all the female candidates—were arbitrarily thrown out of contention by the country's guardian council. The newly elected hard-line president denied the Holocaust occurred and called for the elimination of Israel. The ruling clerics and the president oversaw deterioration in prison conditions for the hundreds of political prisoners, further restrictions on press freedom, and a continuing rollback of social and political freedoms. Serious abuses such as summary executions, severe violations of religious freedom, discrimination based on ethnicity and religion, disappearances, extremist vigilantism, and use of torture and other degrading treatment continued.

In Zimbabwe the government maintained a steady assault on human dignity and basic freedoms, tightening its hold on civil society and human rights NGOs and manipulating the March parliamentary elections. Opposition members were subjected to abuse, including torture and rape. New constitutional amendments al-

lowed the government to restrict exit from the country, transferred title to the government of all land reassigned in the land acquisition program, and removed the right to challenge land acquisitions in court. The government's Operation Restore Order, initiated to demolish allegedly illegal housing and businesses, displaced or destroyed the livelihoods of more than 700 thousand persons and further strained the country's weak and depressed economy.

In Cuba the regime continued to control all aspects of life through the communist party and state-controlled mass organizations. The regime suppressed calls for democratic reform, such as the Varela Project, which proposed a national referendum. Authorities arrested, detained, fined, and threatened Varela activists and the government held at least 333 political prisoners and detainees.

China's human rights record remained poor, and the government continued to commit serious abuses. Those who publicly advocated against Chinese government policies or views or protested against government authority faced harassment, detention, and imprisonment by government and security authorities. Disturbances of public order and protests calling for redress of grievances increased significantly, and several incidents were violently suppressed. Key measures to increase the authority of the judiciary and reduce the arbitrary power of police and security forces stalled. Restrictions of the media and the Internet continued. Repression of minority groups continued unabated, particularly of Uighurs and Tibetans. New religious affairs regulations were adopted expanding legal protection for some activities of registered religious groups, but repression of unregistered religious groups continued, as did repression of the Falun Gong spiritual movement.

In Belarus President Lukashenko continued to arrogate all power to himself and his dictatorial regime. Pro-democracy activists, including opposition politicians, independent trade union leaders, students, and newspaper editors, were detained, fined, and imprisoned for criticizing Lukashenko and his regime. His government increasingly used tax inspections and new registration requirements to complicate or deny NGOs, independent media, political parties, and minority and religious organizations the ability to operate legally.

Second, human rights and democracy are closely linked, and both are essential to long-term stability and security. Free and democratic nations that respect the rights of their citizens help to lay the foundation for lasting peace. In contrast, states that severely and systematically violate the human rights of their own people are likely to pose threats to neighboring countries and the international community.

Burma is a case in point. Only by Burma's return to the democratic path from which it was wrenched can the basic rights of the Burmese people be realized. The junta refuses to recognize the results of the historic free and fair legislative elections in 1990. The regime's cruel and destructive misrule has inflicted tremendous suffering on the Burmese people and caused or exacerbated a host of ills for its neighbors, from refugee outflows to the spread of infectious diseases and the trafficking of drugs and human beings. On December 16, the UN Security Council held a landmark discussion on the situation in Burma.

The Democratic People's Republic of Korea is another example. When the Korean peninsula was divided, the DPRK and the Republic of Korea (ROK or South Korea) were at roughly the same economic point, and both were subject to authoritarian rule. Political and economic freedom has made the difference between the two Koreas. Today, North Koreans are deprived of the most basic freedoms, while the regime's authoritarian rule produced tens of thousands of refugees. The government earned hard currency through illicit activities, including narcotics trafficking, counterfeiting of currency and goods such as cigarettes, and smuggling. Pyongyang has not heeded the international community's repeated calls to dismantle its nuclear programs.

The Iranian government continued to ignore the desire of the Iranian people for responsible, accountable government, continuing its dangerous policies of pursuing a nuclear weapons capability, providing support to terrorist organizations, and advocating—including in several public speeches by the new president—the destruction of a UN member state. Iran's deprivation of basic rights to its own people, its interference in Iraq, its support for Hizballah, Hamas, and other terrorist organizations, and its refusal to engage constructively on these issues, have further isolated it from the world community.

Similarly, the government of Syria refused international calls to respect the fundamental freedoms of its people and end its interference in the affairs of its neighbors. Syria continued to provide support for Hizballah, Hamas, and other Palestinian rejectionist groups and did not cooperate fully with the UN International Independent Investigative Commission on the assassination in Beirut of former Lebanese Prime Minister al-Hariri. The Chief Investigator's reports concluded that evidence pointed to involvement by Syrian authorities and made it clear that Syrian officials, while purporting to cooperate, deliberately misled the investigators.

By contrast, in the Balkans, a marked overall improvement in human rights, democracy, and the rule of law over the past several years has led to greater stability and security in the region. Increasingly democratic governments are in place, more war criminals are facing justice, significant numbers of displaced persons have returned home, elections are progressively more compliant with international standards, and neighbors are deepening their cooperation to resolve post-conflict and regional problems. Many countries of the former Yugoslavia have made progress in bringing persons accused of war crimes to trial in domestic courts, which is important to national reconciliation and regional stability. At the end of 2005, however, two of the most wanted war crimes suspects, Radovan Karadzic and Ratko Mladic, remained at large.

Third, some of the most serious violations of human rights are committed by governments within the context of internal and/or cross-border armed conflicts. The Sudanese government's 2003 attempt to quell a minor uprising of African rebels in Darfur by arming *janjaweed* militias and allowing them to ravage the region resulted in a vicious conflict. The Department of State in September of 2004 determined that genocide occurred in Darfur. It continued in 2005. By the end of 2005, at least 70 thousand civilians had perished, nearly 2 million had been displaced by the fight-

ing, and more than 200 thousand refugees had fled into neighboring Chad. Torture was widespread and systematic in Darfur, as was violence against women, including rape used as a tool of war. There were reports of women being marched away into the desert; their fate remained unknown. The Comprehensive Peace Agreement signed by the Sudanese government and the Sudan People's Liberation Movement opened the way to adopt a constitution in July and form a government of national unity to serve until elections in 2009. The African Union deployed seven thousand troops to Darfur, where their presence helped curb some but not all of the violence. At the end of 2005, government-supported *janjaweed* attacks on civilians continued.

Nepal's poor human rights record worsened. The government continued to commit many serious abuses, both during and after the February–April state of emergency that suspended all fundamental rights except for habeas corpus. In many cases the government disregarded habeas corpus orders issued by the Supreme Court and often rearrested student and political party leaders. The Maoist insurgents also continued their campaign of torturing, killing, bombing, conscripting children, kidnapping, extorting, and forcing closures of schools and businesses.

The political crisis in Cote d'Ivoire, which continued to divide the country, led to further abuses in 2005, including rape, torture, and extrajudicial killings committed by government and rebel security forces. There were fewer reports of rebel recruitment of child soldiers, and many were released. Violence and threats of violence against the political opposition continued. Despite continued efforts by the international community and the African Union, the political process to establish a power-sharing government remained stalled. By the end of September, little work had been completed to prepare for the scheduled October 30 elections, and disarmament of the New Forces rebel group had not begun. On October 6, the African Union decided to extend President Laurent Gbagbo's term in office by up to one year.

In Chechnya and elsewhere in Russia's Northern Caucasus region, federal forces and pro-Moscow Chechen forces engaged in abuses including torture, summary executions, disappearances, and arbitrary detentions. Pro-Moscow Chechen paramilitaries at times appeared to act independently of the Russian command structure, and there was been no indication that the federal authorities made any effective effort to rein them in or hold them accountable for egregious abuses. Antigovernment forces also continued to commit terrorist bombings and serious human rights abuses in the North Caucasus. The year 2005 saw the continued spread of violence and abuses throughout the region, where there was an overall climate of lawlessness and corruption.

The Great Lakes region of central Africa, encompassing the Democratic Republic of the Congo (DRC), Rwanda, Burundi, and Uganda, has been plagued by civil war, large-scale interethnic violence, and severe conflict-related human rights abuses for well over a decade. However, there was less violence overall in 2005, and the human rights situation improved markedly, encouraging tens of thousands of displaced persons, particularly Burundians, to return home. Burundi concluded its 4-year transitional process, and there

were historical electoral advances in the DRC. Governments in the Great Lakes region made significant progress in demobilizing thousands of child soldiers in their military forces and those belonging to various rebel groups. At the same time, various armed groups based in eastern Congo continued to destabilize the region and compete with one another for strategic and natural resources, despite UN-supported Congolese military operations to disband armed groups in the DRC. Thousands of rebels from Rwanda, Uganda, and Burundi, including Rwandan rebels who led the 1994 Rwandan genocide, continued to oppose the government of their respective countries, attack civilians in the DRC, and commit numerous serious abuses, particularly against women and children. The governments of Rwanda and Uganda reportedly continued illegally to channel arms to armed groups operating and committing abuses in the eastern DRC.

In Colombia, human rights violations related to the 41-year internal armed conflict continued. However, the government's concentrated military offensive against illegal armed groups and ongoing demobilization of paramilitary groups led to reductions in killings and kidnappings. Colombia also began a 4-year process to implement a new adversarial accusatory-style criminal procedures code. However, impunity remained a major obstacle, particularly for officials accused of committing past human rights abuses, as well as for certain members of the military who collaborated with paramilitary groups.

Fourth, where civil society and independent media are under siege, fundamental freedoms of expression, association, and assembly are undermined. A robust civil society and independent media help create conditions under which human rights can flourish by raising awareness among publics about their rights, exposing abuses, pressing for reform, and holding governments accountable.

Governments should defend—not abuse—the peaceful exercise of fundamental freedoms by members of the media and civil society even if they do not agree with their views or actions. Restrictions that are imposed by law on the exercise of such freedoms can only be justified to the extent they are consistent with a country's human rights obligations and are not merely a pretext for restricting such rights.

When states wield the law as a political weapon or an instrument of repression against civil society and the media, they rule by law rather than upholding the rule of law. The rule of law acts as a check on state power, i.e., it is a system designed to protect the human rights of the individual against the power of the state. In contrast, rule by law can be an abuse of power, i.e., the manipulation of the law and the judicial system to maintain the power of the rulers over the ruled.

In 2005, a disturbing number of countries across the globe passed or selectively applied laws against the media and NGOs. For example:

The Cambodian government utilized existing criminal defamation laws to intimidate, arrest, and prosecute critics and opposition members over the course of the year.

China increased restrictions on the media and the Internet, leading to two known arrests.

The Zimbabwean government arrested persons who criticized President Mugabe, harassed and arbitrarily detained journalists, closed an independent newspaper, forcibly dispersed demonstrators, and arrested and detained opposition leaders and their supporters.

In Venezuela new laws governing libel, defamation, and broadcast media content, coupled with legal harassment and physical intimidation, resulted in limitations on media freedoms and a climate of self-censorship. There continued to be reports that government representatives and supporters intimidated and threatened members of the political opposition, several human rights NGOs, and other civil society groups. Some NGOs also charged that the government used the judiciary to place limitations on the political opposition.

In Belarus the Lukashenko government stepped up its suppression of opposition groups and imposed new restrictions on civil society. There were politically motivated arrests, several independent newspapers were closed, the operations of others were hindered, and NGOs were harassed.

In Russia raids on NGO offices, registration problems, intimidation of NGO leaders and staff and visa problems for foreign NGO workers had a negative effect, as did the parliament's adoption of a new restrictive law on NGOs. The Kremlin also acted to limit critical voices in the media. The government decreased the diversity of the broadcast media, particularly television, the main source of news for the majority of Russians. By the end of 2005, all independent nationwide television stations had been taken over either by the state or by state-friendly organizations.

Fifth, democratic elections by themselves do not ensure that human rights will be respected, but they can put a country on the path to reform and lay the groundwork for institutionalizing human rights protections. Democratic elections are, however, milestones on a long journey of democratization. They are essential to establishing accountable governments and governmental institutions that abide by the rule of law and are responsive to the needs of citizens.

In Iraq 2005 was a year of major progress for democracy, democratic rights and freedom. There was a steady growth of NGOs and other civil society associations that promote human rights. The January 30th legislative elections marked a tremendous step forward in solidifying governmental institutions to protect human rights and freedom in a country whose history is marred by some of the worst human rights abuses in the recent past. In an October 15 referendum and December 15 election, Iraqi voters adopted a permanent constitution and elected members of the country's new legislature, the Council of Representatives, thus consolidating democratic institutions that can provide a framework for a democratic future. Although the historic elections and new institutions of democratic government provided a structure for real advances, civic life and the social fabric remained under intense strain from the widespread violence principally inflicted by insurgent and terrorist elements. Additionally, elements of sectarian militias and se-

curity forces frequently acted independently of government authority. Still, the government set and adhered to a legal and electoral course based on respect for political rights.

Although deprived of basic human rights for years, Afghans in 2005 continued to show their courage and commitment to a future of freedom and respect for human rights. September 18 marked the first parliamentary elections in nearly three decades. Women enthusiastically voted in the elections, which included 582 female candidates for office. Sixty-eight women were elected to the lower House in seats reserved for women under the 2004 Constitution. Seventeen of the 68 women would have been elected in their own right even without the set-aside seats. In the upper House, 17 of the 34 seats appointed by the president were reserved for women; the Provincial Councils elected an additional 5 women for a total of 22 women. The September 18 parliamentary elections occurred against the backdrop of a government still struggling to expand its authority over provincial centers, due to continued insecurity and violent resistance in some quarters.

In Ukraine there were notable improvements in human rights performance following the Orange Revolution, which led to the election of a new government reflecting the will of the people. In 2005 there was increased accountability by police officers, and the mass media made gains in independence. Interference with freedom of assembly largely ceased, and most limitations on freedom of association were lifted. A wide variety of domestic and international human rights groups also generally operated without government harassment.

Indonesia, the world's most populous Muslim majority country, made significant progress in strengthening the architecture of its democratic system. Through a series of historic local elections, Indonesians were able directly to elect their leaders at the city, regency, and provincial levels for the first time. There were improvements in the human rights situation, although significant problems remained, and serious violations continued. A critical development was the landmark August 15 peace agreement with the Free Aceh Movement ending decades of armed conflict. The government also inaugurated the Papuan People's Assembly and took other steps toward fulfilling the 2001 Special Autonomy Law on Papua.

Lebanon made significant progress in ending the 29-year Syrian military occupation and regaining sovereignty under a democratically elected parliament. However, continuing Syrian influence remained a problem.

Liberia emerged into the international democratic arena with its dramatic step away from a violent past and toward a free and democratic future. On November 23, Ellen Johnson Sirleaf was declared the winner of multiparty presidential elections, making her Africa's first elected female head of state and marking a milestone in the country's transition from civil war to democracy. The transitional government generally respected the human rights of its citizens and passed legislation to strengthen human rights. However, police abuse, official corruption, and other problems persisted and were exacerbated by the legacy of the 14-year civil war, including severely damaged infrastructure and widespread poverty and unemployment.

Sixth, progress on democratic reform and human rights is neither linear nor guaranteed. Some states still have weak institutions of democratic government and continue to struggle; others have yet to fully commit to the democratic process. Steps forward can be marred with irregularities. There can be serious setbacks. Democratically elected governments do not always govern democratically once in power.

In 2005, many countries that have committed themselves to democratic reform showed mixed progress; some regressed.

The Kyrgyz Republic's human rights record improved considerably following the change in leadership between March and July, although problems remained. President Akayev fled the country after opposition demonstrators took over the main government building in the capital to protest flawed elections. The July presidential election and November parliamentary election constituted improvements in some areas over previous elections. However, constitutional reform stalled and corruption remained a serious problem.

In Ecuador, congress removed democratically elected President Lucio Gutierrez in April following large scale protests and public withdrawal of support by the military and the national police leadership. Vice President Alfredo Palacio succeeded Gutierrez, and elections were scheduled for 2006.

Although the transitional government of the Democratic Republic of Congo postponed national general elections until 2006, the country held its first democratic national poll in 40 years. Voters overwhelmingly approved a new constitution in a largely free and fair national referendum, despite some irregularities.

In June, the Ugandan parliament approved a controversial amendment to eliminate presidential term limits, clearing the way for President Museveni to seek a third term. However, citizens voted in a national referendum to adopt a multiparty system of government, and the parliament amended the electoral laws to include opposition party participation in elections and in government.

The Egyptian government amended its constitution to provide for the country's first multiparty presidential election in September. Ten political parties fielded candidates, and the campaign period was marked by vigorous public debate and greater political awareness and engagement. Voter turnout was low, however, and there were credible reports of widespread fraud during balloting. Presidential runner-up Ayman Nour, his parliamentary immunity stripped away in January, was sentenced in December on forgery charges to five years' imprisonment after a 6-month trial that failed to meet basic international standards. The November and December parliamentary elections witnessed significant gains by candidates affiliated with the outlawed Muslim Brotherhood. These elections were marred by excessive use of force by security forces, low turnout, and vote-rigging. The government refused to admit international observers for either the presidential or parliamentary elections. The National Council for Human Rights, established by the Egyptian parliament, issued its first annual report, frankly describing government abuses.

During the Ethiopian parliamentary elections in May, international observers noted numerous irregularities and voter intimi-

dation. Scores of demonstrators protesting the elections were killed by security forces. Authorities detained, beat, and killed opposition members, NGO workers, ethnic minorities, and members of the press.

Azerbaijan's November parliamentary elections, while an improvement in some areas, failed to meet a number of international standards. There were numerous credible reports of local officials interfering with the campaign process and misusing state resources, limited freedom of assembly, disproportionate use of force by police to disrupt rallies, and fraud and major irregularities in vote counting and tabulation. Thus far, additional actions taken during the postelection grievance process have not fully addressed the shortcomings of the electoral process.

Kazakhstan showed improvements in the pre-election period for the December presidential election, but overall it fell short of international standards for free and fair elections. The Organization for Security and Cooperation in Europe's Office of Democratic Institutions and Human Rights noted serious limitations on political speech that prohibited certain kinds of criticism of the president, unequal access to the media for opposition and independent candidates, and violent disruptions of opposition campaign events. Legislation enacted during 2005, in particular the extremism law, national security amendments, and election law amendments, eroded legal protections for human rights and expanded the powers of the executive branch to regulate and control civil society and the media. But the Constitutional Court deemed unconstitutional a restrictive NGO law.

Uzbekistan's human rights record, already poor, worsened considerably in 2005. A violent uprising in May in the city of Andijon led to disproportionate use of force by the authorities and a wave of repressive government actions that dominated the remainder of the year. The uprising started after a series of daily peaceful protests in support of businessmen on trial between February and May for Islamic extremism. On the night of May 12–13, unidentified individuals seized weapons from a police garrison, stormed the city prison where the defendants were being held, killed several guards, and released several hundred inmates, including the defendants. They then occupied the regional administration building and took hostages. On May 13, according to eyewitness accounts, government forces fired indiscriminately into a crowd that included unarmed civilians, resulting in hundreds of deaths. In the aftermath, the government harassed, beat, and jailed dozens of human rights activists, journalists, and others who spoke out about the events and sentenced numerous people to prison in trials that did not meet international standards. The government forced numerous domestic and international NGOs to close and severely restricted those that continued to operate.

In Russia, efforts continued to concentrate power in the Kremlin and direct democracy from the top down. To those ends, the Kremlin abolished direct elections of governors in favor of presidential nomination and legislative approval. In the current Russian context, where checks and balances are weak at best, this system limits government accountability to voters while further concentrating power in the executive branch. Amendments to the electoral and

political party law amendments, billed as intended to strengthen nationwide political parties in the longer term, could in fact reduce the ability of opposition parties to compete in elections. This trend, taken together with continuing media restrictions, a compliant parliament, corruption and selectivity in enforcement of the law, political pressure on the judiciary, and harassment of some NGOs, resulted in an erosion of the accountability of government leaders to the people.

Pakistan's human rights record continued to be poor, despite President Musharraf's stated commitment to democratic transition and "enlightened moderation." Restrictions remained on freedom of movement, expression, association, and religion. Progress on democratization was limited. During elections for local governments in 2005, international and domestic observers found serious flaws, including interference by political parties, which affected the outcome of the vote in parts of the country. Police detained approximately 10 thousand Pakistan People's Party activists in April prior to the arrival for a rally of Benazir Bhuto's husband, Asif Ali Zardari. The security forces committed extrajudicial killings, violations of due process, arbitrary arrest, and torture. Corruption was pervasive throughout the government and police forces, and the government made little attempt to combat the problem. Security force officials who committed human rights abuses generally enjoyed de facto legal impunity.

Despite hard realities and high obstacles, there is an increasing worldwide demand for greater personal and political freedom and for the spread of democratic principles. For example, in the Broader Middle East and North Africa (BMENA) region, recent years have witnessed the beginnings of political pluralism, unprecedented elections, new protections for women and minorities, and indigenous calls for peaceful, democratic change.

At the November 2005 Forum for the Future held in Manama, Bahrain, 40 leaders representing civil society organizations from 16 BMENA countries participated alongside their foreign ministers. The civil society leaders outlined a set of priorities with a particular focus on rule of law, transparency, human rights, and women's empowerment. Among those serving on this civil society delegation were representatives from the Democracy Assistance Dialogue (DAD), who presented the outcomes of discussions and debates held over the course of the year between civil society leaders and their government counterparts on the critical topics of election reform and the development of legitimate political parties. The growing DAD network includes hundreds of civil society leaders from the BMENA region. To better support growing reform efforts in the region, a Foundation for the Future to provide support directly to civil society and a Fund for the Future to support investment in the region, were also launched at the Forum. The level and depth of civil society participation at the Forum for the Future was historic and positive and set an important precedent for genuine dialogue and partnership between civil society and governments on issues of political reform.

The Forum for the Future is just one of the many mechanisms through which the United States, other Group of 8 countries, and

regional governments support the indigenous desire for reform in the broader Middle East and North Africa.

The growing worldwide demand for human rights and democracy reflected in these reports is not the result of the impersonal workings of some dialectic or of the orchestrations of foreign governments. Rather, this call derives from the powerful human desire to live in dignity and liberty and from the personal bravery and tenacity of men and women in every age and in every society who serve and sacrifice for the cause of freedom.

AFRICA

ANGOLA

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

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

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

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

RESPECT FOR HUMAN RIGHTS

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

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

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

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

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

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

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

There were no further developments in 2003 killings by police.

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

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

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

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

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

There were unconfirmed reports of vigilante violence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2. Respect for Civil Liberties, Including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. Freedom of Peaceful Assembly and Association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Immigration officials harassed and extorted money from travelers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 6. Worker Rights

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

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

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

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

There are no export processing zones.

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

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

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

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

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

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

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

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

BENIN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

There were no reports of political detainees.

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

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

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

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

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

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

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

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

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice; however, security forces entered private homes and beat the occupants during the year. The law requires police to obtain a judicial warrant before entering a private home, and they usually observed this requirement in practice, but there were exceptions.

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

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. During the year there were reports that the government attempted to suppress unfavorable articles.

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

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

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

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

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

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

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

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

b. Freedom of Peaceful Assembly and Association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 6. Worker Rights

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BOTSWANA

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

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

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

RESPECT FOR HUMAN RIGHTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

There were no reports of political detainees.

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

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

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

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

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

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

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

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

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. However, in 2002 the government forcibly resettled most of the San and other minority members living in the Central Kalahari Game Reserve (CKGR) to resettlement sites on the perimeter of the reserve. Government officials maintained that the resettlement program was voluntary and necessary to reduce the cost of providing public services, to "develop" the San, and to minimize human impact on wildlife. On September 1, the government closed the reserve to control a disease outbreak. The reserve remained closed at year's end; despite the closure and earlier relocations, some San remained in the reserve at year's end (see section 5).

Section 2. Respect for Civil Liberties, Including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials at times were cooperative and responsive to their views; however, during the year government officials harassed and arrested NGO members.

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

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

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

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

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

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

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

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

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

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

sentence for rape is 10 years, increasing to 15 years with corporal punishment if the offender is HIV-positive, and to 20 years with corporal punishment if the offender knew his HIV-positive status. A person convicted of rape is required to undergo an HIV test before being sentenced; however, the test did no determine if the person was HIV positive at the time of the crime. Police lacked basic investigative techniques in rape cases.

Prostitution is illegal but was widespread throughout the country.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 6. Worker Rights

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BURKINA FASO

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

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

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

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

RESPECT FOR HUMAN RIGHTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2. Respect for Civil Liberties, Including:

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

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

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

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

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

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

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

b. Freedom of Peaceful Assembly and Association.

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

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

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

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

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

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

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

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

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

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

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally re-

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

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

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

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

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

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

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

The law provides citizens with the right to change their government peacefully through multiparty elections; however, in practice citizens were unable to exercise this right fully due to the continued dominance of the president and his ruling party.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 6. Worker Rights

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

The law prohibits antiunion discrimination.

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

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

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

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

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

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

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

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

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

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

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

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

BURUNDI

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

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

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

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

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

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

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

RESPECT FOR HUMAN RIGHTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2. Respect for Civil Liberties, Including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. Freedom of Peaceful Assembly and Association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Trafficking of children was a problem.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 6. Worker Rights

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CAMEROON

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

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

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

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

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

RESPECT FOR HUMAN RIGHTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

There were no new developments in any of the killings by mobs in 2004 or 2003.

b. Disappearance.—There were no reports of politically motivated disappearances during the year.

Some disappearances of persons who were in the custody of security forces in past years may be attributed to summary executions by security forces either in Douala or the northern regions; in these instances, bodies rarely were found, but the suspects were presumed dead.

On March 30, the government-owned radio station Cameroon Radio Television (CRTV) reported that road bandits took more than 20 persons hostage in the East and Adamawa provinces. The bandits reportedly demanded $80 thousand (44 million CFA francs) for their return. They killed one traditional ruler and released another one for eight thousand dollars (4.4 million CFA francs). At year's end the status of the others kidnapped was not known.

At the beginning of the year, without Cameroonian government permission, agents of Equatorial Guinea's government captured 20 Cameroonians and took them to Equatorial Guinea for alleged crimes. At year's end neither the nature of the crimes of which they were accused nor the status of the Cameroonians was known.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were credible reports that security forces continued to regularly torture, beat, and otherwise abuse prisoners and de-

tainees. In the majority of cases of torture or abuse, the government rarely investigated or punished any of the officials involved; however, in at least one case during the year, gendarmerie officers who tortured a citizen to death were detained and investigated (see section 1.a.). There were reports that security forces detained persons at specific sites where they tortured and beat detainees (see section 1.a.). Security forces also reportedly subjected women, children, and elderly persons to abuse. Numerous international human rights organizations and some prison personnel reported that torture was widespread; however, most reports did not identify the victim because of fear of government retaliation against either the victim or the victim's family. Most victims did not report torture for fear of government reprisal or because of ignorance of or lack of confidence in the judicial system.

In New Bell and other nonmaximum security penal detention centers, prison guards inflicted beatings, and prisoners were reportedly chained or at times flogged in their cells. Authorities often administered beatings in temporary holding cells within a police or gendarme facility. Two forms of physical abuse commonly reported by male detainees were the "bastonnade," where authorities beat the victim on the soles of the feet, and the "balancoire," during which authorities hung victims from a rod with their hands tied behind their backs and beat them, often on the genitals.

Security forces continued to subject prisoners and detainees to degrading treatment, including stripping, confinement in severely overcrowded cells, and denial of access to toilets or other sanitation facilities. Police and gendarmes often beat detainees to extract confessions or information on alleged criminals. Pretrial detainees were sometimes required, under threat of abuse, to pay "cell fees," a bribe paid to prison guards to prevent further abuse.

During the year there were reports that persons in police and gendarmerie custody died as a result of torture (see section 1.a.).

On January 8, Minister of Tourism Baba Hamadou reportedly led a group of five police officers to a gas station in Yaounde where they repeatedly beat Genevieve Toupouwou and Gregoire Angotchou, employees of the gas station. The minister had been angered by Angotchou's insistence on checking a gas coupon the minister had presented as payment. The Center Province office of the judicial police was investigating the incident at year's end.

On February 3, police officers of the GMI of the North West Province town of Bamenda assaulted and seriously wounded Nelson Ndi Nagyinkfu, the province's executive secretary of the NCHRF. During a drivers' strike, Ndi witnessed police beating street vendors and asked Celestin Abana, the commander of the police patrol, to stop the beatings. Abana ordered his troops to "finish" Ndi. Ndi filed a complaint with the province's governor, and an investigation was underway at year's end.

In March security forces beat and arrested 50 students in the West Province town of Bafoussam for participating in an illegal demonstration. The students were protesting the conviction of one of their professors who was sentenced to 12 years in prison for theft of academic materials.

There were no new developments in the January 2004 beating of a man named Bikele by police officers; or the June 2004 assault and arrest of barrister Epie Nzounkwelle by a local government official.

Security forces physically abused and harassed journalists during the year (see section 2.a.).

Unlike in the previous year, there were no reports that security forces sexually abused individuals during the year.

There were no new developments in the January 2004 sexual abuse of Biloa Ndongo by a gendarmerie mobile unit in the Melen neighborhood of Yaounde.

Some illegal immigrants were subjected to harsh treatment and imprisonment. Police and gendarme often targeted Nigerian and Chadian communities when seeking to identify illegal immigrants. During raids, members of the security forces extorted money from those who did not have regular residence permits or those who did not have valid receipts for store merchandise.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded, unsanitary, and inadequate, especially outside major urban areas. Due to a lack of funds, serious deficiencies in food, health care, and sanitation were common in almost all prisons, including "private prisons" operated by traditional rulers in the north. Prisoners were kept in dilapidated colonial-era prisons, where the number of inmates was four to five times the intended capacity. According to a 2004 report by the International Center for Prison Studies, published by the Catholic newspaper *La Croix*, there were 67 prisons for the country's approximately 20 thousand detainees. Overcrowding was exacerbated by the large number of long pretrial detentions (see section 1.d.).

During the year 800 individuals hired and trained to work in the prison system entered into full-time duty. In December 2004 the government shifted the responsi-

bility for administering and overseeing prisons and detention centers and all individuals arrested by security forces from the Ministry of Territorial Administration and Decentralization to the Ministry of Justice. In addition the government created a human rights body within the Ministry of Justice to monitor abuses in prisons and jails (see section 4).

There were deaths in prisons due to harsh conditions and neglect. For example in early March Djabba Bouba, a prisoner in the Douala prison, was found dead in his cell due to a lack of food. All 30 other suspects arrested in March with Bouba on charges of banditry were held in the same cell. They were not given food or water during the first three nights and two days of their detention. Before Bouba's death the 31 prisoners had requested a larger cell and water and said they were suffocating from the lack of room and heat. An internal investigation was underway at year's end.

Some prisoners also died due to lack of adequate medical care. Health and medical care were almost nonexistent in the country's prisons and in its detention cells, which were housed in gendarmeries and police stations. On August 12, Daniel Moses Etock, a detainee awaiting trial since 2003 in the Kumba prison of South West Province, died due to a lack of medical care. Prisoners' families were expected to provide food for their relatives in prison. Douala's New Bell Prison contained 7 water taps for a reported 3,500 prisoners, contributing to poor hygiene, illness, and death.

Prison officials regularly tortured, beat, and otherwise abused prisoners with impunity. Corruption among prison personnel was widespread. Prisoners sometimes could bribe wardens for special favors or treatment, including temporary freedom. Prisoners in New Bell prison could pay bribes for more comfortable sleeping arrangements and to avoid doing prison chores.

During the year prison officials failed to prevent and reportedly encouraged violence among prisoners. On January 3 in the Douala New Bell Prison, Jean-Pierre Boudi (also known as Ibrahim Baba) died from a beating he received from 30 inmates belonging to an "antigang," a group of convicts serving long prison terms whom prison wardens used to control other prisoners. Following the beating of Boudi, 15 inmates were seriously wounded when other prisoners attacked the antigang members. The results of an investigation by the prosecutor of the Douala court were pending at year's end. On January 26, following a visit by government officials to Kondengui Central Prison in Younde, the government banned antigangs. There were no other reports during the year of antigang violence in prisons.

There were separate prisons for women. There were also a few pretrial detention centers for women; however, women routinely were held in police and gendarmerie complexes with men, occasionally in the same cells. In July 2004 the Center for Human Rights and Peace Advocacy, a human rights organization based in Bamenda in the North West Province, criticized this practice. Mothers sometimes chose to be incarcerated with their children or babies while their children were very young or if they had no other child care option.

Juvenile prisoners often were incarcerated with adults, occasionally in the same cells or wards. There were credible reports that adult inmates sexually abused juvenile prisoners. Pretrial detainees routinely were held in cells with convicted criminals. Some high-profile prisoners were separated from other prisoners and enjoyed relatively lenient treatment.

In temporary detention centers—usually housed in gendarmeries and police stations—adults, juveniles, and women were held together. Prisoners usually received no food, water, or medical care. Detention center guards at times resorted to corruption, accepting bribes from detainees and allowing them access to better conditions, including permission to stay in an office instead of a cell. Those whose families were informed of their incarceration, relied on their relatives for food and medical care. Overcrowding was common in the detention centers and was often aggravated by the practice of "Friday Arrests" (see section 1.d.).

In the North and Extreme North provinces, the government continued to permit traditional chiefs, or *Lamibe*, to detain persons outside the government penitentiary system, in effect creating private prisons. Within the palaces of the traditional chiefdoms of Rey Bouba, Gashiga, Bibemi, and Tcheboa, there were private prisons that had a reputation for serious abuse. In Garoua, in the North Province, palace staff estimated that a total of 50 prisoners were held in the palace prison annually, normally between 1 and 2 weeks. Individuals who were found guilty in Garoua were often beaten or subject to other forms of physical abuse. According to members of all the chiefdoms' palace staffs, individuals accused of serious crimes such as murder were turned over to local police. In June the minister of territorial administration told diplomatic observers that authorities had destroyed the prison in Garoua.

The government permitted international humanitarian organizations access to prisoners. Both the local Red Cross and the NCHRF made infrequent, unannounced prison visits during the year. The government continued to allow the International Committee of the Red Cross (ICRC) to visit prisons. During the year the ICRC stated that the government allowed international nongovernmental organizations (NGOs) to have increased access to prisons.

On July 28, during a visit by diplomatic observers to the Douala New Bell Prison, the prison administrator said that the prison, built to hold 700 inmates, had 3,194. Of these, 2,300 were pretrial detainees, who were not held separate from convicted prisoners. On August 4, during a similar visit to the Yaounde Kondengui prison, the same observers learned that the prison, built for 800 inmates, held 3,521–3 thousand of whom were awaiting trial. In May 2004 a senior official estimated that 1,600 out of 1,800 inmates in Bafoussam prison were pretrial detainees.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, security forces continued to arrest and detain citizens arbitrarily.

Role of the Police and Security Apparatus.—The national police, the National Intelligence Service (DGRE), the gendarmerie, the Ministry of Territorial Administration, the army's military security department, the army, the minister of defense, and, to a lesser extent, the Presidential Guard are responsible for internal security; the national police and gendarmerie have primary responsibility for law enforcement. The Ministry of Defense, including the gendarmerie, national police, and DGRE, are under an office of the presidency, resulting in strong presidential control of security forces. The national police includes the public security force, judicial police, territorial security forces, and frontier police. In rural areas, where there is little or no police presence, the primary law enforcement body is the gendarmerie.

Citizens viewed police as ineffective, which frequently resulted in mob violence (see section 1.a.). It was widely believed that individuals paid bribes to law enforcement and the judiciary to secure their freedom. Police officers and members of the gendarmerie were widely viewed as corrupt and frequently arbitrarily arrested and detained citizens. Police demanded bribes at checkpoints, and influential citizens reportedly paid police to make arrests or abuse individuals in personal disputes (see section 1.c.). According to Transparency International's (TI) 2005 Global Corruption Barometer, citizens viewed the police as extremely corrupt. Impunity remained a problem but was less severe than in previous years. Insufficient funding and inadequate training contributed to a lack of professionalism in the national police.

Edgar Alain Mebe Ngo'o, who in 2004 was appointed DGSN, took significant steps during the year to investigate, suspend, and prosecute security forces accused of abuses. In March Ngo'o rehabilitated the "police of the police," an internal affairs unit of undercover agents that had been dormant for many years. By year's end the unit was functioning and had received funding, although there were no public reports of any cases investigated by this unit. During the year Ngo'o also sanctioned at least 10 members of the national police force who violated laws and regulations during the year (see section 1.a.). For example on March 8, Ngo'o suspended for three months a Douala police officer and a Yaounde police inspector for behavior that "tarnished the image of the police." On the same day Ngo'o suspended another Yaounde-based police inspector for two weeks for keeping a citizen's driving license unnecessarily.

During the year courts convicted a few police officers for violations committed in the past. For example on May 26, the Douala military tribunal sentenced two police inspectors from the Douala Central Police Station No. 1 to six months in jail for the 2001 armed assault and robbery of three Nigerian citizens. On August 23, the Bamenda Court sentenced the Bamenda judicial police commissioner to pay damages of $1,200 (600 thousand CFA francs) to Edwin Nkwain Mbang for arbitrarily arresting and detaining him during 18 days in 2001.

Arrest and Detention.—The law requires police to obtain an arrest warrant except when a person is caught in the act of committing a crime. Police legally may detain a person in connection with a common crime for up to 24 hours and may renew the detention 3 times before bringing charges; this provision was generally respected, although there were unverifiable reports that police occasionally violated it. The law provides for the right to judicial review of the legality of detention only in the country's two Anglophone provinces, and this provision was respected in practice. In the country's Francophone provinces, the French legal tradition applies, precluding judicial authorities from acting on a case until the authority that ordered the detention turns the case over to the prosecutor. In practice these processes took between 15 days to a month. In Francophone provinces after a magistrate has issued a warrant to bring the case to trial, he may hold the detainee in administrative or pretrial detention indefinitely, pending court action. During the year such detention often was

prolonged, due to the understaffed and mismanaged court system. The law permits detention without charge by administrative authorities such as governors and senior divisional officers for renewable periods of 15 days ostensibly to combat banditry and maintain public order. Persons taken into detention frequently were denied access to both legal counsel and family members. The law permits release on bail only in the Anglophone provinces; however, in practice bail was granted infrequently.

In June the National Assembly passed a Code of Criminal Procedure, which will enter into force in 2006. The code extends the right of individuals to be released on bail to the whole country. It also allows those arrested and held in police and gendarmerie facilities for investigation to be assisted by a lawyer from the beginning of their detention.

Police and gendarmes often arrested persons on spurious charges on Fridays at mid-day or in the afternoon. While the law in the Anglophone provinces provides for a judicial review of an arrest within 24 hours, the courts did not convene sessions on the weekend, so a detained individual who was arrested on a Friday typically remained in detention until at least Monday. Police and gendarmes made such "Friday arrests" after accepting bribes from persons who had private grievances. There were no known cases of policemen or gendarmes who were sanctioned or punished for this practice.

Security forces and government authorities continued to arbitrarily arrest and detain persons, often holding them for prolonged periods without charges or trials and, at times, incommunicado. There were reports of political detainees, including Anglophone citizens advocating secession, local human rights monitors/activists, journalists, and other critics of the government (see sections 2.a. and 2.b.). Police also arrested persons during unauthorized demonstrations (see section 2.b.).

During the year security forces arrested approximately 100 leaders, members and supporters of the Southern Cameroons National Council (SCNC), an Anglophone secessionist group (see sections 2.a., 2.b., and 5). The government considered the SCNC an illegal organization because it advocated secession, which the law prohibits. The majority of SCNC members arrested during the year were not charged with any crime and were released after brief detentions. However, during the year police detained seven members of the SCNC leadership for periods of up to three months, and at year's end all seven remained in detention awaiting trial. For example on September 21, security forces arrested several SCNC activists in the North West Province town of Belo while they were holding a meeting and distributing T-shirts. While most of these individuals were released from custody after brief detentions, authorities charged three SCNC leaders with disturbing the public order and transferred them to a prison in Bamenda. At year's end they remained in prison and their trials were ongoing.

The government arrested a labor leader during a sit-in (see section 6.a.).

There were no developments regarding the November 2004 arrest of a Human Rights Defense Group member by a North West Province chief.

Police frequently arrested persons without identification during sweeps (see section 1.f.).

The law stipulates that detainees must be brought promptly before a magistrate; however, arbitrarily prolonged pretrial detention remained a serious problem, and sometimes persons were held incommunicado for months or even years (see section 1.c.). For example in Douala's New Bell prison and Yaounde's Kondengui prison, of 6,715 detainees, 5,300 were in pretrial detention. This high number of pretrial detainees was due to a multitude of factors, including the complexity of cases, staff shortages, and corruption. The average pretrial detention period ranged from one to five years. Longer detention periods were often linked to the loss of a file and the absence of a lawyer to follow up on the case. On January 14, the Union of North West Human Rights Organizations said it had visited 20 detainees of the Bamenda prison who had each been awaiting trial for 10 years.

There was no information available on Barnabe Atangana or Benoit Bilongo, who remained in pretrial detention at the end of 2004 after 20 years and 7 years, respectively.

The law specifies that, after an investigation has concluded, juveniles should not be detained without trial for longer than three months; however, in practice the government detained juveniles for longer periods of time. For example at the end of 2004 Michel Sighanou, a juvenile who was transferred from the Yabassi prison to another prison in 1996, had been awaiting trial for more than seven years; no additional information was available at year's end.

In recent years there have been reports that some prisoners remained in prison after completing their sentences or having been released under a court ruling. During a July visit to Douala, a Catholic prison chaplain told diplomatic observers that there were still many such cases. In August 2004 the media reported that more

than 100 prisoners in Douala were being held after the completion of their terms and that many of them were being held because they had been unable to pay court fees. During 2004 lawyers representing these individuals filed suit for their release and also filed a complaint at the European Court of Human Rights seeking the prisoners' immediate release. At year's end many of these detainees were still being held because they still had not paid the fees or damages they owed.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary remained highly subject to executive influence, and corruption and inefficiency remained serious problems. The court system was subordinate to the Ministry of Justice, which was part of the presidency. The constitution specifies that the president is the guarantor of the legal system's independence. He also appoints all judges with the advice of the Supreme Council of the Magistrature. Some politically sensitive cases were never heard by the courts. However, the judiciary showed modest signs of growing independence. During the year the courts found the government liable for damages in a few human rights cases involving abuses by security officers.

The court system includes the Supreme Court, a court of appeals in each of the 10 provinces, and courts of first instance in each of the country's 58 divisions.

The legal system includes both national law and customary law, and many criminal and civil cases can be tried using either one; however, criminal cases are generally tried in statutory courts, and customary court convictions involving witchcraft automatically are transferred to the statutory courts, which act as the court of first instance. Customary law, which is used most frequently in rural areas, is based upon the traditions of the ethnic group predominant in the region and is adjudicated by traditional authorities of that group. Customary law is deemed valid only when it is not "repugnant to natural justice, equity, and good conscience." However, many citizens in rural areas remained unaware of their rights under civil law and were taught that they must abide by customary laws. Customary law ostensibly provides for equal rights and status; however, men may limit women's right to inheritance and employment, and some traditional legal systems classify wives as the legal property of their husbands (see section 5).

Customary courts served as a primary means for settling civil disputes in rural areas, primarily in family-related civil cases, such as in matters of succession, inheritance, and child custody. Divorce cases can be brought to customary courts only if the government has not sanctioned the marriage through an official license. Customary courts may exercise jurisdiction in a civil case only with the consent of both parties. Either party has the right to have the case heard by a statutory court and to appeal an adverse decision in a customary court to the statutory courts. Most traditional courts also permitted appeal of their decisions to traditional authorities of higher rank.

The legal structure is influenced strongly by the French legal system, although in the two Anglophone provinces certain aspects of the Anglo-Saxon tradition apply. In the past this mixed legal tradition led to conflicting court action in cases handled in both Francophone and Anglophone jurisdictions. The new Code of Penal Procedure will be applicable nationwide when it enters into force in 2006.

Trial Procedures.—The law provides for a fair public hearing in which the defendant is presumed innocent; however, this provision often was not respected in practice. There is no jury system. Defendants have the right to be present and to consult with an attorney in a timely manner. Defendants generally were allowed to question witnesses and to present witnesses and evidence on their own behalf. Defendants also had access to government held evidence relevant to their cases. Because appointed attorneys received little compensation, the quality of legal representation for indigent clients often was poor. The Bar Association and some voluntary organizations, such as the Cameroonian Association of Female Jurists, offered free assistance in some cases. The Project for the Improvement of Conditions of Detention continued to engage lawyers to work on prison cases. Trials normally were public, except in cases judged by the government (the Ministry of Justice) to have political overtones or to be disruptive to social peace. Defendants have a right to appeal their cases.

There were reports that officials continued to hold individuals in prison beyond the jail terms set by the courts. On April 4, the general prosecutor of the Yaounde superior court reviewed the files of approximately 150 prisoners at the Kondengui prison to check their judicial status. The general prosecutor focused on the case of Germain Dimoli Bekou, who received a death sentence in 1983. In 1992 her death sentence was subsequently commuted to a 20-year detention term. Following various presidential pardons, Bekou should have been released in 2002. The general prosecutor signed Bekou's immediate release.

Political bias by judges (often instructed by the government) often stopped trials or resulted in an extremely long process with extended court recesses. Powerful political or business interests enjoyed virtual immunity from prosecution; some politically sensitive cases were settled with a payoff.

Military tribunals may exercise jurisdiction over civilians when the president declares martial law and in cases involving civil unrest or organized armed violence. Military tribunals also have jurisdiction over gang crimes, banditry, and highway robbery. The government interpreted these guidelines broadly and sometimes used military courts to try matters concerning dissident groups and political opponents. Military trials often were subject to irregularities and political influence.

Political Prisoners.—The government contended that it no longer held political prisoners; however, during the year authorities continued to hold two groups of prisoners who could be considered political prisoners. Fifteen members of the secessionist group SCNC continued to serve long prison sentences. They were part of a group of 37 SCNC members convicted in 1999 after military trials that did not meet international or national legal standards; Amnesty International (AI) and other international human rights NGOs criticized the trials as unfair. In addition the military tribunal admitted into evidence confessions that were credibly alleged in court to have been exacted under torture. These SCNC prisoners continued to claim that they were political prisoners convicted for supporting a political belief; however, the government claimed they were all imprisoned for acts of violence committed against government offices and officers. The government permitted access on a regular basis by international humanitarian organizations.

During the year the government held two additional individuals who could be considered political prisoners. In 1997, police arrested Titus Edzoa, former minister of health and long-time aide to President Biya, and Michel Thierry Atangana, Edzoa's campaign manager in the 1997 presidential elections. The arrests occurred three months after Edzoa had resigned from government and launched his candidacy for president, and three months before the October 1997 elections, in which President Biya was re-elected. In October 1997, after an uncharacteristically quick trial, a court convicted Edzoa and Atangana on charges of embezzlement of public funds, although police initially charged Edzoa with "activities and statements likely to disrupt the public order." Both men were sentenced to 15-year prison terms. Their lawyers were not present for the sentencing. In 1999 a court of appeals confirmed the ruling of the lower court. In 2003 the Supreme Court upheld the 1999 conviction. Edzoa was ordered to pay a substantial fine and incarcerated with Atangana at the maximum-security gendarmerie headquarters, with very limited access to visitors. At year's end they remained in prison.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, these rights were subject to the "higher interests of the state," and there were numerous, credible reports that police and gendarmes harassed citizens, conducted searches without warrants, and opened or seized mail with impunity. The government continued to keep some opposition activists and dissidents under surveillance. Police sometimes punished family members and neighbors of criminal suspects.

The law permits a police officer to enter a private home during daylight hours without a warrant if he is pursuing an inquiry and has reason to suspect that a crime has been committed. The officer must have a warrant to make such a search after dark; however, a police officer may enter a private home at any time in pursuit of a criminal observed committing a crime.

An administrative authority may authorize police to conduct neighborhood sweeps without warrants, at times involving forced entry into homes in search of suspected criminals or stolen or illegal goods. Sweeps continued to occur in Yaounde and Douala, although there were fewer sweeps than in the previous year. Typically security forces sealed off a neighborhood, systematically searched homes, arrested persons arbitrarily, and seized suspicious or illegal articles. There were credible reports that security forces used such sweeps as a pretext to loot homes and arbitrarily arrest persons for minor offenses, such as not possessing identity cards. For example on June 14, the Douala police, accompanied by gendarmes and soldiers, conducted a sweep in the Douala neighborhoods of Bonakuamouang, Bessengue Valley, and Bessengue. During the operation the security forces arrested approximately 100 individuals, mostly young men and women, and held them in a Douala police station until their identity was established, a process that took 24 hours. Several inhabitants from these neighborhoods complained of the police's arbitrary seizure (theft) of electronic devices and cell phones and registered their complaints at the police station. On June 15, police, gendarmes, and soldiers also conducted a sweep in the

Melen neighborhood of Yaounde, where they arrested individuals who had no identification papers. They were subsequently released after paying a fine.

In March and July the minister of land and land titles ordered that houses built on state land in the Yaounde neighborhoods of Ngousso, Djoungolo, and Ekoudou-Bastos be demolished. The government said the owners of the demolished houses were not entitled to compensation because they were illegal squatters. Hundreds remained homeless at year's end.

There continued to be accusations, particularly in the North and Far North provinces, that traditional chiefs arbitrarily evicted persons from their land.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government continued to restrict these rights in practice. The government sometimes invoked strong libel laws to silence criticism of the government and officials. Journalists, particularly broadcast journalists, often practiced self-censorship as a result of government intimidation, harassment, and criminal penalties for speech-related offenses.

Individuals generally were able to criticize the government publicly and privately without being subjected to government reprisal, although the country's strict libel law resulted in self-censorship. The government prohibited discussion or the advocacy of secession, which resulted in numerous arrests of SCNC members during the year (see section 1.d.). The government monitored the meetings of the SCNC, but not of any opposition parties.

The government published one of the country's few daily newspapers, the *Cameroon Tribune*. It did not report extensively on protests or political parties critical of the government, overtly criticize the ruling party, or portray government programs in an unfavorable light.

During the year approximately 200 privately owned newspapers were published; however, only an estimated 25 were published on a regular basis. *Mutations, La Nouvelle Expression*, and *Le Messager*, were the only privately owned daily newspapers. Newspapers were distributed primarily in urban areas, and most continued to criticize the government and report on controversial issues, including corruption, human rights abuses, and economic policies. However, the government used criminal libel laws to inhibit the press, and in 2004 the propagation of false information was also criminalized.

Despite the large number of private newspapers in the country, the influence of print media was minimal. Distribution was problematic outside of major towns, and prices of independent newspapers were high, due largely to high government taxes on newsprint; however, in 2004 the government established a special fund to support the development of the press, particularly newspapers, and funds were dispersed to some private newspapers and radio stations. The government continued to disperse such funds during the year. According to media reports, funding was awarded very selectively, and some media outlets, such as Mutations and Radio Reine, refused to apply for funds. The government maintained control of newspaper warehouses, but unlike in the previous year, there were no reports that the government seized editions of controversial newspaper editions prior to distribution.

The government tightly controlled the broadcast media. Radio remained the most important medium reaching most citizens. There were approximately 20 privately owned radio stations operating in the country. Approximately 75 percent of private radio stations were concentrated in Yaounde and Douala. Ownership of the private radio stations was very diverse, with only one owner having more than one station. The state-owned CRTV broadcast on both television and radio and was the only officially recognized and fully licensed broadcaster in the country. The government levied taxes on all registered taxpaying citizens to finance CRTV programming, which allowed CRTV a distinct advantage over independent broadcasters.

Nonprofit rural radio stations were required to submit an application to broadcast but were exempt from paying licensing fees. Potential commercial radio and television broadcasters must submit a licensing application and pay an application fee when the application is submitted. Once the license is issued, stations must then pay an annual licensing fee, which potentially was prohibitively costly. Between 1999 and the end of the year, the Ministry of Communication received more than 100 applications from potential broadcasters; however, no licenses had been issued to any private radio or TV stations since 2000. In many cases, the government allowed stations to operate while their license applications were pending, although the legal status of stations established before 2000 was not well defined and appeared to be illegal.

During the year the National Communications Council (NCC), whose members were appointed by the president, continued to review all broadcasting license appli-

cations, the first step in issuing licenses. In addition a technical committee composed of government-appointed members—including government officials, journalists, and jurists—continued to review the NCC's decisions.

The government closed at least one radio station during the year. On June 1, the provincial delegate of communication for South West Province sealed the studios of Lake Side Independent Radio, claiming it operated illegally. The broadcaster had never submitted the appropriate file to the Ministry of Communication and he used a frequency that interfered with other provincial radios and TV. The broadcaster agreed to work on his authorization application, but the station had not been authorized to broadcast on an alternate frequency at year's end.

There were several low-power, rural community radio stations with extremely limited broadcast range that were funded by the UN Educational, Scientific, and Cultural Organization and foreign countries. The government prohibited these stations—which broadcast programs on education, health, the environment, and development to small audiences—from discussing politics.

The law permits broadcasting of foreign news services but requires foreigners to partner with a national station. The BBC, Radio France International, and Voice of America broadcast in partnership with state-owned CRTV.

Television was less pervasive but more influential than print media. The five independent television stations largely avoided criticizing the government, although their news broadcasts sometimes focused on issues of poverty, unemployment, poor education, and the government neglect and corruption which the broadcasts said had caused these problems.

Like the *Cameroon Tribune*, CRTV provided broad reporting of CPDM activities, while giving relatively little attention to the political opposition. During the year CRTV management continued to repeatedly instruct CRTV staff to ensure that government views prevailed at all times.

Security forces, usually acting under the command of local provincial government officials, continued to restrict press freedom by arresting, detaining, physically abusing, threatening, and otherwise harassing journalists. For example on November 10, police severely beat journalists Philip Njaru and Innocent Yuh at a police check point in Buea. The police accused them of being SCNC activists and of using radios as transmitters for the organization, despite the journalists' presentation of press credentials. The two men were hospitalized from their wounds. By year's end no official action had been taken against the police officers responsible for his injuries.

On November 11, police in the North West Province town of Kumbo arrested Andrew Mueller, an Australian freelance reporter for London-based dailies *The Independent* and *The Guardian*, while he gathered information on a story from SCNC Vice President Nfor Ngala Nfor and a local SCNC representative, both of whom were also arrested. Miller, who was reporting in the country without the appropriate visa and credentials and who was about to cover an SCNC meeting when he was arrested, was released without charge after three days of police detention. Both SCNC members were released a week later.

On July 12, the government unsealed the studios of Freedom FM. The government had closed Freedom FM in May 2003 on the grounds that station owner Pius Njawe, who had previously been jailed several times for criticizing the president, had not submitted to the Ministry of Communication a proper application for operation, although Njawe said he had. The minister of communication agreed to reopen the station after extensive negotiations between government representatives and the Free Media Group, the radio station's parent company. The minister withdrew the government's 2003 lawsuit against the station and promised to provide Freedom FM with a "provisional authorization to operate." On August 8, the minister of communication reminded Njawe of his commitment to withdraw his complaint filed at the African Commission on Human and Peoples' Rights. The minister said that delaying the withdrawal of the complaint would also delay the issuance of the provisional authorization to operate. By year's end the government had not allowed Freedom FM to begin broadcasting and the station's broadcast equipment remained sealed.

During the year a court rejected a 2004 appeal by a divisional officer (local government official) and ordered him to pay a fine of approximately $1,500 (750 thousand CFA francs) because of actions he took in 2003 against a radio station. The court upheld the Bui high court's April 2004 ruling that said the divisional officer had acted illegally when he closed Radio Oku in 2003, temporarily detained four members of Radio Oku's board of directors, and placed three other members under temporary house arrest. During the year the officer relinquished control of the station, which he and other government agents had seized by force in May 2004; however, by year's end he had not paid the fine, and no official action had been taken

against him for arresting and temporarily detaining the station manager and board chairman in April 2004.

Unlike in the previous year, there were no reports that the government indirectly censored the media by controlling advertising revenues. However, since the government was the largest advertiser in the country by far and could choose which media outlets from which to buy advertising, it continued to have a certain degree of influence over media outlets.

The government prosecuted its critics in the print media through criminal libel laws. These laws authorized the government, at its discretion and the request of the plaintiff, to criminalize a civil libel suit or to initiate a criminal libel suit in cases of alleged libel against the president and other high government officials; such crimes are punishable by prison terms and heavy fines. The libel law places the burden of proof on the defendant. Local leaders in particular abused this law to keep local reporters from reporting on corruption and abusive behavior.

On January 10, a Douala court sentenced Jules Koum Koum, publisher of the independent Douala-based bimonthly *Le Jeune Observateur*, to six months in jail on charges of defamation. In April 2004 Koum Koum published an article in which he accused two insurance companies of mismanaging their funds. On February 9, the Douala court of appeals ordered Koum Koum's provisional release from New Bell Prison, and he was released the next day. By year's end an appeal trial had not yet begun, and the insurance company CPA had filed two additional complaints related to Koum's article. The two additional complaints were dropped, and no charges were pending at year's end.

On April 20, a court in the Far North Province town of Maroua sentenced in absentia Guibai Gatama, publisher of the weekly *L'oeil du Sahel*, and Abdoulaye Oumate, a journalist with the same newspaper, to 5 months in prison and ordered them to pay a fine of approximately $10 thousand (5 million CFA francs) in a defamation case filed by Ahmed Aliou Ousman, the gendarmerie brigade commander of the Far North Province town of Fotokol. The judgment followed the newspaper's publication of a February article alleging that gendarmes from the brigade had extorted money from travelers at roadblocks. According to the New York-based press freedom NGO Committee to Protect Journalists (CPJ), the staff of *L'oeil du Sahel* was not informed of Aliou's charge or of the judicial hearing until after the court had passed the sentence. The newspaper was one of the few independent media outlets to operate in the north, and local sources told CPJ that local authorities had frequently harassed the newspaper's journalists. At year's end Gatama had filed an appeal, and a second commander named in the article had also filed criminal defamation charges. At year's end the trial was still pending.

On July 6, a prosecutor ordered the arrest and indefinite detention of Joseph Bessala Ahanda, chief editor of the private weekly *Le Front*, during an investigation of defamation allegations against him. Ahanda's arrest followed the newspaper's publication of a series of reports alleging that the former director of the country's postal services and the publisher of a private newspaper collaboratively embezzled state funds. On July 21, Ahanda was released without charge from Yaounde's Kodengui prison.

On August 17, a court in the Far North Province town of Maroua sentenced in absentia *L'oeil du Sahel* publisher Gatama, ordering him to pay damages of approximately $24 thousand (12 million CFA francs) in a libel case filed by the province's chief of military security and the Domayo public high school headmaster. In 2003 the paper had written that the chief of military security had beaten the headmaster because the chief's children were among the students who had been assigned to clean the school. According to CPJ, the staff of *L'oeil du Sahel* was not informed of the charge or of the judicial hearing until after the court had passed the sentence. Gatama told CPJ in an interview that military officers had brought at least 12 court cases against the newspaper between January and August, threatening the newspaper's financial survival. CPJ said that during the year *L'oeil du Sahel* frequently reported alleged abuses of power by security forces in the area and had often been threatened by local officials and soldiers.

In March according to press reports, Eric Wirkwa Tayu, the publisher of the small private newspaper *Nso Voice* based in Kumbo, remained in jail, despite having served a court's five-month prison term following a July 2004 conviction on charges of defaming Kumbo's mayor. Tayu reportedly was unable to pay the $600 (300 thousand CFA francs) court-imposed fine, resulting in a doubling of his term of imprisonment.

On March 16, the Union of Cameroonian Journalists created the Cameroon Media Council (CMC), an independent self-regulating body of journalists aiming to promote press freedom, access to information, professionalism, and ethical reporting. The CMC, which the minister of communication said he supported, also had as part of

its mission the goal of reviewing and disciplining media professionals and arbitrating complaints against journalists. Complaints included ethical breeches, such as the common practice for newspaper reporters and editors of accepting payments from politicians and businessmen to write articles containing unsubstantiated allegations against the opponents and competitors of their benefactors.

Unlike in the previous year, there were no reports that the government attempted to monitor the Internet. There were also no reports that the government restricted access to the Internet.

Although there were no legal restrictions on academic freedom, state security informants operated on university campuses. Professors said that participation in opposition political parties could adversely affect their professional opportunities and advancement. During the year strikes in the state Universities of Yaounde I, Dschang, Douala, and Buea deteriorated and resulted in violent confrontations between students and security forces (see section 2.b.).

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government restricted this right in practice.

The law requires organizers of public meetings, demonstrations, or processions to notify officials in advance but does not require prior government approval of public assemblies and does not authorize the government to suppress public assemblies that it has not approved in advance. However, officials routinely have asserted that the law implicitly authorized the government to grant or deny permission for public assembly. Consequently, the government often did not grant permits for assemblies organized by persons or groups critical of the government and repeatedly used force to suppress public assemblies for which it had not issued permits.

Security forces forcibly disrupted the demonstrations, meetings and rallies of citizens, trade unions, and groups of political activists throughout the year, and some deaths resulted from the police's use of excessive force to disperse demonstrations.

On numerous occasions throughout the year, authorities refused to grant permission to hold rallies and meetings to political groups that the government deemed illegal. For example on August 24, the prefect of the Mezam division of North West Province banned all public demonstrations, rallies, or meetings—even in private residences—held by the SCNC in the whole Mezam Division. According to the government, the SCNC was an illegal organization that fostered secession, an activity prohibited by law.

Throughout the year, security forces disrupted SCNC meetings, even those in private residences, arresting SCNC activists and releasing them a couple of days later. For example on January 15, police in the South West Province capital Buea broke into the residence of Henry Fossung, the leader of a faction of the SCNC; broke up an SCNC meeting; and arrested 50 members and sympathizers. Some of the participants were injured during the operation. While police released Fossung later the same day, police detained and interrogated the others for 24 hours before releasing them.

In advance of the annual celebration of Southern Cameroon "independence" on October 1, the government engaged in a campaign of closing down SCNC rallies and meetings. This was accompanied by a heavy-handed propaganda effort by Anglophone government officials in order to counteract SCNC statements.

Police forcibly dispersed student demonstrations during the year. In March security forces beat and arrested 50 students in the West Province capital Bafoussam on charges of participating in an illegal demonstration; it was deemed illegal because the students had not requested formal permission to rally. The students, who were released following brief detentions, were protesting the conviction of one of their professors who was sentenced to 12 years in jail for theft of academic materials. Human rights NGOs criticized police conduct.

On April 28, security forces shot and killed two University of Buea students, Gilbert Forlen and Aloysius Embwam, during a protest and strike by university students in the South West provincial capital Buea. A third student died of wounds she sustained during the clash with police and gendarmes, and many others were taken to the hospital as a result of security forces' use of tear gas and water cannons. The clash occurred when students took to the streets to reach the province's governor and hand in their complaints about school fees and academic and living conditions. A police officer with the last name of Miphiri was identified as the shooter and was arrested and transferred to Yaounde. The investigation continued at year's end, and no trial had begun.

Unlike in the previous year, there were no reports that security forces broke up or disrupted gatherings of the Social Democratic Front (SDF), an opposition party, during the year.

On October 1, a traditional day of protest for the SCNC, security forces arrested and detained some activists in the North West and South West provinces because of activities such as raising an SCNC flag in a public market place. They were released after a few day's detention.

No action reportedly was taken against the members of the security forces who forcibly dispersed demonstrations in 2004 or 2003.

Freedom of Association.—The law provides for freedom of association, but the government limited this right in practice. On August 21, gendarmes of the North West Province arrested 17 SCNC activists in the localities of Bafut, Tubah, and Fundong for holding meetings in private residences and wearing SCNC T-shirts. Police transferred these activists to the Bamenda central prison, and on August 13 police released without charge 13 of those arrested. At year's end four activists remained in detention on criminal charges, and a trial was pending. At year's end the prefect of Douala's Wouri Division had not lifted a June 2003 ban on all activities of the Front of Alternative Forces, a coalition of associations and parties created prior to 2004 presidential elections (and which since disbanded); the prefect said that the group was disorderly and had not applied for legal status.

The conditions for government recognition of a political party, a prerequisite for many political activities, were not onerous. More than 180 political parties operated legally, together with a large and growing number of civic associations.

One of the groups that encountered the most forceful action from the government was the SCNC. Through arrests and other actions, the government committed many violations of the freedom of association rights of SCNC members and supporters during the year. The SCNC was considered an illegal organization because it advocated secession, which the law prohibits, and because it has never formally registered as a political organization. The government considered all SCNC activities illegal (see sections 2.a. and 5).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, there were a few exceptions.

Religious groups must be approved and registered with the Ministry of Territorial Administration and Decentralization to function legally. Although there were no reports that the government refused to register any group, the process usually took several years, due primarily to administrative delays. The government did not register traditional religious groups on the grounds that the practice of traditional religion was a private concern observed by members of a particular ethnic or kinship group or the residents of a particular locality.

There were no further developments in the January 2004 arrest and detention of Michel Atanga Effa and Gervais Balla for the 2003 murder of a priest, or in the May 2004 beating of Pastor Alombah Godlove by the traditional ruler of his village.

The practice of witchcraft is a criminal offense under the law; however, individuals generally were prosecuted for this offense only in conjunction with another offense, such as murder. Witchcraft traditionally has been a common explanation for diseases of unknown cause.

Societal Abuses, Discrimination and Anti-Semitism.—Discrimination in the northern provinces, especially in rural areas, by Muslims against Christians and persons who practiced traditional indigenous religions remained strong and widespread.

The size of the Jewish community was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, security forces routinely impeded domestic travel during the year.

Roadblocks and checkpoints manned by security forces proliferated in cities and most highways, making road travel both time-consuming and costly. Extortion of small bribes was commonplace at these checkpoints. Police frequently stopped travelers to check identification documents, vehicle registrations, and tax receipts as security and immigration control measures. Unlike in the previous year, there were no reports that security forces killed individuals suspected of evading checkpoints.

There were credible reports that police arrested and beat individuals who failed to carry their identification cards (see section 1.f.).

The law prohibits forced exile, and the government did not use it; however, some human rights monitors or political opponents who considered themselves threatened by the government left the country voluntarily and declared themselves to be in political exile. For example in July 2004, Anna Ndep Takem, an SCNC activist, reportedly fled the country after learning that authorities were planning to arrest her for

providing food and assistance to detained SCNC activists in the Yaounde Central Prison.

On April 14, the government, the Nigerian High Commission to Cameroon, and the Office of the UN High Commissioner for Refugees (UNHCR) signed a tripartite agreement for the voluntary repatriation of 10 thousand of the 17 thousand Nigerian Fulani cattle breeders who fled their homes in 2001 to escape ethnic fighting. The repatriation operation started on April 18, resulting in the repatriation of at least 10 thousand refugees by year's end.

Internally Displaced Persons (IDPs).—In late March, between 10 thousand and 15 thousand citizens in and around the Adamawa Province villages of Djohong and Ngaoui were displaced following attacks and looting by unidentified armed groups from the CAR. According to Adamawa Province's governor, the armed groups targeted cattle herders of the M'bororo ethnic group, kidnapping them and demanding ransom because of the perceived wealth of the M'bororo (see section 1.b.). The government reportedly sent troops in April to restore order in the border area. During the year the government worked with the UNHCR to protect and assist IDPs.

Protection of Refugees.—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system of providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. In June the National Assembly passed legislation that formally establishes the status of refugees, and the president signed it into law on July 27.

The government also provided protection to certain individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol. At year's end the UNHCR estimated that the country provided temporary protection to approximately 40,000 refugees, the majority of whom were Chadian and Nigerian, in addition to 6 thousand asylum seekers. Between January and December, as a result of numerous attacks and kidnappings by unidentified armed groups in the CAR, between 3 thousand and 10 thousand members of the M'bororo ethnic group reportedly fled the CAR to Cameroon, according to UN agencies and local human rights groups.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The UNHCR confirmed that three thousand refugees from the CAR, mostly M'bororos, had been registered in the Adamawa Province of Cameroon and that armed groups had conducted massive attacks on the M'bororo population on the Cameroonian side of the border. In late April, the Cameroon and CAR armies launched a joint military operation against those armed groups.

In March and April hundreds of individuals claiming to be refugees protested in the streets, saying that the UNHCR and the Cameroonian Red Cross had violated their rights. The true status of the protesters was difficult to determine. UNHCR stated that most of them were economic immigrants and therefore not entitled to refugee privileges. The protesters complained that they were not being allowed to relocate to a country of their choice. Others also complained that refugee certificates were delayed in delivery. UNHCR stated that it was not issuing certificates because these protesters did not qualify for refugee status.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides that citizens have the right to change their government peacefully; however, dominance of the political process by the president and his party and electoral intimidation, manipulation, and fraud severely limited the ability of citizens to exercise this right.

Elections and Political Participation.—In October 2004 President Biya, who has controlled the government since 1982, was re-elected with approximately 70 percent of the vote in an election widely viewed as freer and fairer than previous elections and in which opposition parties fielded candidates. However, the election was poorly managed and marred by irregularities, in particular in the voting registration process, but most international observers deemed that the irregularities did not prevent the elections from expressing the will of the voters. Some observers said progress had been made and called the election transparent; others, such as the Commonwealth Observer Group, stated that the election lacked credibility. Some opposition parties alleged that there was multiple voting by individuals close to President Biya's party and massive vote rigging. One domestic group described the election as a masquerade. The 2002 legislative elections, which were dominated by the

CPDM, largely reflected the will of the people; however, there were widespread irregularities.

Since 1991 only government bills proposed by the presidency have been enacted by the National Assembly; however, in April 2004 the National Assembly agreed to consider a bill submitted by the leading opposition party. Only parties with representatives in the National Assembly can submit bills for consideration. During its June session, the National Assembly refused to consider a bill on electoral reform tabled by the SDF, the leading parliamentary opposition party.

The president's control over the country's administrative apparatus was extensive. The president appoints all ministers, including the prime minister, and also directly appoints the governors of each of the 10 provinces. The president also has the power to appoint important lower level members of the 58 provincial administrative structures.

The right of citizens to choose their local governments remained circumscribed. The government increased greatly the number of municipalities run by presidentially appointed delegates, who have authority over elected mayors. Delegate-run cities included most of the provincial capitals and some division capitals in pro-opposition provinces; however, this practice was nonexistent in the southern provinces, which tended to support the ruling CPDM party. In municipalities with elected mayors, local autonomy was limited since elected local governments relied on the central government for most of their revenue and administrative personnel.

There were more than 180 registered political parties in the country; however, fewer than 10 had significant levels of support, and only 5 had seats in the National Assembly. The ruling CPDM held an absolute majority in the National Assembly; opposition parties included the SDF, based in the Anglophone provinces and the largest of the opposition parties, the National Union for Democracy and Progress, the Cameroon Democratic Union, and the Union of the Peoples of Cameroon.

Members of the Beti ethnic group, including the Bulu subgroup to which the president belonged, figured prominently in the government, civil service, and the management of state-owned businesses.

Women held 18 of 180 seats in the National Assembly, 6 of 61 cabinet posts, and a few of the higher offices within the major political parties, including the ruling CPDM.

Many of the key members of the government were drawn from the president's own Beti/Bulu ethnic group, as were disproportionately large numbers of military officers and CPDM officials. Pygmies were not members of the legislature or the government.

Government Corruption and Transparency.—Corruption remained a serious problem in all branches of Government. The public perception was that judicial and administrative officials were open to bribes in almost all situations. According to a TI survey published in December, an average household paid $205 (113 thousand CFA francs) each year in bribes, or more than 20 percent of the average person's annual income; the average annual income per person was approximately $800 (440 thousand CFA francs).

During the year local and international activists continued to criticize the government's lack of transparency in managing revenues from an international oil pipeline. In response to pressure from international financial institutions, the government agreed in March to the conditions of the Extractive Industries Transparency Initiative and published oil revenues from the first six months of the year on the prime minister's Web site.

During the year the government took some steps to fight corruption. For example in March, the government installed a new computer program to detect fraudulent state employees and to better control the number of its civil servants and employees. By year's end the system revealed at least three thousand "ghost" employees who did not exist or who were fraudulently drawing salaries.

In June and August, the government hired 22 potential candidates for the Audit Bench of the Supreme Court. On August 24, the 22 started a 2-month training at the National School of Administration and Magistracy. In early December the President appointed the Audit Bench Magistrates, who were sworn in and had begun to review the budget by year's end.

There was a National Corruption Observatory to combat corruption within the government at all levels; however, it remained severely underfunded. The observatory has the power to investigate cases, which are then handed over to the Ministry of Justice to be verified and sent to the courts for prosecution. The observatory did not investigate any cases of corrupt government officials this year.

There were two publicized prosecutions of corrupt government officials during the year. In April the Yaounde superior court sentenced Menouga Mevoa, a former post office manager, to 15 years in jail for the 2003 embezzlement of $1.8 million (900

million CFA francs). In June the Yaounde superior court held the first hearings in the trial of three postal services officers accused of embezzling $2 million (101 million CFA francs) in public funds in 2002. The trial was still underway at year's end.

On May 31, President Biya created the National Agency for the Investigation of Financial Crimes. Part of its mission is to fight money laundering, corruption-related enrichment, and the embezzlement of public funds. The president appointed officials to the agency on August 10, and they were sworn in on September 21. The agency was functioning by year's end.

There were no laws providing citizens with access to government information, and in practice, such access was difficult to obtain. Most government documents were not available to the public, including the media.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing findings on human rights cases; however, government officials repeatedly impeded the effectiveness of local human rights NGOs during the year by harassing members of human rights groups, limiting access to prisoners, refusing to share information, and threatening and using violence against personnel. Throughout the year, police continued to harass Philip Njaru, a human rights activist and executive director of the Kumba-based Friends of the Press Network, a human rights organization in Southwest Province. Access by international NGOs to prisons reportedly improved during the year (see section 1.c.). The activities of virtually all of these groups were limited by a shortage of funds and trained personnel. Observers criticized the country's NGO laws for giving the government the opportunity to deny authorization to operate and eliminate NGOs by decree.

Numerous domestic human rights NGOs operated in the country, including, among others, the National League for Human Rights, the Organization for Human Rights and Freedoms, the Association of Women against Violence, the Movement for the Defense of Human Rights and Freedoms, and the Cameroonian Association of Female Jurists.

Unlike in the previous year, there were no reports that the government arrested NGO members. There were no further developments in the 2003 arrest of Abdoulaye Math, who was awaiting trial at year's end.

In September AI released a report, *Contracting out of Human Rights: The Chad-Cameroon Pipeline Project*, that criticized the government for placing financial interests above the concerns of citizens. Citing claims that the 2003 construction of an oil pipeline running from Douba in southern Chad to the port city of Kribi in southwest Cameroon had damaged the livelihoods of fishermen, AI called on the government to offer recourse to the fishermen and to amend the agreements with oil companies to safeguard human rights. The government continued to work with the conglomerate running the pipeline to identify communities affected by the pipeline and to offer remuneration and other self-help projects.

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations such as the ICRC.

The NCHRF has the authority to summon witnesses and publish reports and the findings of its investigations. On July 7, the president signed the implementing decree for a law passed by the National Assembly in July 2004 that expanded the powers of the NCHRF and authorized it to summon witnesses and publish reports and investigation findings. It also created a permanent secretariat, a division in charge of the protection and promotion of human rights and freedoms. While the NCHRF remained hampered by a shortage of funds, during the year it conducted a number of investigations into human rights abuses, visited prisons, and organized several human rights seminars aimed at judicial officials, security personnel, and other government officers. Although the commission infrequently criticized the government's human rights abuses publicly, its staff intervened with government officials in specific cases of human rights abuses by security forces, attempted to stop Friday arrests (see section 1.d.), and sought to obtain medical attention for jailed suspects in specific cases.

In February the government created a division of human rights in the Ministry of Justice to investigate and report on all cases of human rights abuses in the areas under the ministry's responsibility, including prisons, jails, and courtrooms.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law does not explicitly forbid discrimination based on race, language, or social status, but the law prohibits discrimination based on gender and mandates that "everyone has equal rights and obligations"; however, the government did not enforce

these provisions effectively. Violence and discrimination against women, trafficking in persons, discrimination against ethnic minorities, and discrimination against homosexuals were problems.

Women.—Domestic violence against women was common. While there were no reliable statistics on violence against women, a large number of newspaper reports indicated that the phenomenon was widespread. The law does not specifically prohibit domestic violence, but assault is prohibited and is punishable by prison terms and fines; however, in practice the government did not effectively enforce it in the case of assault on women. Women's rights advocates reported that the law does not impose effective penalties against men who commit acts of domestic violence. There are no gender-specific assault laws, despite the fact that women were the predominant victims of domestic violence. Spousal abuse is not a legal ground for divorce. In cases of sexual assault, a victim's family or village often imposed direct, summary punishment on the suspected perpetrator through extralegal means, ranging from destruction of property to beating. During the year there were no reports of any convictions, or of any action by the government to combat domestic violence.

The law prohibits rape, and although rape occurred, police and the courts investigated and prosecuted cases of rape, which resulted in some convictions during the year. Official and private media regularly covered rape cases handled by the courts during the year. In June a couple of newspapers released special issues on the problem of rape, which was becoming acute, especially in Douala and Yaounde. According to one of the reports, the Douala Courts heard approximately 40 cases per month.

The law does not prohibit female genital mutilation (FGM), and FGM was not practiced widely; however, it continued to be practiced in isolated areas in 3 of the 10 provinces, including some areas of Far North, Eastern, and South West provinces. Internal migration contributed to the spread of FGM to different parts of the country. The majority of FGM procedures were clitorectomies; however, the severest form of FGM, infibulation, was performed in the Kajifu region of the Southwest Province. FGM usually was practiced on infants and pre-adolescent girls. During the year the government did not conduct programs to educate the population about the harmful consequences of FGM or prosecute any persons who allegedly performed FGM; however, the Association of Women Against Violence continued to conduct a program in Maroua to assist victims of FGM and their families and to educate local populations.

While the law prohibits prostitution, it was tolerated. Prostitution was practiced predominately in urban areas by locals, and trafficking for the purposes of commercial sexual exploitation occurred (see Section 5, Trafficking).

During the year a foreign pharmaceutical company conducted a clinical study of a drug intended to prevent the spread of HIV/AIDS among 400 female prostitutes, none of whom had HIV at the beginning of the trial. Local and international NGOs criticized the company and the Ministry of Health for lack of transparency and negligence, asserting that the government and the company did not sufficiently inform the prostitutes of the risks involved with taking part in the trials. According to Doctors without Borders and a UN press agency, there was no provision for free treatment against HIV/AIDS in the protocol agreement governing the trial and its participants, although free condoms and HIV/AIDS testing were provided. Some of the participants said they believed they had been "vaccinated" by the pills they received and could not contract HIV/AIDS, even though 200 prostitutes had been given placebos. At least three prostitutes were infected with HIV after having unprotected sex during the trial. In response to the allegations of misconduct, the Ministry of Health suspended the clinical tests in February, citing "dysfunctions" and saying that "certain corrective measures" needed to be taken by the research team. The minister also set up an independent inquiry, which reported that although allegations about safety made by certain NGOs were not true, new procedures needed to be instituted to ensure more regular reporting and study site accreditation before the trials could resume. By year's end the trial had not resumed.

While the law prohibits sexual harassment, very few cases were reported or prosecuted during the year. The government did not conduct any public education campaigns on the subject and there were no statistics available on its occurrence.

Despite constitutional provisions recognizing women's rights, women did not enjoy the same rights and privileges as men. Some points of civil law were prejudicial to women. The law allows a husband to oppose his wife's right to work in a separate profession if the protest is made in the interest of the household and the family; a husband may also end his wife's commercial activity by notifying the clerk of commerce tribunal of his opposition based upon the family's interest. Partly for this reason, some employers required a husband's permission before hiring female employees.

Customary law was far more discriminatory against women, since in many regions a woman customarily was regarded as the property of her husband. Because of the importance attached to customs and traditions, civil laws protecting women often were not respected. In the customary law of some ethnic groups, husbands not only maintained complete control over family property, but also could divorce their wives in a traditional court without being required to provide either verifiable justification or alimony. Polygyny was permitted by law and tradition. In cases of divorce, the husband's wishes determined the custody of children over the age of six. While a man may be convicted of adultery only if the sexual act takes place in his home, a female may be convicted without respect to venue.

Traditional law normally governed the extent to which a woman may inherit from her husband in the absence of a will, and traditions varied from group to group. In many traditional societies, custom grants greater authority and benefit to male heirs than to female heirs. Women also faced the issue of forced marriage; in some regions, girls' parents could and did give girls away in marriage without the bride's consent. Often the husband, who could be many years older than his bride, paid his wife's parents a "bride price." Since a price had been paid, the girl was considered the property of the husband. When a married man died, his widow often was unable to collect any inheritance, since she herself was considered part of the man's property. Often the widow was forced to marry one of the deceased husband's brothers. If she refused, she had to repay the bride price in full and leave the family compound. In the northern provinces, some Lamibe reportedly prevented their wives and concubines from leaving the palace. The lack of a national legal code covering such family issues often left women defenseless against these male-oriented customs.

In May 2004, religious leaders, including Catholics, Protestants, and Muslims, launched a nationwide program to fight violence against women.

Children.—During the year the government made some efforts to protect children's rights and welfare, including participation in seminars on children's rights. In December the National Assembly passed the Anti-Child Trafficking law, which was signed into law by the president.

The law provides for a child's right to education, and schooling was mandatory through the age of 14. Since parents had to pay uniform and book fees for primary school, and because tuition and other fees for secondary education remained costly, education largely was unaffordable for many children. The government took measures during the year to improve access to schools.

According to statistics from the Ministry of Education, 72.2 percent of girls between the ages of 6 and 14 were enrolled in school, compared with 81.3 percent for boys of the same age group. According to the UN Children's Fund (UNICEF), the secondary school enrollment ratio (gross) was 36 percent for boys and 29 percent for girls. The low education rate continued to be attributed to socio-cultural prejudices, early marriage, sexual harassment, unwanted pregnancy, and domestic chores.

In October 2004 the minister of education and the minister of youth and sports presented the results of a study on the country's education system. The study revealed a large disparity between the number of potential students and the capacity of the schools. According to the report, preschools served only 16 percent of all possible students. Within the entire school system, the northern provinces were the most underprivileged, with only 5.7 percent of all teachers working in the Adamawa, North, and Extreme North provinces combined. The capacity of the schools was also inadequate. The study showed that elementary schools only had enough seats for 1.8 million students, although 2.9 million attended school.

Medical care was provided by the government through local clinics and hospitals and through a limited number of school doctors. Families with enough financial resources had access to a number of private clinics and hospitals.

The exact extent of familial child abuse was not known; however, children's rights organizations targeted the problem. Newspaper reports often cited children as victims of kidnapping, mutilation, and even infanticide. There were several credible stories of mothers (usually young, unemployed, and unmarried) abandoning their newborns in streets, garbage cans, and pit toilets.

FGM was performed primarily on young girls (see section 5, Women).

Despite the law that fixes a minimum age of 15 years for a bride, many families facilitated the marriage of young girls by the age of 12 years. Early marriage was prevalent in the northern provinces of Adamawa and the North, but it was especially characteristic of the remote Far North Province, where many young women faced severe health risks from pregnancies as early as 13 years of age. There were no statistics on the prevalence of child marriage. Anecdotal evidence indicated that

some parents might have promised a female baby to an older male in order to begin receiving dowry payments.

There were reports of child prostitution and trafficking in children during the year (see section 5, Trafficking).

Child labor remained a problem (see section 6.d.).

Although exact numbers were unavailable, the country had a significant number of displaced or street children, most of whom resided in urban areas such as Yaounde and Douala.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, but the law does prohibit slavery, prostitution, forced labor, and other crimes related to trafficking in persons and establishes minimum age requirements for workers. Trafficking remained a problem. Courts prosecuted traffickers using various provisions of the Penal Code that address related crimes. The country was a source, transit, and destination point for internationally trafficked persons; trafficking also occurred within the country. The Anti-Child Trafficking law, drafted by the government in cooperation with the International Labor Organization (ILO), went in effect in late December.

The law provides that any person who engages in crimes often associated with trafficking in persons shall be punished by prison terms of between 6 months and 20 years.

The Ministry of Labor, Employment, and Social Insurance was primarily responsible for fighting trafficking; however, the ministry was severely underfunded. It was believed that authorities prosecuted several trafficking cases during the year, but actual rates were difficult to determine since traffickers could be prosecuted under various sections of the penal code, and there was no system for tracking outcomes.

In February a Yaounde court sentenced an individual with the name of Nkodo to 3 years in jail and ordered her to pay damages of $2 thousand (1 million CFA francs) to her victim, a 19-year-old girl who worked for her as a prostitute.

In May gendarmes in Yaounde dismantled a prostitution ring which used young boys. The boys were lured into the ring by the prospect of being hired by prestigious soccer clubs in a foreign country. Police arrested three of the organization's five members, who were in detention and awaiting trial at year's end; the other two were still in hiding.

On June 20, police arrested three individuals, including a Cameroonian woman and two Gabonese men, in the South Province, close to the Gabonese border. The three individuals were arrested while trying to smuggle two 13-year-old girls, who were kidnapped in the Boyo Division of the North West Province, into Gabon. The three were put under detention, pending trial. During the investigation, South Province police officials said it was the third time that they had arrested traffickers at the country's borders with Gabon and Equatorial Guinea.

There was no information about three individuals who were arrested in 2003 for their involvement in trafficking six children from the town of Obala to Yaounde.

The government continued to fight trafficking through the use of an interagency committee and a program to find and return trafficked children. In addition the government cooperated with Gabon, Nigeria, Togo, and Benin in fighting trafficking through the exchange of information and preparation of common legislation on trafficking. During the year the ILO and some local NGOs briefed parliamentarians on the problem of trafficking in persons.

Women and children traditionally have faced the greatest risk of trafficking and have been trafficked most often for the purposes of sexual exploitation and forced labor. Most trafficking in children occurred within the country's borders, while most trafficked women were transported out of the country. According to anecdotal evidence by the NCHRF, women often were "hired" into hubs of prostitution, often in Europe. The method for trafficking women usually involved a marriage proposition by a foreign businessman. The woman was inducted into servitude upon arrival at a foreign destination. Girls were internally trafficked from the Adamawa, North, Far North, and Northwest provinces to Douala and Yaounde to work as domestic servants, street vendors, or prostitutes. Children were also internally trafficked to work on cocoa bean plantations. There have been credible reports of slavery, especially in some chiefdoms in the North Province (see section 6.c.).

According to a study by the International Circle for the Promotion of Creation and the Cameroon Society for Prevention of Child Abuse and Neglect, of 722 young girls between 9 and 20 years old interviewed in the cities of Yaounde, Douala, Bamenda, and Bafoussam, 291 were the victims of sexual exploitation.

Unlike in the previous year, there were no reports of radio advertisements offering to take adolescent girls between the ages of 10 and 17 to Yaounde and Douala for domestic labor; however, there continued to be flyer advertisements.

A 2000 ILO study conducted in Yaounde, Douala, and Bamenda, reported that trafficking accounted for 84 percent of child laborers in those three cities. During the year local NGOs said they believed that this statistic was still accurate. In most cases, intermediaries presented themselves as businessmen, approaching parents with large families or custodians of orphans and promising to assist the child with education or professional training. The intermediary paid parents an average of $12 (6 thousand CFA francs) before transporting the child to a city where the intermediary would subject the child to forced labor with little remuneration. In 4 out of 10 cases, the child was a foreigner transported to the country for labor. The report also indicated that the country was a transit country for regional traffickers, who transported children between Nigeria, Benin, Niger, Chad, Togo, the Republic of the Congo, and the CAR for indentured or domestic servitude, farm labor, and sexual exploitation. Citizens also were trafficked to South Africa.

The Institute for Socio-Anthropologic Research of the Yaounde-based Catholic University of Central Africa continued an ILO-sponsored Exploratory Study on Child Trafficking during the year.

During the year the ILO and the government continued to support an awareness campaign to eradicate child trafficking in airports. Special antitrafficking embarkation/disembarkation cards continued to be designed and distributed. The cards described the dangers of trafficking and how to recognize the phenomenon.

The government continued to work with local and international NGOs to provide temporary shelter and assistance to victims of trafficking. In August, a local NGO graduated 70 trafficking victims from its rehabilitation and reintegration program. The Catholic Relief Service worked to combat corruption in local schools that led to child prostitution. UNICEF was also actively engaged in combating girls' prostitution throughout the year.

Persons with Disabilities.—The law provides certain rights to persons with disabilities, including access to public institutions, medical treatment, and education, and the government was obliged to bear part of the educational expense of persons with disabilities, to employ them where possible, and to provide them with public assistance when necessary; however, the government rarely honored these obligations. There were few facilities for persons with disabilities and little public assistance; lack of facilities and care for persons with mental disabilities particularly was acute. Society largely tended to treat those with disabilities as outcasts, and many felt that providing assistance was the responsibility of churches or foreign NGOs. The law does not mandate special access provisions to private buildings and facilities for persons with disabilities.

National/Racial/Ethnic Minorities.—The population consists of more than 200 ethnic groups, among which there were frequent and credible allegations of discrimination. Ethnic groups commonly gave preferential treatment to fellow ethnic group members both in business and social practices.

Members of President Biya's Beti/Bulu ethnic group from southern parts of the country held key positions and were disproportionately represented in government, civil service, state-owned businesses, the security forces, and the ruling CPDM party.

The M'Bororo, a group of semi-nomadic Fulani cattle raisers were given rights over pastoral land in the North West Province by the British colonial government; however, in 1986 Alhadji Baba Ahmadou Danpullo, a prominent businessman and member of the ruling party, established a commercial ranch on this land. For the last 19 years the M'Bororo have claimed that Danpullo has forcibly displaced them; seized their land, cattle, and women; and used his money and influence with the government to order the beating and false imprisonment of members of the M'Bororo. A special government commission of inquiry finished hearing testimony on the Danpullo-M'Bororo dispute and sent its report to the Ministry of Justice early in the year. No further information was available on the status of the case at year's end.

Northern areas of the country continued to suffer from ethnic tensions between the Fulani (or Peuhl) and the Kirdi. The Kirdi remained socially, educationally, and economically disadvantaged relative to the Fulani in the three northern provinces. Traditional Fulani rulers, called Lamibe, continued to wield great power over their subjects, often including Kirdi, sometimes subjecting them to tithing and forced labor. During the year isolated cases of slavery were reported, largely Fulani enslavement of Kirdi.

Natives of the North West and South West provinces tended to support the opposition party SDF and suffered disproportionately from human rights violations committed by the government and its security forces. The Anglophone community was underrepresented in the public sector. Although citizens in certain Francophone

areas—the Far North, North and Adamawa provinces—voiced similar complaints about under-representation and neglect of government provision of services, Anglophones said they generally believed that they had not received a fair share of public sector goods and services within their two provinces. Some residents of the Anglophone region sought greater freedom, equality of opportunity, and better government by regaining regional autonomy rather than through national political reform and have formed several quasi-political organizations in pursuit of their goals.

At least one Anglophone group, the SCNC, advocates secession from the country. During the year security forces harassed and arrested the participants of SCNC meetings (see sections 1.d., 2.a., and 2.b.). The government also continued to hold some SCNC activists in temporary detention, pending their trials. The opposition SDF party, whose base of support resides in the Anglophone provinces, reiterated its commitment to pursue a nonviolent political struggle toward the restoration of a federal republic.

Some members of the country's large community of Nigerian immigrants complained of discrimination and abuse by government officials (see section 1.c.). Government officials repeatedly announced crackdowns on undocumented Nigerian immigrants, and illegal immigrants were subject to harassment on some occasions.

Indigenous People.—A population of approximately 50 thousand to 100 thousand Baka (Pygmies), a term that encompasses several different ethnic groups, primarily resides (and were the earliest known inhabitants) in the forested areas of the South and East provinces. While no legal discrimination exists, other groups often treated the Baka as inferior and sometimes subjected them to unfair and exploitative labor practices. Baka reportedly continued to complain that the forests they inhabit were being logged without fair compensation. Some observers believe that sustained logging was destroying the Baka's unique, forest-oriented belief system, forcing them to adapt their traditional social and economic systems to a more rigid modern society similar to their Bantu neighbors. Local Baka along the path of the Chad-Cameroon pipeline continued to complain that they were not compensated fairly for their land. Others alleged that they had been cheated of their compensation by persons posing as Baka representatives.

An estimated 95 percent of Baka did not have national identity cards; most Baka could not afford to provide the necessary documentation to obtain national identity cards, which were required to vote in national elections. In May 2004 Plan International and another NGO launched a program to educate Bakas about their political rights, which included the construction of a communal radio in the region of Abong-Mbang (Upper Nyong Division, East Province). In July 2004 the Association of Boumba and Ngoko Divisional Councils conducted a campaign through which they were able to issue hundreds of identification cards to Bakas in the East Province, thereby allowing these individuals to register and vote.

In August the Ministry of Social Affairs launched the Project to Support the Economic and Social Development of Bakas in South Province. The mission of the 3-year project was to allow the issuance of birth certificates and national identity cards to 2,300 Bakas, as well as to help register hundreds of students in school.

Other Societal Abuses and Discrimination.—Homosexuality is illegal, with a possible prison sentence of between 6 months and 5 years and a possible fine ranging from approximately $40 to $400 (20 thousand to 200 thousand CFA francs). While prosecution under this law was rare, homosexuals suffered from harassment and extortion by law enforcement officials.

On May 22, gendarmes of the Nlongkak brigade in Yaounde arrested 17 suspected homosexuals; 5 of them were released shortly after their arrest for lack of evidence. According to the prosecutor, in June the remaining 12 were formally charged and put under detention at the Yaounde Kondengui Prison, pending their trial. According to the International Gay and Lesbian Human Rights Commission the government ordered a "medical examination" to determine whether the men had engaged in homosexual conduct. There was no additional information on this case at year's end.

During the year there were organizations that advocated for the rights of homosexuals.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join trade unions; however, the government imposed numerous restrictions. The law does not permit the creation of a union that includes both public and private sector workers, or the creation of a union that includes different, even closely related sectors.

The law requires that unions register with the government, permitting groups of no less than 20 workers to organize a union by submitting a constitution, internal regulations, and nonconviction certifications for each founding member. The law

provides for prison sentences and fines for workers who form a union and carry out union activities without registration. Government officials said that it remits certification within one month of union application; however, in practice, independent unions, especially in the public sector, have found it difficult to register.

Registered unions were subject to government interference. The government chose the unions with which it would bargain; some independent unions accused the government of creating small nonrepresentative unions amenable to government positions and with which it could "negotiate" more easily. Some sections of labor law have no force or effect because the presidency had not issued implementing decrees.

In January and February the Ministry of Labor, with the assistance of experts from the ILO, held discussions with all trade unions in an effort to put in place a system for tracking and recognizing unions that would meet international criteria on the subject. The initial focus of this effort was on determining the actual, paid membership of each union to determine the size and importance of each group.

During the year the government restricted the civil rights of union leaders. For example on August 29, police arrested and detained for one hour Alain Marcellin Mibo, the leader of the Primary Education Teachers Association. For several weeks Mibo and his colleagues had been holding sit-ins in front of the prime minister's office to demand that they be given full-time civil servant status, instead of the part-time or temporary status they were employed under. There were no new developments in the 2003 arrest of railroad union president Benoit Essiga and his six colleagues.

The law prohibits antiunion discrimination, and employers guilty of such discrimination were subject to fines up to approximately two thousand dollars (one million CFA francs). However, employers found guilty were not required to compensate the workers against whom they discriminated or to reinstate fired workers. The Ministry of Labor did not report any complaints of such discrimination during the year, although there were credible press reports of union leader harassment.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining between workers and management as well as between labor federations and business associations in each sector of the economy. Two formal collective bargaining negotiations took place during the year, one in the electricity sector and another in the media. While the negotiation was successful in the electricity sector, negotiations were ongoing in the media sector at year's end. There were no export processing zones.

When labor disputes arose, the government chose the labor union with which it would negotiate, selectively excluding some labor representatives. Once agreements were negotiated, there was no mechanism to enforce implementation; some agreements between the government and labor unions were then ignored by the government.

On March 4, the minister of labor and social security presided at the signing of the collective bargaining agreement between the management of AES-Sonel, the privatized national electricity corporation, and its employees' unions. The previous agreement was 35 years old. On May 11, however, the Confederation of Free Cameroon Trade Unions denounced the agreement, claiming it infringed upon many of the rights of the company's workers. The union filed a request for annulment of the agreement with a Douala court, where the case was still pending at year's end.

On July 7, the minister of labor and social security appointed a joint commission—consisting of public and private media managers, private and public journalists, and other media workers—tasked with drafting a collective bargaining agreement for the media; however, by year's end an agreement had not yet been reached.

The Labor Code explicitly recognizes workers' right to strike but only after mandatory arbitration, and workers exercised this right during the year. Arbitration decisions were not enforceable by law and could be overturned or simply ignored by the government or employers. The provision of the law allowing persons to strike does not apply to civil servants, employees of the penitentiary system, or workers responsible for national security. Instead of strikes, civil servants were required to negotiate grievances directly with the minister of the appropriate department in addition to the minister of labor.

At year's end no decision had been made on whether to provide severance dues to workers of the National Agency for Support to Forestry Development; the government terminated the contracts of all the company's workers in May 2004, following a strike regarding payment of salary arrears. The company also had not decided which workers, if any, would be rehired.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. Authorities

continued to allow prison inmates to be contracted out to private employers or used as communal labor for municipal public works.

The ILO confirmed that there was an increase during the year in serious trafficking issues, and slavery situations have been identified in the northern provinces (see section 5). NGOs and religious associations reported that children were kidnapped, sold, or "lent" by their parents to individuals claiming to look after their interests and sent to Yaounde or Douala to work in child beggar networks and, in some cases, prostitution rings. Some children were sent to neighboring countries to work. These victims were generally of both sexes and between the ages of 6 and 14 years old.

In the South and East provinces, some Baka, including children, continued to be subjected to unfair and exploitative labor practices by landowners and worked on the landowners' farms during harvest seasons without payment (see section 5).

The government does not expressly prohibit forced and compulsory labor by children, and there were reports that these practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law generally protects children from exploitation in the workplace and specifies penalties ranging from fines to imprisonment for infringement; however, child labor remained a problem. The government does not specifically prohibit forced and compulsory labor by children, and there were reports that it occurred in practice.

The law sets a minimum age of 14 for child employment, which is inconsistent with the age for completing educational requirements (see section 5). The law also bans night work and enumerates tasks that children under the age of 18 cannot legally perform. These tasks included moving heavy objects, dangerous and unhealthy tasks, working in confined areas, and prostitution. The law also states that a child's workday cannot exceed 8 hours. Employers were required to train children between the ages of 14 and 18, and work contracts must contain a training provision for minors. The prohibition against night work was not enforced effectively.

Information on child labor was difficult to obtain; however, according to a 2000 study by the ILO and Ministry of Labor, child labor existed chiefly in urban areas and in the informal sector such as street vending, car washing, agricultural work, and domestic service. Many urban street vendors were less than 14 years of age. An increasing number of children worked as household help, and some children were involved in prostitution. In the north, there were credible reports that children from needy homes were placed with other families to do household work for pay. In the nation's major cities of Yaounde, Douala, and Bamenda, the ILO estimated that 40 percent of employed children were girls, of whom 7 percent were less than 12 years of age, and 60 percent had dropped out of primary school.

Parents viewed child labor as both a tradition and a rite of passage. Relatives often employed rural youth, especially girls, as domestic helpers, and these jobs seldom allowed time for the children to attend school. In rural areas, many children began work at an early age on family farms. The cocoa industry also employed child laborers. According to estimates, up to 9 thousand under-aged children (between the ages of 5 and 17) were working in the cocoa industry at year's end. These children originated, for the most part, from the Northern and North Western provinces.

In March the ILO presented the preliminary draft of the ILO/West Africa Cocoa/Agriculture Program to eliminate child labor. The program was started in the country in 2003, and was scheduled to end in April 2006. The program met its goal by removing 1,109 children from hazardous work and forced labor conditions in the cocoa sector by December.

The Ministry of Social Affairs and the Ministry of Labor were responsible for enforcing existing child labor laws through site inspections of registered businesses; however, the government did not allocate sufficient resources to support an effective inspection program. Moreover, the legal prohibitions do not include family chores, which in many instances were beyond a child's capacity. During the year the government employed 58 general labor inspectors to investigate child labor cases.

On June 12, the government, the ILO, and other partners organized numerous activities to mark the World Day against Child Labor, which specifically highlighted children in the mining sector.

The ILO continued to work with specific contact persons in various ministries and agencies involved in antitrafficking activities; it also conducted nationwide investigations and cooperated with local organizations.

e. Acceptable Conditions of Work.—The minimum wage was approximately $47 (23,514 CFA francs) per month and was applicable in all sectors. The minimum wage did not provide for a decent standard of living for an average worker and family. The Ministry of Labor was responsible for enforcing the minimum wage nationally,

The law establishes a standard workweek of 40 hours in public and private nonagricultural firms and 48 hours in agricultural and related activities. There are exceptions for guards and firemen (56 hours a week), service sector staff (45 hours a week), and household and restaurant staff (54 hours a week.) The law mandates at least 24 consecutive hours of weekly rest. Premium pay for overtime ranged from 120 to 150 percent of the hourly pay depending on amount and whether it was for weekend or late-night overtime. There is a prohibition on excessive compulsory service. The Ministry of Labor inspectors were responsible for monitoring these standards; however, they lacked the resources for a comprehensive inspection program.

The government sets health and safety standards. Ministry of Labor inspectors and occupational health physicians were responsible for monitoring these standards; however, they lacked the resources for a comprehensive inspection program. The law does not provide workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment.

CAPE VERDE

Cape Verde, with a population of approximately 460 thousand, is a multiparty parliamentary democracy in which constitutional powers are shared among the elected head of state, President Pedro Verona Rodrigues Pires and Prime Minister Jose Maria Neves. Pires was elected in 2001 in generally free and fair elections. Nationwide municipal elections held in March also were considered to be generally free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- police abuse of detainees and military officer abuse of subordinates
- poor prison conditions
- lengthy pretrial detention
- excessive trial delays
- media self-censorship
- violence and discrimination against women
- abuse of children
- child prostitution
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were credible reports that police continued to beat persons in custody and in detention and that military officers abused military personnel. For example, on October 23, a corporal was struck 25 times with a baton as punishment ordered by his company commander. His family filed a criminal suit against the army. The case was pending at year's end.

Prison and Detention Center Conditions.—Prison conditions were poor, and facilities were severely overcrowded. Sanitation and medical assistance were poor; however, a doctor and a nurse were available, and prisoners were taken to the public hospitals for serious medical problems. Psychological problems among prisoners were common.

On December 25, a riot broke out at the Sao Martinho prison, the main prison on the island of Santiago. One prisoner was killed and three other persons, including one guard, were injured. The cause of the riot was reported to be the fact the prisoners were upset with a change in the Christmas visit schedule. The Judiciary Police was investigating the case.

Juveniles were not held separately from adults, and pretrial detainees were not held separately from convicted prisoners.

The government permitted both formal visits by international human rights monitors to prisons and visits to individual prisoners; however, there were no such visits

during the year. Local nongovernmental organizations (NGOs) and media representatives frequently visited the prisons and reported on prison conditions.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The police force is organized nationally under the Ministry of Justice and is made up of the public order police who are responsible for law enforcement and the judicial police who are responsible for investigations. Corruption was not a significant problem. Impunity was a problem. Police abuses are investigated internally; however, these investigations did not result in any legal action against the perpetrators. Logistical constraints, including lack of vehicles, limited communications equipment, and poor forensic capacity, limited police effectiveness. During the year the government trained police to address more effectively issues related to illegal emigration and immigration, drug trafficking, and terrorism.

Arrest and Detention.—Police may not make arrests without a warrant issued by a duly authorized official, unless a person is caught in the act of committing a felony. The law stipulates that a suspect must be brought before a judge within 48 hours of arrest. The law provides a person in detention with the right to a prompt judicial determination of the legality of the detention, and the authorities respected this right in practice. The detainee's attorney informed him of the charges. There was a functioning bail system, and it was used in practice. Detainees were allowed prompt access to a lawyer of their choice and, if indigent, to one provided by the government. Detainees were also allowed prompt access to family members.

There were no reports of political detainees.

Lengthy pretrial detention was a serious problem, and detainees often remained in jail without charge for more than a year. The dropping of charges without a court judgment was a frequent means for terminating criminal cases.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary was understaffed and inefficient.

The judicial system is composed of the Supreme Court and the regional courts. Of the five supreme court judges, one is appointed by the president, one by the national assembly, and three by the superior judiciary council. Judges were independent and could not belong to a political party. Regional courts adjudicate minor disputes on the local level in rural areas. The civilian courts had jurisdiction over state security cases. There are penal courts to handle criminal cases, including violations of the electoral laws, civil courts to handle civil and commercial suits, and one military court. The Supreme Court is the highest appellate court, and also handles administrative cases. The military court cannot try civilians.

Trial Procedures.—The law provides for the right to a fair and public nonjury trial. Defendants have the right to be present and to consult with an attorney in a timely manner; free counsel is provided for the indigent. Defendants have the right confront or question witnesses against them and to present witnesses. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants are presumed to be innocent and can appeal regional court decisions to the Supreme Court.

The judiciary generally provided due process; however, the right to an expeditious trial was constrained by a seriously overburdened and understaffed judicial system. A backlog of cases routinely led to trial delays of six months or more; more than 12,055 cases were pending at the end of 2003.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. There continued to be reports of media self-censorship.

There were three independent newspapers and one state-owned newspaper; six independent radio stations and one state-owned radio station; and one state-owned television station and two foreign-owned stations. Foreign broadcasts were permitted. Journalists were independent of government control and were not required to reveal their sources; however, journalists, particularly those associated with the government-controlled media practiced self-censorship.

The law requires a formal licensing mechanism for mass media, including government authorization to broadcast; however, there were no reports that licenses were denied or revoked or that the government refused to authorize broadcasts during the year.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The Catholic majority enjoyed a privileged status in national life. For example, the government provided the Catholic Church with free television broadcast time for religious services and observed its holy days as official holidays.

To be recognized as legal entities by the government, religious groups must register with the Ministry of Justice; however, failure to do so did not result in any restriction on religious practice.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts during the year. There is no known Jewish community in the country.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 protocol.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The National Electoral Commission and the international media judged the 2000 legislative elections, the 2001 presidential elections, and the March nationwide municipal elections to be free and fair.

There were 11 women in the 72-seat National Assembly and 4 women in the 17-member cabinet.

There were no members of minorities in the government.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The law provides for freedom of access to governmental information without restriction, provided that privacy rights are respected; however, there were no requests for such information during the year.

Section 4. Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

There were three private human rights groups: the National Commission of the Rights of Man, the Ze Moniz Association, and the Alcides Barros Association.

The powers of the independent ombudsman, who serves a five-year term, were defined in 2003; however, no ombudsman had been elected by year's end.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these provisions

effectively, and violence and discrimination against women and abuse of children were serious problems.

Women.—Domestic violence against women, including wife beating, was widespread. The government and civil society encouraged women to report criminal offenses such as spousal abuse and rape, which is punishable by 2 to 13 years' imprisonment; however, longstanding social and cultural values inhibited victims from doing so. While there were mechanisms to deal with spousal abuse, in practice, these mechanisms neither ensured the punishment of all those responsible nor effectively prevented future violence. Nevertheless, reporting of such crimes to police continued to increase during the year, and violence against women was the subject of extensive public service media coverage in both government- and opposition-controlled media.

Women's organizations, like the Women Jurists' Association, continued to seek legislation to establish a special family court to address crimes of domestic violence and abuse; however, there was no such legislation by year's end. The law protects certain rights of the victims of sexual, mental, and verbal abuse; however, it did not ensure compensation.

Rape, including spousal rape, is a criminal offense, and the government generally did not effectively enforce the law. The penalties for rape were 2 to 13 years' imprisonment.

Prostitution is legal.

Sexual harassment is illegal, but the government did not effectively enforce the law. Sexual harassment was very common, but culturally not perceived as a crime.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system; however, women often were reluctant to seek redress of domestic disputes in the courts, and there was discriminatory treatment in inheritance matters. For example, some women were pressured to sign judicial agreements detrimental to their statutory inheritance rights.

Despite legal prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, discrimination against women continued. Although they often were paid less than men for comparable work, women were making inroads in various professions, especially in the private sector.

The Women Jurists' Association provided free legal assistance to women throughout the country suffering from discrimination, violence, and spousal abuse.

Children.—The government was committed to children's rights and welfare. The government provided free and universal education for all children aged 6 to 12. Education was compulsory until age 11; however, secondary education was free only for children whose families had an annual income below approximately $1,951 (160,000 Cape Verdean escudos). According to UNICEF, primary school attendance from 1996 to 2003 was approximately 98 percent. Attendance rates by boys and girls differed by less than 1 percent.

The government provided free primary health care for children, and boys and girls had equal access.

Child abuse and mistreatment, sexual violence against children, and child prostitution were serious problems. The media reported cases of sexual abuse against children and adolescents. The inefficiencies of the judicial system made it difficult for government institutions to address the problem.

Trafficking in children occurred (see section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in minors, but not adults; however, there were reports that persons were trafficked to and from the country. Sentences for trafficking in children ranged from 2 to 13 years' imprisonment. There were no prosecutions during the year. The Police of Public Order are responsible for combating trafficking. The government did assist the Spanish government with international investigation of the case described below. The government did not extradite citizens accused who were accused of trafficking in other countries.

In January Spanish authorities arrested eight Cape Verdean women who were being investigated at year's end for their involvement in an apparent trafficking ring involving 179 children; all 179 children were returned to the country. According to Spanish authorities, the victims were destined for "prostitution, illegal adoptions, or cheap labor." There were allegations of malfeasance and involvement in this case by government officials in the country's embassy in Senegal. The case was under investigation at year's end.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. The government did not require access for persons with disabilities to public buildings. Several NGOs, including an association for the blind, were active.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 22 percent of workers were unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right of workers to bargain collectively; however, there has been very little collective bargaining, and there were no signed collective bargaining agreements during the year. Workers and management in the small private sector, as well as in the public sector, normally reached an agreement through negotiations. Although there were no collective labor contracts, workers succeeded in negotiating important issues such as salary increases; however, as the country's largest employer, the government continued to play the dominant role in setting wages. It did not fix wages for the private sector, but salary levels for civil servants provided the basis for wage negotiations in the private sector.

The law provides union members with the right to strike, but the government at times limited this right. When workers attempted to strike, the government invoked a "civil request" under which it had the power, in an emergency or if a strike threatened coverage of basic needs, to name a list of minimum services that a union must continue to provide during any strike. The government continued to request workers to curtail strikes and to interpret essential services in the broadest terms. The government took measures during the year to amend its legislation so that if parties disagreed on the minimum services to be provided during strikes, an independent body could resolve the dispute; however, the government had not created an independent body to resolve such differences by year's end.

There are no special laws or exemptions from regular labor laws in the one export processing zone, which encompasses the whole country.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace, but the government did not effectively implement them in practice. The law prohibits children under the age of 16 from working at night, more than seven hours per day, or in establishments where toxic products were produced; however, the government rarely enforced the law, and child labor was a problem. The legal minimum age for employment was 16 years, which was inconsistent with the age for completing educational requirements (see section 5). The ministries of justice and labor were responsible for enforcing child labor laws; however, such laws were seldom enforced.

e. Acceptable Conditions of Work.—There were no established minimum wage rates in the private sector. Large urban private employers linked their minimum wages to those paid to civil servants. For an entry-level worker, this wage was approximately $146 (12,000 Cape Verdean escudos) per month. The majority of jobs paid wages that did not provide a worker and family with a decent standard of living; most workers relied on second jobs and extended family support.

The law provides for a maximum workweek for adults of 44 hours, prohibits excessive compulsory overtime, and requires that a premium be paid for work above the standard workweek. There is a required rest period of 12 consecutive hours per week. While large employers generally respected these regulations, many domestic servants and agricultural laborers worked longer hours.

The director general of labor conducted sporadic inspections to enforce the labor code and imposed fines on private enterprises that were not in conformity with the law; however, the government did not enforce labor laws systematically, and much of the labor force did not enjoy their protection.

The government has not set occupational health and safety standards; however, there is a general provision in the law that requires employers to provide a healthy and safe work environment. Few industries employed heavy or dangerous equipment. The law does provide workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment.

CENTRAL AFRICAN REPUBLIC [1]

The Central African Republic (CAR) is a constitutional republic whose population of approximately 3.9 million is governed by a strong executive branch and weak legislative and judicial branches. In March and May, the country held two rounds of multiparty presidential and legislative elections that ended two years of transitional rule by General Francois Bozize, who seized power in a 2003 military coup and declared himself president. The voting resulted in the election of Bozize, the country's former armed forces chief of staff, as president. National and international observers judged the elections to be generally free and fair and representative of the people's will, despite irregularities and accusations of fraud by candidates running against Bozize. The National Convergence Movement ("Kwa Na Kwa")—a grouping of smaller parties, military officials, and political leaders supporting Bozize—won the largest number of seats in the National Assembly. During the year lawlessness persisted in large swaths of the country, particularly in the north and northwest; the government and citizens were significantly affected by insecurity and the threat of conflict. The government and multinational regional forces deployed soldiers to fight banditry in northern areas of the country. Civilian authorities did not maintain effective control of security forces.

The government's human rights record remained poor; although the government's respect for human rights improved overall, serious problems remained in several areas. Compared with the country's human rights situation in 2004, political rights and press freedom increased significantly during the year, while freedom of movement deteriorated markedly because of actions by security forces and unidentified armed groups. There was an increase in arbitrary arrest and detention, particularly around the time of national elections. Several developments during the year adversely influenced the human rights situation, including the growth of salary arrears owed to government workers (which contributed to corruption) and an increase in attacks by unidentified armed groups, which resulted in the disruption of agricultural production and exodus of approximately 15 thousand refugees from the north and west, where the government did not exercise authority. Severe flooding in August displaced thousands of families, and an increase in the HIV/AIDS prevalence rate led many individuals to blame HIV/AIDS-related deaths of family members on witchcraft and to commit violations—including killings—against persons accused of casting deadly spells. In addition acute malnutrition reportedly reached 14 percent in some areas of the country, and the UN Development Program estimated that 95 percent of the population lived on less than $1 (546 CFA francs) a day, up from 67 percent in 2000. During the year the following human rights problems were reported:

- extrajudicial killings by security forces, particularly the Central Office for the Repression of Banditry (OCRB)
- kidnappings by armed groups
- torture, beatings, rape, and other abuses of suspects and prisoners by security forces
- impunity
- harsh prison and life-threatening detention center conditions
- arbitrary arrest and detention, political detainees, and prolonged pretrial detention
- denial of a fair trial and judicial corruption
- occasional restrictions on freedom of the press and assembly
- restrictions on freedom of movement
- government corruption and lack of access to information
- societal violence, including female genital mutilation (FGM), and discrimination against women
- societal discrimination against indigenous people (Pygmies)
- restrictions on workers' rights
- child labor and forced labor, including forced child labor

In addition to holding elections that observers judged to be generally free and fair, the government took significant steps to improve human rights during the year. In

[1] The American embassy in Bangui resumed operations in January after temporarily suspending them in November 2002 in response to security concerns following the start of a military coup.

January the government began implementing a new constitution passed by referendum in December 2004, as well as a new, almost completely decriminalized press law providing for greater press freedom. The minister of justice launched a zero-tolerance policy against corruption, resulting in the suspension of four judges in July. The government also suspended three ministers accused of engaging in corruption. In addition, following an investigation ordered by the president, the government initiated disciplinary procedures to deal with approximately 1,700 fraudulent or "ghost" workers in the civil service who had been illegally collecting government paychecks.

Unidentified armed groups—thought to be common criminals and remnants of insurgency groups from previous conflicts, including former pro-Bozize combatants from Chad—continued to attack, rob, beat, and rape civilians and loot and burn villages in the north and west.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed politically motivated killings; however, security forces continued to commit executions and other extrajudicial killings with impunity throughout the year.

On a monthly basis during the year, the OCRB, a special antibanditry police squad, continued to arbitrarily execute suspected bandits without respecting the basic due process rights of the accused and was responsible for other extrajudicial killings and deaths resulting from torture. The OCRB, which normally operated only in and around Bangui, committed such abuses with tacit government support and popular approval, partly because the OCRB's actions were seen as an effective means of reducing crime.

The OCRB often apprehended suspected armed robbers, bandits, and thieves after conducting informal, undocumented investigations; transported them to Cattin, a town three miles southwest of Bangui; shot and killed them; and then used open-air jeeps to drive the dead bodies through town in broad daylight (to exhibit the dead as a deterrent to crime) before depositing the bodies at a morgue. The director of the OCRB, however, claimed he was not aware of any extrajudicial executions. The minister of the interior, who oversees the OCRB, and the minister of justice said that, while the OCRB killed suspects during the year, he believed that these killings occurred only after OCRB members were shot at by suspects attempting to evade apprehension.

On March 17, members of the OCRB arrested Yacoub Ibrahim in the Bangui neighborhood of Kilometre 5 for unknown reasons. OCRB members beat and killed him, and his family later recovered his body. No other details were available at year's end.

The government did not prosecute OCRB members responsible for killings or other abuses committed during the year. The minister of justice said that most parents of suspected criminals killed by the OCRB did not file complaints with the judicial system because of the social stigma associated with being related to accused criminals. The public prosecutor of the republic and UN officials, however, said they believed that many victims' families did not file complaints against the OCRB because of fear of retribution and the widespread belief that the OCRB enjoyed almost total impunity.

The head of the High Commission of Human Rights and Good Governance, situated in the office of the president, said that the OCRB continued to commit extrajudicial killings during the year because they were effective in deterring violent crime and were supported by the general public because there was a lack of confidence in the judicial system's ability to punish criminals. He said he believed the OCRB had never killed an innocent person.

The presidential security forces also arbitrarily executed citizens during the year.

In September a severely wounded and dying man was found in a bag in Bangui. Before dying, the victim reportedly said that Lieutenant Celestine Dogo and members of the presidential security forces were responsible for his injuries. No additional information was available by year's end.

During the year there were developments in a high-profile case involving the alleged abduction, torture, and killing of two men in September 2004 by then Lieutenant Dogo, the head of the presidential security forces at the time. Although President Bozize officially dismissed Dogo from the security forces in September 2004, following his arrest for suspected involvement in the killing, Dogo was released from detention at a military installation without explanation and remained free during the year, during which he reportedly threatened the life of the brother of one of the

victims of the September 2004 killings. There were numerous credible reports during the year that Dogo continued to serve in the security forces despite his official dismissal and that he continued to commit violations against civilians; the government, however, denied these reports. The public prosecutor of the republic acknowledged the appearance of favoritism created by Dogo's release and said he was conducting a criminal investigation of Dogo. Six other members of the presidential security forces who were accused and arrested with Dogo remained in prison at year's end.

During the year there were credible reports that security forces committed other unlawful killings, some allegedly in connection with personal disputes or rivalries.

The government arrested some members of the military who allegedly killed persons during the year. By year's end government records from the second of two sessions held by the Permanent Military Tribunal during the year were unavailable; however, records from the first session indicated that the tribunal had heard a total of seven cases involving nine members of the military accused of committing killings. From those 7 cases, the tribunal convicted 5 individuals, including a sergeant, and sentences ranged from 5 to 20 years in prison. The tribunal acquitted one individual. One case involving three persons was deferred and still under investigation as of August.

By year's end no action had been taken against the members of security forces allegedly responsible for killing eight Chadian combatants in April 2004. There were no developments in the following killings in 2003, reportedly by security forces: the August killing of a student, the September killing of retired Gendarmerie Captain Joseph Koyanao, the September killing of a Nigerian trader, or the December executions of three boys in Haute Kotto.

During the year unidentified armed groups attacked and sometimes killed civilians during village raids and acts of highway banditry. For example armed groups attacked and reportedly killed several civilians in the Basse-Kotto prefecture prefecture town of Kolo in March and in three Ouham prefecture towns—Kadjema, Zere, and Bobo—between July 18 and August 12. Although information about these armed groups was difficult to obtain, aid workers and UN officials said they believed the armed groups were a mix of common criminals and remnants of insurgent groups from recurring conflicts in the region. Some human rights observers said they believed that many of the armed groups were comprised of the same rebels and mercenaries, including Chadian ex-combatants, who helped Bozize seize power in the 2003 coup; these observers said that because Bozize had been unable to pay the ex-combatants what they considered a proper compensation after he seized power, the ex-combatants were collecting payments from civilians by force.

Civilians continued to take vigilante action against presumed thieves, poachers, and some persons believed to be Chadian combatants.

Mobs reportedly continued to kill and injure suspected sorcerers or witches during the year. For example in June seven residents of Bangui's Miskine suburb killed a woman they accused of being a witch. No additional information was available at year's end.

No action was taken against vigilantes responsible for killings committed in 2004.

b. Disappearance.—There were no reports of politically motivated disappearances during the year. The government did not conduct investigations into the reported disappearances that occurred in 2003.

During the year unidentified armed groups conducted kidnappings of M'bororo children for ransom (see section 5).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the Penal Code prohibits torture and specifies sanctions for those found guilty of physical abuse, police, including the OCRB, continued to torture, beat, and otherwise abuse criminal suspects, detainees, and prisoners. According to local human rights groups such as the Association Against Torture and the Central African Human Rights League (LCDH), prisons employed torture less frequently than in the previous year, although the OCRB reportedly tortured suspects more frequently. The government did not take effective action to punish police who tortured suspects, and impunity remained a problem. Family members of victims and human rights groups, including the LCDH, pursued court complaints filed since 2003 with the prosecutor regarding the deaths of several prisoners due to police abuse; however, authorities did not take action on any of the cases by year's end. The LCDH reported the abuse of civilians by the presidential security forces and filed court complaints of police abuse.

Police most commonly employed a form of torture known as *le cafe*, the repeated beating of the sole of an individual's feet with a baton or stick. Immediately after administering le cafe, police would sometimes force the individual to walk on badly

bruised feet, and if the individual was unable to do so, police would beat the individual.

On January 28 former Lieutenant Dogo, accompanied by security forces members, severely beat Rufin Louango, an employee of a foreign embassy, in Bangui. The beating, which took place before several witnesses, was reportedly connected to a personal dispute and caused extensive injuries to Louango. No action was taken against Dogo by year's end.

On March 28, former Lieutenant Dogo, presidential security forces member Lieutenant Olivier Koudemon (alias Gbangouma), and a member of the armed forces named Aziz severely beat three young individuals—Charlemagne Zamelo and Gauthier and Serge Langandji—in Bangui, following an arbitrary nighttime search of their home that uncovered nothing illegal.

On June 21, Lieutenant Anatole of the presidential security forces stopped and severely beat taxi driver Ndaye Armand in the Bangui neighborhood of Kilometre 5 after Armand did not yield to him in traffic. No additional information was available at year's end.

In a high-profile incident on October 4, police arrested and beat Jean-Michel Mandaba, deputy secretary of former president Patasse's Central African People's Liberation Movement (MLPC), and Joseph-Tchendo, president of the country's media regulatory body, in Bangui. Police reportedly arrested the two men for holding a political meeting with the goal of destabilizing the government; they were released after several hours of detention, and at year's end an investigation was ongoing. A group of parliamentarians, as well as the LCDH, condemned the arrest and violence and demanded more information. By year's end parliamentarians had questioned the Ministry of the Interior, but no official actions had been taken against the police responsible for the beating.

On October 16, Lieutenant Koudemon assaulted and seriously wounded civilian Louis Francis Koteke in a Bangui bar-restaurant. In November a Bangui court sentenced Koudemon and another government employee to 6 months in prison and ordered them to pay $1,120 (600 thousand CFA francs) in damages.

Unlike in the previous year, there were no reports that police beat persons while forcibly dispersing demonstrators.

During the year, particularly around the time of the first round of voting in the March presidential elections, ethnic tensions within the armed forces resulted in the beating of several military personnel of the Yakoma ethnicity, the ethnicity of former president and 2005 presidential candidate Andre Kolingba, by non-Yakoma military personnel. For example on March 20, days after the first round of presidential election voting, two unidentified military officers of the Gbaya ethnicity, the ethnicity of President Bozize, beat Sergeant Marcel Kila, a Yakoma, near the Berengo military training center. No additional information was available at year's end.

Security forces rarely were punished for committing acts of violence against civilians. However, according to government records released by year's end, the Permanent Military Tribunal convicted a total of 11 members of the military on charges of committing beatings or inflicting serious injuries and deferred 1 case.

Members of the armed forces often committed other abuses against civilians, including armed robbery and racketeering. No action generally was taken against these soldiers.

Members of security forces, particularly members of the military, raped civilians during the year. Security forces rarely were punished for raping civilians; for the most part, perpetrators either escaped police custody or were released by fellow soldiers and other security agents. According to all government records released by year's end, the Permanent Military Tribunal convicted a total of 2 members of the military on rape charges and sentenced each to 10 years in prison.

On April 1, Sergeant Amadou Abakar, a member of the protection and security battalion for the National Assembly, raped a high school student from Lycee Gobongo inside the national assembly building in Bangui. Abakar reportedly raped her at gunpoint and threatened the lives of passers-by who tried to intervene. Police arrested Abakar, and during its July 29–August 19 session, the permanent military tribunal sentenced Abakar to a total of 12 years for rape and desertion.

On April 9, five uniformed military officers reportedly raped a young girl near the central market of Bangui. The officers also reportedly beat a passer-by who attempted to intervene. No additional information was available at year's end.

On September 13, a member of the police force raped a 16-year-old girl in a Bangui neighborhood. The public prosecutor of the republic ordered his arrest in September. No additional details were available at year's end.

During the year unidentified armed groups thought to include rebels and remnants of insurgency groups from previous conflicts, including former pro-Bozize com-

batants from Chad, continued to attack, rob, beat, and rape civilians in villages and those traveling on main routes, mostly in the countryside.

During the year no actions were taken against soldiers loyal to the former Patasse government or pro-Bozize fighters who committed serious violations of human rights and humanitarian law, including widespread looting; rape; abductions resulting in disappearances; inhumane, cruel, and degrading treatment; and the recruitment and use of children as soldiers prior to and during the 2003 coup.

No actions were taken against pro-Patasse Liberation Movement of the Congo troops from the Democratic Republic of the Congo (DRC) who reportedly committed numerous abuses of civilians, including torture, rape, and harassment during 2003.

On March 16, a Chadian member of the Central African Economic and Monetary Community force (CEMAC) shot and wounded high school student Akreme Paterne while he was visiting his sister in Bangui. No additional information was available at year's end.

Prison and Detention Center Conditions.—Prison conditions were well below international standards and extremely harsh; prison conditions outside Bangui were generally worse. There was an estimated one thousand prisoners in the country and 55 prisons dependent on the penal administration, many of which were no longer in use. Most of the prisons outside of Bangui were targeted by looters and completely destroyed during the 2003 fighting, which contributed to congestion, nonseparation of juveniles and pretrial detainees from convicted prisoners, and related illnesses. Prison cells were overcrowded, and basic necessities, including food, clothing, and medicine, were in short supply and often confiscated by prison officials for their personal use. There were reports that guards tortured prisoners; however, unlike in the previous year, there were no reports that female inmates were raped. Prisoners depended on family members to supplement inadequate prison meals and were sometimes allowed to forage for food near the prison. Prisoners frequently were forced to perform uncompensated labor; unlike in the previous year, this work involved public works projects rather than work at the residences of government officials and magistrates.

There were two prisons in Bangui, Ngaragba central prison for men and Bimbo central prison for women. Prisoners and detainees at both prisons lived in very basic and rudimentary conditions.

Many individuals had been detained for several months and had not yet appeared before a judge. At both prisons, inmates with infectious diseases lived among healthy inmates, and medicine was either unavailable or too expensive. While prison guards would send inmates to a hospital in cases where it was deemed warranted, their prescriptions would have to be bought by family members, friends, or religious organizations; inmates with malaria, tuberculosis, and HIV/AIDS often received no effective treatment. Detainees and prisoners at both prisons received one meal per day; meals were insufficient and consisted of cassava, rice, and either green beans, fish, or (occasionally) meat, depending on the day of the week. There were no individual cells. In the common rooms, some inmates had thin matting, provided by prisoners' families and charities, that served as beds; others slept on the floor. A few shower stalls, interior open-air courtyards, and weekly visiting hours were available to all detainees and prisoners at both prisons.

Male and female prisoners were held in separate facilities in Bangui but housed together elsewhere. Pretrial detainees were not held separately from convicted prisoners.

Constructed in 1953 for 400 prisoners, Ngaragba held 285 individuals on September 16, including 162 pretrial detainees. Several detainees had been detained for seven months and had not yet appeared before a judge. On average, there were 10 individuals in each common room. In the prison section reserved primarily for former government officials suspected or convicted of financial crimes, common rooms held four persons on average, and inmates received privileges such as access to a large courtyard with plastic chairs. A block of dark, tiny cells comprised a stand-alone structure known as the discipline block. The block smelled strongly of feces, and some human rights observers suspected that the prison still placed inmates in it; however, it was empty during visits by outside monitors, and prison officials said the block was no longer in use. Although the government repainted Ngaragba and did some other minor improvements in recent years, some of the prison walls were crumbling and in need of structural repair.

Constructed in 1980 to hold 200 prisoners, Bangui's Bimbo central prison for women held 44 women on September 20, the majority of them pretrial detainees. Bimbo's population consisted primarily of women accused of sorcery, and very few detainees had lawyers. Several individuals had been detained for four months and had not appeared before a judge. One detainee accused of defaulting on a debt had spent more than four months in the prison, even though the infraction constitutes

a civil rather than a criminal matter; after being alerted to her case, the public prosecutor of the republic ordered her release, and she was freed the following day. Prison officials allowed detainees and prisoners to be sent to a nearby hospital when they became ill. Prison officials allowed women to leave Bimbo for a week or two in the case of child birth and the death of a parent. Overcrowding was reportedly not a problem in Bimbo, and children younger than five years old were allowed to stay with their mothers at the prison. Prison officials did not provide soap, and this contributed to a lack of hygiene. There were no reports of rapes or sexual harassment by the all-male prison guard staff.

Conditions in detention centers were much worse than those in prisons and in some cases were life threatening. There was no law requiring detention centers to provide a minimum amount of food to detainees, and suspects in police and gendarmerie cells had to depend on family, friends, religious groups, and nongovernmental organizations (NGOs) for food. In Bangui detention centers, detainees reported and showed scars, bruises, and other evidence of beatings and torture. Overcrowding was a severe problem in detention centers across the country. Detainees with infectious diseases lived among healthy prisoners, and medicine was not available. Suspects generally slept on bare cement or dirt floors, and lice and bedbug infestation was very common. Corruption among detention center guards, who had not been paid in months, was rife. Guards often demanded between $0.37 (200 CFA francs) and $0.55 (300 CFA francs) before visitors were allowed to see detainees, before water could be fetched, before food could be delivered to detainees, and before detainees were allowed to take showers; these bribe thresholds were well above what most detainees could afford. In Bangui, male and female detainees were separated; however, they reportedly were not separated in detention facilities in the countryside. According to the local human rights groups, lack of training and poor supervision at detention centers were serious problems and continued to result in torture and beatings. There were no separate detention facilities for juvenile prisoners, who routinely were housed with adults and often subjected to physical abuse.

Visits during September to five of Bangui's detention centers revealed dank, filthy, and overcrowded cells with very little light and leaky buckets for toilets. Most detainees had been in detention without appearing before a judge for more than two weeks, and some had been detained for more than three months. Several detainees complained that they had not eaten in two days, had not been allowed to bathe or shower in two weeks, and had lice. Many detainees, especially those held by the OCRB, displayed scars on their heads and feet that they said were the results of periodic torture by the guards. One OCRB detainee had a three-day-old wound from his shoulder to his wrist that was visibly very infected and received medical attention only after international visitors convinced the guards of the risk of death.

Visits on September 20 to detention cells in Bangui revealed an overcrowded OCRB cell in which there was not enough room for all 40 detainees to lay down to sleep. The OCRB and Central Police Commissariat were detaining a 13-year old boy, who said he had not eaten in 3 days, as well as a 15-year-old boy. Police were detaining the boys in very small cells with adults, despite a law forbidding the detention of children 16 years of age and younger. Once alerted to the detention of the two minors, the public prosecutor of the republic ordered the release of both boys, and they were freed the same day. The public prosecutor of the republic was very receptive to reports about conditions observed by diplomats and NGOs in detention centers and prisons and said that while his office normally conducted periodic inspections of detention centers, a growing lack of resources and personnel had made it increasingly difficult to conduct inspections. He said the OCRB often did not respect the law prohibiting the detention of persons under 16 years of age.

Each detention center was supposed to assign an investigator to each of its detainees to compile a file that would facilitate the timely processing of each case. However, the number of investigators was insufficient, and even in Bangui, there often was only one vehicle and one typewriter for each detention center; the lack of other resources also severely impeded the timely conduct of investigations.

The government permitted prison visits by human rights observers. The International Committee for the Red Cross (ICRC) and religious groups routinely provided supplies, food, and clothes to prisoners. The ICRC and the human rights unit of BONUCA, the UN peace-building mission in the country, had unrestricted access to prisoners.

d. Arbitrary Arrest or Detention.—The law provides protection against arbitrary arrest and detention and accords the right to a judicial determination of the legality of detention; however, security forces frequently ignored such provisions, and arbitrary arrest and detention were serious problems.

Role of the Police and Security Apparatus.—The National Police, including the OCRB, are under the direction of the director general of police, who is under the direction of the Ministry of Interior and Public Security. The military forces, including the presidential security forces, and the National Gendarmerie are under the jurisdiction of the Ministry of Defense. Both the police and military share responsibility for internal security.

As part of its efforts to protect citizens and safeguard property, the government continued to support joint security operations in the capital conducted by the armed forces, the regional peace force known as CEMAC, and French forces.

Police were not effective, partly as a result of salary arrears owed by the government and a severe lack of resources. Many citizens lacked faith in the police; consequently, mob violence against persons suspected of theft and other offences remained a problem (see section 1.a.). Corruption in the police, including the use of illegal roadblocks to commit extortion, remained a serious problem (see sections 2.d. and 3). The government did not take effective action to punish abusers, and impunity remained a severe problem. However, a government commissioner in charge of human rights and good governance said his staff was conducting training of security forces to make them aware of the punishment that could result from constructing illegal roadblocks, and that the government began implementing a zero-tolerance policy to eliminate illegal roadblocks during the last quarter of the year; it was not clear how effective this policy was by year's end. During the year the LCDH accused the security forces of terrorizing the population, killing civilians, and committing armed robbery with impunity. Despite being criticized by local human rights groups and the media for committing numerous, serious human rights abuses, the OCRB continued to expand its mission, which local human rights groups said was cause for concern. Although the OCRB was created to function only in Bangui and to focus on combating violent banditry, the OCRB increasingly investigated, detained, and abused persons accused of lesser crimes such as embezzlement and petty theft; it also conducted some operations outside Bangui. During the year the minister of justice said there was a need to better define the OCRB's mission.

There were mechanisms available to investigate police abuses. Citizens could and did file complaints of police abuse with the public prosecutor of the republic. The most common complaints involved thefts, rape, brutality, and embezzlement. With the assistance of BONUCA and the high commissioner of human rights and good governance, the prosecutor actively investigated numerous complaints of police abuse, including reported killings (see section 4). The prosecutor had the authority to order the arrest of police officers suspected of committing abuses and exercised that authority during the year; however, the prosecutor's staff was small, had only one computer (a gift from an NGO), and was severely lacking in other resources.

The head of the OCRB said that during the year the government had taken disciplinary action against more than 10 OCRB members for human rights violations, including 2 OCRB members accused of raping a woman; however, he refused to share details of such investigations, citing reasons of national security.

BONUCA continued to provide security forces agents, including police officers, with human rights training. By year's end BONUCA had trained more than 900 security forces agents since its creation in 2000.

Arrest and Detention.—Judicial warrants are not required for arrest. The law stipulates that persons detained in cases other than those involving national security must be brought before a magistrate within 48 hours, although this period is renewable once, for a total of 96 hours. In practice authorities often did not respect this deadline, in part due to inefficient judicial procedures and a lack of judges. By law national security detainees are defined as those held for crimes against the security of the state. National security detainees may be held without charge for up to 8 days, and this period can be renewed once, for a total of 16 days. However, in practice persons were held without charge for long periods. The law allows detainees to have access to their family and to legal counsel. Indigent detainees may request a lawyer provided by the government. Detainees are allowed to post bail or have family members post bail for them. Lawyers and families generally had free access to detainees.

Security forces arbitrarily arrested and detained numerous persons, particularly around the first round of presidential elections on March 13. For example on March 10, security forces arrested high school student Guy Aime Nzawouin and accused him of selling voter registration cards. Authorities detained him in Bangui's Ngaragba prison. No additional information was available at year's end.

On April 19, security forces arrested Joseph Clotaire Abanda-Kaya, the country's charge d'affaires in the DRC. Abanda-Kaya was accused of preparing a coup d'etat to overthrow President Bozize. No additional information was available at year's end.

On August 4, the OCRB arrested on charges of fraud Marcel Bagaza, former chief of mission for the former president of the National Assembly and member of the MLPC's National Political Council, and three other men, Kalme Djakobaye Sindo, Alexandre Marboua, and Edourd Beroge. A court subsequently sentenced Bagaza to a suspended prison term. No additional information was available at year's end.

There were reports of persons detained for political reasons during the year. The government permitted BONUCA access to them on a regular basis. At year's end it was not clear how many political detainees there were.

Security forces arrested and detained at least one journalist during the year (see section 2.a.). Unlike in the previous year, there were no reports that security forces arrested demonstrators during the year.

During the year human rights observers and government officials estimated that at least 100 women, men, and children were arrested and charged with the practice of witchcraft, or sorcery. Prison officials at Bangui's Bimbo central prison for women said that persons accused of sorcery were arrested and detained or imprisoned for their own safety since village mobs sometimes killed suspected sorcerers or witches (see section 1.a.). Human rights observers said the belief in sorcery was so entrenched in the country that attempts to abolish legal recognition of the crime would be very difficult; however, observers said they were continuing to push for fair trials of those accused of the crime (see section 1.e.).

During the year a court granted provisional liberty to Dr. Joseph Kalite, a former health minister arrested in July 2004. However, he remained under investigation for possession of illegal weapons at year's end.

Prolonged pretrial detention was a serious problem. As of late September, pretrial detainees in Bangui comprised 57 percent of Ngaragba's prison population and an estimated 50 percent of Bimbo's prison population. Detainees were usually informed of the charges levied against them; however, many waited in prison for several months before seeing a judge. Judicial inefficiency, corruption, severe financial restraints on the judicial system, and a lack of judges contributed to pretrial delays. Some detainees remained in prison for years because of lost files and bureaucratic obstacles.

Public Prosecutor of the Republic Findiro Firmin said he was "always at war" with the OCRB and that the head of the OCRB frequently neglected to follow his orders and laws pertaining to pretrial detention.

Amnesty.—During the year President Bozize pardoned all prisoners convicted of misdemeanor offenses. It was unclear how many prisoners benefited from the pardon.

On October 19, President Bozize pardoned General Ferdinand Bomba Yeke, former head of presidential security forces for former president Patasse. Bomba Yeke, who many considered to be a political prisoner, was subsequently released from a military base in Bangui. Bomba Yeke had been accused of using jet fighters to kill numerous rebels who helped then General Bozize seize power. Military sources said Bomba Yeke's detention was for his own safety, as some former rebels who had fought alongside Bozize had vowed to kill him to avenge losses he caused in their rebellion.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; however, the judiciary remained subject to the influence of the executive branch. Judges are appointed by the president after being nominated by the Superior Council of Magistrates. The courts barely functioned due to inefficient administration of the courts, a shortage of trained personnel, growing salary arrears, and a lack of material resources. For example the Ministry of Justice had only one computer and one printer to serve the entire country. In addition, many citizens did not have access to the judicial system. The Ministry of Justice occasionally had sufficient funds to send judges to geographically isolated communities located great distances from the nearest courthouse, but the average citizen had to travel at least 31 miles to reach 1 of the countries 25 court houses. More courts were being established beyond the capital, including six courts destroyed in the 2003 coup that were rebuilt in 2004; however, traditional justice ordered by the head of a family or a village retained a preponderate role in settling conflicts and administering punishments. Furthermore, for the entire population, there were fewer than 150 judges, many of whom were not intimately familiar with the national laws. The overwhelming majority of citizens did not have the opportunity to be defended by a barrister, as there were fewer than 40 practicing lawyers in the country, almost exclusively in Bangui.

Judicial corruption remained a serious impediment to citizens' right to receive a fair trial. According to the LCDH, the judicial system was "rotten," from the judges down to the bailiffs. Many lawyers would pay judges to receive verdicts favorable

to their clients. There were, however, some efforts to combat judicial corruption. In July the new minister of justice, Paul Otto, introduced a zero-tolerance policy and suspended four judges suspected of engaging in corruption. A special disciplinary council composed of high-ranking judicial officials such as the president of the supreme court, as well as magistrates elected by their peers, conducted a review of the four judges' actions and judicial history, which was ongoing at year's end. In addition, during the year the Ministry of Justice began conducting a standard ministry-wide review every two months to identify areas where lack of efficiency might be hindering the judicial process. There was no additional information on these reviews at year's end.

The judiciary consists of a tribunal of first instance, the court of appeal, the cassation court, the high court of justice, the supreme court, commercial and administrative courts, a military court, and the Constitutional Court. The highest court is the Constitutional Court, which determines whether laws passed by the National Assembly conform to the constitution. The Constitutional Court also receives appeals challenging the constitutionality of a law. Lower courts hear criminal and civil cases and send appeals to the court of appeals.

Trial Procedures.—Trials are held publicly, and defendants have the right to be present and to consult a public defender. Juries are used in the penal court for criminal trials. If an individual is accused of a serious crime and cannot afford a lawyer, the government has an obligation to provide one. Defendants also have the right to question witnesses, to present witnesses and evidence on their own behalf, and to have access to government-held evidence relevant to their case. Defendants are presumed innocent until proven guilty, and if convicted, defendants have the right to appeal. The government generally complied with these legal requirements; however, the judiciary did not enforce consistently the right to a fair trial, and there were many credible reports of corruption within the court system. According to the minister of justice, there continued to be a grave lack of neutrality among judges, many of whom were significantly influenced by politics in their rulings. One ethnic group in particular was reportedly subject to legal discrimination and unfair trials (see section 5).

During the year the OCRB continued to commit extrajudicial killings of persons suspected of being violent recidivists. The government and, to some degree, the citizenry tolerated these acts, in part because of a general lack of faith in the judicial system (see section 1.a.).

There were numerous reports that, due to judicial inefficiency, citizens in a number of cities established their own courts to deal with cases through parallel justice, especially in cases of suspected witchcraft; however, the minister of justice disputed the existence of such alternative courts.

Witchcraft or sorcery is a crime punishable by execution, although no one accused of witchcraft received the death penalty during the year. Most individuals convicted of sorcery received sentences of 1 to 5 years in prison; they can also be fined up to $1,500 (817,836 CFA francs). During a typical trial of someone accused of sorcery, traditional doctors were called to give their opinion of the suspect's ties to sorcery. "Truth herbs" were used to make a suspect "confess." Neighbors were called as witnesses and, because spells were believed to involve burying bits of clothing, sample cuttings of clothes were brought before the jury as evidence. Police and gendarmes conducted investigations into witchcraft, and according to the minister of justice, investigations into allegations of sorcery were difficult.

The permanent military tribunal, which judged only members of the military accused of crimes, held two sessions during the year. During the first session, held between July 29 and August 19, the tribunal judged 38 cases on a variety of alleged human rights violations, including extrajudicial killings, rape, and armed robbery (see sections 1.a. and 1.c.).

Political Prisoners.—There were reports of at least one political prisoner (see section 1.d.). Authorities granted BONUCA's human rights unit and human rights NGOs free access to prisons during the year.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits invasion of homes without a warrant in civil and criminal cases; however, police sometimes used provisions of the penal code governing certain political and security cases that allow them to search private property without a warrant. Security forces continued to carry out warrantless searches for guns and ammunition in private homes. For example at 2 a.m. on July 4, members of the OCRB entered the home of Gilbert Bissidi Beodo, president of a local Bangui chapter of the opposition party MLPC, and searched his house. After finding a gun dating from 1961 that was bequeathed to Bissidi Beodo by his father, the OCRB arrested him. No additional information was available by year's end.

The government continued to engage in wiretapping without judicial authority.

During the year unidentified armed groups attacked, looted, and burned homes in rural areas in the northern part of the country (see sections 1.a., 1.c., and 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press; however, despite the implementation of a new and almost completely decriminalized press law during the year, the government restricted freedom of the press. The government employed threats and intimidation to limit criticism of the government, mostly prior to the conclusion of presidential and legislative elections in the spring. On the whole, local media observers said there was greater press freedom during the year and attributed the increase of press freedom to the new press law and the creation in February of the High Council of Communications (HCC), an independent institution composed of nine members, including journalists, charged with promoting press freedom and assisting the government with media licensing and regulation. In addition, the Central African Journalists' Union (UJCA) and the Central African Association of Private and Independent Newspaper Publishers, both of which campaigned vigorously for the adoption of the new press law, continued to advocate greater press freedom during the year and facilitated unprecedented national election coverage by local media. Journalists who worked for state-owned media reportedly practiced self-censorship.

Individuals could criticize the government publicly without reprisal; however, the government attempted to discourage meetings by the political opposition on at least one occasion during the year (see section 1.c.).

Throughout the year, more than 30 newspapers, many of which were privately owned, were published at varying intervals and often criticized the president, the government's economic policies, and official corruption. While five independent dailies—including *Le Citoyen, Le Confident*, and *Le Democrate*—were available in Bangui, they were not distributed outside of the Bangui area, and the absence of a functioning postal service continued to hinder newspaper distribution. Financial problems prevented many other private newspapers from publishing regularly, and the average price of a newspaper, approximately $0.55 (300 FCA francs), was too much for most citizens to afford.

Radio was the most important medium of mass communication, in part because the literacy rate was low. The government owned and operated a radio station and the country's only television station. Unlike the previous year, the activities of the president and other senior government officials did not dominate the broadcast media. This change was due to the HCC's efforts to provide the country's political parties with equal access to state-owned media services. For example during the electoral campaign following the first round of elections in March, the HCC intervened to provide each second-round presidential and legislative candidate with an equitable number of air-time minutes on Television Centrafrique and on Radio Centrafrique.

The private radio station Radio Ndeke Luka continued to provide a popular and independent alternative to the state-owned Radio Centrafrique, although the reach of Ndeke Luka was limited; outside Bangui, it was available for only one hour daily, via shortwave. Ndeke Luka broadcast domestically produced national news and political commentary and rebroadcast international news throughout the country, with assistance from a foreign media development organization and the UN Development Program. Radio Notre Dame, which was owned and operated by the Catholic Church, broadcast national news, debates, legal counseling, and human rights education. International broadcasters, including Radio-France Internationale, continued to operate during the year.

The government continued to monopolize domestic television broadcasting, although at least one application to establish a private television station was pending at year's end.

Journalists continued to face many challenges, including chronic financial problems, a serious deficiency of professional skills, the absence of an independent printing press, and a severe lack of access to information held by the government (see section 3). The UJCA continued to lobby the government for the creation of a national press center where journalists could receive professional training.

During the year, particularly prior to presidential and legislative elections in March and May, security forces often harassed journalists and sometimes physically and verbally threatened them. In addition, security forces arrested and detained a journalist on at least one occasion, and on another occasion reportedly tried to kidnap a journalist.

In February police in Bangui arrested the editor in chief of *Le Confident* and detained him without charge for 48 hours.

In March, following critical press coverage of President Bozize's refusal to participate in a televised debate prior to the presidential election, the minister of the interior summoned Ndeke Luka news editor Patrick Akibata and other Ndeke Luka staff members and reportedly threatened to close Radio Ndeke Luka if the station continued to criticize the president.

Following critical press coverage of the second round of presidential and legislative elections on May 8, members of the presidential security forces and supporters of President Bozize issued death threats in person and by telephone to *Le Citoyen* managing editor Maka Gbossokotto; Zephirin Kaya, who presented a popular civic education show on Radion Ndeke Luka; and Patrick Akibata, the news editor in charge of election coverage for Radio Ndeke Luka. In addition, on May 15, security forces acting on the orders of a member of the presidential security forces, reportedly tried to kidnap Kaya at a Bangui airport; however, Kaya managed to escape. Gbossokotto and Akibata said the threats were linked to reports carried by Ndeke Luka and *Le Citoyen* that members of the security forces had intimidated voters and committed acts of violence prior to the election.

At the beginning of the year, the president signed a law passed by the transitional legislative body in December 2004. Under the law, no journalist can be imprisoned for defaming a third party in a published story; instead, a right of reply or compensation must be accorded to the plaintiff. However, the law still provides for terms of imprisonment and fines of up to $1,823 (1 million CFA francs) for journalists who incite disobedience among security forces or incite persons to violence, hatred, or discrimination through publication in a newspaper or a broadcast. In addition the law provides for terms of imprisonment of between 6 months and 2 years and fines of up to $1,823 (1 million CFA francs) for the publication or broadcast of false or fabricated information that "would disturb the peace." Although defamation is no longer punishable by imprisonment under the law, journalists found guilty of libel or slander faced fines of between $182 and $1,823 (100 thousand and 1 million CFA francs).

Other provisions in the new press law that remain causes for concern among local press observers include the following: a requirement that local press organs submit copies of their next publications to four government entities and the HCC prior to distribution, and the requirement that foreign press organs submit copies of publications to two government ministries and the HCC at least four hours before distribution.

There were reports that local administers in or near Bouar and Berberati confiscated or seized editions of publications during the year.

On December 2, the minister of communication banned the diffusion by media of songs, programs, or articles deemed to have a "misogynist character" or to disrespect women.

Officials used libel laws to suppress criticism of political leaders on at least one occasion. Following critical press coverage of President Bozize's decision to pardon numerous criminals in June, a government prosecutor filed a lawsuit against Gbossokotto. He accused Gbossokotto of committing libel in an article published in *Le Citoyen* during the summer. The lawsuit was still pending at year's end.

According to the HCC, during the year a court revoked a one-year suspended sentence and $1,000 (546,750 CFA francs) fine imposed on Gbossoko in August 2004 for libel charges.

There were reports that the government occasionally limited or blocked access to the Internet for certain journalists who were critical of the government.

There were no reports that the government restricted academic freedom.

Local journalists and the HCC reported that violence perpetrated by former pro-Bozize rebel fighters, forces loyal to former president Patasse, and armed bandits prevented Bangui-based reporters from venturing outside the capital and severely limited the availability of information about several rural prefectures, particularly in the northern and western regions of the country.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for the right of assembly; however, although the government afforded more respect to this right during the year, the government restricted this right on a few occasions. Organizers of demonstrations and public meetings were required to register with the minister of the interior 48 hours in advance, and political meetings in schools or churches were prohibited. The law required any association intending to hold a meeting to write a letter to the Ministry of Interior and get the ministry's approval prior to any meeting. In some cases, when associations asked for such approval, the ministry refused "for security reasons."

On at least one occasion, police beat and arrested persons holding a meeting (see section 1.c.).

Unlike in the previous year, there were no reports that police beat or detained demonstrators or used force to disperse demonstrations during the year. Unlike in the previous year, security forces did not kill protestors.

On December 10, approximately 100 riot police prevented striking civil servants from holding a rally in Bangui by sealing off the headquarters of the largest trade union. Minister of Labor Jacques Bothy said police acted illegally and violated workers' rights, noting that the trade union's headquarters was an international zone under the control of the International Trade Organization.

No action was taken against members of the security forces responsible for the use of excessive force to disperse demonstrations in 2003 or 2002.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice during the year. All associations, including political parties, must register with the Ministry of Interior to enjoy legal status. The government usually granted registration expeditiously. The government normally allowed associations and political parties to hold congresses, elect officials, and publicly debate policy issues without interference, except when they advocated sectarianism or tribalism.

The law prohibiting nonpolitical organizations from uniting for political purposes remained in place; however, there were no reports that this law was enforced during the year.

c. Freedom of Religion.—The constitution provides for freedom of religion but establishes fixed legal conditions and prohibits what the government considers religious fundamentalism or intolerance; at times, the government limited this right in practice. The constitutional provision prohibiting religious fundamentalism was understood widely to be aimed at Muslims, who made up between 15 and 20 percent of the population.

Religious groups (except for traditional indigenous religious groups) were required by law to register with the Ministry of Interior. The ministry's administrative police kept track of groups that failed to register; however, the police did not attempt to impose any penalty on such groups. The ministry could decline to register, suspend the operations of, or ban any organization that it deemed offensive to public morals or likely to disturb the peace. Any religious or nonreligious group that the government considered subversive was subject to sanctions. The Ministry of Interior also could intervene to resolve internal conflicts about property, finances, or leadership within religious groups. However, the government imposed no new sanctions on any religious group during the year.

According to the Ministry of Territorial Administration, several churches whose activities were suspended by the government in 2003 had fulfilled government requirements and reopened. To resume their activities, religious institutions must prove that they have a minimum of one thousand members, and the reverends must bring evidence that they graduated from the highest religious schools and fulfilled official requirements on church creation. This decree was reportedly intended to regulate the proliferation of places of worship.

The practice of witchcraft or sorcery is a criminal offense under the penal code, and although many individuals were arrested for these practices, it was often in conjunction with some other offense, such as murder. Authorities said that police often arrested and detained persons accused of witchcraft or sorcery in order to protect them from societal violence against suspected witches or sorcerers in the communities of the accused.

Mobs reportedly continued to kill and injure suspected sorcerers or witches during the year (see section 1.a.).

Societal Abuses and Discrimination.—In general there was religious tolerance among members of different religious groups during the year; however, there were occasional reports that some villagers who were believed to be witches were harassed, beaten, or sometimes killed by neighbors (see section 1.a.).

There was no known Jewish population and no reports of anti-Semetic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides for the right to move freely throughout the country; however, the government restricted this right during the year. Security forces, customs officers, and other officials harassed travelers unwilling or unable to pay bribes or "taxes" at checkpoints along major intercity roads and at major intersections in Bangui.

During the first half of the year, police increased the number of vehicles that it stopped and searched, particularly in Bangui. In addition, local human rights organizations and UN officials said the problem of illegal road barriers constructed by members of the military continued to be widespread and that travelers encountered extortion at these barriers on a weekly basis. Members of the military did not allow road travelers to pass without paying a fee. For example merchants and traders traveling more than 350 miles on the main route from Bangui to Bangassou encountered an average of 25 military barriers; at each road block, a motorist paid an average fee of $16 (8,781 CFA francs), which amounted to $410 (225,000 CFA francs) for the entire trip. This type of extortion greatly discouraged trade and road travel and severely crippled the country's economy. Impunity continued to facilitate the use of illegal roadblocks and extortion of motorists by security forces, and there were no reports that the government punished or prosecuted members of the security forces who engaged in these activities.

On March 13, the day of the first round of presidential and legislative elections, the government closed all border crossings and forbade all nonauthorized automobiles from circulating in urban centers during voting hours. The government also prohibited all flights, except for international flights, and river traffic.

During at least part of the year, the military reportedly forbid travel through the northern town of Ben-Zambe, the birthplace of President Bozize, for any persons who did not belong to the president's Gbaya ethnicity.

Significant numbers of unidentified bandits and former rebels continued to severely impede freedom of movement—including that of traders and delivery trucks—particularly in northern, and northwestern zones of the country that the government effectively did not control. The government was also unable to control highway bandits operating in the eastern prefectures of Ouaka and Haute-Kotto. The highway bandits, or *coupeurs de routes*, often constructed road barriers to stop drivers, robbed them, and sometimes killed them if they refused to pay. Because many travelers ceased carrying large sums of money with them, many highway bandits in the northern and northwestern areas of the country reportedly turned to the more lucrative business of kidnapping and targeted the children of a traditionally wealthy ethnic group (see section 5).

With the exception of diplomats, the government required that all foreigners obtain an exit visa. Travelers intending to exit the country could be required to obtain affidavits to prove that they owed no money to the government or to parastatal companies.

The constitution does not permit the use of exile, and the government did not employ it in practice. Former President Patasse remained in self-imposed exile during the year.

During the year the government facilitated the repatriation of some CAR refugees from neighboring countries; however, due to an absence of security and the resulting disruption of agricultural activities in the north, the Office of the UN High Commissioner for Refugees (UNHCR) did not encourage repatriations to that region.

Between June and December, bands of unidentified armed men attacked civilians in the north, causing between 12,000 and 15,000 persons to flee the country. Most fled to southern Chad. At year's end an estimated 45,000 CAR refugees residing in southern Chad, most of whom had fled CAR during 2002 and 2003.

Between January and December, unidentified armed groups committed violations against the M'bororo ethnic group on account of their relative wealth, causing between 3 thousand and 10 thousand M'bororos to flee the Ouham-Pende and Nana-Mambere prefectures in the northwest (see section 5).

Some observers criticized the government for failing to restore order to the north; however, on August 25, a UNHCR official based in Bangui said the government was taking the problem seriously after the president sent some military forces to the north to engage the unidentified armed groups.

Internally Displaced Persons (IDPs).—There continued to be large numbers of persons who were internally displaced by the 2003 coup and the continuing instability, particularly in the north. In June 2004 there were between 230 thousand and 300 thousand IDPs in the country; however, there were no reliable data on the number of IDPs. According to the UNHCR, most IDPs were displaced for short periods of time. The governments of CAR, Chad, and Cameroon conducted joint security operations in an effort to secure the northern region of CAR and control the proliferation of small arms. Despite these operations, however, the government was not able to provide a sufficient degree of security or protection for IDPs in the northern part of the country. The absence of security rendered this region inaccessible to humanitarian organizations, contributing to a lack of proper medical care, food security, and school facilities. There were no reports that the government attacked IDPs or that it forced them to resettle under dangerous conditions.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to countries where they feared persecution, and granted refugee status and asylum. The government accepted refugees prima facie. The government continued to cooperate with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

Almost all refugees in the country were registered with the National Commission for Refugees. According to the UNHCR, by year's end the country was hosting a total of approximately 34 thousand refugees. Most of the refugees came from Sudan and the DRC.

In September and October, the UNHCR assisted the governments of the CAR and Chad in the repatriation of approximately 1,400 Chadian refugees. In addition, in the last three months of the year, the UNHCR assisted the governments of the CAR and Sudan in the repatriation of several thousand Sudanese refugees.

During the year security forces subjected refugees to the same types of arbitrarily arrest and detention as citizens; however, refugees were especially vulnerable to such human rights violations. The government allowed refugees freedom of movement; however, they were subject to the same roadside stops and harassment by security forces and unidentified armed groups as citizens were.

Several international organizations worked with the government and UNHCR to assist refugees during the year. They included the International Committee of the Red Cross, Doctors without Borders, an international confederation of Catholic organizations called Caritas, and international NGO International Cooperation.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully, and, unlike in the previous year, citizens exercised this right in presidential and legislative elections that election observers considered to be generally free and fair, despite some problems.

Elections and Political Participation.—On March 13 and May 8, the country held two rounds of multiparty presidential and legislative elections that ended two years of military rule by General Bozize. Approximately 269 national and 28 international observers, the latter from the International Organization of the Francophonie, judged the elections to be generally free and fair and representative of the voters' will, despite irregularities and accusations of fraud by candidates running against Bozize.

Before election campaigning began, there was controversy and disputes over which candidates would be able to run. On December 30, 2004, the transitional Constitutional Court ruled that seven presidential candidates were ineligible for the election. The court, which disqualified all candidates from the former ruling party, indicated that some candidates had been blocked from running for failing to deposit the required $9,200 (5 million CFA francs), for not owning land or homes in the towns in which they resided, or for discrepancies in the documents they presented the electoral commission. The ruling provoked criticism locally and internationally. On January 4, after having called for national elections to be held on January 30, Bozize invoked presidential powers and announced that three of the seven candidates barred by the court would be allowed to run. Amid mounting tension and controversy, and following mediation by the president of Gabon on January 22, Bozize agreed to allow all his rivals, except former President Patasse, to run. According to the agreement, Patasse would remain barred because he was the subject of judicial proceedings involving accusations that he stole $129 million (70 billion CFA francs) from the national treasury. Patasse's MLPC party announced that it would support the candidacy of former Prime Minister Martin Ziguele, who had been running as an independent. The first round of elections were then postponed to March 13 to allow candidates more time to campaign.

In addition, the Joint Independent Electoral Commission (CEMI), a 30-member group chosen by political parties, initially barred 261 of 970 legislative candidates from running in the parliamentary elections; however, a January 21 court ruling allowed 219 of the 261 barred candidates to run.

The campaign prior to the first-round elections was tense. The independent press reported isolated incidents of clashes between rival groups of supporters, particularly the supporters of Bozize and former President Kolingba; there were also allegations of some fraud involving voter registration documents. In addition, the HCC took some media-related disciplinary measures against certain candidates who vio-

lated the electoral code of conduct, signed by all candidates, by using public media to engage in personal attacks and insult other candidates.

In the first round of voting, voters chose from 11 presidential candidates and more than 900 parliamentary candidates who were competing for 105 seats in the National Assembly. General Bozize, running as an independent presidential candidate, gained 43 percent of the first-round vote, while former Prime Minister Ziguele won 23.5 percent. The two top presidential candidates at the conclusion of the first round advanced to a run-off in the second round in May, which Bozize won with 64.4 percent of the vote, while former Prime Minister Ziguele garnered 35.4 percent.

In the legislative elections, candidates who failed to win at least 50 percent of the vote in the first-round had to run in a second-round runoff. Since only 17 candidates won an outright majority in the first round, this system resulted in 87 candidates running in the second round. After officials counted the second-round votes for National Assembly seats, the National Convergence Movement, a grouping of smaller parties, military officials, and political leaders supporting General Bozize, won 42 seats, the largest number of any party; the MLPC won the second highest number of seats, 11. Presidential candidate Kolingba's party, the Central African Democratic Rally, took eight seats.

Poll monitors said all voting operations went generally smoothly but slowly because of organizational problems. The opposition Union of Active Forces of the Nation (UFVN), a grouping of Bozize's rivals, denounced the elections on the grounds of alleged fraud and irregularities involving voting and vote counting, and it called for the elections to be voided. Former President Kolingba said the election was completely rigged, and his supporters said militants armed by supporters of General Bozize threatened them. Although the CEMI chairman acknowledged there had been "some strange cases" at several polling stations, including cases where there were more votes than registered voters, he said he believed the election reflected the will of the people. The UN supported the election results and urged opposition groups to pursue any electoral disputes through legal channels.

On March 22, before election officials had tallied the results of the first round of presidential elections, armed individuals exchanged gunfire outside the Bangui house of former President Kolingba. The gunfight transpired late at night between members of the presidential security forces, who had been deployed in Bangui before first-round voting to keeping the peace during election time, and members of security forces who had been assigned to protect the former president. The minister of the interior said the exchange of gunfire, which resulted in the wounding of one military soldier in the head, was a "misunderstanding" between members of the military. However, according to a spokesman for Kolingba, unidentified gunmen attacked the residence in an attempt to kill Kolingba. The incident occurred on the same day that Kolingba and other presidential candidates belonging to the UFVN called for the annulment of presidential elections due to fraud and irregularities.

During the electoral campaign security forces sometimes beat, threatened, and intimidated individuals.

Following elections, presidential candidate Ziguele attempted to have Bozize's victory invalidated, claiming that soldiers had forced or intimidated citizens into voting for Bozize, but the Constitutional Court rejected this assertion.

The CEMI canceled the vote for one parliamentary seat, in the southern administrative division of Boganangone, due to fraud. By year's end the election had been rescheduled and had taken place. No additional information was available at year's end.

At the conclusion of National Assembly elections in May, crowds rioted in Bangui after the CEMI announced that a candidate of the pro-Bozize Kwa Na Kwa party had narrowly defeated Nicolas Tiangaye, the speaker of the transitional parliament (which was being replaced by parliamentary elections), in Bangui's fourth administrative district. The independent media and several human rights observers alleged that the government rigged the fourth district's election results due to fear of Tiangaye's popularity, influence, and outspoken criticism of human rights violations by the government; however, there was insufficient evidence to prove this claim. Tiangaye called for calm among his supporters "to avoid a bloodbath."

On December 30, the National Assembly adopted a law allowing President Bozize to rule by decree for a period of three months, instead of the nine months he originally requested. The law provides that all presidential decrees would require the advice of the Constitutional Court, be effective until March 31, 2006, and be subject to ratification by the National Assembly at the end of that period. The law, which was passed after cabinet meetings and consultations with the country's Constitutional Court, reportedly was intended to quicken the adoption of political and economic reforms by bypassing parliamentary debates and votes. Several local human rights NGOs criticized the National Assembly's decision to give additional power to

the president and accused President Bozize of attempting to establish a "dictatorship." According to the minister for parliamentary affairs, rule by decree was in accordance with article 29 of the constitution.

The state remained highly centralized. The president appointed all subnational government officials—which ran the country's 16 prefectures and 60 subprefectures—and subnational government entities had no significant fiscal autonomy. Provisions in the constitution provide for municipal elections; however, by year's end they had not been held, and towns continued to be led by mayors appointed by the president.

According to recommendations resulting from a government-sponsored national dialogue that brought together political and civil society leaders in 2003, women were supposed to make up 35 percent of posts in government ministries and political parties. However, this provision was not respected during the year. On March 13, approximately 150 women contested seats in the first round of the legislative elections. At the conclusion of the legislative elections in March and May, 10 women were elected to the 105-seat National Assembly. There were four women in the president's cabinet.

Members of northern ethnic groups, especially President Bozize's Baya ethnic group, continued to predominate among the national army. Pygmies (Batwa or Ba'Aka), the indigenous inhabitants of the southern part of the country, represented between 1 and 2 percent of the population; they were not represented in the government and continued to have little political power or influence (see section 5).

There were 2 members of the M'bororo ethnic group and approximately 13 Muslims in the 105-seat National Assembly.

During the year the LCDH criticized President Bozize for holding the position of minister of defense, saying that article 23 of the constitution prohibits the president from holding "any other political function or electoral mandate," under penalty of dismissal; however, government officials said this criticism was based on a misinterpretation of the constitution.

Government Corruption and Transparency.—Misappropriation of public funds and corruption in the government remained widespread. Corruption continued to contribute to the country's incapacity to pay more than 45 months of government salary arrears, which the International Monetary Fund (IMF) and local human rights activists said was a major threat to the country's security, stability, and advancement of human rights. The country's tax collection and public expenditure management systems were extremely weak by international standards, and the lack of transparency and accountability in the use of public resources was a serious problem. Corruption was prevalent in almost every sector, from education and health to customs and law enforcement. Civil service salary fraud was draining 10 percent of the country's monthly budget, according to public statements by the prime minister in October.

Corruption was particularly rife in the management and oversight of three of the country's key exports, timber, gold, and diamonds. The government was not able to exercise adequate controls over these natural resources. Smuggling in the mining sector, for example, remained widespread. Experts said during the year that the quantity of diamonds exported illegally from the country—an estimated 500 thousand carats—was equal to the quantity that was exported legally and that the value of legally exported diamonds was often understated. According to an interview during the year with an IMF official, there was a particular need for the government to increase transparency in the allocation of mining permits and the regulation of enterprises active in the mining sector.

In the health sector, before providing treatment or medicine, many doctors and nurses demanded bribes of at least $2 (1 thousand CFA francs), even of the poorest patients. In recent years, in the education sector, so many students paid teachers or administrators for a passing score on their baccalaureates, or national high school exit exams, that the exam scores lost their value in CAR. The inflation of exam scores was so egregious that it led many higher learning institutions in other countries, such as France, to evaluate CAR students with suspicion or disregard their applications altogether, effectively reducing a CAR student's educational opportunities, according to the LCDH.

During the year several local human rights observers accused mid- and high-level government officials of profiting from the extortion that members of security forces committed on a monthly or weekly basis at roadside checkpoints and illegal roadblocks (see section 2.d.).

The government took some significant steps to combat corruption. For example in July the government created judicial structures within the public prosecutor's office of a Bangui court (*tribunal de grande instance*) to conduct a targeted campaign against embezzlement, money laundering, and other forms of financial fraud. In ad-

dition, in September the government created two public prosecutor attaché positions and hired two judges specialized in investigating and combating corruption.

In August the government began publishing periodic declarations by government officials of their personal assets and wealth; the declarations were intended to prevent embezzlement and other forms of government corruption. According to the constitution, the president, government ministers, members of the National Assembly, and judges are required to declare publicly their personal assets.

On September 15, the minister of mines indefinitely suspended the granting of mining permits for gold and diamonds and prohibited foreign nationals from traveling in mining zones. The prohibition followed the government's discovery in July and August of numerous irregularities in mining zones, as well as the presence of numerous foreigners, many of whom did not have mining permits.

On September 22, the government began cooperating with the UN Development Program (UNDP) and international NGO Transparency International to investigate corruption. The government-owned and independent media began facilitating a public information campaign to underline corruption's effects and solicit anonymous public collaboration in the investigation, which was intended to measure corruption's severity and scope, as well as the harm it had done to the country's development.

In October the government suspended without pay three ministers following a probe into government employee salaries. The probe was intended to reduce the country's inflated public sector wage bill and resolve some of the government's salary arrears. The three suspended officials—the ministers for communications, tourism, and public works—were suspected of falsely claiming pay, bonuses, or benefits. The suspensions came a week after the government published a salary census of approximately 1,800 employees. The census exposed 1,699 ghost workers, or civil servants illegally receiving salaries. Several ghost workers were using fake documents and had no connection with public service. The census helped the government recover at least $680 thousand (370 million CFA francs). Prime Minister Dote announced in a radio address that civil servants caught receiving illegal salaries would lose three months of pay and have to appear before a public sector disciplinary board, which could forward their cases to a court of law.

Also in October the government suspended for 3 months without pay 3 public treasury employees accused of running an embezzlement scam in which they netted $95,500 (52 million CFA francs). By year's end a civil service disciplinary commission had not yet decided whether to terminate their employment and forward their case to a court.

During the year the government took some steps to monitor timber exports and the payment of taxes on forestry products, and to increase transparency in the allocation of timber industry permits. The government also continued to work with the IMF to further improve tax collection on timber products.

The law provides for access by journalists to "all sources of information, within the limits of the law"; however, it does not specifically mention government documents or government information, and no mention is made of access by the general public. Furthermore, the government was often unable or unwilling to provide information, and lack of access to information continued to be a problem for journalists and the general public. Furthermore, several years of political and economic instability and conflict have made information difficult to collect, even for the government, particularly in the countryside. Information on the humanitarian situation, for example, was hard to come by and sometimes contradictory.

Section 4. Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing in press releases their findings on human rights cases. Government officials were somewhat responsive to their views. In general, local NGOs were weak, although there were a few that were active and had a sizable impact on the promotion of human rights. Some local NGOs, including the LCDH, the Human Rights Observatory, the Association Against Torture, and the Association of Women Jurists actively monitored human rights problems; worked with journalists to draw attention to human rights violations, including those allegedly committed by the army; pleaded individual cases of human rights abuses before the courts; and engaged in efforts to raise the public's awareness of citizens' legal rights. In addition, many members of civil society monitored the conduct of national elections in March and May. The destruction or loss of scarce resources, such as automobiles and computers, during fighting and looting in 2002 and 2003 limited local human rights NGOs, although they continued gradually to rebuild their capacity during the year. The potential impact of local human rights

NGOs continued to be weakened by the failure of most members to pay membership dues and the noticeable dearth of international development organizations and foreign diplomatic missions, which once provided them with training and some financial support. For these reasons, the activities of local human rights NGOs were quite modest in scope and limited almost exclusively to Bangui.

Several members of NGOs served on the National Transitional Council (CNT), a legislative body, before it was replaced by a newly elected National Assembly in March, and Nicholas Tiangaye, the former president of the LCDH, served as the CNT's president. Several NGOs alleged that the government rigged run-off elections in May to prevent Tiangaye from winning a National Assembly seat (see section 3).

During the year human rights organizations and some political parties called for the trial of Chadian combatants accused of crimes, especially those committed during the rebellion that culminated in a coup in 2003.

International human rights NGOs and international organizations operated in the country without interference from the government; however, there were very few operating in the country. Due to insecurity caused by unidentified armed groups in many parts of the country, the activities of international groups were limited to Bangui and sometimes a few other locations. Humanitarian workers reportedly did not operate at all in the north. Access was so limited during the year that a UNDP humanitarian specialist said that humanitarian workers "have no idea what is going on in 95 percent of the CAR." Another UN official said that if international organizations and foreign aid did not arrive in the near future, the cycle of mutinies would continue, thus increasing instability and making the country even less likely to receive foreign aid and assistance from international organizations.

During the year BONUCA's human rights section continued to actively monitor human rights practices, assist the government in capacity building, sensitize the public to human rights, conduct visits to prisons and detention centers, and conduct human rights training for hundreds of government security agents. Although based in Bangui, BONUCA had two field offices in the countryside, one in the Nana-Mambere prefecture of Bouar and one in the Ouham prefecture of Bossangoa. BONUCA continued to receive complaints of killings and other violations committed by security forces, which it researched and documented. It worked very closely with the Ministry of Justice, often visiting the public prosecutor of the republic to submit for judicial investigation complaints it received about security agents. BONUCA also worked with the Ministry of Communications and Human Rights and the High Commission of Human Rights.

On June 18, UNDP and government officials began collecting weapons from ex-combatants and reintegrating thousands of them into civilian life. In Bangui alone, the disarmament, demobilization, and reintegration (DDR) program had demobilized more than 1,400 ex-combatants, including 450 women, and reinserted more than 850 ex-combatants by the end of August. The program expected to conduct DDR for more than 7 thousand ex-combatants by the time of its conclusion. The program had collected more than 240 small arms, as well as numerous munitions, rocket launchers, grenades, and land mines by the end of August. Although the exact number of small arms in the country remained unknown, the government's estimate of 50 thousand small arms circulating nationally, beyond its control, could have underestimated the scale of the problem, according to a small arms survey published during the year by the Graduate Institute for International Studies in Geneva, Switzerland.

The High Commission of Human Rights and Good Governance, which is attached to the presidency, conducted human rights training for members of the security forces. Each week, the commission received and investigated an average of 10 citizen complaints of human rights violations committed by members of the government, and it sometimes forwarded cases to the Ministry of Justice. In addition, during the year it conducted more than 30 investigations of government ministries to combat human rights violations, including corruption. During the last four months of the year, the commission conducted a campaign to combat the use of and physically remove illegal road barriers constructed by members of the military. Having approximately 30 persons employed in its Bangui headquarters and 100 in the countryside, the commission did not have adequate resources and lacked the means to conduct proper training of its investigators. Some human rights observers criticized the commission for its lack of independence and its lack of effectiveness in reducing impunity in the security forces. In an interview during the year, the head of the commission rejected these criticisms and said that impunity was not a problem. However, he also said that the OCRB continued to commit extrajudicial killings during the year because they were effective in deterring violent crime and were supported by the general public due to a lack of confidence in the judicial system's abil-

ity to punish criminals. He said he believed the OCRB had never killed an innocent person.

The Human Rights Commission (HRC) in the National Assembly sought to strengthen the capacity of the legislature and other government institutions to advance human rights. Among their human rights priorities, HRC members said they aimed to stop extrajudicial killings by the OCRB, improve conditions in detention centers, reduce prolonged detentions without trial, fight corruption, expand women's and minorities' rights, and combat the worst forms of child labor. The commission said it suffered from a severe lack of resources.

On January 7, the prosecutor of the International Criminal Court (ICC) announced that the government had referred to him the situation of crimes within the jurisdiction of the ICC, including crimes committed since 2002 in the CAR. The prosecutor said an analysis would be carried out to determine whether to initiate an investigation; however, although the ICC had collected information during the year, he had not made a determination by year's end. Local and international human rights groups accused the government of "dragging its feet" and not cooperating fully with the ICC's prosecutor, and they criticized the government for not incorporating into national law provisions related to the ICC's founding statute to punish war criminals and perpetrators of crimes against humanity. According to local and international human rights NGOs, between 2002 and 2003, pro-Bozize rebels and soldiers and rebels loyal to then President Patasse committed war crimes and crimes against humanity. Rebel and loyalist fighters committed summary executions, systematic rape, and widespread looting. As a result of the fighting in 2002 and 2003, there were more than 700 registered cases of rapes of women and 140 registered cases of sodomized men. In addition, the International Federation for Human Rights (FIDH) noted the existence of mass graves. Hospitals had lists of individuals injured and killed during the fighting in the capital, including women and children.

The FIDH, the LCDH, and other human rights NGOs criticized the government's failure to conduct an exhaustive and independent investigation of the crimes committed during 2002 and 2003. Government officials said an investigation had been made difficult by the insecurity still present in the north.

On September 19, the FIDH and the LCDH, in collaboration with BONUCA, organized a day-long seminar in Bangui to discuss the progress of the ICC case and demand rehabilitation and reparations for rape victims, including those with HIV/AIDS. Participants included local NGOs, male and female rape victims, judges, members of the National Assembly, members of the security forces, international legal experts, journalists, and other citizens. Many victims in attendance spoke of social ostracism that had torn their families apart and called for the government to provide them with free psychological, medical, and social care and protection from the alleged perpetrators they had accused of rape. Following the seminar, unidentified individuals made telephone threats, some of them death threats, against four persons who participated in the seminar and told them not to cooperate with the FIDH in its attempts to collect information for the ICC.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution stipulates that all persons are equal before the law without regard to wealth, race, or sex; however, the government did not enforce these provisions effectively, and significant discrimination existed.

Women.—Although the penal Code does not specifically mention spousal abuse, it prohibits violence against any person, and penalties could consist of up to 10 years' imprisonment; however, domestic violence against women, including wife beating, reportedly was common. Inadequate data made it impossible to quantify the extent of domestic violence. Spousal abuse was considered a civil matter unless the injury was severe. According to the Association of Women Jurists, a Bangui-based NGO specializing in the defense of women's and children's rights, victims of domestic abuse seldom reported incidents to authorities, and when incidents were addressed, it was done within the family or local community. The courts tried very few cases of spousal abuse, although litigants cited these abuses during divorce trials and civil suits. Some women reportedly tolerated abuse to retain financial security for themselves and their children. The government did not address this problem during the year.

The law prohibits rape, and rape remained a problem. The law does not specifically prohibit spousal rape. Rape is punishable by imprisonment with hard labor, although the law does not specify a minimum sentence, and judges decided on the length of a prison term to be served by a perpetrator. Police sometimes arrested men on charges of rape; however, the social stigma induced many families to avoid formal court action. During the year members of the security forces continued to

commit rape, including collective rape, often in school buildings at night; however, there were fewer reports that security forces raped women than in the previous year (see section 1.c.).

Although the law prohibits FGM, which is punishable by up to 10 years' imprisonment, girls continued to be subjected to this traditional practice in certain rural areas, and, to a lesser degree, in Bangui. According to the World Health Organization, FGM affected more than 40 percent of girls. In addition, according to data collected by the UN Children's Fund (UNICEF) between 1998 and 2003, an estimated 36 percent of females between the ages of 15 and 49 had undergone FGM. According to the Association of Women Jurists, anecdotal evidence suggested that fewer girls and women had undergone FGM as a result of efforts to sensitize women to the dangers of the practice.

The law does not prohibit prostitution; however, the law prohibits the incitement of someone to prostitution and the act of profiting from an individual's prostitution, and prostitution existed during the year. The law designates a fine and imprisonment for three months to one year for those found guilty of procurement of individuals for sexual purposes (including assisting in prostitution). For cases involving a minor, the penalty of imprisonment is between one and five years. Some young girls reportedly engaged in prostitution for economic reasons, particularly in urban centers. The practice had reportedly grown more common since 2002.

Trafficking in persons occurred (see section 5, Trafficking).

The law prohibits sexual harassment; however, the government did not effectively enforce the law, and sexual harassment was a problem.

The law does not discriminate against women in inheritance and property rights, but a number of discriminatory customary laws often prevailed, and women's statutory inheritance rights often were not respected, particularly in rural areas. The family code further strengthened women's rights, particularly in the courts; however, access to the judicial system remained very limited throughout the country.

Women were treated as inferior to men both economically and socially. Single, divorced, or widowed women, including those with children, were not considered to be heads of households. Only men were entitled to family subsidies from the government. Women in rural areas generally suffered more discrimination than women in urban areas. There were no accurate statistics on the percentage of female wage earners. Women's access to educational opportunities and to jobs, particularly at higher levels in their professions or in government service, was limited.

Polygyny is legal, although this practice faced growing resistance among educated women. The law allows a man to take up to four wives, but a prospective husband must indicate at the time of the first marriage contract whether he intends to take additional wives. In practice many couples never married formally because men could not afford the traditional bride payment. The family code authorizes the use of bride payments, but it neither requires them nor sets a minimum payment amount. Women who were educated and financially independent tended to seek monogamous marriages. Divorce is legal and can be initiated by either partner.

The Association of Women Jurists advised women of their legal rights and how best to defend them and filed complaints with the government regarding human rights violations. The organization published press releases and pamphlets on several problems, including the dangers of FGM. During the year several active women's groups solicited guidance from the Association of Women Jurists and organized workshops and seminars to promote women's and children's rights, including seminars to encourage women to participate fully in the political process. Prior to and during the presidential and legislative elections, the association advised women on the voting process and served as election observers.

Children.—The government spent little money on programs for children, and churches and NGOs had relatively few programs for youths. Following the 2003 coup, approximately three-quarters of the country's schools were destroyed, although UNICEF has since assisted the government in rebuilding some primary schools in the southwest region of the country. The failure of the education system, caused by a meager budget and salary arrears, resulted in a shortage of teachers and an increase in the number of street children. Education is compulsory from ages 6 to 14, although parents rarely were prosecuted for their children's nonattendance. Students must pay for their own books, supplies, transportation, and insurance. At the primary level (ages 6 to 11), approximately 6 out of 10 children did not attend school, according to a national census conducted by the government in 2003 and published in June. Primary school enrolment rates for all prefectures were on average less than half that of Bangui commune, and in practice, children in rural areas often started school two to three years later than children in urban areas. Girls did not have equal access to primary education, as 36.9 percent of girls of primary school age were enrolled in school, compared with 44.3 percent of boys. There were

extremely few, if any, Pygmies enrolled in primary school during the year. The census indicated that 10.8 percent of children of secondary school age were enrolled in school. The majority of young women dropped out of school at age 14 or 15 due to societal pressure to marry and bear children. In addition, the census indicated that, of persons 10 years and older, 32 percent of the country's women were literate compared with 53.8 percent of men.

In recent years communities have taken initiatives to fill the void in cases where the public education system was lacking or in areas where there were no schools. As a result, the majority of teachers at the primary level were parents, and according to the UN Office for the Coordination of Humanitarian Affairs, three-quarters of all teachers have had no formal training, a problem that continued to hinder the effectiveness of public schooling.

During the year UNICEF conducted a campaign to raise awareness of the importance of child education, with a particular focus on the need to increase the literacy rate among girls. In addition, in recent years, the government, UNICEF, the UN Population Fund, and other donors have developed an action plan to address the need for more complete birth registration to improve children's access to education and other social services. There were no reliable statistics on birth registration; however, in September, UNICEF began conducting a five-month study to determine what percentage of births was registered.

Corruption in the education system continued to be a problem. For example, in July cheating and fraud resulted in the invalidation of baccalaureates, or national exit exams taken by students in their final year of high school. Police arrested 21 students from 3 institutions in and around Bangui, as well as a teacher and employees of a Bangui printing house accused of providing students with questions in advance of the exam. In November a court sentenced the printing house employees to prison terms between 1 and 3 years and fines of between $280 and $560 (150 thousand and 300 thousand CFA francs) for committing theft and fraud.

In addition, according to numerous credible reports, male teachers in primary and secondary schools as well as at the university level routinely pressured their female students into having sexual relationships in exchange for passing grades; the spread of HIV/AIDS was extremely prevalent between teachers and their female students.

The government's incapacity to pay salary arrears to teachers and scholarship arrears to students at the university level continued to be a serious problem. For example between mid-April and June, teachers at the University of Bangui suspended all academic and administrative activities until the government paid them $220 thousand (120 million CFA francs) in salary arrears.

The government did not provide medical coverage for uninsured children. Most children's families could not afford access to the fee-based health care system. Health officials cited evidence during the year that diseases previously brought under control, such as human sleeping sickness and river blindness, were now spreading again. However, there had not been a diagnosed case of polio since 2004, and the government continued to conduct a national antipolio immunization campaign intended to reach at least 650 thousand children under 5 years of age. According to UNICEF, the country's main health indicators, including under-five child mortality, maternal mortality, and malnutrition, continued to deteriorate markedly in recent years. For example more than 1 child out of every 10 (11.5 percent) died before the age of 1, whereas in 1995, fewer than 1 out of every 10 died. During the year, in response to the deteriorating healthcare situation, the government continued working with UN agencies to implement a plan to reduce maternal and infant mortality by 2015.

The penal code forbids parental abuse of children under the age of 15 years, and child abuse was not widespread. A juvenile court tried cases involving children and provided counseling services to parents and juveniles during the year.

FGM was performed primarily on young girls (see section 5, Women).

The law establishes 18 as the minimum age for marriage. However, an estimated 57 percent of children had entered into marriage before the age of 18, according to data collected between 1986 and 2003 by UNICEF.

Trafficking of children and child prostitution occurred (see section 5, Trafficking).

During the year unidentified armed groups in the northwest of the country kidnapped numerous children, reportedly often keeping them in chains and depriving them of food (see section 5, National/Racial/Ethnic Minorities).

Child labor was a problem (see section 6.d.).

There were approximately 6 thousand street children between the ages of 5 and 18 residing in the country, including 3 thousand in Bangui. Many experts believed that HIV/AIDS and a belief in sorcery, particularly in rural areas, contributed to the large number of street children. An estimated 110 thousand children have lost one or both parents to HIV/AIDS, and children accused of sorcery (often reportedly

in relation to HIV/AIDS-related deaths in their neighborhoods) were often expelled from their households. Many street children begged and stole; several charitable organizations provided them with humanitarian assistance.

There were some NGOs specifically promoting children's rights, including some which dealt with street children.

Trafficking in Persons.—The law does not prohibit trafficking in persons, and although there were no specific reports during the year that persons were trafficked, most human rights observers said that trafficking in persons, including children, occurred occasionally. According to NGOs, these instances primarily involved orphaned boys and girls. There was strong agreement among NGOs and government officials that trafficking in persons was not widespread. Child prostitution remained a problem, particularly in urban centers. Government officials said that trafficking in persons occurred but was limited to isolated instances involving persons from other countries, primarily Cameroon and Nigeria. Statistics and specific examples of trafficking were not available.

Traffickers can be prosecuted under laws against slavery, labor code violations, mandatory school age laws, and laws against the exploitation of prostitution by means of coercion or fraud. Specific laws that address the crime of prostitution have been used in recent years to punish those who trafficked women for the purposes of prostitution.

During the year the government did not receive or investigate any cases of trafficking, nor did it use or have access to special investigative techniques in trafficking investigations. By year's end no government agency had been assigned to study, combat, or raise awareness of trafficking. The head of the High Commission of Human Rights and Good Governance, located in the president's office, said that because trafficking was not a problem in the country, the government had not set up shelters for trafficking victims and had not incorporated a trafficking component in its human rights training seminars for security forces and other officials.

Trafficking was confined primarily to children, both girls and boys, who were primarily orphans. During the year there were reports that these children were forced into domestic servitude and commercial labor activities, such as street vending and agricultural work. In recent years, there were reports that children were brought in by members of the foreign Muslim community from Nigeria, Sudan, and Chad and that merchants, herders, and other foreigners doing business in and transiting the country brought girls and boys into the country. It was not clear whether children who were victims of trafficking were related to their caretakers. Child trafficking victims were not afforded the benefit of a formal education, despite the mandatory school age, and worked without remuneration for their labor. There were a few anecdotal reports of children being trafficked to Nigeria and several other nearby countries for use as agricultural workers. There was also anecdotal evidence of sexual exploitation of girls in Bangui, and there were reports that children were publicly beaten.

Some girls entered prostitution to earn money for their families.

There were no reports that government officials were involved in trafficking activities.

There were no known NGOs specifically working to combat trafficking.

Persons with Disabilities.—There was no codified or societal discrimination against persons with disabilities. However, there were no legislated or mandated accessibility provisions for persons with disabilities, and such access was not provided in practice. The government had not developed a national policy or strategy to provide assistance to persons with disabilities. Approximately 10 percent of the country's population had disabilities, mostly due to polio. There were several government- and NGO-initiated programs designed to assist persons with disabilities, including handicraft training for the blind and the distribution of wheelchairs and carts by the Ministry of Social Affairs.

The Ministry of Social Affairs continued to work with Handicap International during the year to provide treatment, surgeons, and prostheses to persons with disabilities. For example a $24,660 (12.7 million CFA francs) physiotherapy center for persons with disabilities continued to operate in Dekoa, 160 miles northeast of Bangui.

National/Racial/Ethnic Minorities.—The population included more than 80 ethnic groups; many of these groups spoke distinct primary languages and were concentrated regionally outside urban areas. The largest ethnic groups were the Baya (33 percent of the population), the Banda (27 percent), the Mandja (13 percent), and the Sara (10 percent). The nomadic and semi-nomadic M'bororo, also known as Bush Fulanis or Peulhs, comprised approximately 7 percent of the population but played a preponderant role in the economy; they were involved in mining development and remained the most important cattle breeders in the country.

Between January and December, as a result of numerous attacks and kidnappings by unidentified armed groups, between 3 thousand and 10 thousand M'bororos reportedly fled to Cameroon from the northwest, primarily from Ouham-Pende and Nana-Mambere prefectures, according to UN agencies and local human rights groups. Some sources said the attacks were indiscriminate acts committed by criminal elements and ex-combatants; other sources, however, said local militias were targeting the M'bororo on account of scarce land resources and the perceived wealth of the M'bororo. The German-based Society for Threatened Peoples said the attackers were equipped with lists of the names of villagers and had kidnapped more than one thousand children during the year to extort a ransom from their relatives. According to several sources, the M'bororo reportedly secured the liberation of their children by paying ransoms of between $911 and $5,466 (500 thousand and 3 million CFA francs), which they often could only finance by selling their entire cattle herds. Parents of the kidnapped children reportedly often did not contact security forces for fear that the kidnappers would retaliate by killing the abducted children. The Norwegian Refugee Council reported that in April, 3 thousand cattleherders fled the country to Cameroon to escape such attacks. The UNHCR confirmed that 3 thousand refugees from the CAR, mostly M'bororos, had been registered in the Adamawa Province of Cameroon and that armed groups had conducted massive attacks on the M'bororo population on the Cameroonian side of the border.

The assailants most often targeted the city of Bouar, 280 miles northwest of Bangui, its environs, and the town of Baoro, 37 miles from Bouar; however, other areas in the northwest, such as the Ombella-Mpoko prefecture, were also affected. For example on April 4, on a road close to the Ombella-Mpoko prefecture town of Yaloke, 155 miles northwest of Bangui, highway bandits abducted 11 M'bororo children; the kidnappers demanded a total ransom of 10 thousand dollars (5.5 million CFA francs).

Major political parties tended to have readily identifiable ethnic or ethnic-regional bases.

According an FIDH report released in the summer of 2004 on the rule of law and impunity in the CAR, the country's leading human rights activists and political figures emphasized that the judicial system subjected members of the Yakoma ethnicity, the ethnicity of former president Andre Kolingba, to significant legal discrimination.

Thousands of Chadians have resided in the country for generations, and many have acquired citizenship. Since a failed coup attempt in 2001, when then-General Bozize fled to Chad with part of the national army, tensions have remained between the Chadian community and those who considered themselves to be native to the country.

Indigenous People.—Despite constitutional protection, there was societal discrimination against Pygmies (Batwa or Ba'Aka), the earliest known inhabitants of the rain forest in the southern part of the country, predominately in Lobaye, Ombella-Mpoko, and Sangha prefectures. Pygmies comprised approximately 1 to 2 percent of the country's population. In general Pygmies had little input in decisions affecting their lands, culture, traditions, and the allocation of natural resources. Indigenous forest-dwelling Pygmies, in particular, were subject to social and economic discrimination and exploitation, which the government has done little to prevent. The government failed to issue and deliver identity cards to Pygmies, which, according to many human rights groups, effectively denied them access to greater civil rights.

Pygmies, including children, often were coerced into agricultural, domestic, and other types of labor within the country. Pygmies often were considered to be the slaves of other local ethnic groups, and when they were remunerated for performing labor, their wages were far below those prescribed by the labor code, and lower than those paid to members of other groups.

During the year the international NGO International Cooperation continued to promote the rights of Pygmies, monitor discrimination, and gain access to public services through the obtainment of birth certificates. Refugees International released a report in 2003 on Pygmies, stating that Pygmies occupied the role of "second-class citizens." The report noted that the popular perception of Pygmies as barbaric, savage, and subhuman had seemingly legitimized their exclusion from mainstream society.

Other Societal Abuses and Discrimination.—The penal code criminalizes homosexual behavior; however, there were no reports that police arrested or detained persons they believed to be homosexual. Societal discrimination against homosexuals existed during the year.

Section 6. Worker Rights

a. The Right of Association.—The law allows all workers to form or join unions without prior authorization, and a relatively small part of the workforce, primarily civil servants, exercised this right. Police forces and judges are allowed to form unions; however, security forces, including the military and gendarmes, are prohibited from forming unions and striking.

A person who loses the status of worker, either through unemployment or retirement, can belong to a trade union and participate in its administration. The labor code requires that union officials be full-time wage-earning employees in their occupation, and that they may conduct union business during working hours, provided the employer is informed 48 hours in advance and provides authorization.

In December riot police closed a trade union's headquarters to prevent a rally (see section 2.b.).

The law expressly forbids antiunion discrimination; however, during the year there were some reports of antiunion discrimination directed toward employees who participated in strikes. Employees can have their cases heard in the Labor Court. The law does not state whether employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities, although employers found guilty of such discrimination legally were required to pay damages, including back pay and lost wages.

b. The Right to Organize and Bargain Collectively.—The labor code provides for the right of workers to organize and administer trade unions without employer interference and grants trade unions full legal status, including the right to file lawsuits, and the government generally respected these rights in practice. However, the minister of labor said police actions in December interfered with government negotiations with striking trade unionists (see section 2.b.). The code provides that unions may bargain collectively, and in practice collective bargaining occurred in the private sector during the year. The government generally was not involved if the two parties were able to reach an agreement. There are no export processing zones.

The country's largest single employer was the government, and government employee trade unions were especially active. In the civil service, the government set wages after consultation, but not negotiation, with the unions; wage levels have remained unchanged for more than two decades. Salary arrears continued to be a severe problem during the year for military personnel and the country's 24 thousand civil servants. The government owed government employees up to 45 months of salary arrears, and the arrears continued to be a major complaint of the unions, which demanded 9 months of arrears for the year and called on the entire civil service to begin a strike on October 12. In an effort to decrease the budget shortfall, the government launched an anticorruption effort in August to identify fraudulent salary claims and "ghost workers" (see section 3), and in September the government announced it would suspend the recruitment of civil servants. Partly as a result of these efforts, the government was able to pay a few months of salary arrears during the year; for example, in September civil servants began receiving salaries owed to them for the month of January. However, civil servants continued to demand the payment of salary arrears and to hold strikes throughout the year.

Unions had the right to strike in both the public and private sectors, and workers exercised this right during the year. To be legal, strikes had to be preceded by the union's presentation of demands, the employer's response to these demands, a conciliation meeting between labor and management, and a finding by an arbitration council that union and employer failed to reach agreement on valid demands. The union also was required to provide eight days' advance written notification of a planned strike. The labor code states that if employers initiate a lockout that is not in accordance with the code, the employer is required to pay workers for all days of the lockout. However, the government has the authority to end strikes because of public interest. The code makes no other provisions regarding sanctions on employers for acting against strikers. During the year there were reports of employer actions against strikers, and in these cases, employees filed complaints with the labor court.

c. Prohibition of Forced or Compulsory Labor.—Although the labor code specifically prohibits forced or compulsory labor, there were reports that such practices occurred (see sections 5 and 6.d.). Prisoners reportedly were forced to work on public works projects without compensation for government officials or magistrates; the prisoners often received shortened sentences for doing so. Pygmies, including children, often were coerced into labor within the country and often treated as slaves (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code forbids the employment of children under 14 years of age; however, the Ministry of

Labor and Civil Service did not enforce the provision, and child labor was common in many sectors of the economy, especially in rural areas. In some cases, the labor code provides that the minimum age for employment could be reduced to 12 years for some types of light work in traditional agricultural activities or home services. The law prohibits children under 18 from performing hazardous work or working at night; however, children continued to perform hazardous work during the year. The labor code does not define the worst forms of child labor.

Reliable statistics on child labor were not available; however, according to data collected by UNICEF between 1999 and 2003, an estimated 56 percent of children between the ages of 5 and 14 were involved in child labor activities at the time of the survey. UNICEF considered a child to be involved in labor activities according to the following classification: children 5 to 11 years old who, during the week preceding the survey, did at least 1 hour of economic activity or at least 28 hours of domestic work; and children 12 to 14 years old who, during the week preceding the survey, performed at least 14 hours of economic activity, or at least 42 hours of economic activity and domestic work combined.

Throughout the country, children as young as seven years old frequently performed agricultural work, often with their parents, during the year. In addition, children often worked as domestic workers, fishermen, and in mines (often in dangerous conditions). An international agency reported that children worked in the diamond fields alongside adult relatives. In Bangui, many of the city's 3 thousand street children worked as street vendors.

In some rural areas, teachers or principals used school children as occasional or part-time labor on farms, ostensibly to teach them how to work the land and raise chickens since many students did not attend school beyond the primary level (see section 5). The schools used the proceeds from the sale of farm produce to purchase school supplies and equipment and to fund school-related activities.

The labor code prohibition of forced or compulsory labor applies to children, although they are not mentioned specifically; however, forced child labor occurred.

The government had extremely few resources to enforce the prohibition against forced labor or child labor laws effectively. The Ministry of Labor and Civil Service had approximately 30 labor inspectors and 2 vehicles to cover the entire country. The loss of the ministry's headquarters to flooding during the year, salary arrears, and the lack of personnel training severely impeded its enforcement capacity.

The country had only two centers, both located in Bangui, that worked to rehabilitate former child laborers and street children and facilitate their reinsertion into the education system. UNICEF, local NGOs, and labor unions continued to call for the allocation of government resources toward the creation of rehabilitation centers and special schools for former child laborers. Labor unions continued to highlight the absence of an inspection regime to prevent child labor and called on the government to launch an awareness campaign to sensitize parents to the risks of child labor.

e. Acceptable Conditions of Work.—The labor code states that the minister of labor must set minimum wages in the public sector by decree. The minimum wage varies by sector and by kind of work. For example the monthly minimum wage was equivalent to approximately $12 (6,519 CFA francs) for agricultural workers but approximately $28 (15,211 CFA francs) for office workers. The minimum wage did not provide a decent standard of living for a worker and family, and wage levels had not changed in more than 20 years. Most labor was performed outside the wage and social security system (in the vast informal sector), especially by farmers in the large subsistence agricultural sector.

The law sets a standard workweek of 40 hours for government employees and most private sector employees. Household employees may work up to 52 hours per week. The law also requires a minimum rest period of 48 hours per week.

There are general laws on health and safety standards in the workplace, but the Ministry of Labor and Civil Service neither precisely defined nor actively enforced them. The labor code states that a labor inspector may force an employer to correct unsafe or unhealthy work conditions, but it does not provide the right for workers to remove themselves from such conditions without risk of loss of employment.

CHAD

Chad is a centralized republic with a population of approximately 9,826,000. Political power remains concentrated in the hands of a northern oligarchy composed of the president's Zaghawa ethnic group and its allies. The executive branch effectively dominated the legislature and judiciary, thereby eliminating potential challenges to a culture of impunity for the ruling minority. President Idriss Deby, leader of the

Patriotic Salvation Movement (MPS), has ruled since taking power in a 1990 rebellion. He was reelected president in 2001; however, fraud including widespread vote rigging and other local irregularities marred that election and the 2002 legislative elections.

During the year the security situation in the East grew increasingly tenuous due to the conflict in the Darfur region of Sudan on the country's border, the growing number of rebels that were operating in the East, and incursions by *janjaweed* (Sudanese militias) and bandits. The government continued its attempts to negotiate with the rebel group Movement for Democracy and Justice in Chad (MDJT) to end the rebellion in the northwest Tibesti region. Growing insecurity along the southern border shared with the Central African Republic (CAR) resulted in additional refugee flows into the country.

Civilian authorities did not maintain effective control of the security forces, elements of which frequently acted independently of government control. Security forces committed or sanctioned serious human rights abuses. The government's human rights record remained poor. The following human rights problems were reported:

- limitation of citizens' right to change their government
- extrajudicial killings, torture, beatings, and rapes by security forces
- near total impunity for human rights abuses committed by members of the security forces
- politically motivated disappearances
- arbitrary arrest and detention by security forces
- harsh and life-threatening prison conditions and lengthy pretrial and postsentence detention
- executive interference in the judiciary and lack of judicial effectiveness
- official infringement of privacy rights including illegal searches, confiscation, and wiretaps
- limits on freedom of speech and the press, including harassment and detention of journalists, and on freedom of assembly
- widespread official corruption
- violence and societal discrimination against women, including the widespread practice of female genital mutilation (FGM), and child abuse
- slavery
- trafficking in persons
- forced labor, including forced child labor, and other abusive child labor

The government took some steps toward addressing the human rights situation, including creating a new ministerial post for human rights, releasing 500 prisoners, most of whom had been awaiting trial, and removing from the security services approximately 60 members of the former Directorate of Documentation and Security identified in a Human Rights Watch (HRW) report as human rights abusers.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Government agents committed politically motivated killings, and officially sanctioned extrajudicial killings of suspected criminals by security forces continued. Local human rights organizations estimated that arbitrary and unlawful killings by security forces were widespread. Extrajudicial killings rarely were directed centrally, and they most often occurred outside the capital, where there was less control over security forces. The government rarely prosecuted or punished members of the security forces who committed killings. For example, on October 7 in Krim Krim, gendarmes killed two persons after they had refused to pay a bribe. No action was taken against the perpetrators.

During the year security forces committed numerous killings during apprehensions or of persons in custody. In April prison guards killed a prisoner trying to escape from the prison in Bongor. During the year the use of excessive force by security forces resulted in numerous deaths.

On January 20, members of the nomadic guard (GNNT) fired on traders coming from Nigeria, killing one and injuring two. The governor of Lac-Kanem arrested the perpetrators, but there were no further developments in the case at year's end.

In March in Lac-Kanem, unidentified armed men in military uniforms fired on herders, killing two and injuring two. Government authorities were notified but took no action.

In April gendarmes killed Saleh Baharadine, a driver at the National Hospital in Abeche. There was no investigation into the killing.

Security forces killed refugees after they came under attack in refugee camps in May (see section 2.d.).

There were no developments in the 2004 incidents of the GNNT killing of a customs agent, of unidentified men in military uniforms attacking traders in the eastern part of the country, or the killing by gendarmes of two persons in Tandjile West.

Landmines laid by government, rebel, and foreign forces in previous years caused numerous deaths and injuries during the past three years. The government's demining program cleared approximately 2,115 square miles of mines between 2000–05. The government and its international partners destroyed more than 19 thousand mines, 141 thousand items of unexploded ordnance, and 106 bombs. During the year 12 persons suffered severe accidental injuries from landmines.

Armed bandits continued to operate on many roads, assaulting, robbing, and killing travelers; some perpetrators were identified as active duty soldiers or deserters.

In January unidentified assailants attacked the governor of Ouaddai as he was traveling near Adre. The governor's security detachment killed two of the gunmen. Families of the dead gunmen demanded compensation and threatened the governor's life.

On April 18, armed bandits attacked the sub-prefect of Adre. There was no investigation or arrests in the case.

In May armed bandits killed two employees of a nongovernmental organization (NGO), including the son of the prefect of Mobroum. The bandits also stole $400 (FCFA 200 thousand). There were no arrests in the case.

Interethnic fighting resulted in numerous deaths (see section 5).

b. Disappearance.—There were reports of politically motivated disappearances during the year. These occurred particularly between September and December, in connection with alleged mutiny attempts, military desertions, and political defections, and also attacks carried out on two military installations in November.

Local human rights groups reported that in May, 46 air force officers, who reportedly opposed holding the public referendum on constitutional revisions, were arrested and sent to the northern part of the country. Human rights groups believed the officers were killed, and the government offered no evidence to counter these allegations.

In June the military arrested Naguili Delphine for unknown reasons; by year's end he had not been found.

In August, 13 to 15 army colonels were arrested. Some may have been moved to N'Djamena for questioning, but their whereabouts remained unknown at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, members of the security forces tortured, beat, abused, and raped citizens. Impunity for those who committed human rights abuses remained widespread.

In January members of the presidential guard shot and injured two Independent National Electoral Commission (CENI) agents. The then minister of defense had the soldiers arrested. At year's end one soldier had escaped from the prison in N'Djamena and the other remained in prison awaiting trial.

In March gendarmes arrested and tortured a herder, Adelrahman Abakar, in Salamat. He had failed to acquire the necessary legal travel documents from gendarmes before moving his cattle through the area and refused to pay a bribe. No action was taken against the gendarmes.

According to the Chadian League of Human Rights (LTDH), in April gendarmes arrested and beat Malloum Ali in Bol, and the chief commandant of the gendarmerie brigade ordered his fingers to be cut off.

Also in April members of the nomadic guard arrested and tortured a government official in Adre. He had refused to provide an official car to transport troops for the governor's motorcade. Authorities took no action against the guard members.

In August police castrated a man after a dispute over a woman. The officers involved paid for the man's treatment. No further action was taken against the police officers implicated.

By year's end no action had been taken against the soldiers who harassed local citizens in Chagoua in 2003.

Unlike the previous year, there were no reports that members of the security forces threatened and beat officials of the local power and water utilities when their services were cut or reduced during shortages. However, power company officials used military and police escorts when investigating and turning off power to illegal power users, some of whom were members of the security forces.

Security forces beat a journalist and an NGO member during the year (see sections 2.a. and 4).

On March 17, members of the military arrested and beat Maxime Allarassem of the private Catholic radio station in Moundou.

No action had been taken against the perpetrators in the shooting and serious wounding in June 2004 of herders in Kanem.

During the year police and gendarmes continued to rape women in custody.

FGM continued to be a problem (see section 5).

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded, had poor sanitation, and provided inadequate food, shelter, and medical facilities. As a result of inadequate record-keeping and management, many individuals remained in prison after completing their sentences or after courts had ordered their release.

Local human rights organizations continued to report on the existence of military prisons and prisons run by the immigration service, to which access was prohibited. It was unknown who was detained in these prisons and for what reasons they were held.

While the law provides that a doctor must visit each prison three times a week, this provision was not respected. Although the law authorizes forced labor in prison, human rights organizations reported that it did not generally occur in practice.

There were reports that prisoners died from negligence. On March 13, two prisoners in Bongor died as the result of poor medical treatment.

Juvenile males were not always separated from adult male prisoners. In some cases juvenile males were held with female prisoners. Pretrial detainees were held with convicted prisoners.

The government permitted the International Committee of the Red Cross (ICRC) to visit most civil prisons on a regular basis, except for secret prisons operated by the National Security Agency (ANS), gendarmerie, and police. The ICRC conducted such visits during the year. The government provided the NGO Chadian Association for the Promotion of Human Rights (ATPDH) with a permanent authorization notice to visit civil prisons at any time, without need to provide advance notice. Other NGOs, including human rights groups, were required to obtain authorization from a court or from the director of prisons; such authorizations depended largely on the personal inclinations of those with authority to grant permission. ICRC confirmed the existence of illegal prisons run by the gendarmerie, the ANS, and the police and requested access to them; however, no access was granted. Persons were also secretly kept in regular jails. Organizations were not allowed access to military prisons.

d. Arbitrary Arrest or Detention.—Although the law prohibits it, security forces continued to use arbitrary arrest and detention.

Role of the Police and Security Apparatus.—The National Army (ANT), gendarmerie (a military police force), national police, GNNT, and ANS are responsible for internal security. The ANT, gendarmerie, and GNNT report to the Ministry of Defense; the national police reports to the Ministry of Public Security and Immigration, and the ANS reports to the president. In August the Ministry of Defense was placed under the direction of the presidency. Officers from President Deby's ethnic group and closely allied ethnic groups dominated the ANS and republican guard. During the year the ANT and gendarmerie were deployed in the Northwest to fight MDJT rebels, in the East to maintain security along the border with Sudan, and to the South where growing insecurity along the border shared with the CAR led to additional refugee inflows.

The police force was centrally controlled, but exercising oversight, particularly outside of N'Djamena, was difficult. Police officials who committed human rights abuses generally enjoyed impunity. Government officials publicly acknowledged the country's growing internal security problems, which resulted in part from the inability of the national police in N'Djamena and in the regions to counter widespread banditry, particularly outside of N'Djamena, and the proliferation of arms resulting from a succession of civil wars. The government often allowed months to pass before it paid police force members, and corruption was widespread.

Arrest and Detention.—Persons were arrested and detained both openly and secretly, and arbitrary arrest and detention were a problem.

While the law requires police to obtain a warrant signed by a judicial official before arresting a person, the government often did not respect this requirement. The law requires both access to bail and access to counsel, but neither was regularly provided. Few detainees had the means to pay for private counsel, and incommunicado detention was a problem.

Detainees were not promptly informed of charges, and judicial determinations were not made promptly; this was a major cause of prison congestion.

The law states that legal counsel should be provided for indigent defendants and that defendants are to be allowed prompt access to family members and counsel; however, in practice this usually did not occur.

In March the chief commandant of the ANS in Dourbali arrested and detained Adam Mahamat, although by law the ANS does not have police arrest powers. No reason for the arrest was given, but human rights groups believed he was arrested because of his connections with suspected rebels. The commandant confiscated $556 (FCFA 278 thousand) from Adam.

In April the chief police commandant arrested Ahmat Nagrtoloum, an employee of the Ministry of Finance in N'Djamena. Human rights groups were denied access. He was jailed allegedly for corruption but had not been charged by year's end.

Army colonel Saoua was arrested and sent to Bardai in November 2004 for questioning on suspicion of being involved in coup activity; he was allowed free movement there but could not leave Bardai. He had not been charged by year's end.

In November the government arrested at least 30 people in connection with attacks on two military camps. They remained in ANS custody at the end of the year. Family members reported that many of them were arrested because they were relatives of suspected perpetrators. There were several reports that the government continued to make arbitrary arrests connected to the deteriorating security situation.

There were no further developments in the 2004 cases in which gendarmes beat and robbed a man and also arrested herders in Kerfi.

Security forces continued to conduct searches, mostly in N'Djamena but also outside the city, and increased security operations along the eastern border with Sudan. Police at times arrested journalists and NGO officials who criticized the government (see sections 2.a. and 4).

Lengthy pretrial detention remained a problem. Of the 3,416 prisoners, 1,980 were awaiting trial. Persons accused of crimes could be imprisoned for several years before being charged or tried, particularly those who were arrested in the provinces for felonies and transferred to the overcrowded prison in N'Djamena. The human rights minister reported that approximately 965 prisoners in the central prison were still awaiting judgment at year's end. Approximately half of them had been tried and were awaiting sentencing; the other half were awaiting trial.

e. Denial of Fair Public Trial.—The judiciary was ineffective, underfunded, overburdened, vulnerable to acts of intimidation and violence, and subject to executive interference. In practice government officials and other influential persons often enjoyed immunity from judicial sanction. Members of the military, in which the president's Zaghawa ethnic group figured prominently, continued to enjoy a particularly high degree of immunity from prosecution.

During the year members of the judiciary received death threats or faced demotion or removal from their positions for not acquiescing to pressure from corrupt officials. On March 4, an appeals court ruled in favor of the local buyer in a long-standing real estate dispute. Despite this finding, the minister of justice ordered the police to evict the buyer from the property. On March 11, the appeals court judge was demoted two grades and reassigned outside the capital.

The appeals court judges who in July ruled in favor of arrested journalists also came under significant government pressure to reverse their decision; however, the judges held firm.

There were no further developments in the case of the October 2004 killing of Daynguirim Etienne, a magistrate in Abeche. By year's end the alleged assailant was in custody.

At the national level, a Supreme Court, constitutional court, and court of appeals exist; however, some of their members were appointed by the government rather than elected by citizens as required by the law, which weakened the independence of the courts. The constitutionally mandated high court of justice could try high-ranking government officials; only the national assembly, which had taken no action on cases by year's end, could submit cases to this court.

The judicial system included courts located in provincial capitals. Two additional appeals courts were established during the year, bringing the total number to three, located in N'Djamena, Moundou, and Abeche.

The law mandates that the Superior Council of Magistrates recommend judicial nominations and sanction judges who commit improprieties. There were no such cases during the year, because continuing problems between the government and magistrates prevented any sanctions for being considered or carried out. During the year a new five-judge judicial oversight commission, similar in function to the superior council, began conducting investigations of judicial decisions and addressing

suspected miscarriages of justice. However, in contrast to the superior council, the president appointed members of the commission, which increased executive control over the judiciary and decreased the authority of the superior council. Parties to judicial cases could appeal to the commission.

Trial Procedures.—Applicable law was sometimes confusing, as courts often tended to blend the formal French-derived legal code with traditional practices, and customary law often continued in practice to overrule Napoleonic law. Residents of rural areas often lacked access to formal judicial institutions, and legal reference texts were not available outside the capital. In most civil cases, the population relied on traditional courts presided over by village chiefs, canton chiefs, or sultans. However, decisions could be appealed to a formal court.

Defendants are presumed innocent until proven guilty, but in practice many judges assumed a suspect's guilt, particularly in crimes involving rape or theft. Cases are heard as public trials, and defendants have the right to appeal any decision. Defendants, their lawyers, and judges are permitted by law to question witnesses.

The law states that indigents should be provided promptly with legal counsel; in practice, this seldom occurred. Human rights groups sought to improve this situation, and sometimes provided free counsel themselves.

The Muslim concept of *dia*, which involves a payment, based on the decision of local leaders, to the family of a murder victim or other victim of a crime, was practiced widely in northern Muslim areas. Non-Muslim groups, who supported implementation of a civil code, challenged the use of the *dia* system, arguing that it was incompatible with the constitution. Such groups further accused the government of supporting *dia* practices by permitting the existence of local tribunals. No resolution was reached by year's end.

Political Prisoners.—Human rights organizations reported beginning in September that there were political prisoners during the year. Military and military family defections and increased rebel activity occurred from September to December, and the government rounded up suspects and kept them in prison during their investigations. The whereabouts of some individuals arrested on suspicion of subversive activities were unknown at year's end. There were several military and immigration prisons, but human rights or other organizations were denied access.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—While the law prohibits such actions, authorities used illegal searches and wiretaps and monitored the contents of private mail. The law also allows authorities to conduct searches of homes only during daylight hours and with a warrant, but security forces ignored these provisions and conducted unlawful searches at any time they wished. Security forces also regularly stopped citizens and extorted money or confiscated belongings.

The government engaged in wiretapping without judicial authorization, monitored private mail through the postal service, and monitored private e-mail through the main post office server.

In October, November, and December, the government ordered the two cellular networks to shut down for short periods for "national security reasons."

The military and police officials conducted searches and confiscations of Thuraya satellite telephones, including those of NGOs, international organizations, and diplomatic vehicles.

There were occasions when police officers arrested family members of suspects. In June gendarmes put a woman and her one-year-old baby in prison when they could not locate her husband whom they sought to arrest. That same month gendarmes in Krim-Krim arrested and detained Medji Allah because of a debt owed by his 21-year-old son.

There were no new developments in the reported 2004 or 2003 cases of government agents who arbitrarily interfered with privacy, families, or homes.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Although the law provides for freedom of speech and of the press, the government limited these freedoms in practice and intimidated journalists and publishers. The government did not restrict academic freedom.

Individuals who publicly criticized the government often faced official reprisal. There were reports that the government attempted to control criticism by monitoring meetings of the political opposition, and there were reports that the government attempted to intimidate its critics.

The government owned the newspaper *Info Tchad* and influenced another, *Le Progres*, but it did not dominate the press. A number of private newspapers, many

of which were critical of government policies and leaders, were published and circulated freely in the capital.

Due to widespread illiteracy and the relatively high cost of newspapers and television, radio remained the most important medium of mass communication. The government-owned Radiodiffusion Nationale Tchadienne had branches in N'Djamena, Abeche, Moundou, Sahr, and Taya. There were numerous private radio stations, including several owned by religious organizations (there were 86 Christian stations and 2 Muslim ones) that broadcast throughout the country.

The licensing fee set by the High Council for Communications (HCC) for a commercial radio station remained prohibitively high at approximately $10 thousand (FCFA 4,972,000) per year, 10 times the fee for radio stations owned by nonprofit NGOs. Both stations run by nonprofit groups and commercial ones were subject to close official scrutiny.

The government owned and operated Teletchad, the only domestic television station, but did not interfere with private channels.

The government harassed and detained journalists during the year. Five journalists were imprisoned on the grounds that their reports allegedly jeopardized national security. Libel law was used to suppress criticism of political leaders, and during the year the government arrested several journalists for defamation. A July appeals court decision that the government had improperly brought defamation charges was ignored. The journalists were rearrested and sentenced to prison. On May 27, authorities charged the editor of the independent newspaper *Le Temps*, Michael Didama, with manipulating information from the eastern region to impugn the reputation of the government for having published a photograph, taken from a reportedly antigovernment Web site, allegedly of a massacre at Ouadi Hamra.

On June 4, ANS personnel detained the editor of *l'Observateur*, Samory Ngarandoumbe, for publishing an open letter from the Kreida ethnic group in which they complained about poor treatment by the Zaghawa. Samory was turned over to the judicial police (a branch of the National Police which investigates and prepares charges for the courts), which first released him on June 6, then subsequently rearrested and tried him on July 11. He received a sentence of 3 months in prison and was ordered to pay a $200 fine (FCFA 100 thousand). On September 9, Samory, whose case was on appeal, was released until his trial session on September 22, when he was acquitted.

On July 11, authorities sentenced freelance journalist Garonde Djarma to 3 years in prison and fined him $5 thousand (FCFA 2.5 million). He was charged with defamation and inciting racial hatred for providing an interview to *l'Observateur* editor Sy Koumbo Singa Gali. On July 20, authorities arrested Gali and charged her with inciting ethnic hatred for having published the interview with Djarma in which he claimed that his arrest was "*janjaweed* (Arab militia) trickery". On August 15, Gali was found guilty and sentenced to a year in prison and ordered to pay a fine of $200 (FCFA 100 thousand).

On September 6, Laissou Bagmla, a reporter for *l'Observateur*, was arrested for defamation and held for two days before being released.

On September 26, an appeals court freed Gali, Samory, and Didama after finding that they had been incorrectly charged. Didama could still face charges of "inciting ethnic hatred." Djarma was freed earlier in September.

Some journalists in the rural provinces reported that government officials warned them not to engage in any contentious political reporting. In addition some domestic journalists claimed that the government restricted their ability to cover some events or visit certain locations and limited their access to high-ranking officials, restrictions that the government did not impose on foreign journalists.

The government placed limits on radio broadcasting. On May 4, the HCC issued an order prohibiting private radio stations from broadcasting political debate concerning the referendum. The HCC stated that it would use a list to determine the order for the public service broadcasting of their messages. In effect, each of the 74 political parties would only get one broadcast due to the high number of parties in the rotation. It was a way to limit and dilute the messages of the opposition parties. The parties' messages needed to be registered well in advance of their broadcast in the presence of a member of the HCC. Any message carried in a language other than French or Arabic was required to be reviewed 48 hours in advance.

The independent media protested this measure in court, and on May 25, the Supreme Court suspended the HCC's prohibition. On May 27, HCC Chairman Moussa Dago announced that the court decision did not affect the HCC regulation which states that radio stations operated by community and private associations cannot broadcast political messages. Most opposition parties praised the Supreme Court's decision but noted that it came too late to make a difference in the referendum out-

come and that the government had effectively silenced independent radio for most of the campaign period.

On May 19, the HCC closed Radio Brakoss, a community radio station in Moissala in the South, for a third time. It closed the station for airing an in-depth discussion with the board of governors of Radio Brakoss which addressed the activities of *coupeurs de route* (armed robbers), the illegal release of criminals from prison by the gendarmes, and the mistreatment of local citizens by herders and gendarmes, for fear that the broadcast would inflame listeners against the government. Station owner Tchanguiz Vatankah said that local officials threatened his life in the presence of the then interim minister of communications. The HCC ordered that the radio station be reopened in September; the government complied. On September 25, authorities arrested Vatankah but turned him over to the UNHCR and the ICRC on November 29 for relocation outside the country.

In June the governor of Doba warned the local radio station La Voix du Paysan to cease discussing the results of the referendum. Security forces also beat Eliakim Vanambyl, a journalist with the radio station, because he reported the low voter turnout for the referendum.

In July the HCC warned FM Liberte not to broadcast criticism of a speech given by the French ambassador that was critical of the independent media. The HCC later reversed its position and apologized to FM Liberte.

Media owned and controlled by the government were headed by government-selected news directors and subject to government pressure that resulted in informal censorship; however, at times they were critical of the government.

The government used the press code to limit the amount of public broadcasting time allotted to political parties that opposed the public referendum; the Supreme Court ruled this action was illegal.

The government did not restrict access to the Internet but monitored e-mail through the main post office server.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of assembly, the government limited this right in practice. Authorities banned demonstrations they expected would be critical of the government, despite being notified five days in advance as required by law; however, they permitted demonstrations they presumed would support the government and its policies.

Throughout the year the police regularly disrupted student gatherings.

Unlike in previous years, there were no reports of security forces using excessive force against demonstrators.

There were no developments in the 2004 or 2003 cases of abuse resulting from the use of excessive force by security forces against demonstrators.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—While the law provides for religious freedom, at times the government limited this right. The law also provides for a secular state. Senior government officials were predominantly Muslim, and some policies in practice favored Islam. For example, the government sponsored annual hajj trips to Mecca for certain government officials.

The Islamic religious group Faid al-Djaria remained banned at year's end on the grounds that its religious customs, including the singing and dancing together by men and women in religious ceremonies, were allegedly un-Islamic.

Although the different religious communities generally coexisted without problems, there were reports of tensions within the Muslim community between the High Council for Islamic Affairs (a government-sanctioned, nongovernmental body) and radical elements within the community. There also was occasional tension between Christians and Muslims. However, during the year there were regular meetings between key religious leaders to discuss peaceful collaboration among groups.

Societal Abuses and Discrimination.—There was no known Jewish community. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—Although the law provides for these rights, the government in practice imposed some limits. The Ministry of Territorial Administration required an "authorization for circulation" for foreign travelers, including humanitarian agency personnel, intending to visit the eastern part of the country, due to growing insecurity in the region. The travel permits were not restrictive but required travelers to allow

between three and five days to obtain them. Authorities also required foreigners to register upon arrival with immigration authorities in Abeche.

Elements of the security forces, rebels, and bandits continued to maintain roadblocks throughout the country, extorting money from travelers and often beating and in some cases killing them. However, the number of roadblocks decreased significantly after the minister of territorial administration banned them.

There was no further investigation or action taken in the 2004 harassment of the national assembly president or in the 2003 assault by security forces on an expatriate businessman.

Tension along the border with the CAR continued to hinder free movement in the region. During the year bandits from the CAR continued to enter the country and attack citizens, despite an agreement by government officials of both countries to stem insecurity along the border and seize weapons held illegally by militias, herders, and other individuals.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status and consequently is not in compliance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government also provided protection to certain individuals who may not qualify as refugees under the convention or its protocol. An official national structure, the National Committee for Welcoming and Reinsertion of Refugees, handled returning citizens who had been refugees in other countries and foreign refugee matters.

The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR and the government worked together to identify safer sites for refugee camps a safe distance from the Sudanese border and the conflict in the Darfur region of western Sudan. According to the UNHCR, the country hosted approximately 220 thousand Sudanese refugees from Darfur, 200 thousand of whom were located in 12 camps along the eastern border with Sudan. There were also an estimated 40 thousand refugees from the CAR and small numbers from the Democratic Republic of the Congo.

In May five refugee camps were closed to humanitarian workers after attacks on aid workers resulted in the deaths of several refugees and gendarmes and injuries to refugees and humanitarian workers.

There were no additional developments concerning reports in 2003 that soldiers in the southern border town of Gore harassed, beat, and stole from refugees fleeing the CAR.

Antirefugee sentiment among citizens living in refugee-affected areas was high due to competition for local resources—wood, water, and grazing land—and the provision of goods and services to Sudanese refugees that were not also made available to the local population. There continued to be reports that citizens attacked refugees and destroyed their wells out of frustration and fear of resource shortages. The UNHCR, in collaboration with local government authorities, created committees consisting of refugees and local residents to discuss resource and other contentious issues with the aim of mitigating tensions. They were successful in diminishing the level of tensions and bringing resolution to some issues between the two groups.

The UNHCR and its partner organizations expressed concern about the possibility of the militarization by Sudanese and Chadian rebels of the refugee camps, particularly one located much closer to the border than the others. During the year the UNHCR invited a committee of experts on refugee security to visit the camps. The experts determined that the camps were not militarized and found no evidence of attacks being launched from them. Proximity to the border for two camps remained a problem, but following the UNHCR visit in August, the government agreed to move Oure Cassoni and Am Nabak camps to safer locations. During the year the number of gendarmes deployed outside the refugee camps to protect the refugees from outside threats was increased.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Although the law provides citizens with the right to change their government, the government continued to limit this right in practice. The executive branch dominated the other branches of government.

Elections and Political Participation.—On June 6, the government held a public referendum on constitutional amendments, approval of which abolished presidential term limits, abolished the nonexistent senate, and created a Social and Economic

Council with members to be appointed by the president. On July 7, the Constitutional Council, after reviewing the results, nullified voting in 3,007 of the 10 thousand electoral districts. It cited a number of irregularities, including nonrespect for prescribed voting hours, discrepancies between the number of registered voters and votes cast, discrepancies between votes cast and counted, the lack of final tally sheets in some areas, lack of required signatures, and multiple voting by nomadic herders. The council also cancelled the votes cast abroad because the voter register was not published at least 30 days before the election. In July the council announced a participation rate of 57.8 percent with 65 percent of votes cast in favor of the constitutional changes.

Communal elections were not held in late 2005 as originally planned.

The outcome of the 2002 legislative election, in which President Deby's MPS party won a majority of national assembly seats, was largely determined in advance through ruling party manipulation, and voting was impacted by inaccurate voter lists, due primarily to a faulty electoral census that the government refused to revise. Local NGOs reported numerous voting irregularities.

According to several observers, President Deby's first-round victory in the 2001 presidential election was marred by irregularities. While monitoring the voting process, unofficial observers from local human rights and civil society groups were assaulted in polling stations. In addition, prior to and following the presidential election, several incidents of abuses against opposition supporters and candidates took place, and the government restricted media coverage.

There were an estimated 70 political parties in the country. Parties allied with the regime generally received favorable treatment. Opposition political leaders have accused the government of co-opting their most popular local politicians to run as MPS members in local elections and also alleged intimidation by the military of those party members who refused to cooperate. Northerners, particularly members of the Zaghawa ethnic group, including the Bideyat subclan to which the president belongs, continued to dominate the public sector and were overrepresented in important posts in key institutions of state power, including the military officer corps, elite military units, and the presidential staff.

There were 6 women among 32 ministers in the cabinet. There were 10 women in the 125-seat National Assembly, and 2 members of the 25-member CENI were women.

Government Corruption and Transparency.—Corruption continued to be a serious problem. The presidency continued to fight the problem of "phantom soldiers" whereby some officers in the security forces continued to collect government payments for several thousand nonexistent subordinates. Between April 15 and 20, the military conducted an internal review. Some participants identified corruption among some officers as a problem. The exercise identified tribalism, inadequate pay, and a disproportionately high officer-to-soldier ratio as sources of the problem.

The Ministry for Moralization and State Control, created in July 2004, began a public awareness campaign by running radio spots highlighting the dangers of corruption. The minister met with religious leaders and school directors to discuss and heighten awareness of the importance of strong moral values in the fight against corruption. The ministry was developing ethics regulations and an enforcement process with each ministry. The ministry surveyed citizens about corrupt practices and corrupt officials to better focus its efforts against corruption.

In August there were reports that the government began seizing vehicles and other government property from ex-ministers and ruling party members. Allegations over misappropriation of government funds were cited as reasons behind the August 7 cabinet reshuffle.

In September the former head of CENI was arrested and was being prosecuted for signing false paperwork to authorize the import of vehicles.

In July the *college du surveillance et controle des revenues petrolieres* (College for the Monitoring and Control of Oil Resources, or CCRSP) issued its first report on accounting for social and economic improvement projects funded with oil revenues. It identified many deficiencies in the execution of projects, including contract delays, nondelivery of goods, poor quality of projects, lack of communication between priority sector ministries and local authorities, and corrupt practices, such as double-charging for services. The priority sector ministries are responsible for correcting the faults. By year's end, the government had not taken action on the report.

The World Bank and CCRSP members expressed concern over the government's circumvention of normal contracting procedures funded by oil revenues. Legally, the prime minister can request an exemption from procedures in cases of extreme urgency or where there is only a sole-source provider for a service. However, after several such requests to circumvent the competitive contracting procedures, the CCRSP wrote a letter of protest to the prime minister asking that he withdraw his requests.

In December the government amended the oil revenue management law to increase the percentage of oil revenues going directly into the national treasury from 15 to 30 percent; added security, territorial administration, and justice as priority sectors; and abolished the Fund for Future Generations. The revision also placed oil revenues from three newly developed fields under supervision of the CCRSP and extended the mandate of the members.

In July the government approved a plan to modernize and streamline its budgetary process to improve efficiency and transparency. The plan creates ethics committees within the Ministry of Moralization to monitor the budgetary process and organize public meetings among officials on the negative effects of corruption.

The law does not provide for public access to government information; in practice the government provided access to government-employed journalists, but independent media journalists complained during the year that they did not have sufficient access to government information. The government's low capacity to retrieve and store information was a problem; however, the government mandates that the proceedings of some ministerial meetings be broadcast over the radio or published in *Info Tchad*, a government newspaper.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government obstructed the work of domestic human rights organizations during the year through arrest, detention, and intimidation; however, such groups were able to investigate and publish some findings on human rights cases. Government officials generally were accessible to human rights advocates but unresponsive or hostile to their findings.

There were two principal local human rights organizations: the Chadian Association for the Promotion of Human Rights (ATPDH), and the LTDH. These and smaller human rights organizations worked closely together through an umbrella organization, the Association for Human Rights, and their activities included observing government detention practices, assisting individuals who have suffered human rights abuses, and holding public conferences and seminars. These sessions addressed press freedom and arrests of journalists, relocation of residents of local neighborhoods, transparency of oil revenues, disappearances of individuals, and the socio-political situation and its impact on human rights.

Despite pressure from the government, human rights groups were outspoken and often partisan in publicizing abuses through reports, press releases, and the print media, but only occasionally were they able to intervene successfully with authorities. There was a perception that most local human rights groups were composed mainly of political opponents of the government, which weakened their credibility with the government and some international organizations.

In April GNNT members attacked and destroyed a shop owned by Daoud Saboune. He said that the minister of public security had threatened him for reporting the case to the LTDH.

In July authorities jailed Daniel Passalet, president of Human Rights Without Borders, after he expressed his opposition in court to a verdict regarding the journalists arrested in July. He was released after 24 hours.

During the year the government did not totally restrict international human rights organizations, such as Amnesty International, and permitted more investigative activity. However, the government, particularly at the local level, placed obstacles in the way of efforts by NGOS and made it more difficult for them to do their work.

Personnel from international human rights organizations traveled regularly through the country to investigate atrocities in Sudan. The government allowed access to the eastern region for employees of the International Criminal Court who were investigating charges of war crimes and crimes against humanity in Sudan.

Belgian courts continued their investigation of crimes against humanity committed by former Chadian president Hissein Habre during his rule from 1982 to 1990. In September a Belgian court announced an indictment of Habre, and the government of Senegal announced that it would extradite Habre to Belgium, but extradition had not taken place by year's end.

In July and August the government responded to a letter from HRW in which it complained of the presence of former members of Habre's security services in current government positions. The president issued a decree to remove all such former agents from the government. Approximately 60 officials were removed by year's end.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

While the law prohibits discrimination based on origin, race, religion, political opinion, or social status, the government did not effectively enforce these provisions.

Cultural traditions kept women subordinate to men. The government favored its ethnic supporters and allies. Societal discrimination continued to be practiced against homosexuals, those afflicted with HIV/AIDS, and members of nonfavored ethnic groups.

Women.—Although the law prohibits violence against women, domestic violence against women, including spousal abuse, was common. Wives traditionally were subject to the authority of their husbands, and they had limited legal recourse against abuse. Although family or traditional authorities could provide assistance in such cases, police rarely intervened.

The law prohibits rape, prostitution, and spousal abuse, but all were problems.

There were reports that family members killed women for breaking social taboos. For example, a girl cannot visit the site of initiation before the ceremony takes place. If she does, the village leaders can kill her.

The law prohibits violence against women, including the practice of female genital mutilation (FGM); however, FGM was widespread and deeply rooted in tradition. According to a 2004 government report by the National Institute of Statistics, Economic and Demographic Studies, 45 percent of local women had undergone excision. The rates of FGM by ethnic groups included: Arabs (95 percent), Hadjarai (93 percent), and Oauddai (90 percent). Lower percentages were reported among the Sara (38 percent) and Gorane (2 percent). According to the survey, 70 percent of Muslim females and 30 percent of Christian females were subjected to FGM. The practice was prevalent especially among ethnic groups in the East and South. All three types of FGM were practiced. The least common but most dangerous and severe form of FGM, infibulation, was confined largely to the region on the eastern border with Sudan. FGM usually was performed prior to puberty as a rite of passage.

Under the law, FGM can be prosecuted as a form of assault, and charges can be brought against the parents of FGM victims, medical practitioners, or others involved in the action; however, few suits were brought during the year. The Ministry of Social Action and the Family was responsible for coordinating activities to combat FGM. On April 12, a young girl died from infibulation in Ndilambaye. Gendarmes arrested the perpetrators, who were fined two thousand dollars (FCFA one million).

Although the law prohibits prostitution, pimping, and owning a brothel, prostitution was a problem, particularly in the southern oil-producing region. The law provides for prison terms of 2 months to 2 years and a fine of $100 (FCFA 50 thousand) to $1 thousand (FCFA 500 thousand) for violations.

The law does not prohibit sexual harassment.

Discrimination against women remained widespread. In practice women did not have equal opportunities for education and training, making it difficult for them to compete for the relatively few formal sector jobs. Although property and inheritance laws based on the French code do not discriminate against women, local leaders adjudicated most inheritance cases in favor of men, according to traditional practice.

The exploitation of women was pervasive, especially in rural areas, where women did most of the agricultural labor and were discouraged from seeking formal schooling. Illiteracy was estimated at 66 percent for women, compared to 48 percent for men.

While no law addresses polygyny, spouses may opt at any time to declare a marriage monogamous. If a husband takes a second wife, the first wife has the right to request that the marriage be dissolved; however, she must repay the bride price and other expenses related to marriage. Polygyny became a controversial issue between Muslim and Christian communities during debate over revision of the family code, which remained pending. Issues involved in code revision were contentious; as a result, the Council of Ministers created a committee to propose compromises on controversial issues, such as polgyny and inheritance.

Children.—The government generally supported the activities of NGOs and international donors to improve children's rights and welfare, but the government had few resources to organize its own activities. Although the government continued to increase modestly its assistance to the education sector, it was unable to fund adequately public education and medical care. Government education policy for children and youth focused on increasing classroom facilities and infrastructure.

Although by law education is universal, compulsory, and free from ages 5 through 12, parents complained that they must pay tuition to public schools. Approximately half of teachers were hired and paid by parent-teacher associations, without government reimbursement. The UN Children's Fund (UNICEF) reported early in the year that 46 percent of boys and 33 percent of girls attended primary school. Educational opportunities for girls were limited, mainly because of the traditional role of young girls in household tasks such as obtaining water and wood. The percentage of girls

enrolled in secondary school was extremely low compared with that of boys, primarily because of early marriage.

Child abuse, including abuse of child herders, remained a problem.

FGM was commonly practiced on young girls (see section 5, Women).

Although the law prohibits sexual relations with a girl under the age of 14, even if married, the ban was rarely enforced. Families arranged marriages for girls as young as 12 or 13; the minimum legal age for engagements was 11. The law prohibits forced marriages of minors (defined as anyone under 18) and provides for penalties of 6 months to 2 years imprisonment and a fine of between 100 and 1 thousand dollars (FCFA 50 thousand to 500 thousand). There were some forced marriages, and the custom of buying and selling child brides continued to be a problem. Many young wives were forced to work long hours of physical labor for their husbands in fields or homes.

Several human rights organizations reported on the problem of the *mahadjir* children who attended certain Islamic schools and were forced by their teachers to beg for food and money. There was no reliable estimate of the number of *mahadjir* children. During the year the High Islamic Council held a public meeting with imams from around the country to discuss the treatment of children under Islam.

Trafficking in children was a problem (see section 5, Trafficking).

The law prohibits use of child soldiers, and UNICEF protection officers reported that the practice was not widespread. Although reliable information was difficult to obtain, UNICEF estimated in 2003 that there were approximately 600 child soldiers serving in government security forces and armed groups in the country; however, that number was believed to have decreased during the year and no further confirmed recruitment of children for use as soldiers was reported. However, in late December, unconfirmed reports of forced recruitment of male youths circulated after the government began enforcing a curfew during the holidays, in particular of forced recruitment in N'Djamena and Abeche.

Child labor remained a serious problem (see section 6.d.).

In 2002 UNICEF estimated that there were approximately 10 thousand street children, and in 2003 the newspaper *Le Temps* reported that the number was increasing. Children were on the streets because either one or both parents had died or because parents did not take care of them.

Trafficking in Persons.—Although the law prohibits trafficking in persons, persons were trafficked within the country. Children were trafficked for forced labor, primarily as herders or domestic workers (see section 6.d.). A 2004 NGO survey of 500 child herders who had been returned to their parents indicated that there may have been between 1,500 and 2 thousand children between 6 and 17 years of age who had been trafficked as child herders. Local authorities, religious groups, and NGOs rescued 256 children in 2004–05. There were also reports of child prostitution, primarily in the southern oil-producing region.

The law provides penalties of between 10 months' imprisonment and life-long prison sentences involving hard labor for trafficking violations and between 10 and 20 years of forced labor in prison for the trafficking of children. No economic or financial aid for victims was available unless a court awarded damages. The Ministry of Justice's child protection department continued to cooperate with UNICEF and a few NGOs to combat trafficking.

The government arrested traffickers during the year. In May a citizen was arrested in Kousseri, Cameroon for forcing a child that he had kidnapped from Koumra, Chad to beg in the streets. Cameroon extradited the man to Chad, where he was in jail awaiting trial on kidnapping charges. In August a tip from a taxi driver led police to four children who were being trafficked to Cameroon from the country. The children were discovered in sacks in the back of a transport vehicle. The businessman was arrested and was in jail awaiting trial. The children were returned to their parents. There were no developments in the 2004 case of the appeal by three accused traffickers who were sentenced to hard labor for life by an appeals court, or in the case of a 10-year-old sold in 2004 by her parents to herders.

During the year the government held a seminar with members of the national assembly to raise awareness of the trafficking law, and UNICEF sponsored educational campaigns through the media to advise parents to instruct children about the danger of trusting strangers. The government, working with UNICEF and NGOs, identified cases of trafficking. During the year the Ministry of Justice received funding for its antitrafficking efforts, but it did not have the financial resources to support NGOs. During the year antitrafficking efforts included continued revision of the legal code; training for police, customs, other government officials; and sensitizing civil society to the problem. Victim support was provided at the local level, often through the intervention of local government authorities who transferred victims to the care of religious groups.

The government focused most of its antitrafficking efforts on prevention, particularly by raising citizens' awareness of trafficking. For example, during the year the governor of Moyen Chari, an area that was the source for the majority of children used as cattle herders, continued to increase prosecutions of those complicit in trafficking. He also worked through the region's prefects and sub-prefects to recover children who had been trafficked. Also, the Ministry of Social Action and Family, the Ministry of Labor, and UNICEF conducted meetings with village elders in Moyen Chari to sensitize them to the problem.

Persons with Disabilities.—The law prohibited discrimination against such persons; however, in practice the government operated few therapy, education, or employment programs for such persons, and no laws mandate that buildings be accessible to them. Several local NGOs provided skills training to persons with hearing or visual impairment. During the year the government, in conjunction with NGOs, continued to sponsor an annual day of activities to raise awareness of persons with disabilities. The Ministry of Social Action and Family is responsible for the rights of the disabled.

National/Racial/Ethnic Minorities.—There are approximately 200 ethnic groups, many of which are concentrated regionally and speak 128 distinct primary languages. Although most ethnic groups were affiliated with one of two regional and cultural traditions—Arab and Saharan/Sahelian-zone Muslims in the North, Center, and East; and Sudanian-zone Christian or animist groups in the South—internal migrations in response to urbanization and desertification resulted in the integration of these groups in some areas.

Societal discrimination continued to be practiced routinely by members of virtually all ethnic groups and was evident in patterns of employment, especially across the North-South divide. The law prohibits government discrimination on the basis of ethnicity, although in practice it continued to influence government appointments and political alliances (see section 3). Political parties and groups generally had readily identifiable regional or ethnic bases.

The rebellion by ethnic Toubous of the MDJT in the northwestern Tibesti region lost much of its strength during the past two years, and at year's end the government and the MDJT continued efforts to negotiate an end to the conflict. Sporadic clashes between factions of the MDJT and government forces occurred in September and November. Clashes between herders and sedentary populations and other interethnic violence, often concerning land use, continued to be a serious problem.

In May members of the Zaghawa ethnic group attacked villagers, mainly belonging to the Ouaddai ethnic group, in Ouadi Harmra. The attackers claimed that members of the village did not pay *dia* after the death in April of a family member. Approximately 21 persons were killed and dozens injured.

There were no further developments in the 2004 ethnic clashes or clashes between farmers and herders.

Section 6. Worker Rights

a. The Right of Association.—The law allows all employees except members of the armed forces to join or form unions, but only with the authorization of the Ministry of the Interior; the government generally respected this right in practice.

In the formal sector, more than 90 percent of employees belonged to unions; however, the great majority of workers were nonunionized, unpaid subsistence cultivators or herders. The government, which owned businesses that dominated many sectors of the formal economy, remained the largest employer.

An ordinance that requires prior authorization from the Ministry of the Interior before an association, including a labor union, can be formed remained in force; however, there were no reports that the ordinance was used. The ordinance also allows for the immediate administrative dissolution of an association and permitted the authorities to monitor associations' funds.

b. The Right to Organize and Bargain Collectively.—The law allows unions to organize and bargain collectively, and in practice the government protected these rights. There were no export processing zones.

Although there were no restrictions on collective bargaining, the law authorizes the government to intervene in the bargaining process under certain circumstances.

The law recognizes the right to strike, and workers exercised this right in practice. The right to strike is limited in the public sector by a decree requiring minimum service to be maintained. While the law permits imprisonment with forced labor as punishment for participation in illegal strikes, no such punishment was imposed.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, during the year there continued to be

reports of forced labor practices in the formal economy and isolated instances of local authorities demanding forced labor by both children and adults in the rural sector (see section 6.d.). There were also reports that prisoners were required to work to pay back taxes they allegedly owed.

The law permits imprisonment with forced labor only for participation in illegal strikes.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children (anyone under the age of 18) from undertaking "any work which, by its nature or the circumstances in which it was carried out, was likely to harm the health, safety, or morals of children"; however, in practice child labor, including forced child labor, was a serious problem. The government generally lacked the means to ensure enforcement of the law.

Although the labor code stipulates that the minimum age for employment in the formal sector is 14, the government did not enforce the law. According to a 2000 UNICEF study, 65.5 percent of minors worked, including those performing domestic chores for more than 4 hours per day, those working within the family (herding, microcommerce, etc.), and those who were underage and working for someone outside the family.

Approximately 1 out of every 5 children between the ages of 6 and 18 worked in the urban informal sector. Children throughout the country worked in agriculture and herding. They were also employed in the commercial sector, particularly in the capital, as street vendors, manual laborers, and helpers in small shops. Young girls worked as domestic servants, mainly in N'Djamena.

By some estimates, abusive and exploitative child labor affected 20 percent of children between the ages of 6 and 18. A UNICEF-government survey of child domestics in N'Djamena completed in February noted that 62 percent of child laborers were boys; young girls migrated to N'Djamena to earn money; 24 percent of working children were between 8 and 14 years of age, and 68 percent were between 15 and 17; and 86 percent of the children surveyed could not read or write.

There were cases in some southern regions in which families sold their children. In some areas local authorities fined parents caught selling their children into forced labor. To avoid detection, some families worked with intermediaries to pass children from families to the farm owners.

During the year there were reports that in the southern part of the country families contracted out their children to Arab nomadic herders to help care for their animals, and the children often were abused and returned with little financial compensation for their work.

There were also credible reports that children were forced into slavery. According to a 2004 UN news service report, aid workers in the country estimated that families have sold as many as two thousand children—some as young as eight—into a system of slavery in which they worked as child cattle herders.

Some children worked as domestic servants in the households of relatives for little compensation. Some young girls were forced into marriages by their families and then compelled to work in their husbands' fields or homes and to bear children while they were still too young to do so safely (see section 5).

The law prohibits the use of child soldiers, and according to UNICEF protection officers, the use of child soldiers was not widespread (see section 5).

There were only 30 labor inspectors for the entire country. Approximately 10 to 15 child labor cases reportedly were investigated by the government each year.

The government worked with UNICEF to increase public awareness of child labor. During the year UNICEF organized workshops in regional towns to share information on the dangers of forced child labor and the benefits of education. The training provided each town with one individual charged with overseeing the continuing sensitization campaign. UNICEF developed a program with government funding to reduce the prevalence of young girls serving as household domestics. In addition the campaign to educate parents and civil society on the dangers of child labor, particularly for child herders, continued.

e. Acceptable Conditions of Work.—The labor code requires the government to set minimum wages. The minimum wage at year's end was $51 (25,480 FCFA) per month. Most wages, including the minimum wage, did not provide a decent standard of living for a worker and family. Nearly all private sector and state-owned firms paid at least the minimum wage, but it was largely ignored in the vast informal sector. During the year, for the first time the government began to pay all its employees at least the minimum wage, and government salaries increased overall by 5 percent. However, in some areas there were long delays in the payment of those salaries. Salary arrears remained a problem, although less so than in previous

years. Low wages among customs, police, and military officials contributed to almost daily extortion of the civilian population along all major roads (see section 2.d.).

The law limits most employment to 39 hours per week, with overtime paid for supplementary hours. Agricultural work was limited to 2,400 hours per year, an average of 46 hours per week. All workers were entitled to an unbroken 48-hour rest period per week; however, in practice these rights rarely were enforced.

The labor code mandates occupational health and safety standards and gives inspectors the authority to enforce them; however, in practice these standards rarely were respected in the private sector and were nonexistent in the civil service.

Workers had the right to remove themselves from dangerous working conditions; however, in practice they could not leave without jeopardizing their employment.

The labor code explicitly protects all workers, including foreign and illegal workers, but the protections provided were not always respected in practice.

COMOROS

The Union of Comoros is a constitutional, multiparty republic of approximately 670 thousand citizens. In 2002 citizens elected President Azali Assoumani in polling that international observers described as free and fair. The country consists of three islands (Grande Comore, Anjouan, and Moheli) and claims a fourth, Mayotte, which France governs. There was significant dispute over the division of responsibilities between union and island governments. Internal conflict resulted from the union government's nonpayment of salary to its employees, including teachers and doctors. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, although there were some areas of concern. The following human rights problems were reported:

- poor prison conditions
- restriction on freedom of religion
- official corruption
- discrimination against women
- child abuse and child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions remained poor, and common problems included improper sanitation, overcrowding, inadequate medical facilities, and poor diet. Authorities held pretrial detainees with convicted prisoners. The government did not take action to remedy such shortcomings, but it permitted visits by independent human rights observers, as well as the United Nations Development Program and the United Nations Children's Fund (UNICEF).

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—There were six separate security forces reporting to four different authorities. There was a union gendarmerie and a union military that handled defense and local policing on Grand Comore and Moheli; Anjouan maintained its own gendarmerie. The union police force handled immigration and some local policing in Grand Comore. Each of the three islands also had its own local police force that reported to the corresponding island government.

There was continued corruption in the police force. Citizens paid bribes to evade customs regulations, avoid arrest, falsify police reports, or for police personnel, to receive promotion within the force. Impunity was a problem, as there was no mechanism to investigate police abuses.

Arrest and Detention.—The law requires warrants for arrests and provides that detainees may be held for 24 hours, although these provisions were not always re-

spected in practice. The procurer general had to approve continued detention. A tribunal informed detainees of their rights, which includes the right to legal representation. According to the law, public attorneys are available to indigent individuals, but in practice there was a dearth of legal representation. There was a bail system under which the individual was not permitted to leave the country.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The head of state appoints magistrates by decree.

The seven-member Constitutional Court includes a member appointed by the president of the Union, a member appointed by each of the two union vice presidents, a member appointed by each of the three island government presidents, and a member appointed by the president of the national assembly. The Constitutional Court found unconstitutional some legislation passed by the national assembly, and the government respected the court's decision. Minor disputes can be reviewed by the civilian court of first instance, but in practice they are often settled by village elders. Juries determined criminal cases, which could be reviewed before the appellate court.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are mostly open to the public. Juries deliberated criminal cases, and there is an appeal process. The legal system incorporates French legal codes and Islamic law; however, Shari'a was not used. In practice village elders decided most disputes without using the formal legal system.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government partially limited press freedom. In particular, the Anjouan island government limited the ability of journalists to criticize the government.

There was a government-supported newspaper, *Al-Watwan*, and two independent papers, *Cachecazi* and *Archipel*. The Anjouan island government intimidated journalists from writing articles critical of the government, and there were no independent newspapers.

There was a government radio station, which operated on a regular schedule. In addition, there were local community radio stations, which operated in very narrow transmission areas. Citizens who lived overseas primarily funded these stations, which were staffed by volunteers and were allowed to operate without government interference or regulation. Mayotte Radio and French television also broadcast without government interference. There were several small, community-based television stations that operated without government interference, and local residents and their relatives overseas raised funds for their operation. The Anjouan government banned news programming on Radio Dzialandze Mutsamudu, a privately owned radio station in Anjouan, following the interview of a doctor who defended a strike staged by medical personnel.

Foreign newspapers and books were available.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association; however, in practice the government did not always respect this right. In September Grand Comorians responded to a fuel price hike by blocking roads and staging a massive protest and strike. In efforts to open the roadblocks and end the protests, soldiers killed 1 and wounded 16 civilians.

c. Freedom of Religion.—The law provides for freedom of religion; however, the government restricted this right in practice. The constitution declares that the laws must draw inspiration from Islam but does not declare Islam the official religion. An overwhelming majority of the population was Sunni Muslim, and proselytizing was illegal.

Societal Abuses and Discrimination.—Christians continued to face intense social pressure, including restricting the use of the few Christian churches to noncitizens. Family and community members are likely to harass those who join non-Muslim faiths. Officials in Moheli reportedly stopped a group traveling from Grand Comore to Anjouan via Moheli to attend a Jehovah's Witness meeting. Unlike in the pre-

vious year, there were no reports of a ban on Anjouan regarding dress that appeared Arabic.

There was no known Jewish population and no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

Intervillage conflicts restricted free movement of citizens within the country's borders. There were cases of individuals from Grand Comore being refused entry into Moheli and Anjouan.

The law does not prohibit forced exile, but in practice the government did not use forced exile.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution, but it did not grant refugee or asylum status routinely.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—International observers declared that the elections in 2004 for the newly created national assembly were free and fair. There were no bans on political parties, which continued to criticize the government openly. The National Assembly had 26 members from the parties aligned with the island governments and 7 members aligned with the union government.

Traditional social, religious, and economic institutions significantly affected political life; nonelected village elders reportedly influenced some government decisions.

There was 1 woman in the 33-member national assembly. There were 2 women in the 13-member office of the union president. There were no minorities in high-level offices.

Government Corruption and Transparency.—There were reports of government corruption during the year. The government awarded contracts for constructing the airport and university to a local firm with ties to the president, and there were investigations into these contracts. It was widely known that private firms such as Comoros Hydrocarbure and Comoros Telecom partially financed the union government by providing funds for official travel and private expenses on travel.

There are no laws providing for public access to government information. Those who have personal or working relationships with government officials can generally access government information, but not members of the general public.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

One domestic and some international nongovernmental organizations operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, sex, disability, language, or social status; however, there was discrimination against women.

Women.—The law prohibits domestic violence, but the government did not take any action to combat such violence against women, and police and human rights groups believed it to be rare. Women could seek protection through the courts in such cases, but in practice the extended family or village elders addressed such problems.

Rape is illegal, punishable by imprisonment of 5 to 10 years or up to 15 years if the victim is younger than 15 years of age. The government did not enforce effectively the laws on rape. The law does not specifically address spousal rape.

Prostitution is illegal, and most citizens did not consider it to be a problem.

Sexual harassment is illegal and is punishable by a 1-to-10 year sentence. However, it was a common problem but one rarely reported due to societal pressure.

The law provides for equality of persons, and in general, inheritance and property rights do not discriminate against women. Men retained the dominant role in society, although the matriarchal tradition afforded women some rights, especially in terms of landholding. Societal discrimination against women was most apparent in rural areas where women had farming and childrearing duties and fewer opportunities for education and wage employment. The status of women improved in the major towns, where growing numbers of women were in the labor force and generally earned wages comparable to those of men engaged in similar work; however, few women held positions of responsibility in business. The law does not require women to wear head coverings, but many women faced societal pressure to do so.

Children.—The government has not taken any specific action to protect or promote children's welfare. The government did not enforce legal provisions that address the rights and welfare of children because of a lack of inspectors.

Education is free and compulsory for children below the age of 16, but in practice, the government rarely provided public school for children past the age of 14 years. According to the Ministry of Education, 95 percent of school-age children attended school. During the year, authorities cut the school term from nine months to five months because teachers went on strike after not receiving their salaries for several months.

Boys generally had more access than girls to schools.

Although there were no official statistics on child abuse, it was common, particularly when impoverished families sent their children to work for wealthier families. Authorities generally provided these children food, shelter, and educational opportunities, but they were required also to work, sometimes under harsh conditions. Child prostitution and child pornography are illegal. The law considers unmarried children under the age of 18 as minors, and they are protected legally from sexual exploitation, prostitution, and pornography. There were no statistics regarding these matters, but they were not considered serious problems, and there were no reports of violations in these areas.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There are no laws that mandate access to buildings for persons with disabilities or prohibit discrimination in employment and public services. However, in practice there generally was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and they did so in practice. Approximately 80 percent of the population engaged in farming on small land holdings, subsistence fishing, and local commerce. The wage labor force was less than seven thousand, of whom approximately five thousand were government employees. Teachers, civil servants, taxi drivers, and dockworkers were unionized. Unions were independent of the government.

The rarely enforced labor code does not include a system for resolving labor disputes, and it does not prohibit antiunion discrimination by employers.

b. The Right to Organize and Bargain Collectively.—The law protects workers from employer interference in their right to organize and administer their unions, and the government protected this right in practice. Unions have the right to bargain collectively, although employers set wages in the small private sector, and the government, especially the ministries of finance and labor, set them in the larger public sector.

The law provides for the right to strike, and government employees exercised this right. There were no laws protecting strikers from retribution, but there were no known instances of retribution.

Despite strikes and other protests, the union government did not pay government employees, including low-level government officials, teachers, and medical workers, for six months.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor by adults but not by children. There were some reports that such practices occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law defines the age of 15 as the minimum for employment, but in practice the government did not always enforce this law. Children usually worked in subsistence farming and fishing. Some families placed their children in the homes of wealthier families

where they worked in exchange for food, shelter, or educational opportunities. Other forms of child labor generally were not a problem due to the lack of wage employment opportunities. A 2000 UNICEF study found that approximately 15 percent of children were not paid for their work.

e. Acceptable Conditions of Work.—There was no minimum wage. During the year, the government was unable to pay most civil servant salaries (see section 6.b.).

The law specifies a workweek of 37½ hours with one day off per week plus one month of paid vacation per year. According to the law, workers receive time and a half for overtime. In practice employers, particularly the government, were often remiss in paying salaries.

There were no safety or health standards for the very small manufacturing sector. Workers generally could not remove themselves from an unsafe or unhealthful situation without risking their employment.

DEMOCRATIC REPUBLIC OF THE CONGO

The Democratic Republic of the Congo (DRC) is nominally a highly centralized republic with a population of approximately 60 million. President Joseph Kabila heads a national transitional government, which was formed in June 2003 to end five years of civil war and is composed of former belligerent factions, including representatives from the former government, former rebel groups, civil society, and the political opposition. President Kabila came to power in 2001 after the assassination of his father, Laurent Desire Kabila. There have not been free national elections since 1960, but elections were scheduled to be held in early 2006, and the transition period will end on June 30, 2006.

At year's end despite the presence of 16,850 UN peacekeeping troops in the country, government control of certain areas of the country remained weak, particularly in the rural areas of North and South Kivu, the Ituri District of Orientale Province, and northern Katanga, where armed groups continued to operate outside of government control. Although the government made progress integrating key institutions such as the army, police, and local administrations, different components of the government sometimes acted independently of, or contrary to, the interests of other components. Civilian authorities generally did not maintain effective control of the security forces, which were poorly trained, poorly paid, undisciplined, and committed numerous serious human rights abuses with impunity, particularly in eastern parts of the country.

In all areas of the country, the human rights record remained poor, and numerous serious abuses were committed; however, there were some improvements during the year. As the country took steps toward elections and as the security situation in the eastern provinces improved during the year, the incidence of severe human rights violations decreased, although press freedom deteriorated. Several of the human rights violations reported in previous years, including militia attacks on internally displaced persons (IDPs), were not reported this year; and there were fewer reports of the recruitment of child soldiers and of attacks on civilians by military forces. During the year there was also a significant reduction in the number of human rights violations in Ituri District and Orientale Province. Specifically, killings and rapes by armed groups decreased as militias were forced to leave areas formerly under their control, although some incidents continued to be reported. In Orientale Province, the government and the UN Observer Mission in the Congo (MONUC) demobilized 12 thousand militia members. During the year magistrates and police returned to and began operating in these areas, and the government exerted more control. However, several factors and developments continued to have a negative impact on the country's human rights situation. The World Bank estimated that 80 percent of the population lived on less than one dollar per day. Infrastructure was in serious disrepair, financial institutions remained weak, and public education and health services continued to deteriorate. Widespread corruption had significant adverse effects on economic conditions. The following human rights problems were reported:

- absence of citizens' right to change their government
- unlawful killings by security forces
- the torture and abuse, including rape, of persons by security forces
- harsh and life threatening prison conditions
- impunity
- arbitrary arrest, prolonged pretrial detention, and judicial corruption

- arbitrary interference with privacy, family, and homes
- restrictions on freedoms of speech, press, and assembly
- occasional restrictions on freedom of association and movement
- corruption and lack of access to information
- restrictions on civil society groups
- violence (including rape) and discrimination against women
- use of child soldiers and abuse of street children
- discrimination against ethnic minorities
- trafficking in persons
- child labor
- lack of protection of some workers' rights

Some armed groups operating outside of government control in four eastern provinces of the country committed serious crimes, including numerous killings, rape, and other possible war crimes.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in the previous year, in areas under government control, there were no reports that security forces committed politically motivated killings; however, security forces committed other unlawful killings with impunity. During the year authorities arrested two security forces members accused of killing a prominent human rights activist in the South Kivu Province town of Bukavu (see section 4).

Unlike in the previous year, there were no reports that a person died as a result of torture by security forces.

On July 2 and 3, army soldiers fatally shot at least four civilians, wounded 20, and ransacked shops and houses in the western town of Mbandaka. The soldiers, who had been part of the Movement for the Liberation of Congo (MLC), a former rebel faction that was supposed to have been integrated into the country's military, reportedly went on a rampage after finding the mutilated body of one of their fellow soldiers. Most of the soldiers returned to their barracks following the killings. One half of the military unit responsible for the abuses was later sent for *brassage*, a process of training and integration into the Congolese Armed Forces (FARDC), the country's army. Authorities arrested 23 of the soldiers; a court convicted 9, who remained in a Kinshasa prison at year's end.

In August eight soldiers of the Special Presidential Security Group (GSSP) beat to death an official of the national aviation agency in Kindu, capital of the central province of Maniema, after the elderly man's cigarette lit fire to a shrub near live artillery shells. On October 25, a court sentenced the eight soldiers to life imprisonment.

Security forces killed and injured demonstrators while attempting to disperse them (see section 2.b.).

During the year there were many reports that soldiers killed civilians while attempting to steal from them (see section 2.c.). On July 15, Colonel Simba Hussein killed Muyeye Bishamo for refusing to change his tire for less than the agreed price in Bukavu, South Kivu. In July a military court sentenced Hussein to death. He appealed the sentence and was awaiting a hearing at year's end.

There reportedly was no action taken against members of the security forces responsible for numerous killings in 2004.

During the year the FARDC killed an unknown number of civilians in the east (see section 1.g.).

There was no known action taken against parastatal mining company guards who reportedly killed six artisanal diamond miners in February 2004, or against security forces whose actions reportedly resulted in the deaths of at least 10 in miners Western Kasai.

There were reports that unidentified armed men in uniform forcibly entered personal residences in Kinshasa at night to harass civilians, loot personal belongings, and kill persons involved in personal feuds.

There were no developments in the killings committed by unidentified armed men in uniform in 2004.

Although Mai Mai groups were technically integrated into the FARDC, they often acted outside government control, killing civilians and sometimes working with Rwandan Hutu militia groups who killed civilians (see section 1.g.).

Armed groups operating in the east targeted civilians on the basis of ethnicity for extrajudicial killings, rape, and looting (see sections 1.d. and 1.g.). Armed groups committed numerous abuses, including summary executions, civilian massacres, torture, looting and burning of houses, and attacks on civilian areas. Fighting between armed groups displaced thousands of civilians and resulted in hundreds of civilian deaths (see section 1.g.).

No known action was taken against members of armed groups operating in areas under marginal government control who summarily executed persons in 2004.

Unlike in the previous year, there were no reports that police operating in territory controlled by the Congolese Rally for Democracy-Goma (RCD–G) or ex-RCD–G soldiers killed demonstrators.

Unlike in the previous year, there were no reports of high profile killings by unknown actors in Ituri District and Goma, North Kivu. There was no known action taken against unidentified gunmen who killed persons in Goma or Bunia in October and November 2004.

In late September residents of the town of Rutshuru, approximately 40 miles north of Goma, discovered mass graves which were later inspected by UN officials. The graves contained the remains of hundreds of individuals believed to be Rwandan refugees and DRC citizens killed sometime in 1996, during a period of armed conflict. Residents of the area where the graves were found alleged that a Rwandan-backed Congolese armed group, which was fighting former DRC President Mobutu Sese Seko's government, killed at least 300 persons. No further information was available at year's end.

Unlike in the previous year, there were no reports of killings of civilians by mobs. There were, however, confirmed incidents in which parents or relatives of children, along with small groups of other adults, killed children accused of witchcraft.

There were unconfirmed reports that civilians killed and beat men in uniform for committing serious human rights abuses in North and South Kivu, Orientale, and Equateur provinces.

There was no arrest of civilians or security forces responsible for lynching 20 street children in Mbuji Mayi in 2004.

Unlike in the previous year, no demonstrators were killed during crowd dispersal by UN peacekeepers.

b. Disappearance.—There were no confirmed reports of politically motivated disappearances by government forces.

Armed groups operating outside government control in four eastern provinces kidnapped numerous persons (see section 1.g.).

On October 23, Mai Mai militiamen took four election officials hostage in an attack on a voter registration center in Burondo village, North Kivu, and looted computers and other materials used to register voters for the national general elections. Government forces freed the hostages on November 1.

Various armed groups abducted women and children from the villages they raided to perform labor, military services, and sexual services (see sections 1.g. and 6.c.). Many of the victims have since disappeared.

There were no developments in any of the numerous cases of disappearance in 2004 and 2003, and no action had been taken against the perpetrators.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law does not criminalize torture; although there was a draft bill before parliament that would criminalize torture, it had not been adopted by year's end. Security forces and prison officials often beat and tortured detainees and prisoners. There were also unconfirmed reports that members of the security services tortured or abused civilians to settle personal disputes for themselves or other government officials.

Members of the security services employed cruel, inhuman, and degrading punishment.

On November 27 in Kambabma-Kaboneke, for example a FARDC officer reportedly arrested, beat, and whipped a woman after she refused to let him take shelter in her house during a rainstorm. There was no additional information at year's end.

During the year security forces beat journalists (see section 2.a.).

During the year security forces killed and injured demonstrators while attempting to disperse them (see section 2.b.).

Security forces harassed street children in Kinshasa (see section 5).

Members of the security forces raped civilians (see section 1.g.).

There was no known action taken against members of the security forces responsible for torture or abuse in 2004 or 2003.

Armed groups operating outside government control in four eastern provinces kidnapped, tortured, raped, and otherwise physically abused numerous persons during the year (see section 1.g.).

Unlike in the previous year, former RCD–G officers did not violently disperse demonstrations.

No known action was taken against those members of the former RCD–G militia or any other armed group previously accused of torture, beatings, or cruel, inhumane, or degrading treatment or punishment in 2004 or 2003.

Prison and Detention Center Conditions.—Conditions in most large, central prisons were harsh and life threatening. During the year an unknown number of persons reportedly died in prisons. The penal system continued to suffer from severe shortages of funds and trained personnel. Most prisons were severely overcrowded, in a poor state of repair, lacked sanitation facilities, or were not designed to detain persons. Health care and medical attention remained inadequate, and infectious diseases were a problem. In some cases, prison doctors were available; when they were, however, they lacked medicines and supplies.

Food remained inadequate, malnutrition was widespread, and there were unconfirmed reports of detainees starving to death. In several areas, the government has not provided food for years. In general, prisoners' family and friends were able to provide food and other necessities; however, local nongovernmental organizations (NGOs) reported that authorities sometimes moved prisoners without telling the families where they were sent. Family members were often forced to pay bribes to bring food to prisoners. Prisoners who had no relatives to bring them food could be subject to starvation.

Conditions in smaller detention facilities were harsher than in larger prisons, and an unknown number of persons died. These facilities were overcrowded and generally intended for short-term pretrial detentions but in practice were often used for lengthy detentions. Authorities often arbitrarily beat or tortured detainees. There usually were no toilets, mattresses, or medical care, and inmates often received insufficient amounts of light, air, and water. Such detention centers generally operated without a budget and with minimal regulation or oversight. Local prison authorities or influential individuals frequently barred visitors or severely mistreated particular detainees. Prison guards frequently required bribes from family members and NGOs to visit or provide detainees with food and other necessities.

The security services, particularly the civilian and military intelligence groups and the GSSP, continued to operate numerous illegal detention facilities. Conditions in these facilities were extremely harsh and life threatening. Detainees were regularly abused, beaten, and tortured. Facilities lacked adequate food and water, toilets, mattresses, and medical care, and authorities routinely denied access to family members, friends, and lawyers.

An unknown number of persons died in prison due to mistreatment and neglect during the year.

Women and juveniles sometimes were held separately from men in larger prisons but were not separated in other detention facilities. There were numerous credible reports that male prisoners raped other prisoners, including men, women, and children. Pretrial detainees were not separated from convicted prisoners, and they were often treated the same. Prisoners detained for state security reasons were generally held by the security services or in special sections of prisons. Soldiers and civilians were both detained in civilian and military prisons and detention facilities. There continued to be sections of prisons and detention facilities where wealthy prisoners paid for special privileges and received better treatment.

In general the government allowed the International Committee of the Red Cross (ICRC), MONUC, and many NGOs access to all official detention facilities; however, these organizations did not have access to illegal detention facilities maintained by security forces.

Prison conditions in the east were extremely harsh and life threatening. Armed groups operating in these areas imprisoned persons in numerous facilities, including personal residences and hastily constructed shacks that were not designed as prisons. Detainees often were kept in overcrowded rooms with little or no light or ventilation. Detainees typically slept in small, overcrowded cells on cement or dirt floors without bedding and had no access to sanitation, potable water, toilets, or adequate medical care. Infectious diseases were widespread. Detainees were provided very little food, and guards demanded bribes to allow family members or friends to bring food to prisoners. Prisoners frequently were subjected to torture, beatings, and other abuse with no medical attention.

During the year MONUC human rights and child protection officers, accompanied by MONUC military escorts, sometimes were allowed access to prisons in areas where armed groups operated outside government control.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, security forces arbitrarily arrested and detained persons, including journalists (see section 2.a.).

Role of the Police and Security Apparatus.—The security forces consist of a national police force, including the Rapid Intervention Police unit, which the Ministry of Interior oversees; an immigration service under the Ministry of the Interior; the National Intelligence Agency (ANR) overseen by the National Security Advisor; the military intelligence service overseen by the Ministry of Defense; and the GSSP, which reports directly to the presidency. The national police have primary responsibility for law enforcement and maintaining public order. The ANR is responsible for internal and external security. The FARDC was responsible for external security but also had domestic security responsibilities.

By year's end the national police force was increasingly integrated. On November 8, the government—with financial support from foreign governments—opened a $1.3 million police facility in Kinshasa to bring the country's disparate police units under central command and control. In addition during the year the government worked with MONUC and members of the international community to train police. There was some police improvement, specifically among the rapid police force, following the training by a foreign country of three thousand officers for riot control and emergencies. These officers were properly armed with tear gas and rubber bullets to handle volatile situations and significantly reduce human rights violations. At year's end the international community was training and professionalizing traffic police.

Although the overall level of professionalism increased during the year, police forces generally remained ineffective and corrupt. During the year members of the police, military, and security forces attacked, detained, robbed, and extorted money from civilians. The government prosecuted and disciplined some abusers; however, the vast majority acted with impunity. Although there were mechanisms available to investigate human rights violations by police, they were used sporadically.

Arrest and Detention.—Under the law, certain police officers and senior officers of the security forces are empowered to authorize arrests. Warrants are required only for offenses punishable by more than six months' imprisonment. Detainees must be brought before a magistrate within 48 hours. In practice, these provisions were routinely violated.

Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members. When authorities did press charges, the claims were rarely filed in a timely manner and were often contrived or overly vague. Reportedly, security forces regularly held alleged suspects for varying periods of time before acknowledging that they were in custody or allowing the detainees to have contact with family or legal counsel.

On November 10, following the November 4 arrest by Kinshasa police of 432 "vagrants," including many street children, authorities released 184 of the children who had been arrested, transferred 94 adults to other prisons, and released the remaining detainees. Prior to the release of these detainees, MONUC's human rights section had condemned the unsanitary and unsafe conditions under which the detainees were being held and the length of detention, which exceeded the 48 hours allowed by law.

Police arrested persons during the year for criticizing the government (see section 2.a.).

Security forces used the pretext of state security to arbitrarily arrest individuals. Individuals arrested and detained in the name of state security frequently were held without charge, presentation of evidence, access to a lawyer, or due process. For example in June police in Kinshasa temporarily arrested approximately 85 persons accused of trying to overthrow the transitional government. Few were detained more than several days, and all were released by year's end. In anticipation of violent demonstrations on June 30, the police temporarily detained approximately 450 persons who were released the same day (see section 2.b.).

There were no reports of political detainees during the year.

Pretrial detention was very frequently prolonged. Human rights NGOs reported that fewer than 20 percent of the inmates at the Kinshasa Penitentiary and Reeducation Center had been charged or sentenced. According to MONUC's April 2004 prison report, only 20 percent of the country's total prison population had been brought to trial and convicted of committing a crime.

Prisoners were often held in detention after their sentences had expired; these extended detentions were due to disorganization, judicial inefficiency, and corruption. In a few instances, when such cases were brought to the attention of the government, prisoners were released.

Armed groups operating outside government control in parts of the east systematically detained civilians, often for ransom. These groups operated outside of the government's criminal justice system.

Near Uvira, South Kivu, a Bembe and a Mufulero Mai Mai commander regularly targeted members of each other's ethnic groups for arrest.

Amnesty.—On November 29, the National Assembly passed a law granting amnesty to individuals accused of war crimes and political offences committed between August 1996 and June 2003; A December Supreme Court ruling excludes amnesty for individuals allegedly involved in the assassination of former President Laurent Kabila, calling their acts "common," rather than political crimes.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, in practice, the judiciary continued to be poorly paid, ineffective, subject to influence by other government officials, and corrupt. The civilian judicial system, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, continued to be largely dysfunctional, and the rule of law was not generally respected. Although courts are required to file charges within 48 hours of arrest, they generally did not, and long delays occurred. Corruption remained pervasive, particularly among magistrates, who were paid very poorly and only intermittently, and there were credible reports that judges regularly prolonged trials as a form of blackmail and a means of soliciting bribes.

Trial Procedures.—Civil and criminal codes are based on Belgian and customary law. The legal code provides for the right to a speedy public trial, the presumption of innocence, and legal counsel; however, these rights were not respected in practice. Some trials are public, while others, such as many rape trials, are not. There are no juries. Defendants have the right to appeal in most cases but not in cases involving national security, armed robbery, and smuggling, which generally are adjudicated by the Court of State Security. In some instances the special military tribunals, whose jurisdiction is ill defined, adjudicate national security cases. The law provides for court-appointed counsel at state expense in certain cases, but the government often did not provide such counsel.

Military courts, which had broad discretion in terms of sentencing and no appeal process, tried military defendants. Military courts continued to try civilians during the year. Although the government permitted, and in some cases provided, legal counsel, lawyers often did not have free access to defendants. Trials were open to the public at the discretion of the military judge.

Throughout the country, corruption remained rampant, and judges and other public servants were paid poorly and intermittently. Continued progress on the demobilization of militia groups, particularly in Ituri District, stabilized the situation enough to allow the return of some judicial officials and public servants.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, security forces routinely ignored these provisions. Members of security forces, deserters from the army, and police continued to harass and rob citizens. Security forces routinely ignored legal requirements for search warrants and entered and searched homes or vehicles at will. During the year soldiers regularly occupied civilians' residences. In general those responsible for these acts remained unidentified and unpunished.

Police sometimes looted the homes and vehicles of the persons they arrested and occasionally beat and abused occupants; however, there were fewer reports than in previous years.

ANR security agents monitored mail passing through private express delivery companies and the very limited state mail service. The government was believed to monitor some telephone communications.

Throughout the country, there were credible reports that authorities sometimes arrested or beat a close family member of the person they sought but were unable to locate. For example on August 5, police in Lubumbashi arrested and severely beat Mimi Balela Mbayo in place of her husband, who was wanted for stealing 24 thousand dollars from a former employee. Ms. Mabyo's buttocks were flayed, tearing off large pieces of flesh and muscle. At year's end no action had been taken against OPJ Donat Atwena, the police officer who ordered the beating.

Armed groups operating in the east routinely subjected civilians to arbitrary interference with privacy, family, home, and correspondence (see section 1.g.). In the east, all armed groups and government forces looted homes, seized livestock, and extorted money by charging irregular fees, such as bicycle transit taxes in North Kivu, river tolls in Orientale Province, and protection surcharges in South Kivu.

During the year there were reports that uniformed and armed men, were recruiting Congolese children in two Rwandan refugee camps for use as soldiers (see section 5).

Armed groups operating outside government control in parts of the east continued to recruit children for use as soldiers (see section 5).

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—The transitional government was officially established in July 2003, following political negotiations in 2002 that ended the five-year civil war. The war resulted in the deaths of between three million and four million individuals, and despite the conflict's official end, fighting has continued in mineral-rich eastern parts of the country, particularly in Ituri District and North and South Kivu provinces. By mid-2003, all foreign troops had formally withdrawn from the country. However, Rwanda and Uganda reportedly continued to support armed groups operating in the country, and there continued to be unconfirmed reports from multiple credible sources that Rwandan soldiers and officers were at times present in the country.

There were reports that government forces killed civilians, including civilians in the east, during the year (see section 1.a.). FARDC forces were also responsible for serious human rights violations directly related to internal conflict in the east, including rape, arbitrary arrest, looting, extortion, and harassment.

The FARDC violated fundamental human rights in the eastern part of the country and elsewhere. During the last several months of the year, the FARDC was allegedly responsible for the majority of human rights violations investigated by MONUC. For example a civilian died in a hospital in Gemena from a severe beating by four FARDC soldiers on October 31; he had been beaten for trying to prevent a robbery attempt by the FARDC. On November 23, FARDC soldiers killed a civilian near a military camp in Bukavu for attempting to prevent soldiers from stealing his belongings. On December 7, FARDC soldiers summarily executed a civilian south of Butembo.

In December 2004, ex-MLC troops belonging to the FARDC battalion in the central Equateur towns of Nsongo Mboyo and Bogandanga gang-raped approximately 120 women and girls and looted every household in the two towns. Authorities apprehended and transported the accused to Mbandaka for investigation. Following an investigation in April, a court indicted and convicted 12 soldiers and sentenced them to 15 years in prison. At year's end nine of the convicted soldiers had been imprisoned.

There were credible reports that former members of armed groups who were waiting to demobilize committed rapes, looted food and livestock, and charged tolls for women to work in the fields.

During the year the government conducted some trials regarding violations committed in the context of the ongoing internal conflict in the east. In general, the trials were flawed, and sentences were not always enforced. For example during the year the FARDC tried 29 of its soldiers accused of committing human rights violations in North Kivu in 2004. Courts sentenced 27 to death. The trials were marred by lack of defense counsel and no witness statements.

After luring four armed group commanders to Kinshasa by offering inclusion in the national army and conveyance of high rank, the government arrested them in April. In August the government also arrested Katanga Mai Mai leader Chinja Chinja and reportedly confined him to a residence in Kinshasa at year's end. All five were accused of having ordered or committed war crimes and crimes against humanity, including killings, in previous years.

On September 7, the government issued international arrest warrants against General Laurent Nkunda and Colonel Jules Mutebusi, two dissident officers and former members of the RCD–G for mounting an insurrection movement, war crimes, and crimes against humanity for their activities in North and South Kivu in 2004. By year's end Rwanda reported that Mutebusi had been placed under house arrest in Kigali, but Nkunda had not been arrested and was living in North Kivu.

On November 27, a county court in the northeastern town of Bunia in Ituri District sentenced local militia leader John Tinanzabo, secretary-general of the Union of Congolese Patriots (UPC), to 15 years imprisonment for forgery and extorting money from the public. The court also ordered Tinanzabo to pay a fine of $200.

No other known action was taken against government troops or government-supported Mai Mai troops who committed human rights violations, including executions and looting, against civilians in 2004 or 2003.

Unlike in the previous year, there were no reports that former members of the armed group ANC had killed civilians.

During the year the government, with support from MONUC, arrested members of various armed groups accused of grave human rights violations over the past several years.

Armed groups operating outside of government control in parts of the east committed numerous human rights violations, including civilian massacres; the burning and destruction of entire villages; frequently killing, abducting, torturing, or raping some of the inhabitants, especially in rural areas of North and South Kivu provinces, northern Katanga Province, and Ituri District of Orientale Province; the forcible recruitment of child soldiers; and the rape of women and girls. Armed groups also forced civilians to pay "security premiums." Large numbers of civilians were displaced (see section 2.d.). Disputes and shifting alliances between various armed groups resulted in frequent human rights violations against civilians, who were accused of supporting one of several groups who opposed each other.

At times, verification of these reports was difficult, due to geographical remoteness, hazardous security conditions, and impediments imposed by local authorities (see section 2.d.); however, MONUC's presence allowed observers to gather more information than would have otherwise been possible, and according to local NGOs, helped decrease human rights violations by armed groups during the year.

There were numerous credible reports that the government of Rwanda continued to provide material support to armed groups in the Kivus and in Ituri, some of which committed human rights violations. There were credible reports that Ugandans provided material support to armed groups, including the Congolese Revolutionary Movement and the Front for the National Integration (FNI), who committed human rights violations while operating in Ituri (see section 4).

There remained between seven thousand and eight thousand soldiers of the Democratic Forces for the Liberation of Rwanda (FDLR) as well as their family members in the eastern provinces of North and South Kivu. The FDLR, largely made up of Rwandan Hutus who fled to the DRC in 1994 after the Rwandan genocide, continued to be led by many individuals responsible for leading the genocide. More than 100 FDLR members opted to voluntarily demobilize and return to Rwanda during the year. However, the vast majority was still outside of government control, and some of them continued to commit violations against rural populations. In November MONUC and the FARDC launched joint operations against the FDLR.

By year's end more than 12 thousand former combatants in Ituri had voluntarily disarmed and joined the UN disarmament process. Several transit sites were set up in Ituri for the disarmament and reintegration of militiamen; however, only a small number of those who had disarmed were able to make use of reintegration programs and jobs promised to them.

On April 15, during part of a national army offensive against the UPC, an hours-long shoot-out between national army troops and UPC militias loyal to Thomas Lubanga in Central Soleniama area, seven miles north of Bunia, resulted in the death of at least one civilian, the alleged rape of a woman by three government soldiers, looting by both sides, and the displacement of thousands of civilians. It was unknown whether any action had been taken against the soldiers accused of committing rape.

FARDC militia were allegedly responsible for several brutal rapes in the east, including the November 15 rape of a pregnant woman in Kalemie and the November 16 rape of a 15-year-old girl in Ituri District.

The Mai Mai militia group continued to commit abuses against civilian populations. For example on November 28, Mai Mai forces attacked villages in northern Katanga, killing a customary chief and setting homes on fire. Approximately 221 individuals were displaced as a result of the attack.

During the year there were reports that ex-RCD–G combatants committed killings or other violations in east.

During the year there were reports that Mai Mai militiamen attacked villages in Katanga Province, killing individuals, raping numerous women, looting, and forcing the displacement of 15 thousand individuals between May and August. For example on July 5, Mai Mai militiamen reportedly attacked the Mitwaba Territory village of Mufule and killed the head of the local school. Also in July, Mai Mai militiamen completely burned down a nearby village, Mukana, and partially destroyed the villages of Kialwe and Mumbolo. On August 1, a program manager for Doctors without Borders (MSF) reported fighting between government forces and Mai Mai militiamen, saying that both groups were committing violence against civilians.

During the year Hema and Lendu militias continued to fight in Ituri District. In January, fighting between the Lendu and the Hema militias resumed in Ituri District, often targeting territory and civilians of the Lendu and Hema ethnic groups. UN officials and local NGOs said they believed the militias' objectives were to change the ethnic composition of Djugu, a territory of the northern Ituri town of Bunia; and a UN official said the conflict stemmed from a struggle to control smuggling operations and tax collection regimes along Lake Albert.

During the year there were reports that the Lendu-dominated FNI and other Lendu groups in Ituri District killed individuals, gang-raped pregnant women, burned to death children, kidnapped individuals for sexual slavery, razed villages to the ground, and sometimes used fetishes and mutilation to intimidate their opponents and in accordance with a belief that they would improve their fighting capabilities. These groups were responsible for numerous violations and massive population displacements during the year.

On March 16, Ngiti tribal militia kidnapped hundreds of Hema tribesmen on Lake Albert, decapitating some, torturing others, and forcing the remainder to work as porters or sex slaves.

The use of mass rape and sexual violence as weapons of war continued with impunity (see section 5). Armed groups used rape to humiliate and punish victims, families, and communities. Violent gang rapes by members of armed groups were common and were often committed in front of victims' families. Rapes were often extremely violent and were generally accompanied by threats and beatings. These rapes sometimes resulted in vaginal fistula, a rupture of vaginal tissue that left women unable to control bodily functions and vulnerable to ostracism.

During the year the local human rights NGO Women's Network for the Defense of Right and Peace (Reseau des Femmes pour La Defense des Droits et La Paix) detailed approximately 100 cases of rape by armed groups in the territory of Walungu, South Kivu. The women raped ranged in age from 9 to 68. All but three cases were attributed to the FDLR or the splinter group, Rastas.

In some cases sexual abuse committed by various militia groups in the east was of a limited duration or was carried out in a sporadic manner, many times with different victimizers. Other girls and women were subjected to repeated rape over longer periods with one victimizer; some were forcibly abducted (see section 5 and 6.c.). These girls and women were commonly referred to as war wives, who often served both as fighting elements in active combat and sexual slaves for their commanders.

During the year violations of humanitarian law were commonplace, and peacekeepers and humanitarian workers were threatened, harassed, and killed. Armed groups killed at least 11 UN peacekeepers during the year.

On June 2, unidentified individuals kidnapped two staff members of MSF outside Bunia, before releasing them nine days later. As a result MSF suspended all assistance in Ituri District outside Bunia for the rest of the year. During the year there were reports that Ituri armed groups attacked other NGOs, threatened to kill local staff, and stole money, equipment, and telephones. During the second half of the year, MONUC performed cordon and search operations to prevent similar attacks on NGOs.

Armed groups continued to loot, extort, and illegally tax civilians in areas they occupied. For example on March 12, retreating UPC militiamen in Ituri looted the vehicles and personal effects of the NGO German Agro Action.

In many cases, armed groups did not make a distinction between military and civilian targets, used civilians as shields, and often targeted civilians for retribution. For example in August the UPC used human shields against MONUC in the Ituri town of Ngina.

During the year there were sporadic reports of deaths or injury from landmines.

Armed groups and sometimes FARDC units continued to have children in their ranks (see section 5).

There were no credible attempts by armed groups outside of government control to investigate incidents that occurred since 2003 in which their troops allegedly committed human rights violations.

During the year there were credible reports that foreign rebels killed civilians. On July 9, in the village of Ntulumamba, 43 miles northwest of Bukavu, individuals believed by MONUC to be members of the FDLR herded villagers, mostly women and children, into their homes, which the perpetrators then set on fire. The perpetrators used machetes to hack to death those who tried to escape and killed a total of 40 villagers. On July 13, a UN spokesperson said MONUC had discovered mass graves in Ntulumamba and that the remains were believed to be those of the victims of the July 9 attack. The perpetrators had not been brought to justice by year's end. On October 10, members of the FDLR/RASTAS hacked to death 15 civilians, including 8 women and 6 children, in Kaniola, South Kivu, in retaliation for measures taken by the government against the FDLR/RASTAS.

Unlike in the previous year, there were no reports that soldiers of the Rwanda Defense Forces killed civilians.

At year's end there had been no credible investigation, arrests, or indictments in Burundi or the DRC of those responsible for the August 2004 massacre of Congolese

Tutsi refugees in the Gatumba refugee camp in Burundi where at least 152 were killed and more than 100 wounded.

During the year the FNI/Patriotic Resistance Forces of Ituri abducted two Moroccan peacekeepers. They were released within days of their abduction.

Unlike in the previous year, there were no reports of UPC labor camps.

During the year there were numerous allegations of sexual abuse committed by civilian and military personnel of MONUC. Through September, MONUC had conducted and completed more than one hundred investigations. As a result of these investigations, 11 civilian staff members were charged, seven were suspended without pay, and two were suspended with pay pending final decision on disciplinary action. Three UN volunteers were summarily dismissed, and two were reprimanded. Twenty-five MONUC civilian police (including 11 Nigerian police officers found guilty of sexual misconduct) were suspended and repatriated on disciplinary grounds, and 7 UN investigations were ongoing at year's end. By mid-year MONUC had implemented and enforced a new code of sexual conduct for all its personnel.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government sometimes restricted these rights in practice. During the year press freedom deteriorated. There were reports that police or military officers killed at least one journalist, and there were more than 30 reported instances where police and military arrested, detained, threatened, or abused other members of the media. The government temporarily closed several radio and television stations, and journalists practiced self-censorship throughout the year.

Individuals could privately criticize the government, government officials, and private citizens without being subject to reprisal, and during the year individuals often publicly criticized them in the media; however, security forces arrested, detained, and harassed opposition politicians and other high-profile figures for criticizing the government.

On December 29, police arrested Pastor Theodore Ngoy, an opposition politician, for the second time in 15 days. The first arrest occurred during an unauthorized rally by opponents of the constitutional reform. The second arrest followed a complaint lodged by Ngoy, accusing President Kabila of influencing voters after the deadline for the end of campaigning for the December 18 constitutional referendum.

The government required each newspaper to pay a $500 licensing fee and complete several administrative steps before it could publish legally. There was an active private press, and a large number of daily newspapers were licensed to publish. In general journalists were poorly paid, lacked professional training, and were vulnerable to manipulation by wealthy individuals, government officials, and politicians who paid or provided other benefits to encourage them to write certain types of articles. However, many newspapers were highly critical of the government. Although there was no official newspaper, the government published the *Daily Bulletin*, which included decrees and official statements.

Due to limited literacy and the high cost of newspapers and television, radio remained the most important medium of public information. Numerous privately owned radio stations and privately owned television stations operated, as well as two state-owned radio stations and a state-owned television station. Major political parties represented in the government were generally able to gain access to state radio and television.

Foreign journalists were able to operate freely in the country.

During the year police and military officers allegedly killed at least one journalist; kidnapped another; and arrested, intimidated, harassed, and detained other journalists, often without filing formal charges.

According to New York-based press freedom organization Committee to Protect Journalists (CPJ), on April 4, Tshivis Tshivuadi, secretary general of the Kinshasa-based press freedom organization Journalist in Danger (JED) received an e-mail containing death threats against him, JED President Donat M'baya Tshimanga, and their families. Tshivuadi received the threat one day after giving an interview on Radio France International in which he alleged that the country's politicians were seeking to control local broadcasters during the preparations for national elections.

According to Reporters without Borders (RSF), on May 28, three uniformed soldiers in the Katanga Province town of Lubumbashi attempted to kill Radio Okapi journalist Jean Ngandu. One soldier fired five shots at Ngandu after telling him that he talked too much and that the soldiers were going to "get rid" of him. None of the shots struck Ngandu, and the soldiers fled with Ngandu's bag of radio equipment after a police officer intervened.

According to RSF, on June 30, government security agents in Kinshasa arrested and temporarily detained at least seven journalists and other media personnel of

various media outfits who covered demonstrations by persons protesting election delays. For example government intelligence agents arrested RAGA TV news director Luc Mikomo and RAGA TV technician Jules Mpata and took them to a Gombe neighborhood prison in Kinshasa before releasing them hours later. The government also ordered RAGA TV to cease its live coverage of the opposition demonstrations by the Union for Democracy and Social Progress (UDPS) party for broadcasting three-year-old archival clips as if they were live footage. GSSP agents in Kinshasa arrested a camera operator of the French public station RFO/AITV, temporarily seized his equipment, and detained him for several hours at a military base. Kinshasa police also arrested journalist Mills Tshibangu and camera operator Doudou Mukuna, both of the privately owned RadioTele Kin Malebo, and detained them in police cells before releasing them hours later.

Also on June 30, according to RSF, soldiers in the Bandundu Province town of Kikwit beat and injured Kawanda Bakiman Nkorabishen, chief editor of the local Catholic Church-owned radio station TOMISA, as he was covering a protest march by opposition supporters of the opposition Unified Lumumban Party.

On October 28, ANR agents arrested Jean-Marie Kanku, editor and publisher of the Kinshasa-based newspaper *l'Alerte*, and secretly held him at ANR headquarters for at least six days before taking him to the State Security Court on November 5. The incident followed *l'Alerte*'s publication of an interview in which a parliamentarian criticized the alleged incompetence and corruption in the ANR. The court charged Kanku with disseminating "false rumors," and he was released after paying a $150 bail. His release followed a November 3 meeting between one of the country's vice-presidents and a delegation of journalists.

On November 3, three Kinshasa army officers allegedly killed Franck Kangundu Ngyke, a political reporter at the Kinshasa daily newspaper, *Le Reference Plus*, and his wife as they entered their house. *Le Reference Plus* had in the past been critical of the government and its institutions. On November 21, the inspector general of police presented at a Kinshasa news conference the three army officers suspected of committing the killings. One suspect, 2nd-Lieutenant Mungande Kimbao Joel, denied having any part in the murders and said he only confessed to the crime under torture. On November 7, hundreds of members of the media and press freedom advocates marched in Kinshasa to protest the killings and the intimidation of the press and to demand a transparent investigation of the killings and better protection of journalists. By year's end the trial of the police officers accused of the killing had not taken place.

No action was taken against security forces that beat and harassed journalists in 2004 or 2003.

The government closed or banned radio and television stations during the year. For example on January 18, the government closed for three days two television stations—Canal Congo TV and Canal Kin TV—and a radio station, Radio Liberte Kinshasa. The stations were owned by one of the country's four vice-presidents, former rebel leader Jean-Pierre Bemba, who reportedly was in a dispute with President Kabila.

On January 18, Press and Information Minister Henri Mova Sakanyi banned all religious and specialty radio and television stations from "broadcasting political and news programs" because of their "persistent excesses." He added that they were banned from "serving as a support for political propaganda" and that all phone-in programs were suspended until further notice. The government lifted the ban later in February; however, on December 29 the High Media Authority (HAM) suspended eight television stations for discussing the constitutional referendum on their political talk shows without permission. HAM authorized only a small number of stations to discuss the referendum.

The government suspended a religious television station accused of disseminating ethnic hatred messages during the year (see section 2.c.).

On July 1, police forced RAGA FM, RAGA TV, and RAGA Plus to cease broadcasting and seized broadcasting equipment. On July 1, the High Authority for Media, reportedly under pressure from police, suspended for 10 days RAGA TV and RAGA FM, a private national television station, for broadcasting images of demonstrations in Kinshasa that took place on June 30. The High Authority for Media asserted that the images were from old demonstrations and were broadcast to incite violent demonstrations. In July, local press freedom organization JED criticized the High Authority for Media for its actions. Within days, police had returned the equipment they seized.

Police sometimes seized newspapers from street vendors. There appeared to be no political motive.

The government used criminalized libel laws to suppress criticism and limit press freedom. During the year authorities reportedly imprisoned at least four media per-

sonnel, including two journalists, on charges of defamation. For example, according to CPJ, on January 31, police in the western town of Matadi arrested and imprisoned *La Reference Plus* reporter Jose Wakadila on defamation charges filed by two national oil executives, including Mvumba Ntanda, the brother of Abdoulaye Yerodia, one of the country's vice-presidents. In September 2004 a Kinshasa court had sentenced Wakadila in absentia to 11 months in jail for defamation and ordered him to pay a $600 fine. The judgment followed a July 2004 article that accused certain directors of the national oil refinery, SOCIR, of corruption. On February 8, a court provisionally released Wakadila after he paid a $200 bail, and at year's end the newspaper's appeal was pending.

According to JED, on July 11, police in Kinshasa arrested *l'Alerte* publisher Jean-Marie Kanku and charged him with criminal defamation. The charge followed a July 8 article alleging that a government official had misused humanitarian funds. On July 25, authorities released Kanku after he paid a bail of approximately $10. It was unclear whether a court would try him.

The Ministry of Human Rights and the Ministry of Communication and Press continued to intervene on behalf of journalists facing prosecution and held occasional training workshops.

The government did not restrict access to the Internet.

The government sometimes restricted academic freedom, and in June it prohibited political activity in all universities. The ban, which was criticized by local human rights activists, was reportedly an attempt to prevent protests by students calling for an end to the transitional government on June 30.

Armed groups operating outside government control in the east and local authorities continued to severely restrict freedom of speech and of the press.

Armed groups continued to harass, intimidate, beat, and arrest local journalists. According to a UN news service, in late April, Mai Mai militiamen took five local journalists hostage in Katanga Province, reportedly to protest the arrest of their leader, Mbayo Mwana Butot (alias Chinja Chinja), before they released the journalists 5 days later in exchange for 270 bicycles from MONUC.

Armed groups' treatment of foreign and Radio Okapi journalists improved during the year.

Armed groups took no known credible action against those accused of beating or otherwise abusing journalists or persons critical of their groups in 2004 or 2003.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of peaceful assembly; however, the government restricted this right in practice. The government considered the right to assemble to be subordinate to the maintenance of "public order" and continued to require all organizers to inform the local city government before holding a public event. According to the law, organizers automatically have authorization to hold an event unless the city government denies authorization in writing within five days of receiving the original notification. Some NGOs reported that in practice, local authorities sometimes denied authorization for an event, mostly on the grounds of preserving public order, after the five-day period by backdating the correspondence. Government security services often dispersed unregistered protests, marches, or meetings.

On June 30, local authorities in Kinshasa denied the UDPS party permission to conduct marches protesting the extension of the transition. The authorities cited public safety reasons for their refusal following statements by UDPS leaders encouraging citizens to overthrow the government.

During the year security forces killed demonstrators while dispersing crowds. On January 10, police killed at least four rioters and wounded more than 30 others in Kinshasa while attempting to disperse a violent crowd. On May 17, police killed two demonstrators and injured five in Mbuji Mayi, Eastern Kasai while attempting to disperse a violent crowd protesting election delays. Demonstrators also reportedly burned alive a policeman. On June 30, during violent nationwide demonstrations, security forces killed 2 individuals in Kinshasa and injured at least 15.

During the year police occasionally arrested demonstrators. For example during riots on January 10, the police arrested approximately 240 persons in Kinshasa. Most were released within a few days, but there were credible reports that a few were still in prison at year's end. On June 30, police arrested approximately 450 demonstrators in Kinshasa who were protesting the extension of the transition government and detained them for one day.

No action was taken against security forces responsible for using excessive force during demonstrations in 2004 or 2003.

The government required political parties to apply for permits to hold press conferences. According to local NGOs, such permits sometimes were denied. For exam-

ple, according to local human rights NGOs, the government three times denied permission for the opposition party UDPS to hold press conferences during the year.

Unlike in the previous year, no demonstrators were killed during crowd dispersal by MONUC forces.

Freedom of Association.—The constitution provides for freedom of association; however, in practice the government sometimes restricted this right. During the year government authorities sometimes harassed political parties, including party leaders. For example the GDRC held Transportation Minister Joseph Olengenkoy's passport for several weeks, preventing him from leaving the DRC.

Unlike in the previous year, there were no reports that armed groups operating outside of government control in the east restricted freedom of assembly and association.

No known action was taken against those RCD–G police and soldiers who killed demonstrators in November 2004 or fired upon activists who had gathered to greet a government delegation in 2003.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice, provided that worshipers did not disturb public order or contradict commonly held morals.

The law provides for the establishment and operation of religious institutions, and requirements for the establishment of a religious organization were simple and generally not subject to abuse.

Military officers committed violence against religious groups on at least one occasion. On May 7, men in military uniform shot and killed a 71-year-old Belgian Jesuit priest in Kinshasa while they were robbing a grocery store. In early June, police arrested and charged five FARDC deserters with the crime. The victim was in an area that had a high rate of crime, and there was no evidence that he was targeted because he was a priest. In November a court sentenced the five FARDC deserters to death.

During the year there were no reports that the government suspended or dissolved any religious groups. However, the Bundu Dia Kongo, an ethnically based spiritual and political movement that called for the violent overthrow of the government and the establishment of an "ethnically pure" kingdom for the Bakongo tribe, remained outlawed throughout the year.

During the year the government banned all religious radio and television stations from broadcasting political and news programs (see section 2.a.).

On April 27, the High Media Authority suspended religious television station Radio Tele Message de Vie for one month. The suspension followed the station's refusal to give the government tape recordings of a call-in program broadcast between April 9 and 11 that allegedly "incited violence and rebellion." This particular program edition featured a taped message by Reverend Fernand Couthino, the station's owner, who stated that the transitional government should transfer power to the citizenry on June 30.

While the government generally did not interfere with foreign missionaries, they were not exempt from general restrictions on freedom of movement imposed on all persons by security force members who erected and manned roadblocks, at which they often solicited bribes.

In the east, respect for religious freedom neither deteriorated nor improved. During the year there were no confirmed reports of attacks against priests, parishioners, churches, parish property, or schools.

No action was taken against any armed group members who targeted churches or religious leaders in 2004 or 2003.

Societal Abuses and Discrimination.—The Jewish community was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for freedom of movement; however, the government occasionally restricted this right.

In Kinshasa, police and soldiers erected roadblocks for security checks and to protect government installations. In general, security forces were more aggressive than during the previous year, and there were instances in which drivers were harassed, forced to pay bribes, and forced to transport soldiers for free. In addition underpaid traffic police continued to routinely harass citizens and demand bribes in the course of pulling vehicles over for ostensible traffic violations. Security services and police routinely extorted money from truckers on two national routes.

The government closed certain national roads at night due to banditry.

On April 28, elements of the FARDC 121st Brigade refused an order from the head of their brigade instructing them to return to their retraining camps after arresting and charging road travelers a "tax" of $0.25 per person per week. They threatened that failure to pay the "tax" would result in the arrest of the village chief; there were no reports of such an arrest by year's end.

The significant risk of rape perpetrated by uniformed men restricted freedom of movement at night for women in many areas.

Married women were required by law to have their husband's permission before traveling outside the country. Passport issuance was highly irregular and required the payment of significant bribes (up to $500). However, there were no reports that certain groups were prevented from acquiring them.

In eastern parts of the country, where armed groups operated outside government control, freedom of movement was severely restricted during the year, partially as a result of fighting between armed groups and government forces, who frequently prevented travel and harassed travelers.

Local authorities in the Kivus routinely required citizens to show official travel orders from an employer or government official authorizing travel.

Armed groups and local authorities frequently imposed travel restrictions on NGOs. Throughout the year banditry and poor security hampered NGO activities in large parts of Ituri (see section 1.g.).

Government soldiers established road, river, airport, market, and lake checkpoints and routinely harassed and demanded bribes from civilians, sometimes detaining those who could not pay extortion fees until a family member paid the toll. Foreigners were forced to go through immigration proceedings at airports, lake ports, and when entering and leaving towns.

On February 16, government authorities confiscated the passport of political opposition leader and former minister of transport Joseph Oleghenkoy. His passport was returned in July, and he subsequently left the country; he remained outside the country at year's end.

The law prohibits forced exile, and there were no reports that the government used forced exile.

There were reports about mistreatment of repatriated asylum seekers, including imprisonment, beatings, and disappearances. For example, according to a December 1 BBC article containing an interview with an ANR agent, the ANR regularly interrogated all failed asylum seekers who were sent back to the DRC from Europe and, if deemed necessary, detained them at the Kinshasa airport. Authorities sometimes asked returnees for a bribe for their release. According to the BBC article, the ANR, relying on information obtained by the DRC's embassies in Europe, detained all returnees believed to "have problems with the government," to have criticized the government, or to be political dissidents. The ANR also worked to identify returnees with connections to Rwanda, who had Rwandan names, or looked Rwandan. The ANR agent said the ANR gave custody of these individuals to authorities but declined to say what happened to them. During the year there were no other reports that corroborated the accounts contained in the BBC article.

During the year more than 20 thousand DRC refugees returned to the country. For example between January and August the Office of the UN High Commissioner for Refugees (UNHCR) facilitated the return to Equateur Province of approximately 2 thousand DRC refugees from the Central African Republic and 2,500 from the Republic of the Congo.

Citizens harassed some Tutsi refugees who returned to South Kivu; however, by year's end there were no further reports of harassment, and additional repatriations were planned by UNHCR.

Unlike in the previous year, there were no reports that local officials in South Kivu or other eastern areas attempted to prevent the return of DRC refugees.

According to the UNHCR, at year's end approximately 372 thousand Congolese refugees were living in several neighboring countries, including Tanzania (155,000).

Internally Displaced Persons (IDPs).—As of November, the UN Office for the Coordination of Humanitarian Affairs (OCHA) estimated that there were almost 1.66 million IDPs in the country, the majority of whom were reportedly in the east, mostly concentrated in North Kivu, Orientale, and Katanga. In November, fighting between the national army and local Mai-Mai militiamen resisting demobilization displaced 20 thousand inhabitants of Katanga Province. In addition OCHA reported in November 2005 that there were an estimated 310 thousand IDPs in the Ituri region, an estimated 502,500 IDPs in North Kivu, and 351,500 IDPS in South Kivu. Many of the IDPs received no assistance because of ongoing fighting and the denial of access to NGOs by armed groups.

On several occasions, armed groups denied access to humanitarian organizations or obstructed their ability to deliver humanitarian relief supplies. For example in

Ituri, armed groups killed peacekeepers, kidnapped humanitarian workers, and regularly attacked vehicles (see section 1.g.). In April there were reports that armed militia groups near Bunia detained humanitarian workers on their way to and from IDP camps, stole equipment, and threatened NGOs. Many NGOs were forced to relocate numerous times to escape fighting (see section 1.g.).

No known action was taken against soldiers who erected illegal checkpoints, attacked fleeing IDPs, or restricted UN or humanitarian access in 2004 or 2003.

During the year IDPs died as a result of a lack of humanitarian aid. According to MSF, in early March 25 IDPs died within 6 days due to a lack of relief aid and an "alarming" health situation in the Tche IDP camp in the Ituri District of Orientale Province. In addition a UN official said approximately 40 IDPs had died in IDP camps in and around Kakwa, north of the Ituri town of Bunia, between February 28 and March 3. On February 28, humanitarian organizations suspended aid to more than 54 thousand IDPs near the areas of Kakwa, Tche, and Gina due to security concerns.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a very basic system for providing protection to refugees. In practice, the government granted refugee and asylum status and provided protection against *refoulement*, the return to a country where individuals feared persecution. The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided temporary protection to an unknown number of individuals who may not have qualified as refugees under the 1951 convention and its 1967 protocol.

According to the UNHCR, by November the country was hosting an estimated 250 thousand refugees, including refugees from Angola, Sudan, and Burundi.

In May there were reports that uniformed and armed men, were recruiting children in two Rwandan refugee camps for use as soldiers. There were no further reports of such activities by year's end (see section 5).

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens did not have the right to change their government peacefully and have not been able to change their government through free elections since independence in 1960.

Elections and Political Participation.—Joseph Kabila continued to serve as president under the transitional government. There are four vice presidents: two from the main former rebel groups, one from the political opposition, and one from civil society. The bicameral parliament, as established under the transitional constitution, includes members from these groups, civil society, and smaller, former rebel movements. There are also five "citizens' institutions": an Observatory for Human Rights, a Truth and Reconciliation Commission, a High Authority for Media, an Ethics and Anti-Corruption Commission, and the Independent Electoral Commission. The transitional constitution of 2003 called for national general elections within two years but allowed for two six-month extensions as needed for logistic and technical reasons. During the year many citizens accused politicians of delaying the elections to continue benefiting from their positions of power in the transitional government.

During the year the Independent Electoral Commission conducted a massive voter registration drive in anticipation of the 2006 national general elections. The drive was marred by isolated cases of violence (see section 1.b.) and fraud; however, by year's end the commission—with support from the UN—had registered approximately 25 million eligible voters, including approximately 1.5 million in the eastern district of Ituri. On August 22, unidentified militiamen shot and killed an electoral official when they attacked two voter registration centers in Djugu and Irumu in the northeastern district of Ituri. No additional information was available at year's end.

On November 14, the Independent Electoral Commission announced that authorities had caught more than 150 thousand individuals who registered to vote twice in Kinshasa, where registration ended in July.

On December 18, voters across the country overwhelmingly approved a new constitution in a free and fair national referendum.

The law allows legally registered political parties to operate freely; however, authorities occasionally continued to arrest political activists and to block some activities, including marches and demonstrations (see section 2.b.). Authorities in areas outside the national capital tended to impose more limits on civil and political liberties.

Five of 36 cabinet ministers and 3 of 24 vice ministers were women. Women held 60 of the 620 seats in parliament.

Pygmies had their own political party, based in Kinshasa, and one representative in the National Assembly.

Government Corruption and Transparency.—Corruption was still endemic at all levels. Many civil servants, police, and soldiers have not been paid in years, have received irregular salaries, or did not earn enough to support their families, all of which encouraged corruption. For example local authorities and remnants of rebel groups continued to extort "taxes" and "fees" from boats traveling on many parts of the Congo River. In addition government authorities and wealthy individuals sometimes restricted the freedom of press and speech on occasions when there were accusations of corruption (see section 2.a.). According to a Transparency International report released during the year, most citizens said they believed official corruption was rampant in their country. The Ethics and Anti-Corruption Commission had little impact by year's end.

During the year authorities arrested journalists who had accused government officials of corruption (see section 2.a.).

During the year there were reports that civil servants working as professors at the University of Kinshasa extorted money from students in exchange for good grades. The university's rector said less than 10 percent of the university's professors engaged in such corruption and that a few professors were suspended during the year.

During the year the government took a few steps to combat corruption. On October 11, the head of the national tax bureau was arrested for embezzlement.

The law does not provide for public access to government information, and the government was unable to provide information upon request.

Section 4. Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights NGOs continued to investigate and publish their findings on human rights cases. The Human Rights Ministry and the Observatory for Human Rights worked with NGOs during the year and were responsive to their requests and recommendations. However, during the year prison officials sometimes obstructed NGO access to detainees, and security forces' personnel harassed and arrested domestic human rights workers.

The main Kinshasa-based domestic human rights organizations included Voices for the Voiceless (VSV); Groupe Jeremie; the Committee of Human Rights Observers; The Christian Network of Human Rights and Civic Education Organizations; Observatoire; and the African Association for the Defense of Human Rights.

Security forces throughout the country employed violence against, arbitrarily arrested, and harassed domestic human rights NGOs and civil society members.

On July 31, soldiers reportedly shot and killed Pascal Kabungula Kibembi, executive secretary of the human rights NGO Heirs of Justice, in his home in Bukavu, South Kivu. In August, South Kivu governor Didas Kaningini said security agents had arrested five army officers accused of the killing. These army officers remained in jail awaiting trial at year's end. On December 12, police also arrested FARDC officer Thierry Ilunga and Kaningini for the murder of Kabungula. The two men were taken to prison, but due to political pressure were later released on bail. Human Rights Watch reported that armed men in uniform broke into Kabungula's home, dragged him out of his bedroom, told him they had been searching for him, and shot him in front of his family. The investigation into this incident was ongoing at year's end.

On October 7, police arrested Maurice Bahati Namwira, a member of Heirs of Justice, for the murder of Kabungula. Police interrogated him without a witness and transferred him to the Kinshasa central prison where he was held with others accused of the crime. By year's end he had been released.

During the year Floribert Chebeya, the president of VSV in Kinshasa, returned to the country following harassment by unidentified men in 2004.

Domestic human rights activists self-censored reports about corruption and human rights abuses committed by certain government officials because they feared arrest.

The government cooperated with international governmental organizations and NGOs and permitted international humanitarian and human rights NGOs access to conflict areas. A number of UN representatives and international NGOs visited the country during the year. During the year international NGOs, including Amnesty International (AI) and Human Rights Watch (HRW), and international organizations such as the UN published several reports on the human rights and humanitarian situation.

In January, a UN panel of experts accused the government of Uganda of continuing to illegally funnel weapons, including land mines, and military support into the DRC to the FAPC, an Ituri-based militia group, despite a 2002 UN embargo prohibiting the delivery of military equipment to any recipient in the DRC other police, military, or MONUC personnel. It also accused the FAPC of controlling key gold fields in northern Ituri and using the gold to purchase weapons from the Ugandan government. In addition the panel accused the Rwandan government of continuing to maintain a "covert residual presence" in the DRC, despite officially withdrawing in 2002. The panel said the Rwandan government was recruiting children of the DRC living in refugee camps in Rwanda and training them to be soldiers. The governments of Rwanda and Uganda denied all the panel's charges.

In February, Juan Mendez, special advisor to the UN secretary-general and president of the International Center for Transitional Justice, called on the government to investigate and prosecute former militia leaders suspected of perpetrating massacres and other war crimes instead of appointing them to high-ranking positions in the integrated national army. Mendez made the appeal a few weeks after the government commissioned four suspected human rights violators as army generals. Under the peace agreement reached in 2003, former rebels could be assimilated into the national army.

A June report by HRW highlighted the role of local militias in illegal exploitation of the country's resources and their alleged ties to neighboring Uganda and Rwanda. According to the report, *The Curse of Gold*, militias have in recent years used gold mining proceeds to buy weapons to commit human rights violations and consolidate control over the most productive mining areas. MONUC has also noted the close link between the illegal exploitation of natural resources and violence.

According to a July 7 report by AI, during the year large quantities of arms trafficked into the DRC and the surrounding region continued to be channeled by powerful agents close to the governments of Rwanda, Uganda, and the DRC to various armed groups and militia in eastern DRC. The report alleged that arms dealers and transporters in Russia, South Africa, Eastern Europe, North America, and the Middle East were facilitating human rights violations by illegally exporting arms to the DRC. AI called on the UN to renew and strengthen the embargo on arms exports to the DRC and ensure that all airports in the eastern DRC were monitored by UN inspectors 24 hours a day.

According to a report by a UN group of experts delivered to the UN Security Council on July 27, the governments of Uganda and Rwanda did not respond to officials monitoring arms sanctions in the DRC. For example the reported highlighted the Rwandan government's failure to provide information requested on a number of occasions on the whereabouts of DRC rebel leaders Colonel Mutebutsi and General Nkunda, whom many observers have accused Rwanda of supporting. The report said weak border controls allowed for "lucrative alliances between leaders of armed groups and unscrupulous businessmen." In addition the report underlined "significant inconsistencies" in statistics provided by the governments of Rwanda, Uganda, and the DRC on the production, import, and export of metals. The report recommended extending arms sanctions in the DRC. The governments of the Rwanda and Uganda denied delaying the work of the UN and failing to respond to queries.

The government continued to cooperate with the International Criminal Tribunal for Rwanda (ICTR). ICTR investigators operated freely in areas under government control, seeking a number of individuals indicted for involvement in the 1994 Rwandan genocide whom they believed might be living in the DRC.

During the year the International Criminal Court continued conducting investigations into war crimes and crimes against humanity committed in the country since July 2002.

The constitution provides for an independent Human Rights Observatory and a Truth and Reconciliation Commission. Both bodies functioned during the year but lacked sufficient staff and resources to be truly effective.

In eastern areas of the country, domestic human rights NGOs and civil society members were subjected to frequent harassment and abuse, particularly in Ituri. Prominent organization operating in areas outside Kinshasa included Heirs of Justice in South Kivu; Lotus Group and Justice and Liberation in Kisangani; and Justice Plus in Bunia. Unlike in the previous year, there were no reports that armed groups in the east killed or raped humanitarian workers. However, 11 UN peacekeeprs were killed by armed groups during the year. Armed groups frequently imposed travel restrictions on persons who provided humanitarian aid, human rights NGOs, and journalists (see sections 1.g. and 2.d.).

There were at least 30 local NGOs operating in Ituri District. In Ituri and other eastern parts of the country, the capacity of local NGOs remained weak and subject to corruption. According to an April 8 UN media report, only a single local NGO,

the Bukavu-based Association for Social and Community Development, was able to comply with the accounting, reporting, and monitoring standards required to work on projects with international organizations such as the UN Development Program.

International NGOs active in eastern areas of the country included the ICRC, Global Rights, HRW, and various humanitarian organizations. Although most armed groups permitted international humanitarian and human rights NGOs access to conflict areas, certain groups in Ituri and South Kivu regularly harassed persons who provided humanitarian aid and levied illegal taxes at ports and roadblocks (see section 1.g.). Armed groups generally allowed international NGOs such as AI and HRW to conduct investigations and publish reports; however, there were some exceptions.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on ethnicity, sex, or religious affiliation; however, the government was unable to enforce these prohibitions effectively. Private citizens and some extremist religious groups incited violence against street children. Societal discrimination remained an obstacle to the advancement of certain groups, particularly women and indigenous Pygmies (Batwa). There were also reports of discrimination against individuals suspected of being infected by HIV/AIDS.

Women.—Domestic violence against women, including rape, was common throughout the country; however, there were no known statistics on the extent of this violence. Assault and rape are crimes; judges set the penalties, and the laws establish minimum penalties as well. Police rarely intervened in domestic disputes, and rapists were very rarely prosecuted. There were no laws prohibiting spousal abuse or assault. It was common for family members to instruct a rape victim to keep quiet about the incident, even to health care professionals, to save the reputation of the victim and her family. The press rarely reported incidents of violence against women or children; press reports of rape generally appeared only if it occurred in conjunction with another crime, or if NGOs reported on the subject.

Armed groups used rape as a weapon of war, and government security forces committed rapes as well (see section 1.g.).

Victims and experts cited widespread impunity as the main reason sexual violence continued. A small number of sexual violence cases, mostly committed by civilians, have been brought to court. In general, however, most victims did not have sufficient confidence in the justice system to be willing to subject themselves to further humiliation and possible reprisals by pursuing formal legal action.

Girls and women who had been raped often found it difficult to get married, and married women who were raped were often abandoned by their husbands.

The law does not prohibit female genital mutilation (FGM). Although FGM was not widespread, it was practiced on young girls among isolated groups in the north. The National Committee to Fight Harmful Traditional Practices/Female Genital Mutilation continued to develop a network of community leaders, women representatives, and health professionals dedicated to the prevention and treatment of FGM; however, the committee lacked adequate resources for prevention and treatment.

The law does not prohibit prostitution except in cases involving children under the age of 14. Prostitution, including child prostitution, was a problem mainly due to poor economic conditions, and there were reports of women and girls pressured or forced to engage in prostitution by their families. There was no statistical information available on the extent of adult or child prostitution in the country. Security forces encouraged prostitution and used prostitutes, and there were unconfirmed reports that security forces harassed and raped prostitutes.

There were reports that women were trafficked (see section 5, Trafficking).

There were no laws preventing sexual harassment, and the extent of the problem was unknown.

Women were relegated to a secondary role in society. They constituted the majority of primary agricultural laborers and small-scale traders, and they almost exclusively were responsible for child rearing. In the formal sector, women commonly received less pay than men for comparable work and rarely occupied positions of authority or high responsibility.

The law required married women to obtain their husband's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or applying for a passport. The law permits a woman to inherit her husband's property, to control her own property, and to receive a property settlement in the event of divorce; however, in practice women often were denied these rights, which in some cases was consistent with traditional law. The deceased husband's family commonly stripped widows of all possessions—as well as their dependent children. Human rights groups and church organizations

worked to combat this custom, but there was little government intervention or legal recourse available. Women also were denied custody of their children in divorce cases, but they retained the right to visit them. Polygyny was practiced, although it was illegal. Father-child relationships resulting from polygynous unions were recognized legally, but only the first wife was recognized legally as a spouse.

There were a number of active and effective women's groups throughout the country.

Children.—Government spending on programs for children's welfare was almost nonexistent. Primary school education was not compulsory, free, or universal. In public schools, parents were required to pay a small fee and were expected—although not required—to pay teachers' salaries. These fees plus the loss of labor while the child was in school meant parents often could not afford to enroll their children. During the year despite government efforts to abolish all school fees, fiscal constraints on the government and a prolonged teacher strike for higher pay resulted in continued parental contributions to school costs, albeit at a reduced level. According to the UN Children's Fund (UNICEF), net primary school attendance was 55 percent for boys and 48 percent for girls. Attendance rates for girls were lower because parents with meager financial resources preferred to send their sons to school.

At least 8 thousand children were victims of polio. Local and international health officials continued to fight the virus. For example on September 12, local health authorities and UNICEF launched a campaign to vaccinate 10 million children against polio in 6 provinces bordering Angola.

The extent of child abuse was unknown and had not been investigated. However, the accusation of witchcraft against children by certain extremist churches has led to cases of child murder, child abuse, and child abandonment.

FGM was not widespread but was performed on girls among isolated ethnic groups (see section 5, Women).

Although the legal age of marriage is 15 for girls and 18 for boys, underage marriage involving girls younger than 15 was widely accepted. In many rural areas, a significant number of girls got married at the age of 13. According to a 2001 UNICEF study, the average age of marriage was 26 for males and 21 for females. Dowry payments greatly contributed to underage marriage. In some cases parents married off a daughter against her will to collect a dowry payment or to finance a son's dowry payment to his future wife. Underage marriage limited girls' access to education and led to unsafe pregnancies.

Trafficking was a problem (see section 5, Trafficking), and child prostitution was a problem (see section 5, Women).

The FARDC and other armed groups continued to have child soldiers in their ranks. Unlike in the previous year, there were no reports that the government provided support to armed groups that continued to recruit child soldiers. The government continued to collaborate with UNICEF and other partners to demobilize children associated with the FARDC and armed groups.

In eastern parts of the country, where armed groups operated outside government control, children committed and were victims of serious crimes. Credible estimates of the total number of children associated with armed groups varied widely from 15,000 to 30 thousand, many of whom were between 14 and 16. Armed groups, including Mai Mai, continued to abduct and forcibly recruit children to serve as forced laborers, porters, combatants, "war wives," and sex slaves (see sections 5, Women and Trafficking, and 6.c.).

In May an international organization reported that uniformed armed men were recruiting Congolese children in two Rwandan refugee camps for use as soldiers. According to the organization's report, on May 10, 45 children between the ages of 10 and 18 climbed onto a truck parked outside the entrance to Kiziba Camp in Rwanda's Kibuye Province, and their whereabouts were still not known by year's end. Parents in the camp told the organization's representative that the militia, which they said was the RCD–G, intended to attract at least a total of 80 new recruits. However, the organization's representative received differing reports; a local government official attributed the recruitment to Ugandans, while other sources indicated that members of the Rwandan military were recruiting in one of the camps. There were no further reports of such activities by year's end.

There were numerous reports that some local authorities in the country attempted to recruit child soldiers for armed groups, although there was no specific information that they or higher-level officials assisted traffickers for bribes or other compensation. There were no reports that action had been taken against those accused or suspected of facilitating recruitment of child soldiers, or other forms of trafficking.

In anticipation of a national military census, some armed group commanders reportedly recruited child soldiers and regularly diverted the salaries of child soldiers for their own gain.

Girls associated with armed groups were often assaulted, raped, and infected with HIV/AIDS. According to *Forgotten Casualties of War*, a report published in August by the NGO Save the Children, 12,500 girls belonged to government and non-government forces, and a program to disarm, demobilize, and reintegrate all militias into society was failing these girls. According to the report, the girls did not see themselves as child soldiers, but as "wives" or camp followers and therefore did not believe they were entitled to demobilization and reintegration benefits. In addition the NGO said the disarmament, demobilization, and reintegration process informed communities that girls were involved with armed groups, triggering community rejection of them. Girls told the NGO that community members assumed them to have been sexually abused and to be carriers of HIV and sexually transmitted diseases. As a result, they were seen as having "lost their value" to their communities.

Child labor, including forced child labor, was a problem (see sections 1.g. and 6.d.).

According to UNICEF, between 25 thousand and 50 thousand child refugees, war orphans, and children accused of witchcraft or sorcery lived on the streets throughout the country, although some of those who were not orphans returned to their families at day's end. So-called child sorcerers were accused of having mystical powers and their families often abandoned them, most often because of socio-economic difficulties. The government was ill-equipped to deal with large numbers of street children.

There was widespread discrimination and violence by average citizens against these children, who were widely perceived to be street thugs engaged in petty crime, begging, and prostitution. There were numerous reports of collusion between police and street children, including street children who paid police officers for the right to sleep in abandoned buildings, and children who paid police a percentage of goods they stole in large markets. In addition there were reports that different groups and individuals regularly rented groups of these children to disrupt public order.

Violence against street children continued during the year. Soldiers and police subjected street children to harassment. Security forces in Kinshasa rounded up street children and there were unconfirmed reports that police transferred them outside the city. For example on November 4, police arrested more that 430 "vagrants," including more than 70 street children, and detained them with adults (see section 1.d.).

During the year there were reports that mobs killed street children. In Mbuji-Mayi, Eastern Kasai, a group of adults, reportedly incited by extremist religious organizations, burned to death several children suspected of witchcraft.

No action had been taken against those responsible for killing alleged child sorcerers in 2004 or 2003.

There were several active and effective local and international NGO groups working with MONUC and UNICEF to promote children's rights throughout the country, and with the government's national committee on disarmament, demobilization, and reintegration.

Trafficking in Persons.—There were no specific laws prohibiting trafficking in persons, and trafficking occurred. There are laws that prohibit slavery, rape, and prostitution of children under the age of 14 that could be used to prosecute traffickers; however, the laws rarely were enforced. During the year the government did not investigate or prosecute any cases against traffickers.

There was no information available on reports from late 2004 that persons were recruiting children in South Kivu for use as child soldiers.

Internal trafficking for forced labor and forced sexual exploitation occurred, and child prostitution were reported. The majority of reported trafficking occurred in the northeast and east.

In eastern parts of the country, armed groups operating outside government control continued to kidnap men, women, and children and force them to provide menial labor and sexual services for members of armed groups (see sections 1.g. and 6.c.). In addition armed groups abducted children to serve as combatants in areas under their control (see section 5, Children).

The government had few programs in place to prevent trafficking. The Ministry of Women's and Family Affairs and Labor implemented an action plan against sexual exploitation in conjunction with an international organization. In addition the government coordinated with other countries on trafficking issues and attended some regional meetings on trafficking in persons. However, government efforts to combat trafficking were limited by a lack of resources and information and because much of the country's trafficking problem was related to the use of children associ-

ated with armed groups operating outside of government control. The government had few resources for training; however, it permitted training of officials by foreign governments and NGOs. The government had no funding available for protection services. Victims were not prosecuted.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities; however, persons with disabilities were subjected to discrimination in employment, education, and the provision of other government services. Persons with disabilities were exempt from some civil laws, such as paying some taxes, or in some cases, paying customs duties.

The law does not mandate accessibility to buildings or government services for persons with disabilities. There were some special private schools that used private funds and limited public support to provide education and vocational training to students who were blind or had physical disabilities.

National/Racial/Ethnic Minorities.—There were at least 200 separate ethnic groups, which generally were concentrated regionally and spoke distinct primary languages. There was no majority ethnic group; some of the largest ethnic groups were the Luba, Kongo, and Anamongo. Four indigenous languages—Kiswahili, Lingala, Kikongo, and Tshiluba—had official status. French was the language of government, commerce, and education. Societal discrimination on the basis of ethnicity was practiced by members of virtually all ethnic groups and was evident in private hiring patterns in some cities. President Kabila's cabinet and office staff were geographically and ethnically diverse. However, a significant amount of political influence remained in the hands of individuals from Katanga.

Birth on national territory did not necessarily confer citizenship. The constitution that citizens approved in December and the 2004 nationality law provide means to acquire nationality for immigrants, as well as for longtime residents—including certain Congolese Tutsis from South Kivu, known as Banyamulenge—whose ancestors had immigrated to the country.

The constitution allows citizens to hold only Congolese nationality. The president of the Tutsi community in Goma, Dunia Bakarani, said this provision was biased and discriminated against Tutsis. In September, following the return of approximately 700 Congolese from Rwanda to the North Kivu town of Goma, the Independent Electoral Commission disqualified almost 500 individuals attempting to register as voters for the 2006 national general elections because they held dual citizenship, according to election officials.

FARDC soldiers and Mai Mai in South Kivu occasionally harassed, arbitrarily arrested, and threatened Banyamulenge, a minority group of Congolese Tutsis from South Kivu.

Unlike in the previous year, there were no reports of any armed groups forcing other ethnic group members to work in labor camps.

Indigenous People.—The country had a population of fewer than 10 thousand Pygmies (Batwa), who were believed to have been the country's original inhabitants; during the year societal discrimination against them continued. Although they were citizens, most Pygmies continued to live in remote areas and took no part in the political process.

Unlike in the previous year, there were no reports that some tribes used Pygmies as slaves.

Incitement to Acts of Discrimination.—Unlike in the previous year, anti-Tutsi sentiments—including appeals to force Tutsis into exile and practice discrimination toward Tutsis in regard to citizenship rights—were not expressed in private media or government-affiliated media. There were no known reports that government members encouraged hate speech against Tutsis.

A provincial leader in Katanga attempted via local media to incite acts of discrimination against persons from Western and Eastern Kasai in October. No official action had been taken against the leader by year's end.

Section 6. Worker Rights

a. The Right of Association.—The law permits all workers, except magistrates and military personnel, to form and join trade unions without prior authorization; workers formed unions in practice. Since the vast majority of the country's economy was in the informal sector, only a small percentage of the country's workers were organized.

The Labor Code prohibits discrimination against unions, although this regulation was not enforced effectively. The law also requires employers to reinstate workers fired for union activities.

Labor unions functioned countrywide, though they were generally weak. MONUC reported that authorities arrested at least one trade union representative during the year.

b. The Right to Organize and Bargain Collectively.—The law provides for the right of unions to conduct activities without interference and the right to bargain collectively; however, in practice the government did not protect these rights, due in part to a lack of resources, and collective bargaining was not used in practice. In the public sector, the government set wages by decree, and the unions could only act in an advisory capacity. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice. The law requires unions to have prior consent and adhere to lengthy mandatory arbitration and appeal procedures. During the year there was increased labor union activity, and public sector unions organized several legal strikes to call for increased wages and back pay. By year's end most civil servants' salaries were not current, and most arrears had not been addressed. Some arrears were paid to certain workers with particularly effective unions or critical jobs.

The law prohibits employers or the government from retaliating against strikers, and in practice this law generally was respected during the year.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see sections 5 and 6.d.).

Unlike in the previous year, there were no reports that some tribes used Pygmies as slaves.

Soldiers used forced labor during the year (see sections 1.g., 5, and 6.d.).

There were numerous reports that armed groups operating outside government control in the east used forced labor. Armed groups routinely forced civilians to carry heavy loads, including looted household items and livestock, for long distances without pay, and abducted men, women, and children and forced them to work in rural areas.

Armed groups and, to a lesser extent, government forces, abducted women and children and forced them to provide household labor or sexual services for periods ranging from several days to several months (see section 5). Specific information was difficult to obtain due to limited NGO access and victims' reluctance to discuss their experiences because of possible reprisal from the perpetrators and the social stigma attached.

Unlike in the previous year, there were no reports of forced labor camps.

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws to protect children from exploitation in the workplace; however, the government did not effectively implement these laws, and child labor was a problem throughout the country. The employment of children of all ages was common in the informal sector and in subsistence agriculture, which were the dominant portions of the economy. Such employment often was the only way a child or family could obtain money for food. The legal minimum age for full-time employment without parental consent is 18 years. Employers legally may hire minors between the ages of 15 and 18 with the consent of a parent or guardian, but those under age 16 may work a maximum of four hours per day. Larger enterprises reportedly did not exploit child labor. Neither the Ministry of Labor, which was responsible for enforcement, nor labor unions effectively enforced child labor laws.

Reliable statistics on child labor were not available; however, according to data collected by UNICEF between 1999 and 2003, an estimated 28 percent of children between the ages of 5 and 14 were involved in child labor activities at the time of the survey. UNICEF considered a child to be involved in labor activities according to the following classification: first, children 5 to 11 years old who, during the week preceding the survey, did at least 1 hour of economic activity or at least 28 hours of domestic work; and second, children 12 to 14 years old who, during the week preceding the survey, performed at least 14 hours of economic activity, or at least 42 hours of economic activity and domestic work combined.

There continued to be reports that forced child labor occurred (see sections 5 and 6.c.). Some parents forced their children to leave school and beg in the streets, hunt or fish, or engage in prostitution to earn money for their families.

In eastern parts of the country, where armed groups operated outside government control, there were numerous credible reports that armed groups used forced child labor, including the recruitment of children—sometimes reportedly with the aid of local Congolese officials—for use in armed conflict conducted by armed groups, and the use of girls as sex slaves and prostitutes (see sections 2.d., 5, and 6.c.).

Children, including child soldiers, were involved in the illegal exploitation of natural resources in Ituri District to the benefit of their militia commanders. For exam-

ple according to an August 25 article in the *Christian Science Monitor*, in a gold mine near the Ituri District town of Mongbwalu, approximately 40 percent of the miners were under 18, and approximately 25 percent of all miners were between 12 and 14 years old. Many of the children said they were former militia members. For a full day's work, each miner was usually paid three buckets of mud, sand, and rocks from the mine, including all the gold that might have been in the buckets. According to the BBC, the FNI, which continued to benefit from mining taxes, controlled the gold mines in the Mongbwalu area of Ituri.

There were continued reports that re-recruitment of former child solders took place to secure mine labor for armed groups. There continued to be reports that, often because of economic necessity, children worked in mines extracting colombotantalite ore, or coltan, used to make mobile telephones.

e. Acceptable Conditions of Work.—Most citizens were engaged in subsistence agriculture or commerce outside the formal wage sector. The average wage did not provide a decent standard of living for a worker and family, and most workers relied on extended family and informal economic activity to survive. Minimum wage laws continued to be suspended at year's end. Civil servant salaries remained very low, ranging anywhere between $4 and $20 per month, and salary arrears continued to be a problem (see section 6.b.). However, depending on their position, civil servants—including police and soldiers—frequently supplemented their incomes by extracting bribes and various other practices of corruption.

The maximum legal workweek (excluding voluntary overtime) was 48 hours. One 24-hour rest period was required every seven days, however no monitoring or enforcement mechanism existed.

The Labor Code specifies health and safety standards; however, the Ministry of Labor did not effectively enforce these standards. No provisions in the Labor Code permit workers to remove themselves from dangerous work situations without jeopardizing their continued employment.

In the eastern parts of the country, where armed groups operated outside government control, most citizens relied on informal economic activity, humanitarian aid, and scavenging in the forest to survive. Due to extended pillaging, extortion by armed groups, and instability forcing families to flee their homes and crops, poverty and economic hardship generally were more severe in eastern areas such as the Kivus, northern Katanga, and Ituri than in other parts of the country. Salary arrears for police, soldiers, and other public officials encouraged extortion and theft from the population.

REPUBLIC OF CONGO [1]

The Republic of Congo, with a population of approximately three million, is a parliamentary republic in which most of the decision-making authority and political power is vested directly in the president, Denis Sassou-Nguesso, and his administration. The 2002 presidential elections and parliamentary elections for the Senate and the National Assembly were determined "not to contradict the will of the people" by independent monitors; however, there were some flaws and irregularities in the administration of the elections. While the civilian authorities generally maintained effective control of security forces, there were instances in which members of the security forces acted independently of government authority.

The government's human rights record remained poor; although there were some improvements, serious problems remained. The following human rights problems were noted:

- mob violence, including killing of suspected criminals
- security force beatings, physical abuse of detainees, rapes, looting, solicitation of bribes, and theft
- uncontrolled and unidentified armed elements harassed, and extorted civilians and international NGO workers in the Pool region
- poor prison conditions
- impunity
- arbitrary arrest

[1] The U.S. Chancery in Brazzaville was destroyed in the 1997 civil war, and there is no American chancery or interim office space in the country. However, American diplomats are assigned to Kinshasa and travel by boat to Brazzaville on extended temporary duty status to cover the full range of bilateral issues.

- lengthy pretrial detention
- corrupt and ineffective judiciary
- infringement on citizens' privacy rights
- limits on freedom of the press
- limits on freedom of movement in some areas of the Pool region
- government corruption and lack of government transparency
- domestic violence and societal discrimination against women
- reports of trafficking in persons
- discrimination on the basis of regional ethnicity, particularly against Pygmies
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed any politically motivated killings; however, there were a few reports that security forces killed civilians in the Pool region.

Unlike in the previous year, there were no reports of deaths during apprehension or while in custody.

There were no reported developments in the 2004 case of a person who was beaten to death while in police custody.

No action was taken against members of the security forces responsible for civilian deaths in 2003 and 2004.

There continued to be occasional deaths due to mob violence, as civilians took vigilante action against presumed criminals, or as individuals settled private disputes. For example, in January, after a man killed another in an altercation, his neighbors attacked and killed him. In September angry villagers killed an Italian missionary who was in a convoy, when one of vehicles accidentally hit and killed a small child. Three villagers were arrested and brought to Brazzaville to await trial. They were still being detained awaiting trial at year's end. Police at times intervened to stop mob violence.

In several instances where presumed or actual police or military personnel engaged in looting of civilian residences, local inhabitants frequently took the law into their own hands to punish the thieves; on several occasions death or serious injury resulted. Incidents such as these were most common in remote areas. During the year there was also a case where the leaders of a rural village beat an alleged thief, who subsequently died from his injuries.

b. Disappearance.—There were no reports of politically motivated disappearances.

The daughter of a local nongovernmental organization (NGO) employee, who was reported missing in 2003, remained missing at year's end.

On July 19, after considerable delay, the "Beach" trial opened in the Brazzaville criminal court to hear the 1999 case of 353 persons who were separated from their families by security forces upon returning to Brazzaville from the Democratic Republic of the Congo (DRC). They subsequently disappeared and were presumed killed. On August 16, the court acquitted the high-ranking military and police officials accused of killing the victims. However, the government was found culpable for not ensuring the safety of the victims as they returned to the country and was ordered to pay approximately $20,000 (10 million CFA francs) to the 86 victims' families. The claimants appealed the settlement to the Supreme Court and the case was ongoing at year's end.

c. Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment.—Although the law prohibits such actions, security forces sometimes used beatings to coerce confessions or to punish detainees. During the year, there were reports that abuses continued in the jail system.

During the year military, gendarmerie, and police forces occasionally beat civilians and looted homes.

During the year, there were reports by NGOs that female detainees were raped and that members of the security forces beat citizens. For example, in August a police officer reportedly beat a man in front of his wife and children for arguing with him.

In certain areas of the Pool region unidentified armed elements, some of whom could be uncontrolled government security forces or former Ninja rebels, continued to rob trains and harass civilians and international NGO workers. There were reports by NGOs and members of the private sector that unidentified armed elements

also extorted bribes in the Pool region. The government investigated these reports but was unable to determine the identity of the perpetrators.

During the year unorganized mobs often assisted property owners in beating and sometimes killing suspected thieves in the southern sector of Brazzaville (see section 1.a.).

Prison and Detention Center Conditions.—Prison conditions were poor due to overcrowded facilities and lack of resources to provide food or health care to the inmates. The Ministry of Justice continued to repair some prisons during the year; however, lack of funds hindered efforts to improve physical facilities and to provide food and medicine.

During the year there continued to be reports that detainees held at police stations often were subjected to beatings, overcrowding, and extortion.

Women were incarcerated with men, except in the city of Brazzaville where separate facilities were maintained; juveniles were held with adults; and pretrial detainees were held with convicted prisoners.

The government continued to grant access to prisons and detention centers to domestic and international human rights groups. Local human rights groups, including the Congolese Observatory for Human Rights, the Association for the Human Rights of the Incarcerated, the National Council for the Promotion and Protection of the Rights of Detained Persons, and a Catholic Church organization visited prisons during the year. The International Committee of the Red Cross (ICRC) continued regular visits to prisons and detention centers in Brazzaville and Pointe Noire.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, members of the security forces committed such acts. There were fewer reports of arbitrary arrest and detention than in previous years. Local and international NGOs reported that members of the security forces commonly used arbitrary arrest and detention to extort funds from citizens.

Role of the Police and Security Apparatus.—The security forces include the police, gendarmerie, and military. The police and the gendarmerie are responsible for maintaining internal domestic order, with the police operating primarily inside the cities and the gendarmerie mainly outside. The military forces are responsible for external security, but also have domestic security responsibilities, for example, protecting the president. The minister of defense overseas the military forces and gendarmerie and the minister of security overseas the police. In practice, police, gendarmerie, and military operations often overlapped and were poorly coordinated. Although improved compared to previous years, the government did not always have full control over some members or units of the security forces. In addition, the more professional and effective security forces tended to operate only in the urban areas. The security forces were not generally considered effective. Corruption was a significant problem. During the year there were frequent reports of arrested individuals whose families successfully bribed police to secure a release. Traffic police were known for extorting bribes from taxi drivers under threat of impoundment of their vehicles. Although the Human Rights Commission (HRC) was established for the public to report security force abuses (see section 4), impunity for members of the security forces was a problem. The police at times failed to prevent or to respond to societal violence (see section 1.a.).

Arrest and Detention.—The law requires that warrants be issued by a duly authorized official before arrests are made, that a person be apprehended openly, that a lawyer be present during initial questioning, and that detainees be brought before a judge within three days, and either be charged or released within four months; however, the government frequently violated these provisions. There is a system of bail, but more than 70 percent of the population had an income below the poverty level and could not afford to pay bail. Detainees generally were informed of the charges levied against them at the time of arrest but formal charges often took at least a week to be filed; however, there were numerous exceptions that allowed police to justify holding someone for up to 4 months (or longer) without charge. Justifications for some exceptions include administrative errors or delays in processing the detainees. Lawyers and family members usually were given prompt access to detainees, and indigent detainees were provided lawyers at government expense.

Arbitrary arrest was a problem.

There were some political detainees during the year. In February security forces arrested a small group of military officers and civilians, allegedly linked to the former administration, for the alleged theft of weapons from a gendarmerie camp. The detainees were still being held without formal charge at year's end. During their detention they were not permitted visits by their families or NGOs.

Unlike in the previous year, security forces did not arrest journalists.

Lengthy pretrial detention due to judicial backlogs was a problem. It was estimated that approximately 40 percent of the prison population were pretrial detainees. On average they would wait six months or more before going to trail. Detainees were occasionally held awaiting trial for periods longer than the sentence associated with the crime. Reportedly bribes were generally what determined the length of the detention.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judiciary continued to be overburdened, underfunded, and subject to political influence, bribery, and corruption. Lack of resources continued to be a severe problem.

The judicial system consists of traditional and local courts, courts of appeal, the High Court of Justice, the Supreme Court, and the Constitutional Court. In rural areas, traditional courts continued to handle domestic conflicts and many local disputes, particularly property and probate cases, and domestic conflicts that could not be resolved within the family. The Constitutional Court's function is to adjudicate the constitutionality of laws and judicial decisions; the High Court of Justice's function is to review judicial decisions or crimes involving the president and other high-ranking authorities in the conduct of their official duties. Members of the High Court of Justice were appointed in 2004, but due to lack of funds the court was still not functioning by year's end. The local courts dealt with criminal and civil complaints. The Supreme Court met regularly and primarily heard cases related to the legality of land seized by the government during the civil war. It also reviewed administrative and penal cases from lower courts.

Trial Procedures.—In general, defendants were tried in a public court of law presided over by a state-appointed magistrate. Juries are used. Defendants have the right to be present at their trial and to consult with an attorney in a timely manner. An attorney is provided at public expense if defendants face serious criminal charges. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. The defense has access to prosecution evidence. Defendants are presumed innocent and have the right of appeal; however, the legal caseload far exceeded the capacity of the judiciary to ensure fair and timely trials. Some cases never reach the court system.

The military has a tribunal system for criminal actions of members of the military, gendarmerie or police. Civilians are not tried in this system.

Political Prisoners.—There were some political prisoners. During the year the ICRC reported that it monitored the condition of approximately ten political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, security forces at times illegally entered, searched, and looted private homes. In some areas of the Pool region, intimidation and harassment by uncontrolled and unidentified armed elements continued according to reports from international NGOs and civilians (see section 1.c.).

Citizens generally believed that the government monitored private mail and telephone communications.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, but it also criminalizes certain types of speech, such as incitement of ethnic hatred, violence, or civil war. The government at times limited these rights in practice and government journalists practiced self-censorship.

There was no state-owned newspaper, but there were several publications, which were closely allied with the government. There were 15 to 20 private metropolitan weekly newspapers that appeared weekly in Brazzaville, which were critical of the government. Newspapers occasionally continued to publish open letters written by opponents of the government who were in the country or lived abroad. The print media did not circulate widely beyond Brazzaville and the commercial center of Pointe Noire, although it reached approximately one-third of the population.

Most citizens obtained their news from the radio or television broadcast media and primarily government-controlled radio in rural areas. There were three privately owned radio stations, all pro-government. An individual with close government ties owned two of the four privately owned television stations, of which none were critical of the government. There were three government-owned radio stations, Radio Congo, Radio Brazzaville, and Radio FM; and one government-owned television station, Tele Congo. Several satellite television connections were available and permitted viewing of a range of news and entertainment programs.

Unlike in the previous year, security forces did not beat or detain journalists.

Most journalists were employed at various government ministries and departments as press attaches, or they worked for the newspaper *La Nouvelle Republique* or the Congolese Information Agency, both government-owned. The news coverage and the editorial positions of the government-owned media reflected government priorities and views. Government journalists were not independent and were expected to report positively on government activities. There was evidence that when government journalists deviated from this there were adverse consequences.

A number of Brazzaville-based journalists represented international media, such as the BBC, Associated Press, Reuters, Agence France Presse, Voice of America (VOA), Canal France International, and TV5. The government continued its policy of revoking journalists' accreditations if their reporting reflected adversely on the country's image. This policy affected journalists employed with both international and government-controlled media.

In September 2004 a journalist at Tele Congo interviewed an opposition leader, who was critical of the president's policies, on his talk show. Station management ordered the journalist to stay home to await a decision concerning his tenure at the station. He was allowed to return to work after a few months.

The press law provides for monetary penalties for defamation and incitement to violence.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for the freedom of assembly and association, and the government generally respected these rights in practice. Groups that wished to hold public assemblies were required to inform the Ministry of Territorial Administration and the appropriate local officials, which could withhold authorization for meetings that threatened public order. In October security forces disrupted a demonstration by some striking teachers who were not satisfied with the progress of negotiations between union leaders and the government.

Groups or associations—political, social, or economic—were generally required to register with the Ministry of Territorial Administration. Although registration could sometimes be subject to political influence, there was no evidence that this occurred during the year.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

All organizations, including religious organizations, are required to register with and be approved by the government. There were no reports of discrimination against religious groups in this process, although it is time-consuming and lengthy. Penalties for failure to register involve fines and potential confiscation of goods, invalidation of contracts, and deportation for foreigners, but no criminal penalties are applicable.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts. The Jewish community was small; there were small communities composed of perhaps several dozen Jews in the cities of Brazzaville and Pointe Noire.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, in practice, the government at times imposed some limitations. Unlike in previous years, checkpoints were rare and generally established in response to short-term security situations. For example, they occurred in May when some criminal elements threatened a police station in Brazzaville for a few hours, and again in October when armed militants sought to occupy the residence of their leader in the Bacongo neighborhood of Brazzaville even after the police and military ordered them to depart. Unlike in previous years, international NGOs reported considerably fewer incidents of harassment and intimidation by unidentified armed elements in certain areas of the Pool region (see section 1.c.).

Although the law prohibits forced exile, the government prevented the return of some citizens, including political opponents of the president. In a positive step, in October after the death of the wife of exiled former prime minister Kolelas, the government permitted him to return to bury her in the country. In late November former prime minister Kolelas was granted clemency for the alleged war crimes he was convicted of in absentia in 2000.

Internally Displaced Persons (IDPs).—NGOs working in the Pool Region reported by year's end that the vast majority of the estimated 150 thousand persons internally displaced by the civil war had either returned or had chosen to resettle in different regions of the country. The Ministry of Social Affairs reported that all IDPs who wished to return to their villages had done so by year's end.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution and granted refugee status or asylum.

The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

The government also provides temporary protection to individuals who may not qualify as refugees under the 1951 convention or its 1967 protocol; however, until November of this year, there had been no functioning process for dealing with the indeterminate status of these individuals. However, in October a group of former Mobutu-era soldiers from the Democratic Republic of Congo (DRC) attempted to return to the DRC via the river crossing between Brazzaville and Kinshasa. This was prevented by the closure of the ports on both sides of the river, which also cut-off the river commerce between the two countries. In response to this, the group staged a sit-in at the Brazzaville river port to pressure the governments to deal with their repatriation cases. In early November, after two weeks of the sit-in, 557 of these soldiers, along with their wives and children, were repatriated to DRC.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government; however, during the 2002 elections significant irregularities were observed, including leaving the entire Pool region disenfranchised.

Elections and Political Participation.—Independent observers determined the national elections in 2002 did "not contradict the will of the people"; however, they noted obvious flaws like insufficient numbers of ballots at certain polling stations, confusion over their locations, and the boycott by some opposition members who claimed the elections were biased. In addition, some international NGOs and foreign observers viewed the constitution and the elections as designed to protect the status quo. The 2002 elections remained incomplete at year's end because of continued lack of security in some areas of the Pool region, which meant that eight of the Pool's 12 parliamentary seats remained vacant. At year's end it was unknown when or if new elections will occur.

Major political parties included the ruling Congolese Ruling Party, the Pan-African Union for Social Democracy, the Congolese Movement for Democracy and Integrated Development, the Union for Democracy and the Republic, the Rally for Democracy and Social Progress, and the Union for Progress. Some opposition party leaders remained in exile. There was no cohesive opposition, and many of the smaller political parties were more personality centered than representative of a significant constituency. Northern ethnic groups, such as the president's Mbochi group and related clans dominated the political system.

There were 8 women in the 66-seat Senate and 12 women in the 136-seat National Assembly but only 128 seats were filled, as eight seats from areas of the Pool remained vacant. There were 5 women in the 35-member cabinet.

There were 14 members of minorities in the 66-seat senate and 36 members of minorities in the 136-seat National Assembly and 11 members of minorities in the 35-member cabinet. Pygmies were excluded from the political process, in part due to their isolation in remote forested areas, their culture, and their stigmatization by the majority Bantu population.

Government Corruption and Transparency.—There were press reports of government corruption, particularly regarding the misuse of the country's revenues in the oil and forestry sectors. In November several Brazzaville newspapers printed articles critical of the government's publishing of oil revenue data they said was contrived and disguising continued government corruption.

The law provides for public access to government information for citizens, noncitizens, and the foreign media; in practice; however, there were lengthy delays in information being released by the government.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were uncooperative and unresponsive to local human rights groups; however, they were generally cooperative and responsive to international organizations.

The ICRC maintained an office in Brazzaville. Access to government officials and to detainees continued to improve for international humanitarian officials during the year.

The HRC is charged with acting as a government watchdog and reacting to public concerns on human rights issues. Local observers claimed that it was completely ineffective and hasn't met or taken any significant action since its creation

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination on the basis of race, gender, language, or social status, the government did not effectively enforce these prohibitions. Societal discrimination and violence against women, reports of trafficking in persons, regional ethnic discrimination, and discrimination against indigenous peoples were problems.

Women.—Domestic violence against women, including rape and beatings, was widespread but rarely reported. There were no specific provisions under the law for spousal battery, apart from general statutes prohibiting assault. Domestic violence usually was handled within the extended family, and only the more extreme incidents were brought to the police. According to a local NGO, there were no official statistics on the number of cases of domestic violence against women. However, during the year they reported over 500 cases of women and children who were victims of sexual violence seeking medical assistance. They reported providing 100 HIV tests. This NGO organized public awareness workshops and offered training for 220 community chiefs, 124 police officers, 17 health workers, 9 magistrates, 31 journalists, and 144 others from the public and private sectors. NGOs, such as the local Human Rights Center, the Center to Combat Violence Against Women Group, the International Rescue Committee, and Doctors Without Borders continued to draw attention to the issue and provided counseling and assistance to victims.

Rape, including spousal rape, is illegal; however, the government did not effectively enforce the law. The penalties for rape, depending on the severity of the circumstances, could be as few as several months to three or more years' imprisonment. Rape goes largely unreported, thus its extent is unknown.

Female genital mutilation (FGM) was not practiced indigenously and is against the law; however, it may have occurred in some of the immigrant communities from West African countries where it was common.

Prostitution is illegal, but the government did not effectively enforce this prohibition. Prostitution was common, and police often accepted services in lieu of arresting the prostitute.

Sexual harassment is illegal; however, the government did not effectively enforce the law. Sexual harassment was very common but very rarely reported. Successful prosecutions were only achieved when a victim actively pursued a case with good legal representation or connections.

Marriage and family laws overtly discriminate against women. For example, adultery is illegal for women but not for men. Polygyny is legal; polyandry is not. While the law provides that a wife shall inherit 30 percent of her husband's estate, in practice, the wife often lost all inheritance upon the death of her spouse, particularly in traditional or common law marriage. The symbolic nature of the dowry is set in the law; however, this often was not respected, and men were forced to pay excessive bride prices to the woman's family. As a result, the right to divorce was circumscribed for some women because they lacked the financial means to reimburse the bride price to the husband and his family. This problem was more prevalent in rural areas than in urban centers. The Ministry of Social Affairs was in charge of protecting and promoting the legal rights of women.

The law prohibits discrimination based on gender and stipulates that women have the right to equal pay for equal work; however, women were underrepresented in the formal sector. Most women worked in the informal sector and thus had little or no access to employment benefits. Women in rural areas were especially disadvantaged in terms of education and wage employment and were confined largely to family farming, petty commerce, and childrearing responsibilities. Many local and international NGOs have developed micro-credit and micro-finance programs to address this problem, and government ministries such as social affairs and agriculture were active in addressing these problems. For example, women received assistance to set up dressmaking and beauty salons as well as gardening and manioc flour-making to provide an income for their families.

Children.—The government was committed to protecting the rights and welfare of children. Education was compulsory and tuition free until the age of 16, but families were required to pay for books, uniforms, school fees, etc. In the cities, about 95 percent of school-age children attended school, and in the rural areas, about 90 percent. High school graduation was the highest level achieved by most students.

Girls and boys attended primary school in equal numbers; however, the proportion of girls who continued on to the high school and university levels was significantly lower. Girls begin dropping out at approximately age 15 or 16. In addition, teenage girls were often pressured to exchange sex for better grades, which resulted in both the spread of HIV/AIDS and unwanted and unplanned pregnancies.

Child abuse was rare and was predominately found among the West African communities

FGM may have been performed on girls in some West African immigrant communities (see section 5, Women).

There were reports of isolated cases of child prostitution among street children. The prevalence of the problem still remained unclear. According to reports from international and local NGOs and others, the isolated cases were not linked to trafficking but used as an economic means by the street children to purchase food and other items. International organizations were assisting with programs to feed and shelter street children, although one program, operated by the ICRC and the UN International Children' Emergency Fund (UNICEF), ended in June.

There were a few unconfirmed reports that children were trafficked for labor (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

During the year, the number of street children decreased. UNICEF estimated in 2004 that most of the street children in Brazzaville were from the DRC. Street children from the DRC also were found in Pointe Noire. Street children were not known to suffer from targeted abuse by government authorities or vigilante groups, but they were vulnerable to sexual exploitation and often fell prey to criminal elements including drug smugglers. Many of the street children begged or sold cheap or stolen goods to support themselves; some also may have engaged in prostitution or petty theft to support themselves without third party involvement.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and there were unconfirmed reports of trafficking of children by West African immigrants living in the country. Trafficking could be prosecuted under existing laws against slavery, prostitution, rape, illegal immigration, forced labor, and employer-employee relations. There was no evidence that the government has prosecuted any trafficker under these laws. The ministries of security, labor, and social affairs, as well as the gendarmerie, have responsibility for trafficking issues.

There were unconfirmed reports that the Republic of Congo was a country of destination. It was not a country of transit or origin. There also were unconfirmed reports that minor relatives of West African immigrants from Benin and Togo could be victims of trafficking. There was no evidence of trafficking in men or women. Outside of the unconfirmed reports of "minor-aged relatives" of West African immigrants, there were no other reports of trafficking in children. Children from West Africa worked as fishermen, shop workers, street sellers, or domestic servants. There were reports some were physically abused. There were reports of isolated cases of child prostitution, which according to international and local NGOs were not linked to trafficking or forced labor (see section 5, Children).

There was no evidence of involvement of government officials in trafficking, although bribery and corruption were problems.

The government does not provide any protection or assistance to trafficking victims since there were no confirmed cases of trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, although the government generally did not enforce it the law because the ministry responsible for implementation of this provision lacked the necessary funds. There were no laws mandating access for persons with disabilities.

National/Racial/Ethnic Minorities.—Although the law prohibits discrimination based on ethnicity, the government did not enforce this prohibition effectively.

Regional ethnic discrimination was prevalent among all ethnic groups, was evident in government and private sector hiring and buying patterns, and apparent in the effective north-south regional segregation of many urban neighborhoods. The relationship between ethnic, regional, and political cleavages was inexact; however, supporters of the government included persons mostly, but not solely, from northern ethnic groups, such as the president's Mbochi group and related clans.

Indigenous People.—The indigenous Pygmy ethnic group, who numbered in the tens of thousands and lived primarily in forest regions, did not enjoy equal treatment in the predominantly Bantu society. Pygmies were severely marginalized in employment, health, and education, in part due to their isolation in remote forested areas of the country and different cultural norms. Pygmies usually were considered socially inferior and had little political voice; however, in recent years, several

pygmy rights groups have developed programs and were actively focusing on these issues. Many Pygmies were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests.

Bantu ethnic groups have exploited Pygmies, possibly including children, as cheap labor; however, there was little information regarding the extent of the problems during the year.

Other Societal Abuses and Discrimination.—The social stigma associated with homosexuality is significant. People are not openly homosexual in the country. In contrast to this, persons with HIV/AIDS are fairly well-organized and fight for fair treatment, especially regarding employment. NGOs work on HIV/AIDS issues widely, including raising public awareness that those living with HIV/AIDS are still able to be contributing members of society.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of workers, except members of the security forces, to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Almost 100 percent of workers in the public sector and approximately 50 percent of workers in the formal wage sector were union members. The law prohibits antiunion discrimination; however, there were a few reports that antiunion discrimination occurred.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law also provides for the right to collective bargaining, and workers freely exercised this right, although collective bargaining was not widespread due to the severe economic conditions.

The law provides for the right to strike, except for public sector unions, subject to conditions established by law. Workers exercised this right by conducting legal strikes. Unions were free to strike after filing a letter of intent with the Ministry of Labor, which began a process of nonbinding arbitration under the auspices of a regional labor inspector from the ministry. The letter of intent must include the strike date, at which time the strike legally may begin, even if arbitration is not complete. Employers have the right to fire workers if they do not give advance notice of a strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were unconfirmed reports of such practices (see section 5).

According to the ILO, at year's end there was no indication that the government repealed a 1960 law, which allows for persons to be requisitioned for work of public interest and if they refused they could be imprisoned.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although there were laws and policies designed to generally protect children from exploitation in the workplace, child labor was a problem. Under the law, children under age 16 are not permitted to work, but this law generally was not enforced, particularly in rural areas and in the informal sector in cities. Children worked with their families on farms or in small businesses in the informal sector without government monitoring or supervision. The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its limited resources on the formal wage sector where its efforts generally were effective.

There were unconfirmed reports that children were trafficked for labor and child prostitution occurred (see section 5).

e. Acceptable Conditions of Work.—The national minimum wage, which was approximately $100 (54 thousand CFA francs) per month in the formal sector, did not provide a decent standard of living for a worker and family. High urban prices and dependent extended families obliged many workers, including teachers and health workers, to seek secondary employment, mainly in the informal sector. At year's end the government owed 27 months of back salary to government workers.

Regulations provide for a standard workweek of seven hours per day, six days a week with a one-hour lunch break per day. There were no legal limits on the number of hours that could be worked per week. The law stipulates that overtime must be paid for all work in excess of 40 hours per week; however, there is no legal prohibition against excessive compulsory overtime, which was subject to agreement between employer and employee.

Although health and safety regulations require twice a year visits by inspectors from the Ministry of Labor, such visits occurred much less frequently. Unions generally were vigilant in calling attention to dangerous working conditions; however,

the observance of safety standards often was lax. Workers have no specific right to remove themselves from situations that endangered their health or safety without jeopardy to their continued employment.

COTE D'IVOIRE

Cote d'Ivoire is a democratic republic with an estimated population of 18 million. Laurent Gbagbo, candidate of the Ivoirian People's Front (FPI), became the country's third elected president in 2000. The election, which excluded two of the major parties, the Democratic Party of Cote d'Ivoire (PDCI) and the Rally for Republicans (RDR), was marred by significant violence and irregularities. The Supreme Court declared Gbagbo the victor with 53 percent of the vote. In September 2002 exiled military members and coconspirators simultaneously attacked government ministers and military/security facilities in Abidjan, Bouake, and Korhogo. The failed coup attempt evolved into a rebellion and split the country in two. Rebel "New Forces" (NF) retained control of the northern 60 percent of the country, while the government controlled the slightly smaller but more populous south.

In 2003 the political parties signed the French-brokered Linas-Marcoussis Accord (Marcoussis Accord), agreeing to a power-sharing government with rebel representatives. The government made little progress on the implementation of the Marcoussis Accord, and the NF suspended its participation in the Disarmament, Demobilization, and Reintegration (DDR) program. In February 2004 UN Resolution 1528 approved the UN Operation in Cote d'Ivoire (ONUCI) deployment of six thousand peacekeeping troops, joining the French Licorne force of four thousand. President Gbagbo and opposition political leaders signed subsequent peace accords, including Accra III (July 2004), the Pretoria Agreement (April 6, 2005), and Pretoria II (June 29, 2005), but the political process remained stalled. By the end of September, little work had been completed to prepare for the scheduled October 30 elections, and disarmament of the NF had not begun. On October 6, the African Union (AU) extended Gbagbo's term in office by up to one year and called for a new prime minister. On December 4, the AU designated Charles Konan Banny, a PDCI member and governor of the West African Central Bank, as the new prime minister. Civilian authorities in government- and NF-controlled zones generally did not maintain effective control of the security forces.

The government's human rights record remained poor. The continuing political instability and uncertainty leading up to the end of President Gbagbo's mandate increased tensions throughout the country. The following human rights problems were reported:

- restriction of citizens' right to change their government
- arbitrary and unlawful killings by security forces, progovernment militias, and student groups
- disappearances
- torture and other cruel, inhuman, or degrading treatment and punishment by security forces and progovernment militias and a student group
- deplorable prison and detention center conditions
- security force impunity
- arbitrary arrest and detention
- denial of fair public trial
- arbitrary interference with privacy, family, home, and correspondence
- police harassment and abuse of noncitizen Africans
- use of excessive force and other abuses in internal conflicts
- restrictions on freedoms of speech, press, peaceful assembly, association, and movement
- corruption
- discrimination and violence against women
- female genital mutilation (FGM)
- child abuse and exploitation
- trafficking in persons
- forced labor, including by children
- child labor, including hazardous labor

The NF's human rights record was extremely poor. Rebels in the north summarily executed persons, killed civilians, arbitrarily arrested and detained persons, and conducted arbitrary ad hoc justice. However, unlike in the previous year, the NF allowed citizens access to news aired in the south and improved freedom of movement. There were fewer reports of the enrollment of child soldiers, and many were released. Unlike in the previous year, no mass graves were found in rebel-held territory.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Security forces committed extrajudicial killings, some of which were believed to be politically and ethnically motivated (see section 1.g.). There continued to be reports that government-linked "death squads" and irregular forces (Liberian fighters, Liberian refugees, and civilians with ethnic ties to Liberia) committed extrajudicial killings. Security forces frequently resorted to lethal force to combat widespread crime. Rebel forces in the north also committed extrajudicial killings (see section 1.g.).

There continued to be numerous reports of progovernment militia groups operating in Abidjan during the year.

There were credible reports of more than 200 cases in which security force use of excessive force resulted in deaths. Such cases often occurred when security forces apprehended suspects or tried to extort money from taxi drivers and merchants. For example, on January 13, security forces shot and killed two taxi drivers in Adjame for refusing to stop at a roadblock. The National Armed Forces (FANCI) published an apology and announced that an investigation would be opened; however, no action had been taken by year's end.

On February 17, forestry officials began implementing a government directive to forcefully evict persons illegally occupying the National Marahoue Park in Bouafle. More than one hundred villagers were arrested for trespassing and detained in Bouafle prison. Some of the arrestees had pepper sprinkled in their eyes, were made to walk over hot coals, and were beaten and forced to pay approximately $200 (100 thousand CFA) for their release. On February 22, 12 persons died from their injuries, and on February 27, another detainee died. By year's end 32 officials had been brought before judicial authorities.

On February 24 and 25, police officers from the Criminal Investigation Department (CID) shot and killed 18 persons in revenge for the February 23 killing of a police officer by 4 armed robbers, 2 of whom were FANCI soldiers. Eyewitnesses told journalists that the police officers were hooded and 14 of the persons were summarily executed.

On June 28, security forces arrested and beat Colonel Jules Yao Yao, retired General Laurent M'Bahia Kouadio, and Major Colonel Bakassa Traore after they attended a dinner hosted by the French Ambassador. On July 3, Traore died possibly as a result of his injuries. FANCI's chief of staff charged that Traore died as a result of a preexisting medical condition.

During the year there were numerous killings committed by members of the Security Operations Command Center (CECOS), an anticrime organization formed in July and staffed by police, gendarmerie, and FANCI officers. Between August 12 and October 4, CECOS killed 14 suspected criminals. There also were reports that the summary execution of thieves in Abidjan increased after the formation of CECOS. CECOS personnel also were accused of human rights violations, racketeering, extortion, and harassment. On September 21, the commanding officer in charge of CECOS announced that 75 CECOS officers had been sent back to their original posts due to misconduct.

On July 24, unidentified armed men allegedly attacked gendarmerie and police in Anyama, a suburb of Abidjan inhabited by northerners and citizens from Mali, Burkina Faso, and Guinea; nine persons were killed, including five gendarmes. The fighting subsequently spread to Agboville, Azaguie, Bongonanou, and Dimbokro. Security forces arrested 61 persons, primarily noncitizens. Seventeen were eventually released while 44 awaited trial. The government prevented neutral observers from entering the area of conflict for several days, but the ONUCI commander finally allowed to enter Anyamma and Agboville reported that he did not detect evidence of fighting. The media charged that the government had staged the incident to slander the rebels and incite hatred against foreigners, who often were accused of conspiring with the NF.

On March 29, the military tribunal sentenced Sebastien N'Dri to 10 years' imprisonment for the 2004 killing a French peacekeeper in Yamoussoukro.

On October 17, the French defense minister in Paris suspended General Henri Poncet, force commander of the Licorne from May 2004 until June, for allegedly covering up the death of Firmin Mahe, a detainee. On May 13, French Licorne forces allegedly attempted to apprehend Mahe near the village of Tah. Mahe reportedly shot and injured one of the soldiers, who subsequently suffocated Mahe and covered up the circumstances of his death.

There were no developments in the following 2004 killings by security forces: the January killing of a truck driver who protested the confiscation of his vehicle documents; the March killing of a driver near the market of Yopougon Wassakara; the August killing of a street vendor; and the October killing of a gardener by armed men in fatigues.

Unlike in the previous year, no journalists or demonstrators were killed by security forces; however, some sustained injuries from security force abuse (see sections 2.a. and 2.b.).

During the year the government released many of the bodies of more than 100 demonstrators who were killed in March 2004 as a result of security force use of lethal force. On the day of the mass funeral, the government buried the two police officers also killed during the demonstration, posthumously awarded a medal to each, and gave the officers' families $14 thousand (8 million CFA). The parliamentary commission formed by the government to investigate the incident had not released its report at year's end.

There were no developments in the June 2004 lynching of communist party leader Abib Dodo by the Federation of Ivoirian Students (FESCI), the pro-Gbagbo student group created in the early 1990's.

There were no developments in other 2004 or 2003 security force killings.

In the western part of the country, there were reports of atrocities including killings, rapes, and looting, by progovernment militias and others (see section 1.g.).

There were numerous reports of conflict between the local population and Burkinabe farmers, whom the locals expelled from their farms (see section 5).

There were numerous incidents of ethnic violence that resulted in deaths (see section 5).

b. Disappearance.—There were reports of disappearances, although fewer than in previous years. Several members of the opposition, journalists, and ordinary citizens remained missing at year's end. There were unconfirmed reports that security forces abducted citizens and foreigners, forced them to work, and subsequently released them.

In October Amadou Dagnogo, the journalist who disappeared in 2004 in Bouake, an NF stronghold and the largest city in the north, reappeared in Man, a city in the western region. Dagnogo claimed that he escaped the NF and reached Man with the help of family and friends. The NF denied kidnapping the journalist and charged he was evading debtors.

There were no developments in the April 2004 disappearance of Guy Andre Kieffer, a Franco-Canadian freelance journalist. Michel Legre, the brother-in-law of the First Lady, was arrested and released in the case. On September 14, Kieffer's family accused government authorities of failing to actively investigate the case and appealed for information from citizens of the country.

During the year the government released the bodies of demonstrators killed during the March 2004 demonstration (see section 1.a.).

There were no developments in the 2003 disappearance of Nadine Victorier Coudard and her children; Coudard was politically active and had received numerous death threats.

Bionaho Mathias, a former member of the Union for Democracy and Peace in the country (UDPCI), and University of Cocody student activist Mahe Hippolyte reappeared during the year claiming that they had gone abroad to escape death squads. There were no developments in other 2003 disappearances.

Most of the persons reported missing in previous years remained missing at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, security forces beat and abused detainees and prisoners to punish them or to extract confessions. There were also reports of rape and torture. Police officers forced detainees to perform degrading tasks under threat of physical harm. Police detained persons overnight in police stations where they often beat detainees and forced them to pay bribes (see sections 1.d., 1.f., and 2.d.). Police also harassed and extorted bribes from persons of northern origin or with northern names (see section 1.f.).

According to an ONUCI human rights report, 22 detainees claimed they were tortured while being transferred from Duekoue Prison to Daloa Prison (see section 1.d.).

Violent actions and threats against political opposition figures continued during the year. There were numerous reports that opposition leaders received death threats over the telephone and from armed men dressed in fatigues, and that armed men harassed family members.

Unlike in previous years, police and security forces did not use lethal force to disperse demonstrations (see sections 1.a. and 2.b.).

Members of the security forces continued to beat and harass journalists (see section 2.a.).

Security forces also raped women and girls. On June 21, a lance corporal was charged with raping a secondary school girl.

On February 28, members of the security forces ransacked 20 mini-buses and injured 4 drivers for failing to pay a daily bribe.

During the year there were several reports that security forces conducted widespread neighborhood searches during which they beat and robbed residents (see section 1.f.).

Security forces remained on heightened alert for potential rebel infiltrators or active sympathizers, erected numerous roadblocks, and searched Abidjan neighborhoods, frequently during the nightly curfew. Individuals associated with opposition parties or rebellion leaders or believed to be sympathizers were subjected to increased harassment and abuse (see sections 1.d. and 1.g.).

Noncitizen Africans, mostly from neighboring countries, complained that they were subject to increased harassment by security forces, including repeated document checks, increased security force extortion and racketeering, violence, and frequent neighborhood searches (see sections 1.f. and 2.d.).

There were no developments in the following 2004 cases of security force abuse: the January robbing and torture of 17 drivers who had placed posters on their vehicles about police racketeering; the March beating of a mini bus driver who refused to give money to a police officer; the April beating by 4 police officers of another police officer who they mistook for being an RDR member; and the May beating of a UDPCI member by plainclothes security forces.

There were no developments in 2003 cases of security force abuse.

Youth groups who supported President Gbagbo attacked opposition newspapers and several ONUCI convoys during the year (see sections 2.a and 4). For example, on September 6, NF Minister of Territorial Administration Colonel Issa Diakite escaped a lynching by FESCI students and supporters in Cocody. Diakite, accompanied by his ONUCI security detail, was visiting a friend when the students attacked the home and destroyed vehicles before CECOS intervened.

There were no new developments in the investigations into the November 2004 attacks by progovernment youths on opposition newspaper headquarters and the homes of opposition party leaders.

On February 8, four men bearing Kalashnikov rifles carjacked Daniel Brechat, the French chairman of the Small and Medium Enterprises Chamber of Commerce. The men drove Brechat to Riviera, a suburb of Abidjan, where they burned and beat him while berating him for his French nationality. Brechat escaped and survived after being shot in the stomach. There were no developments in the investigation at year's end.

In the rebel-held part of the country, rebel military police operated with impunity in administering justice without legally constituted executive or judicial oversight (see section 1.g.). Rebels often harassed and abused local citizens with impunity, often on the basis of ethnic or political background. There continued to be reports that rebel forces beat persons who supported President Gbagbo and the ruling FPI. NF members raped women and girls in the north, and there continued to be reports that rebel soldiers arrested, tortured, or killed suspected government loyalists or allies of rival rebel Ibrahim Coulibaly in the zones under their control, regardless of their ethnic background (see section 1.g.).

Incidents of ethnic violence resulted in injuries, especially in the west and the southwest (see section 5).

Prison and Detention Center Conditions.—Conditions were poor and in some cases life threatening in the country's 33 prisons, largely because of inadequate budgets and overcrowding. For example, the country's main prison, MACA, was built for 1,500 but held approximately 3,400 detainees. Each prisoner had an average of 47 square inches of sleeping space. Conditions in MACA were notoriously bad, especially for the poor. Wealthy prisoners reportedly could "buy" extra cell space, food, and even staff to wash and iron their clothes. There were credible reports that prisoners frequently brutalized other prisoners for sleeping space and rations. However,

there were no reports that guards brutalized prisoners. Doctors Without Borders (MSF) supplemented the prison system's inadequate medical facilities and contributed to the prison budget. Several small national and international charities also helped some prisoners. There were press reports of a flourishing drug trade and prostitution in MACA. Families frequently supplemented the food ration, and at some prisons inmates grew vegetables to feed themselves. The International Committee of the Red Cross (ICRC) helped feed prisoners with no family.

Unlike in the previous year, there were no reports that prisoners died during prison riots; in 2004 at least 7 prisoners died and 30 were injured in riots to protest a lengthy water shortage. UN officials investigating the riot had not provided a death toll by year's end.

There also were no reports that prisoners were killed while trying to escape; in 2004 security forces shot and killed 19 prisoners and injured 66 others who were attempting to escape.

Male minors were held separately from adult men, but the physical barriers at the main MACA prison were inadequate to enforce complete separation. Prison conditions for women and children remained particularly difficult. Female prisoners were segregated in a separate building under female guard. There were continued reports that female prisoners engaged in sexual relations with wardens to get food and privileges. There were no health facilities for women. Pregnant prisoners went to hospitals to give birth and then returned to prison with their babies. The penitentiary accepted no responsibility for the care or feeding of the infants, although the women received help from local NGOs.

During the year the International Catholic Office for Children (BICE) helped conduct physiological tests to determine the ages of 323 children. The BICE helped locate the families of 597 jailed children to facilitate their return upon release. The BICE also built a separate facility to hold children at the Divo Prison.

Pretrial detainees were held with convicted prisoners. A 2004 study by Notre Voie reported that of 3,400 prisoners held in MACA, 30 percent were pretrial detainees and were held with convicted prisoners (see section 1.e.).

The government permitted access to prisons by local and international NGOs including the ICRC, MSF, World Doctors, and International Prisons' Friendship.

The rebels maintained detention centers, and during the year the ICRC and the ONUCI human rights division local team were granted full access.

There were credible reports that rebels killed prisoners or that prisoners died in jail, although less frequently due to improved conditions (see section 1.g.).

On March 11, foreign citizen Brian Sands was arrested and detained in Bouake Prison before being moved to Korhogo Prison. The NF alleged Sands was found with global positioning equipment and telephone numbers of government officials and international mercenary companies. In April Sands died in Korhogo Prison. The UN human rights officer announced that the April 8 autopsy revealed Sands had died from asphyxiation. There was no investigation at year's end.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, both occurred frequently.

Role of the Police and Security Apparatus.—Security forces under the ministries of defense and territorial administration include the army, navy, air force, republican guard, presidential security force, and the Gendarmerie, a branch of the armed forces with responsibility for general law enforcement. The police forces are under the jurisdiction of the Ministry of Interior. There were major divisions within the military based on ethnic and political loyalties. Police forces include paramilitary rapid intervention units such as the Anti-Riot Brigade and the Republican Security Company, and the plain-clothes investigating unit, Directorate for Territorial Security (DST). In July the government formed CECOS to combat rising crime in Abidjan (see section 1.a.). A central security staff collected and distributed information regarding crime and coordinated the activities of the security forces. Security forces frequently resorted to excessive force (see sections 1.a., 1.c., and 2.b.).

Poor training and supervision of security forces, corruption, the public's fear of pressing charges, and investigations conducted by security forces who themselves were abusers contributed to widespread impunity and lawlessness in the country. Racketeering at roadblocks was a serious problem, and security forces were often seen forcing people stopped at roadblocks to do push-ups while being beaten or subjected to other abuses. Police received sexual favors from prostitutes in exchange for not being arrested. There also were credible reports that police kidnapped private citizens and either killed them or released them, sometimes requiring a bribe be paid for their release. Security forces were often accused of being the cause of rising crime in Abidjan, and there were credible reports that security forces rented their uniforms and weapons to persons wanting to engage in criminal activity. Security

forces on occasion also failed to prevent violence (see section 2.b.). Security forces faced no sanctions for confiscating or destroying noncitizens' identification papers.

The government in general did not investigate or punish effectively those who committed abuses, nor did it prosecute persons responsible in previous years for unlawful killings and disappearances. During the year the Military Prosecutor established a telephone help line to report racketeering incidents.

There were credible reports of a few disciplinary or legal actions against police officers for misconduct, mistreating suspects and arrestees, and killing persons during the year (see section 1.a.). For example, on January 17, three FANCI soldiers were arrested and transferred to MACA after being apprehended during an armed robbery attempt.

During the year the government launched a television campaign urging citizens not to bribe security forces at checkpoints. During a January seminar in Grand Bassam, FANCI Chief of Staff Philippe Mangou told transport owners to refrain from paying bribes to security forces. However, citizens who did not pay bribes often faced the confiscation of their official documents or harassment, intimidation, and physical abuse. On March 2, drivers from private transportation companies across the city of Abidjan launched a three-day strike to protest the harassment and physical violence inflicted on them by security forces (see section 2.b.).

There were at least four arrests of military personnel for racketeering. No further information was available.

Arrest and Detention.—Under the law, officials must have warrants to conduct searches, although police sometimes used a general search warrant without a name or address. A bail system existed solely at the discretion of the judge trying the case. Detainees were generally allowed access to lawyers; however, in cases of accusations of complicity with the rebels or other matters of national security, detainees were frequently denied access to their lawyers and family members. For more serious crimes, those who could not afford to pay for lawyers were given lawyers by the state, but less serious offenders were often without representation. A public prosecutor may order the detention of a suspect for 48 hours without bringing charges, and in special cases, the law permits an additional 48-hour period. According to members of the jurists' union, police often held persons for more than the 48-hour legal limit without bringing charges, and magistrates often were unable to verify that detainees who were not charged were released. Defendants do not have the right to a judicial determination of the legality of their detention. A magistrate could order pretrial detention for up to four months but also had to provide the minister of justice with a written justification on a monthly basis for continued detention.

The DST was charged with collecting and analyzing information relating to national security. The DST has the authority to hold persons for up to four days without charges; however, human rights groups stated there were numerous cases of detentions exceeding the statutory limit.

There were many instances during the year in which gendarmes or other security forces arbitrarily arrested persons. According to ONUCI, since January, dozens of villagers were detained, subjected to racketeering, and tortured by forest rangers for trespassing. Rangers often demanded up to $200 for their release (see section 1.a.).

Security forces continued to arbitrarily arrest merchants and transporters, often in conjunction with harassment and requests for bribes.

Police also detained journalists during the year (see section 2.a.).

During the year security forces continued to arrest and usually release RDR party members and officials and persons of northern origins thought to be close to the rebellion (see section 2.b.). For example, on April 4, the Republican Guard rounded up hundreds of persons in the Dioulabougou district of Yamoussoukro, an area largely populated by northerners. After the Guard checked their papers, the detainees were released.

Security forces arrested 22 persons, who subsequently alleged they had been tortured during a prison transfer (see section 1.c.).

Local and international human rights organizations continued to report that security forces frequently made arrests without warrants and frequently held persons beyond the statutory limits without bringing charges. There were credible reports that the police and gendarmes detained persons in various military camps in Abidjan. Few of these detainees entered the civil justice system. For example, security forces arrested and detained more than 100 RDR members in the wake of the July violence in Anyama and Agboville (see section 1.a).

Approximately 30 percent of the country's prison population was in pretrial detention, according to the Ministry of Justice. Many inmates continued to suffer long detention periods in MACA and other prisons while awaiting trial. Despite the legal

limit of 10 months of pretrial detention in civil cases and 22 months in criminal cases, some pretrial detainees were held in detention for years.

Amnesty International (AI) and other human rights organizations reported that in rebel-controlled territory, the NF also arbitrarily arrested, mistreated, ransomed, and detained many persons thought to be loyal to President Gbagbo or Sergeant Ibrahim Coulibaly. For example, on March 30, the NF arrested and detained Kouakou Brou, vice president of the General Council of Sakassou, and two of his associates on allegations that they had helped armed elements infiltrate the zone under their control. The detainees were not released until they paid two thousand dollars (one million CFA).

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, in practice the judiciary was subject to executive branch, military, and other outside influences. Although the judiciary was independent in ordinary criminal cases, it followed the lead of the executive in national security or politically sensitive cases. There were also credible reports that judges were subject to corruption. The judiciary was slow and inefficient.

The formal judicial system is headed by a Supreme Court and includes the court of appeals, lower courts, and a constitutional council. The law grants the president the power to replace the head of the Supreme Court after a new parliament is convened. In August 2003 President Gbagbo appointed the seven members of the Constitutional Council, without consultation with the government. President Gbagbo tasked the council with, among other things, the determination of candidate eligibility in presidential and legislative elections, the announcement of final election results, the conduct of a referendum, and the constitutionality of legislation. President Gbagbo named three advisors to the Constitutional Council for three-year terms, three other advisors to six-year terms, and a president.

Trial Procedures.—The law provides for the right to public trial, although key evidence sometimes was given secretly. The government did not always respect the presumption of innocence. Those convicted have the right of appeal, and although higher courts rarely overturned verdicts, it has occurred. Defendants accused of felonies or capital crimes have the right to legal counsel. The judicial system provides for court-appointed attorneys; however, no free legal assistance was available, except infrequently when members of the bar provided pro bono advice to defendants for limited periods.

In rural areas, traditional institutions often administered justice at the village level, handling domestic disputes and minor land questions in accordance with customary law. Dispute resolution was by extended debate, with no known instance of resort to physical punishment. The formal court system increasingly was superseding these traditional mechanisms. The law specifically provides for a grand mediator to bridge traditional and modern methods of dispute resolution. The president appoints the grand mediator.

Military courts did not try civilians. Although there were no appellate courts within the military court system, persons convicted by a military tribunal may petition the Supreme Court to set aside the tribunal's verdict and order a retrial.

Political Prisoners.—There were no reports of political prisoners.

There was little available information on the judicial system used by the NF in the northern and western regions; however, there continued to be credible reports of summary executions for various crimes in the NF-controlled zone.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for these rights; however, the events of 2002 triggered a widespread suspension of privacy rights. Officials must have warrants to conduct searches, must have the prosecutor's agreement to retain any evidence seized in the search, and are required to have witnesses to the search, which may take place at any time; however, in practice police sometimes used a general search warrant without a name or address. Police frequently entered the homes of northern citizens and noncitizen Africans (or apprehended them at large), took them to local police stations, and extorted small amounts of money for alleged minor offenses.

There were credible reports that security forces conducted warrantless searches of opposition party officials' residences, allegedly in search of weapons. During the year security forces continued to conduct neighborhood searches where they would enter several homes at the same time, usually at night looking for arms. On May 10, three members of the security forces entered and searched the home of opposition journalist Honore Sepe without a warrant (see section 2.a.). On July 28, eight gendarmes conducted a warrantless search of the home of RDR member Adama Bictogo.

No action was taken against security forces who in 2004 looted and searched houses in Anyama, beat and threatened residents, confiscated and destroyed identity documents, and stole money from residents.

No action was taken against security forces who forcibly entered residences in previous years.

Security forces monitored private telephone conversations, but the extent of the practice was unknown. The government admitted that it listened to fixed line and cellular telephone calls. Authorities monitored letters and parcels at the post office for potential criminal activity, and they were believed to monitor private correspondence, although there was no evidence of this. Members of the government reportedly continued to use students as informants.

Rebels continued to confiscate the property and vehicles of civil servants and those believed to be loyal to President Gbagbo or of persons who had abandoned their houses following the rebellion. There were credible reports that the NF threatened those who attempted to reclaim their property. However, unlike in the previous year, there were no reports that NF military looted and occupied missionary houses in Bouna, Tiebessou, and Bouake.

Rebels in the northern towns of Bouake and Katiola continued to monitor mail, looking for potential government loyalist infiltrators.

Unlike in previous years, there were no confirmed reports that rebels forcibly conscripted citizens into their ranks.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Unlike in previous years, there were no reports that progovernment death squads operated during the year; however, security forces committed extrajudicial killings with impunity, and progovernment militia groups were responsible for harassment, killings, and disappearances. These crimes often went unreported or underreported due to fear of reprisals.

The collaboration of government forces and irregular forces created a climate of fear and impunity. Unlike in 2004 there were reported executions of suspected rebels and rebel sympathizers by security forces during the year. Abidjan police and security forces in search of rebel sympathizers, infiltrators, and arms caches continued to use lethal force in neighborhood sweeps against citizens with northern origins and African immigrants (see sections 1.a and 1.f.). Progovernment militias and rebels continued to use child soldiers (see section 5).

There continued to be reports that the government recruited Liberian mercenaries in the west. There also were credible reports describing serious abuses committed by armed forces working in complicity or in coordination with youth groups in the central and western parts of the country. As in the previous year, local villagers from ethnic groups close to the government allegedly provided the names of foreigners, RDR members, northerners, and other suspected rebel supporters to security forces.

Self-defense committees manned checkpoints with the assent of security forces, and there were reports that they beat and killed Burkinabe and other northerners accused of being rebels.

There were no developments in the January 2004 machete killings of five adults and three children by unidentified armed men in the village of Kahin; the victims included workers from Burkina Faso and Guinea.

No action was taken against prominent loyalist leaders in Abidjan such as Young Patriots leader Charles Ble Goude, Women Patriots leader Genevieve Bro Grebe, and others who in 2004 helped orchestrate the attacks on unarmed UN personnel and vehicles, opposition newspapers, opposition party headquarters, the homes of opposition party members, and the homes, businesses, and schools of French citizens and other expatriates. The violence, which was triggered in part by the retaliation of Licorne peacekeeping troops for the bombing of the French military base in Bouake, resulted in numerous civilian deaths and injuries.

There were no developments in the following 2003 security force killings: the January killing of Mamadou Ganame; the February killing of well-known television sitcom actor and RDR activist Yerefe Camara; the February killing of Islamic preacher Mory Fanny Crisse; and the April killing of former student leader Maurovlaye Kener.

No investigations were conducted into the numerous abuses committed by Liberian fighters in 2003, including mass killings, rapes, and torture.

Rebel groups were also responsible for indiscriminate killings. ONUCI's human rights division described numerous extrajudicial killings by rebels. The rebels in the west targeted, beat, and sometimes killed gendarmes, government officials, and suspected FPI sympathizers and committed sexual violence against girls and women, including rape and sexual slavery. The NF and their allies, the *dozos* (traditional hunters), were responsible for killings and disappearances. There were fewer reports

of such incidents than in the previous year, although rebel arrests of suspected loyalist infiltrators increased during the year.

Unlike in the previous year, no mass graves were discovered in rebel-held areas. No investigations were conducted into the three mass graves in rebel-held territory discovered in 2004 by UN personnel.

The rebel soldier accused of killing a French peacekeeper in 2004 remained in detention awaiting trial.

No investigations were conducted into numerous abuses committed by rebels in 2004 and 2003, including summary executions, killings, rape, beatings, and looting.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and the press, but the government restricted these rights in practice. Journalists continued to practice self-censorship.

On July 22, President Gbagbo filed a defamation complaint against PDCI Minister Kobenan Adjoumani, who in June accused the president of masterminding the 2002 rebellion. The trial had not begun by year's end.

The Young Patriots, a pro-Gbagbo militia group, continued to destroy opposition newspapers and threaten vendors in several regions. The media continued to play a critical role in inflaming tensions. Newspapers backed by political parties continued to publish hate messages and created a climate of hostility. The Ivoirian Observatory on Press Freedom and Ethics (OLPED) and the National Press Commission (CNP), which enforced regulations regarding creation, ownership, and freedom of the press, regularly published press releases urging journalists to be more moderate.

The only remaining government-owned daily newspaper, *Fraternite Matin*, which had the greatest circulation of any daily, rarely criticized government policy. There were a number of private newspapers that frequently criticized government policy, the president, and the ruling party. Newspapers often ceased publication and were supplanted by others due to strong competition, a limited audience, and financial constraints. Many newspapers were politicized, sometimes resorting to fabricated stories to defame political opponents. The law requires the "right of response" in the same newspaper, thus newspapers often printed articles in opposition to an earlier article.

Members of the security forces continued to harass and beat journalists. Outspoken members of the press continued to receive death threats and suffer physical intimidation from groups aligned with the ruling FPI party.

On July 26, following the violence in Anyama and Agboville (see section 1.a.), unidentified persons attacked the headquarters of Edipresse, the national newspaper distribution company, in the Adjame district of Abidjan. The attackers destroyed several copies of the opposition newspapers *Le Patriote*, *Le Front*, and *Dernieres Heures*, and demanded that Edipresse stop delivering newspapers that supported the rebellion. The same day, citing security concerns and threats received by their drivers, Edipresse announced the suspension of the distribution of these papers in several western towns. By year's end the papers had resumed circulation.

On July 27, in retaliation, pro-opposition youth destroyed copies of pro-Gbagbo *Notre Voie* and *Les Echos du Matin* in the Abidjan districts of Port Bouet and Marcory.

Because of low literacy rates, radio was the most important medium of mass communication. Newspapers and television were relatively expensive. The government-owned broadcast media company RTI owned two major radio stations; only the primary government radio station broadcast nationwide. Neither station criticized the government. However, political coverage was somewhat more balanced than in the previous year. ONUCI Radio FM, which was established in 2004 in accordance with a UN resolution, continued to broadcast balanced political coverage mixed with music and programs. By year's end listeners could listen to ONUCI FM in nine towns. There were approximately 50 community radio stations authorized under government regulations. They had limited broadcast range and were allowed no foreign language programming, no advertising, and only public announcements limited to the local area. Some of the stations did not broadcast for lack of resources. The private radio stations, except for Radio Nostalgie, had complete control over their editorial content. The government monitored Radio Nostalgie closely because the major shareholders of the company were close to RDR president Alassane Ouattara. National broadcast regulations forbade the transmission of any political commentary.

Four major international radio stations operated for most of the year: Radio France Internationale (RFI), the British Broadcasting Company, Voice of America, and Africa No. 1.

On July 15, the National Audiovisual Communication Council (CNCA) suspended RFI from broadcasting on the FM band and alleged that the station had been "unprofessional" in its coverage of Colonel Bakassa Traore's death (see section 1.a.). CNCA, which also accused RFI of broadcasting a secret UN report incriminating local authorities in the Duekoue killings (see section 5), fined the station $17 thousand (9 million CFA) and ordered RFI to apologize. Despite the ban, RFI could be heard at year's end on short wave radio in the government- and NF-controlled zones.

On July 27, following the violence in Anyama and Agboville (see section 1.a), Young Patriot leader Charles Ble Goude briefly took over RTI to broadcast a message of hate and intimidation targeted at the opposition. On the same day, republican guard members ordered Yacouba Kebe, the director general of RTI, to stop broadcasting opposition images and statements. In response Kebe suspended coverage of all political activities for several weeks and issued a statement condemning Ble Goude's actions.

The government owned and operated two television stations (RTI 1 and RTI 2) that broadcast domestically produced programs. Neither station criticized the government.

There were two satellite television broadcasters: One French (Canal Horizon/TV5) and one South African (DS TV).

Members of the security forces continued to harass and beat journalists with impunity. Outspoken members of the press continued to receive death threats and suffer physical intimidation from groups aligned with the ruling FPI party.

On May 10, three men entered the home of Honore Sepe, a journalist for the opposition newspaper *Le Front*. Sepe was briefly detained and interrogated regarding his association with the NF.

On August 4, men in uniforms attacked and beat Brahima Golle, a journalist for the pro-opposition newspaper *Dernieres Nouvelles*. The attack was allegedly in retaliation for an article Golle wrote about the death of a republican guard member. Golle was treated at a hospital and later released.

The Young Patriots continued to destroy independent and opposition newspapers in several regions of the country and to threaten newspaper vendors.

Several journalists continued to receive threats during the year from unknown persons. For example, after a February interview with the Ivoirian ambassador to the UN and an NF representative, RTI journalist Habiba Dembele received death threats for providing the NF perspective.

There also were several reports during the year that foreign journalists were subjected to government harassment and intimidation. The French-based newspaper *Liberation* published an article asserting that Ivorian intelligence agents often apprehended special correspondents coming from Paris and questioned them regarding their contacts before allowing them to leave the airport.

Since the killing of journalist Jean Helene in 2003 and the disappearance of Guy-Andre Kieffer (see section 1.b.) in 2004, many western journalists relocated to other parts of West Africa. In 2004 France 2 channel transferred to Dakar, and RFI closed its office in Abidjan.

On January 22, a military court found police Master Sergeant Dago Sery Theodore guilty of the 2003 murder of French journalist Christian Baldensperger (aka Jean Helene), an RFI reporter and French citizen. Theodore was sentenced to 17 years' imprisonment. Sery appealed the judgment, but on February 24, the Supreme Court upheld the military tribunal's sentence.

No action was taken against progovernment youth groups who attacked, threatened, arrested, or harassed journalists in 2004 and 2003.

No action was taken against French Licorne forces responsible for the November 2004 killing of Antoine Masse, an English teacher and correspondent.

Since the 2002 rebellion, the government continued to reduce press freedoms in the name of patriotism and national unity. The government and the ruling FPI exercised considerable influence over the official media's program content and news coverage, using them to promote government policies and criticize the opposition. NF leader and Minister of Communications Soro frequently complained that the government did not fairly accord television airtime to opposition party members, including himself.

The 2002 rebellion triggered significant self-censorship and a deterioration of press freedom. The law authorizes the government to initiate criminal libel prosecutions against officials. In addition, the state may criminalize a civil libel suit at its discretion or at the request of the plaintiff. Criminal libel was punishable by from three months to two years in prison.

While there was self-censorship in the press, independent daily newspapers and opposition party dailies frequently examined and called into question the government's policies and decisions.

In rebel-held territory, rebels broadcast their own programming from Bouake, which included radio shows that were heard in towns and villages around Bouake and, according to some reports, in the political capital, Yamoussoukro. In the western part of the country, rebels also broadcast on a local radio station around Man. The NF continued to allow broadcast of government television or radio programs in their zones. The NF also allowed distribution of all progovernment newspapers and most independent newspapers in their territory. However, at checkpoints in Yamoussoukro, FANCI soldiers frequently prevented opposition newspapers from entering the NF zone.

In the rebel-held zones, rebel forces also beat and harassed journalists; however, unlike in previous years, there were no reports that rebel forces killed journalists.

On April 14, in Bouake, the NF arrested four journalists from progovernment newspapers and their driver. The NF then transported the journalists to a cemetery, where they used their cameras and video recorders to record a mock execution of the journalists before releasing them.

No action was taken against rebel forces who beat, harassed, and killed journalists in 2004 and 2003.

The government limited academic freedom through its proprietary control of most educational facilities, even at the post-secondary level. A presidential decree required authorization for all meetings on campuses.

Many prominent scholars active in opposition politics retained their positions at state educational facilities; however, some teachers and professors suggested that they had been transferred, or feared that they could be transferred, to less desirable positions because of their political activities. According to student union statements, security forces continued to use students as informants to monitor political activities at the University of Abidjan.

FESCI, the pro-Gbagbo student group created in the early 1990's, used increasingly violent tactics to maintain its hold on student government, disrupt the work of officials appointed by opposition ministers, and intimidate other students. FESCI members continued to target AGEECI, a rival student group founded in June 2004 as an alternative form of student governance. In May FESCI elections were postponed when police found students armed with machetes and ready to fight for their secretary general candidate.

On June 15, FESCI students kidnapped Mohamed Timite, a member of AGEECI, from the Cocody university campus. The same day, FESCI kidnapped three graduate students who were posting signs inviting students to attend an AGEECI meeting. The students were taken to FESCI headquarters in Cocody, where they claimed they were tortured. FESCI alleged that the students were distributing prorebel leaflets. Under pressure from the European Union and ONUCI, local police negotiated the release of the students the following day. No action was taken against the FESCI students by year's end.

On June 23, FESCI members kidnapped and allegedly raped Nathalie Soro, after she distributed leaflets inviting students to a memorial service for a student believed to have been killed by FESCI members in 2004. Soro was released the same day. No action was taken against the FESCI students. Soro had not filed a complaint by year's end.

Also on June 24, two AGEECI students were kidnapped from a bus station in Adjame, where they were distributing invitations to a conference in July. The students were taken to Cocody, where they claimed to have been beaten and tortured before being released.

The weekend of June 25, Armand Kouakou Kouassi, former FESCI secretary general of Bouake I University, was found shot and killed in the Yopougon area of Abidjan. Many attributed Kouassi's death to an internal dispute among FESCI leaders.

On June 30, the minister of human rights published a statement condemning the violence in the country's universities.

No action was taken against FESCI members responsible for 2004 and 2003 attacks on school administrators, teachers, and students, and for vandalizing school property.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law allows for freedom of assembly; however, the government sometimes restricted this right in practice. Groups that wished to hold demonstrations or rallies in stadiums or other enclosed spaces were required by law to submit a written notice of their intent to the Ministry of Security or the Ministry

of Interior three days before the proposed event. No law expressly authorizes the government to ban public meetings or events for which advance notice has been given in the required manner, but the government prohibited specific events deemed prejudicial to the public order. Even if authorization for an event was granted, the government could later revoke it. President Gbagbo continued to ban demonstrations in the streets. The ban remained in place at year's end.

RDR members occasionally had difficulties associating freely, and there were reports that security forces harassed and detained RDR members who tried to meet.

On October 30, police used tear gas after an opposition demonstration to deter several hundred protestors from marching to the presidential palace. A few protestors were slightly injured. Police seldom forcibly dispersed progovernment demonstrations.

On July 27, progovernment supporters and FESCI students armed with clubs and iron rods attacked participants in a press conference organized by opposition youth leaders at the PDCI headquarters. Two persons were seriously injured, and a dozen were wounded. FECSCI members also beat the third deputy mayor of Adjame, an RDR supporter, and Stephane Koudou, an opposition journalist. FECSCI also detained several persons at the nearby FESCI-run university dormitory. Security forces on the scene observed the abuses but took no action.

No action was taken against government forces responsible for using lethal force to suppress a March 2004 opposition march and for subsequently seeking out and killing opposition supporters who participated in the march.

No action was taken against Young Patriots demonstrators, who in June 2004 attacked French citizens and ONUCI peacekeepers and destroyed vehicles; approximately 40 French citizens were injured.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right. The government allowed the formation of political parties, trade unions, professional associations, and student and religious groups, all of which were numerous.

The law prohibits the formation of political parties along ethnic or religious lines; however, in practice ethnicity and religion were key factors in some parties' membership (see sections 2.c. and 5).

Loyalists of President Gbagbo's FPI party had youth patriot groups with thousands of members in Abidjan neighborhoods and in towns and cities throughout southern, central, and western regions. The common factors with these groups were that they were linked to President Gbagbo and the FPI, were anti-French, anti-"foreigner" and anti-Marcoussis Accord. Gendarme and army officers led some groups in physical training. Belligerent patriot groups rallied in neighborhoods, called for "armed resistance," and hassled and intimidated residents and merchants. There were persistent reports that some patriot groups had arms or had ready access to arms. The presidency sponsored some of these groups and tolerated others, but it did not have complete control over them.

There continued to be reports that progovernment militias harassed and assaulted farmers, many of whom were migrants from other West African countries.

On March 8, FANCI Chief of Staff Mangou and the DDR commission disbanded the Patriotic Grouping for Peace (GPP), an organization that continued to operate although banned by the government in 2003 for its violent activities. On February 3, two persons were killed and several were wounded during clashes between GPP members and cadets from the nearby police academy.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right. However, after 2002 the government targeted persons perceived to be perpetrators or supporters of the rebellion, who often were Muslim. Strong efforts by religious and civil society groups have helped prevent the crisis from becoming a religious conflict. The targeting of Muslims suspected of rebel ties diminished somewhat during the year.

There was no state religion; however, for historical as well as ethnic reasons, the government informally favored Christianity, in particular the Roman Catholic Church. Catholic Church leaders had a stronger voice in government affairs than their Islamic counterparts, which led to feelings of disenfranchisement among some Muslims.

The law requires religious groups desiring to operate in the country to register; however, registration was granted routinely.

Although nontraditional religious groups, like all public secular associations, were required to register with the government, no penalties were imposed on groups that failed to register.

Societal Abuses and Discrimination.—Members of the country's largely Christianized or Islamic urban elites, which effectively controlled the state, generally were

disinclined to accord to traditional indigenous religions the social status accorded to Christianity and Islam.

Some Muslims believed that their religious or ethnic affiliation made them targets of discrimination by the government with regard to both employment and the renewal of national identity cards. As northern Muslims shared names, style of dress, and customs with several of the country's predominantly Muslim neighboring countries, they sometimes were accused wrongly of attempting to obtain nationality cards illegally to vote or otherwise take advantage of citizenship (see section 5). This created a hardship for a disproportionate number of Muslim citizens.

During the year the government took positive steps to promote interfaith understanding. Government officials, including the president and his religious advisers, appeared at major religious celebrations and events organized by a wide variety of faiths and groups. The government often invited leaders of various religious communities, including the Mediation Committee for National Reconciliation, to attend official ceremonies and to sit on deliberative and advisory committees.

There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law does not provide specifically for these rights, and the government restricted freedom of movement during the year. The government generally did not restrict internal travel; however, in August authorities continued to prohibit citizens from entering and leaving Yamoussoukro and Abidjan city limits between 11:00 p.m. to 6:00 a.m. Security forces and water, forestry, and customs officials frequently erected and operated roadblocks on major roads, where they demanded that motorists or passengers produce identity and vehicle papers and regularly extorted small amounts of money or goods for contrived or minor infractions. Extortion was particularly high for those intending to travel north from government-controlled areas to NF territory.

During the year security forces or local civilian "self defense committees" erected numerous roadblocks and harassed and extorted travelers, commercial traffic and truckers, foreigners, refugees, and others, including ONUCI; however, there were fewer such reports by year's end (see sections 1.a. and 1.d.).

Police harassed opposition members at the airport and sometimes prevented foreigners from traveling between the north and the south. For example, on October 26, police briefly detained rebel leaders Louis Dacoury-Tabley and Amadou Kone at the airport.

On July 15 and on August 29, the president signed new drafts of laws on nationality and naturalization in an effort to address the concerns of the opposition parties. However, the legislation

Persons living under NF authority regularly faced harassment and extortion when trying to travel between towns and to the government-controlled south. Local military authorities regularly sold passes required of travelers. Security and defense forces also victimized northerners when they tried to cross into the zone under government control. Due to the closure of banks in the north at the onset of the crisis, northerners were forced to cross into the south and back to conduct all banking business, including collecting remittances (upon which many northerners depend). Government workers in the north must also travel into the south to collect their salaries. The cost of either paying the way through the various barricades or hiring a money runner to do so was substantial.

The law specifically prohibits forced exile, and no persons were exiled forcibly during the year. However, due to the numerous death threats, several members of the RDR, including the president of the party, former prime minister Alassane Ouattara, as well as members of other opposition parties, remained in self-imposed exile.

Internally Displaced Persons (IDPs).—During the year there were large numbers of IDPs in the country as a result of the 2002 crisis. Ethnic conflict during the year resulted in additional IDPs (see section 5). Progovernment and rebel forces did not generally target civilians, but ethnic conflict and fighting forced many people to flee the zones of conflict, and others simply felt uncomfortable in the side of the divided country that they found themselves in initially. Road blocks and toll collection points made it difficult for civilians to move in both sides of the country. The government's November 2004 bombing of Bouake resulted in a sharp increase in IDPs, and a UN Population Fund survey estimated that there were over 900 thousand IDPs in Abidjan alone. These IDPs were invisible but placed heavy burdens on host communities, especially given the prolonged nature of the crisis. Government assistance, especially in the north where civil servants and infrastructure were not in

place, did not meet the needs of these IDPs. International and local NGOs were working to fill the gap. In October the government appointed an IDP point of contact within the Ministry of Foreign Affairs to address some of these problems.

The Center for Assistance to Temporarily Displaced Persons (CATD), located in Nicla village near Guiglo, hosted 6,741 persons, 95 percent of whom were Burkinabe who in 2002 fled the fighting near Blolequin, west of Guiglo. Due to the ethnic tensions between the local Guere population and persons of Burkinabe descent (many were born in the country but never sought or received citizenship), these IDPs have been unable to return to their villages or fields. The IDPs claimed that their plantations were being occupied by indigenous Guere persons, who themselves had been displaced from their land. The international community, with the approval of the government, provided assistance to these IDPs, but little or no effort was made to solve the underlying ethnic tensions, based mainly on land tenure issues, that prevented them from going home. It was generally acknowledged that the conditions in the camp were poor compared with the six thousand Liberian refugees in the nearby Nicla refugee camp ("Peacetown"), since the refugee camp was maintained according to stricter UN High Commissioner for Refugees (UNHCR) standards for housing, water, sanitation, health services, education, etc.

On April 26, Guere youths in villages surrounding Guiglo attempted to attack the CATD (see section 5).

After ethnic clashes in May and June, an estimated 7,500 IDPs, mostly ethnic Gueres, moved into the Catholic mission in the western town of Duekoue, and an additional 2,500 sought refuge elsewhere (see section 5). By September many had returned but 2,700 still remained. At year's end, the government tried to evict the IDPs; however, the eviction was postponed after an international outcry. At year's end only 200 IDPs remained.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protections to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status and asylum. A law that went into effect in May 2004 provides refugees with legal status, including the right to work. The government also cooperated with the UNHCR and other humanitarian organizations in assisting refugees and maintained an office charged with assisting refugees and other stateless persons.

The government also provided temporary protection for individuals who may not qualify as refugees under the 1951 Convention/1967 protocol.

Various West African governments complained that their citizens were harassed in the country. The UN and other international organizations documented such abuses against foreigners, which included arbitrary arrest, beating, and theft (see sections 1.a, 1.c., 1.d., and 1.f.). These complaints diminished somewhat during the year, and there were no large-scale departures by foreigners due to harassment.

Individual security officers often did not honor identity documents issued to refugees either by the government or by the UNHCR. There were frequent and credible reports that security forces destroyed refugees' identity documents, arbitrarily detained, verbally harassed, and occasionally beat refugees at checkpoints. The identity card law included provision for the issuance of identity cards to non-Liberian individuals over 14 years of age whose refugee status has been granted by the National Eligibility Commission. Liberians who arrived in the country before the 2003 peace agreement in Liberia benefited from group determination and received temporary refugee cards. Liberians who arrived in the country after the peace agreement did not receive temporary cards. Under certain circumstances, some asylum seekers who were not granted refugee status by the government were provided refugee certificates by UNHCR.

Section 3. Respect for Political Rights: the Right of Citizens to Change Their Government

The law provides for the right of citizens to change their government peacefully through democratic means. However, significant violence and irregularities marred the last presidential and legislative elections held in 2000.

Elections and Political Participation.—The 2000 presidential elections followed several postponements and a controversial supreme court decision disqualifying 14 of the 19 candidates, including all of the PDCI and RDR candidates. RDR leader Ouattara was excluded from running in the presidential and legislative elections following the Supreme Court's ruling that he had not demonstrated conclusively that he was of Ivoirian parentage. The court also disqualified former president Bedie,

who also was president of the PDCI party, because he did not submit the required medical certificate.

As a result of the supreme court rulings, most international election observers declined to monitor the election. The nationwide participation rate was 33 percent, and some polling places, especially in the north, closed early because of the lack of voters. Preliminary results showed that Gbagbo was leading by a significant margin. However, on October 24, 2000, Daniel Cheick Bamba, an interior ministry and national elections commission (CNE) official, announced on national radio and television that the CNE had been dissolved and declared General Guei the victor with 56 percent of the vote. Thousands of Gbagbo supporters protested, demanding a full vote count. Mass demonstrations resulted in numerous deaths and injuries, and on October 25, 2000, national radio and television reported that General Guei had stepped down.

The 2000 National Assembly election was marred by violence, irregularities, and a very low participation rate. Largely because of the RDR boycott of the elections to protest the invalidation of Ouattara's candidacy, the participation rate in the legislative election was only 33 percent. In addition, the election could not take place in 26 electoral districts in the north because RDR activists disrupted polling places, burned ballots, and threatened the security of election officials.

Following the legislative by-elections in 2001, 223 of the 225 seats of the National Assembly were filled: the FPI won 96 seats, the PDCI 94 seats, the Ivorian Worker's Party 4 seats, very small parties 2 seats, independent candidates 22 seats, and the RDR (in spite of its boycott of all of the legislative elections) 5 seats. The two seats from Kong, where Ouattara planned to run, remained unfilled as the RDR, the only party running in that electoral district, boycotted the elections.

Citizens' ability to elect subnational governments was limited.

The country remained divided at year's end. President Gbagbo and opposition political leaders signed subsequent peace accords, but the political process remained stalled. By the end of September, NF disarmament had not begun, and little work had been completed to prepare for the scheduled October 30 elections. By year's end Prime Minister Diarra had been unable to accomplish any of his major duties, which included reestablishment of the territorial integrity of the country, NF disarmament, and preparation of a schedule for free and fair elections. On October 6, the AU extended Gbagbo's term in office until October 31, 2006, created an International Working Group to monitor the peace process, and required that a new prime minister be designated. On December 6, the AU designated Charles Konan Banny as the new prime minister. By year's end he had created a new cabinet composed of 29 ministers and 2 junior ministers.

The youth wings of political parties were allowed to organize and were active. The youth wing of the governing FPI party (JFPI) was less of a political force than in previous years. JFPI activity was ongoing; however, youth patriot groups conducted most activities during the year (see section 2.b.). Many of the members of the JFPI were likely members of some of these patriot groups. During the year militia groups such as the Young Patriots drew large crowds at demonstrations in Abidjan and elsewhere (see section 2.b.). The youth wings of the PDCI and RDR have kept a relatively low profile since security forces violently repressed a G7 March 2004 demonstration, resulting in the deaths of an estimated 120 opposition members.

Government Corruption and Transparency.—Government corruption and lack of transparency remained a serious problem during the year. It was common for judges open to financial influence to distort the merits of a case. Corruption had the greatest impact on judicial proceedings, contract awards, customs, and tax issues.

Women held 19 of 225 seats in the National Assembly. The first vice president of the National Assembly was a woman. Women held 4 of the 31 ministerial positions in the cabinet. Of the 41 supreme court justices, 4 were women. Henriette Dagri Diabate served as Secretary General of the RDR, the party's second ranking position.

In the National Assembly, 44 out of 223 members of parliament were Muslim.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups, including LIDHO and MIDH, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The government occasionally met with some of these groups.

During the year ONUCI, LIDHO, MIDH, APDH, and other human rights groups gathered evidence and testimony, published in independent local daily newspapers and often criticized state security forces.

During the year members of MIDH received death threats, and progovernment militia groups targeted and harassed the ONUCI.

For example, a January e-mail to MIDH headquarters threatened to kill MIDH members in retaliation for the NGO's alleged preoccupation with conditions in rebel-controlled areas.

No investigations were conducted into 2004 and 2003 incidents of threats and harassment of MIDH members.

During the year progovernment militia, unhindered by government security forces, blocked ONUCI members from conducting their activities in government-controlled areas. For example, following July rebel attacks in Anyama and Agboville (see section 1.a.), ONUCI and other international NGOs attempted to send personnel to investigate. However, progovernment militias blocked ONUCI from entering the area and destroyed two ONCUI vehicles.

On August 11, the Young Patriots in Gagnoa attacked an ONUCI convoy attempting to visit prisoners in Gagnoa prison. The convoy was again attacked on its return, forcing ONUCI members to take refuge in Gagnoa's prefecture. Members of the Young Patriots accused ONUCI of attempting to liberate rebel prisoners.

On August 12, UN Secretary-General Koffi Annan expressed "regret that the movements of the UN peacekeeping mission in the country were being impeded" and called on citizens to refrain from any action that may undermine the peace process.

There were no reports that the government suppressed international human rights groups or denied them visas; however, on occasion the government restricted their access to certain areas deemed sensitive and often denigrated their work.

During the year the government regularly permitted access to the World Food Program (WFP), the ICRC, and other international humanitarian organizations. Eleven UN agencies, including the International Labor Organization (ILO) and the World Health Organization (WHO), were resident and active throughout the year.

Local newspapers covered reports by several international human rights organizations that were critical of both the government's and the rebels' human rights records.

In October the Chairman of the UN's Cote d'Ivoire Sanctions Committee visited the country and met with all parties involved in the political crisis. At year's end a report was forthcoming.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, ethnicity, national origin, sex, or religion; however, the government did not effectively enforce the law.

Women.—The law does not prohibit domestic violence, and it was a problem. Female victims of domestic violence suffered severe social stigma and as a result often did not discuss domestic violence. The courts and police viewed domestic violence as a family problem unless serious bodily harm was inflicted or the victim lodged a complaint, in which case they could initiate criminal proceedings. However, a victim's own parents often urged withdrawal of a complaint because of the shame that affected the entire family.

The law prohibits rape and provides for prison terms of 5 to 10 years, and the government enforced this law. Claims were most frequently brought against child rapists. A life sentence can be imposed in cases of gang rape if the rapist is a relative or holds a position of authority over the victim, or if the victim is under 15 years of age. The law does not specifically penalize spousal rape. Rape was a problem, although its extent was unknown because the government did not collect statistics on rape or other physical abuse of women. Women's advocacy groups continued to protest the indifference of authorities to female victims of violence; however, women who reported rape or domestic violence to the police were often ignored. The Ministry of Human Rights, the Association of Women Lawyers, MIDH, and the Ivoirian Movement of Human Rights continued to seek justice on behalf of rape victims but had not made much progress by year's end.

During the year the Ministry of Women, Family, and Children equipped counseling centers set up in 2004 with computers, printers, and other equipment for record keeping. Between January and July the ministry also assisted approximately 200 victims of domestic violence, and ministry officials visited 56 victims in their homes. In 2004 the ministry opened counseling centers for battered women and children in Yopougon, Treichville, and Abobo districts.

The National Committee in Charge of Fighting against Violence against Women and Children, under the Ministry of Women, Family and Children's Affairs, had a hot line for abused women, helped provide shelters for victims of abuse, and counseled abusive husbands. The Committee also monitored abusive situations through frequent visits. Young girls who feared becoming victims of abuse, FGM, or forced marriage could appeal to the committee, which arranged for shelter in facilities run

by the government or NGOs. The Committee often stopped abuse by threatening legal action against offending parents or husbands.

FGM was a serious problem. The law specifically forbids FGM and provides penalties for practitioners of up to 5 years' imprisonment and fines of approximately $690 to $3,800 (360 thousand to 2 million CFA francs). Double penalties apply to medical practitioners. There was a decreasing incidence of FGM; however, an estimated 60 percent of women had undergone the procedure. FGM was practiced most frequently among rural populations in the north and west and to a lesser extent in the center and south. FGM usually was performed on young girls or at puberty as a rite of passage, with techniques and hygiene that did not meet modern medical standards. During the year more than 30 practitioners in Abobo District turned in their instruments and promised to stop performing FGM as a result of a campaign by a local NGO, the National Organization for Child, Woman, and Family. However, unlike in the previous year, no practitioners were arrested. In August a group of 68 girls from the north participated in an excision ceremony and celebration in the Abobo district of Abidjan. The government took no action to arrest the practitioners.

Prostitution is not illegal as long as it occurs between consenting adults in private, and there appeared to be an increase in the practice. Soliciting and pandering are illegal, and the police sometimes enforced the law. Women from nearby countries sometimes were trafficked into the country, including for prostitution (see section 5, Trafficking).

The law prohibits sexual harassment. The penalties for sexual harassment are one to three years imprisonment and a fine ranging between $670 and $1,870 (360 thousand and 1 million CFA).

The law prohibits discrimination on the basis of gender; however, women occupied a subordinate role in society. Government policy encouraged full participation by women in social and economic life; however, there was considerable resistance among employers to hiring women, who were considered less dependable because of their potential for pregnancy. Some women also encountered difficulty in obtaining loans, as they could not meet the lending criteria established by banks, such as a title to a house and production of a profitable cash crop. Women in the formal sector usually were paid at the same rate as men (see section 6.e.); however, because the tax code did not recognize women as heads of households, female workers frequently paid income tax at a higher rate than their male counterparts.

Women's advocacy organizations continued to sponsor campaigns against forced marriage, marriage of minors, patterns of inheritance that excluded women, and other practices considered harmful to women and girls. Women's organizations also campaigned against the legal texts and procedures that discriminated against women. The Coalition of Women Leaders continued its efforts to promote greater participation of women in decision-making.

Children.—The Ministries of Public Health and of Employment, Public Service, and Social Security sought to safeguard the welfare of children, and the government also encouraged the formation of NGOs such as the Abidjan Legal Center for the Defense of Children.

The government strongly encouraged children to attend school in the government-controlled south; however, primary education was not compulsory. Primary education was tuition free but usually ended at age 13. In principle students did not have to pay for books or fees; however, in practice some still did so or rented books from stalls on the street. Students also paid for some school supplies, including photocopying paper. In at least one school, students had to bring their own bench to sit on. Many children between the ages of 12 and 14 left school due to poverty. Research in 2002 showed that 67 percent of children 6 to 17 years old attended school, including 73 percent of boys and 61 percent of girls. The WFP has worked with the government to establish a countrywide system of school canteens that provided lunches for $.04 (25 CFA francs).

Students who failed the secondary school entrance exams did not qualify for free secondary education, and many families could not afford to pay for schooling. Parental preference for educating boys rather than girls persisted, particularly in rural areas. The minister of national education stated that almost one-third of the female primary and secondary school dropout rate of 66 percent was attributable to pregnancies.

Teachers sometimes gave good grades and money to students in exchange for sexual favors. The penalty for statutory rape or attempted rape of either a girl or a boy aged 15 years or younger was a 1- to 3-year prison sentence and a fine of $190 to $1,900 (100 thousand to 1 million CFA francs).

The Ministry of Health operated a nationwide network of clinics for children, infants, and prenatal care staffed with nurses and doctors who served the local residents, whether citizens or noncitizens, free or at low cost. The Health Ministry also

conducted a nationwide vaccination program for measles, yellow fever, meningitis, and other diseases and publicized "well baby" contests. Despite the division of the country, Rotary Clubs sponsored a polio vaccination campaign throughout the country.

A 2004 NGO survey of 500 schoolchildren in Abidjan and its suburbs found that 27 percent of children had been victims of sexual abuse; 74 percent of the victims were girls and 26 percent boys. Approximately 33 percent had been raped, 15 percent had been the victims of attempted rape; 42 percent had been fondled, and 11 percent were victims of sexual harassment. When the sexual abuse occurred in the family, 54 percent of the assailants were male cousins, 11 percent were female cousins, 5 percent were guardians, and 3 percent were the brothers and sisters.

FGM was commonly performed on girls (see section 5, Women).

The law prohibits, and provides criminal penalties for, forced or early marriage; however it occurred.

There were reports of trafficking in children (see section 5, Trafficking).

Progovernment militias continued to recruit children, both on a voluntary and a forced basis. On February 28, the UN arrested and handed over to FANCI members of a progovernment militia that attacked the rebel outpost of Lougouale. Many of the attackers were children.

Child labor remained a problem (see sections 5, Trafficking, and 6.d.).

There were an estimated 215 thousand street children in the country, including 50 thousand in Abidjan. Some children were employed as domestics and were subject to sexual abuse, harassment, and other mistreatment by their employers (see section 6.d.). Because of the political-military crisis, many families, including displaced families, relied on their children to work as street vendors and bring money home. A forum of 15 NGOs worked with approximately 8 thousand street children in training centers, similar to halfway houses. The NGOs paid the children a small subsistence sum while teaching them vocational and budgeting skills. Many street children, however, were reluctant to stay in training centers where they earned no money and were subject to strict discipline.

Citing security concerns, the government since 2004 has refused to pay teachers or to administer exams in the rebel-controlled north. Thousands of the approximately 93 thousand primary and secondary school students affected by the government's decision dropped out of school, discouraged by the government's refusal to recognize their efforts. In October the NF announced that it would administer the exams but had not done so by year's end.

UNICEF has reported that in the NF-controlled territory, most hospitals had been closed for three years, there were very few doctors and nurses, and virtually no routine vaccinations. In November the government, with the assistance of UNDP and the Rotary Club, held a nationwide vaccination campaign.

Progovernment militias and rebel forces continued to use child soldiers. During the year 4 militia groups in the Guiglo area submitted to UNICEF a list of 150 children for DDR. On February 28, UN forces captured approximately 70 rebel attackers, including many child soldiers, during fighting in Logouale, a town in rebel-held territory in the western region. On June 13, in Man, UNICEF and a local NGO demobilized 57 children, including 3 girls, who had received military training and were ready for battle. The children, who were aged 10 to 16 and included 3 girls, were placed in an interim care facility where they received psychological assistance and job training. During the year in Bouake, UNICEF also demobilized 137 children, including 83 girls.

Trafficking in Persons.—The law does not prohibit trafficking in persons, and although the government continued its antitrafficking efforts, trafficking in persons remained a problem. With the continuing crisis, the government, UN agencies, and international humanitarian agencies concentrated on child soldiers and children displaced because of the war, and it was difficult to distinguish trafficked children. Traffickers can be prosecuted under laws prohibiting kidnapping, forced labor, and mistreatment; however, there was minimal law enforcement in government-held territories, and the government did not prosecute traffickers during the year. The National Committee for the Fight Against Trafficking and Child Exploitation coordinated the government's antitrafficking efforts. It included representatives from several ministries, including the Ministries of Family, Women, and Children, Foreign Affairs, Economy and Finance, and Health.

The government cooperated with international investigations of trafficking, and on July 27, the government signed a multilateral anti-trafficking-in-children and repatriation accord with nine neighboring countries. The ministries of employment and of family, women, and children's affairs continued working with Malian authorities to prevent cross-border child trafficking and to repatriate Malian children from the country.

The country was a source and destination country for trafficking in women and children from Mali, Burkina Faso, Ghana, Togo, and Benin for the purpose of forced commercial agriculture and domestic servitude. The full extent and nature of the problem was unknown despite efforts to document and trafficking of persons in the country. There was no reliable estimate of the number of children intercepted or repatriated during the year. Trafficking in persons decreased during the year due to increased checkpoints and fewer economic opportunities in the country. However, officials at the country's border with Ghana near Aboisso turned back more busloads of children traveling without adults than in the previous year.

The country's cities and farms provided ample opportunities for traffickers, especially of children and women. The informal labor sectors were not regulated under existing labor laws, so domestics, most nonindustrial farm laborers, and those who worked in the country's wide network of street shops and restaurants remained outside government protection. Internal trafficking of girls ages 9 to 15 to work as household domestics in Abidjan, and elsewhere in the more prosperous south, remained a problem. Traffickers of local children were often relatives or friends of the victim's parents. Traffickers sometimes promised parents that the children would learn a trade, but they often ended up on the streets as vendors or working as domestic servants. Due to the economic crisis, many parents allowed their children to be exploited.

Women principally were trafficked to the country from Nigeria, Ghana, and Liberia. A local NGO estimated that 58 percent of the female prostitutes in Abidjan were not citizens. Organized trafficking rings promised Nigerian women and girls that they would have jobs in restaurants and beauty salons in Abidjan; however, many ended up in brothels.

Women and children were trafficked from the country to African, European, and Middle Eastern countries, sometimes for prostitution.

The regular trafficking of children into the country from neighboring countries to work in the informal sector in exchange for finder's fees generally was accepted. Children were trafficked into the country from Mali, Burkina Faso, Ghana, Togo, Benin, and Mauritania for indentured or domestic servitude, farm labor, and sexual exploitation.

The controversy over child labor in the cocoa sector in the country continued, and the government, the ILO, the Institute of Tropical Agriculture, and the Chocolate Manufacturers Association continued to document the problem and search for ways to solve the problem. The latest survey, released in 2002, revealed that most children in the cocoa sector worked on the family's farm (approximately 70 percent) or beside their parents. Of the 625 thousand working children, 96.7 percent had a kinship relation to the farmer. Others, most frequently the children of extended family members or persons well known to them, indicated their or their family's agreement to leave their respective countries to work on farms in the country to earn money or in search of a better life.

The research suggested that perhaps 5 thousand to 10 thousand children were trafficked to or within the country to work full- or part-time in the cocoa sector. It also showed an estimated 5,100 children employed as full-time permanent workers, approximately 3 thousand of whom were from Burkina Faso. The survey found another 12 thousand children working part time on cocoa farms who had no family ties with the farmer. The research showed that approximately 109 thousand child laborers worked in hazardous conditions on cocoa farms in the country in what the study described as the worst forms of child labor. The studies estimated that 59 percent were from Burkina Faso, 24 percent were citizens, and the others were from Mali or other countries to the north. During the year compared with previous years, there were significantly fewer reports of children from neighboring countries being imported for fieldwork on plantations under abusive conditions.

The government worked with NGOs and international organizations or combat trafficking in persons. The National Committee for the Fight Against Child Trafficking, which included representatives from numerous government ministries; representatives from several national and international organizations and NGOs, such as UNICEF, ILO, Save the Children, REFAMP–CI (network of women ministers and parliamentarians); and the BICE continued its work during the year. The government and the ILO continued to implement the West African Project Against Abusive Child Labor in Commercial Agriculture (WACAP) to increase farmers' awareness, improve schooling for children, and provide better social services to families. Between June and October WACAP educated over 21 thousand people. In Abgoville, in the heart of the cocoa zone, Winrock International continued its project Alternatives to Child Labor through Improved Education.

Persons with Disabilities.—The law requires the government to educate and train persons with physical, mental, visual, auditory, and cerebral motor disabilities, to

hire them or help them find jobs, to design houses and public facilities for wheelchair access, and to adapt machines, tools, and work spaces for access and use by persons with disabilities; however, wheelchair accessible facilities for persons with disabilities were not common, and there were few training and job assistance programs for persons with disabilities. The law also prohibits acts of violence against persons with disabilities and the abandonment of such persons.

On November 7, more than 200 members of the National Federation of the Handicapped of Cote d'Ivoire (FAH–CI) organized a sit-in in front of the Ministry of Solidarity, Social Security, and the Handicapped to protest the government's failure to recruit persons with disabilities during the last 3 years. The head of FAH–CI was subsequently fired, and the dispute was ongoing at year's end. In 1996 the government announced a program to recruit persons with disabilities for government service, but no such persons had been since 2003.

Adults with disabilities were not specific targets of abuse, but they encountered serious difficulties in employment and education. The government supported special schools, associations, and artisans' cooperatives for persons with disabilities, but many persons with physical disabilities begged on urban streets and in commercial zones. Persons with mental disabilities often lived in the streets.

Traditional practices, beliefs, and superstitions varied, but infanticide in cases of serious birth defects was less common than in previous years. Many parents no longer believed that children with disabilities were sorcerers or the signs of a curse.

The Ministry of Solidarity, Social Security, and the Handicapped and the Federation of the Handicapped were responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The country's population was ethnically diverse. Citizens born in the country derived from five major families of ethnic groups. The Akan family comprised more than 42 percent; the largest Akan ethnic group, and the largest ethnic group in the country, was the Baoule. Approximately 18 percent of citizens belonged to the northern Mande family, of which the Malinke were the largest group. Approximately 11 percent of citizens belonged to the Krou family, of which the Bete were the largest group. The Voltaic family accounted for 18 percent of the population, and the Senoufo were the largest Voltaic group. Approximately 10 percent belonged to the southern Mande family, of which the Yacouba were the largest group. Major ethnic groups generally had their own primary languages, and their nonurban populations tended to be concentrated regionally.

All ethnic groups sometimes practiced societal discrimination on the basis of ethnicity. Urban neighborhoods had identifiable ethnic characteristics, and major political parties tended to have identifiable ethnic and regional bases, although interethnic marriage increasingly was common in urban areas.

At least 26 percent of the population was foreign, and of that group, 95 percent were other Africans. There were more than 5 million West African immigrants living in the country. Most of the Africans were from neighboring countries, with half from Burkina Faso. Birth in the country did not automatically confer citizenship. Outdated or inadequate land ownership laws resulted in conflicts with an ethnic and antiforeigner aspect.

In December 2004 the National Assembly made changes to the nationality code and adopted a Special Law on Naturalization, legislation that was envisioned by the Marcoussis Accord to resolve the dispute over which persons born of foreign parents before 1972 should be entitled to citizenship and to simplify procedures to obtain citizenship for this group and for foreigners married to citizens. The legislation that was eventually passed resolved the citizenship question for those born before 1960 but not for those born between 1960 and 1972. On July 15 and on August 29, the president signed new drafts of laws on nationality and naturalization in an effort to address the concerns of the opposition parties; however, the legislation remained a contentious issue.

Some ethnic groups included many noncitizens, while other ethnic groups included few noncitizens. There were societal and political tensions between these two sets of ethnic groups. This cleavage corresponded to some extent to regional differences. Members of northern ethnic groups that were found in neighboring countries as well as in the country often were required to document their citizenship, whereas members of formerly or presently politically powerful ethnic groups of the west, south, and center reportedly were not required to do so. Police routinely abused and harassed noncitizen Africans residing in the country (see section 1.f.). Official harassment reflected the frequently encountered belief that foreigners were responsible for high crime rates, as well as a concern for identity card fraud. Harassment of northerners increased markedly after the 2002 rebellion.

On November 29, local government officials, accompanied by police officers, oversaw the bulldozing of the homes of more than 10 thousand people living in the

Akwaba and Moussakro shantytowns of Abidjan. Most of the people were of Burkinabe origin. The government cited security concerns as the reason for the demolition.

Following the violence in 2003 after the signing of the Marcoussis Accord, many private French citizens left the country. Several thousand French citizens were evacuated in the wake of the November 2004 violence targeting French persons. The French and the Burkinabe continued to keep a low profile as harassment against them by security forces at checkpoints continued during the year (see section 2.d.).

Since the outbreak of the armed rebellion in 2002, clashes have regularly occurred between the native Guere populations and the Burkinabe and have led to the death of at least 10 persons on both sides. The native populations accused the Burkinabe of being assailants and the rebels' accomplices. However, according to French military sources, the repeated attacks against the non-natives (citizens and foreigners alike) were only aimed at stealing the latter's crops or money.

Ethnic tensions led to fighting and deaths, especially in the western areas of the country. During the year We and Yacouba ethnic groups in the west continued fighting, and hundreds reportedly were killed. In the west and in Duekoue in particular, there were violent clashes between the native We population and members of the foreign community, particularly Burkinabe farmers.

On April 25 and 26, ethnic disturbances erupted in the town of Guiglo, in the western region, following the apparent killing of a man from the local Guere tribe. FANCI soldiers prevented a mob attack on Guiglo's IDP center, which housed mainly ethnic Burkinabe. The crowd, composed of mostly indigenous youths, then rampaged through the town, destroying homes, shops, and vehicles, and killing one non-indigenous resident; seven persons were injured. No action was taken against the perpetrators at year's end.

Between April 29 and May 2, violent clashes in and around Duekoue, in the western region, between ethnic Guere and Dioula left approximately 30 dead. Clashes in June resulted in 9 more deaths, numerous injuries, and the displacement of more than 10 thousand persons, who took shelter in a Catholic mission. On July 7, the FANCI chief of staff installed a military governor and military prefects in the Moyen-Cavally region to reinforce security.

Incitement to Acts of Discrimination.—Progovernment newspapers and militias, often led by Charles Ble Goude of the Young Patriots, continued to promote hatred against northerners, loosely described as "assailants", the French, and foreigners, especially those from Mali and Burkina Faso.

Section 6. Worker Rights

a. The Right of Association.—The law allows all citizens, except members of the police and military services, to form or join unions of their choice without excessive requirements, and workers exercised these rights in practice. Registration of a new union required three months and was granted routinely.

Only a small percentage of the workforce was organized, and most laborers worked in the informal sector that included small farms, small roadside and street side shops, and urban workshops. However, large industrial farms and some trades were organized. There was an agricultural workers union.

The law does not prohibit antiunion discrimination by employer or others against union members and organizers.

b. The Right to Organize and Bargain Collectively.—The law allows unions in the formal sector (approximately 1.5 million workers or 15 percent of the workforce) to conduct their activities without interference, and the government protected this right in practice. The law provides for collective bargaining and grants all citizens, except members of the police and military services, the right to bargain collectively. Collective bargaining agreements were in effect in many major business enterprises and sectors of the civil service. The law provides for the right to strike, and workers generally exercised this right in practice. However, the law requires a protracted series of negotiations and a six-day notification period before a strike may take place, making legal strikes difficult to organize. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. The government made efforts to enforce the law. However, there were reports such practices occurred (see section 5).

Compulsory labor by children occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—There were laws against forced labor and the exploitation of children in the work place; however, child labor remained a problem. In most instances, the legal minimum working age is 14; however, the Ministry of Employment and Civil Service enforced this provision effectively only in the civil service and in large multinational companies.

Labor law limits the hours of young workers, defined as those under 18. However, children often worked on family farms, and some children routinely acted as vendors, shoe shiners, errand boys, domestic helpers, street restaurant vendors, and car watchers and washers in the informal sector in cities. Some girls began work as domestic workers as early as nine years of age, often within their extended family. There were reliable reports of children laboring in "sweatshop" conditions in small workshops. Children also worked in family operated artisanal gold and diamond mines.

According to a 2003 study, 28 percent of all children worked, with 20 percent working full time. About 23 percent of the children ages 10 to 14 and 55 percent of the children ages 5 to 17 carried out an "economic activity." According to a 2002 study, approximately 109 thousand child laborers worked in hazardous conditions on cocoa farms in what has been described as the worst forms of child labor (see section 5); some of these children were forced or indentured workers but 70 percent worked on family farms or with their parents.

The government continued its 2004 pilot program to certify that cocoa was produced free of child labor and that children in cocoa producing areas attended school. The Cocoa Task Force also continued its work in conjunction with the Chocolate Manufacturers Association to develop a list of benchmarks and deadlines to be achieved by 2008.

The Association of Domestic Worker Placement in Cote d'Ivoire worked to prevent the exploitation of children in domestic work. Other NGOs campaigned against child trafficking, child labor, and sexual abuse of children.

The National Management Committee for the International Program for the Elimination of Child Labor of the International Bureau of Labor was created in 2004 and spearheaded national efforts to fight child labor.

e. Acceptable Conditions of Work.—Minimum wages varied according to occupation, with the lowest set at approximately $73 (36,607 CFA francs) per month for the industrial sector; this wage did not provide a decent standard of living for a worker and family. A slightly higher minimum wage rate applied for construction workers. The government enforced the minimum wage rates only for salaried workers employed by the government or registered with the social security office.

Labor federations attempted to fight for just treatment under the law for workers when companies failed to meet minimum salary requirements or discriminated between classes of workers, such as local and foreign workers. For example, the sanitary services company ASH continued to pay wages as low as $23 (12 thousand CFA francs) a month to female employees who swept the streets of Abidjan. According to their labor federation, labor inspectors continued to ignore this violation of the law. The shipbuilding company Carena continued to discriminate between European engineers who were paid on average $15,600 (8 million CFA francs) a month and their African colleagues who received approximately $1,500 (800 thousand CFA francs) a month. Government labor and employment authorities did not take action in these cases.

The standard legal workweek was 40 hours. The law requires overtime pay for additional hours and provides for at least one 24-hour rest period per week. The law did not prohibit compulsory overtime. The government enforced the law in the formal sector only.

The law provides for occupational safety and health standards in the formal sector; however, in the large informal sector of the economy, the government enforced occupational health and safety regulations erratically, if at all. Labor inspectors frequently accepted bribes. Workers in the formal sector had the right to remove themselves from dangerous work without jeopardy to continued employment by utilizing the Ministry of Labor's inspection system to document dangerous working conditions. However, workers in the informal sector ordinarily could not absent themselves from such labor without risking the loss of their employment.

Several million foreign workers, mostly from neighboring countries, typically worked in the informal labor sector, where labor laws did not apply.

DJIBOUTI

Djibouti is a republic with a strong presidency and a weak legislature. It has an estimated population of 660 thousand. On April 8, President Ismail Omar Guelleh, candidate of the ruling People's Rally for Progress (RPP), won reelection; Guelleh ran unopposed amid an opposition boycott. International observers considered the election generally free and fair. The civilian authorities generally maintained control of the security forces.

The government's human rights record remained poor, and it continued to commit serious abuses; however, the government made improvements in some areas. The following human rights problems were reported:

- abridgement of citizens' rights to change their government
- abuse of prisoners and detainees
- harsh prison conditions
- official impunity
- arbitrary arrest and detention and prolonged pretrial detention
- interference with privacy rights
- restrictions on freedoms of press, assembly, and association
- use of force to disperse demonstrators and strikers
- violence and discrimination against women
- female genital mutilation (FGM)
- discrimination on the basis of ethnicity, nationality, and clan background
- restrictions on unions and harassment of union leaders

The government took steps during the year to improve human rights, including the suspension and arrest of allegedly corrupt public officials and the ratification of the Maputo Protocol outlawing FGM.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, police forcibly dispersed several demonstrations, which resulted in injuries and deaths (see section 2.b.).

The soldier responsible for killing a four-year-old child in a March 2004 automobile accident paid reparations to the child's parents during the year.

There were no developments in the July 2004 case in which four members of the gendarmerie reportedly severely beat a military pensioner, who subsequently died from his injuries. The chief of the gendarmerie refused to conduct an investigation or allow the accused to appear in court.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there continued to be reports that police and gendarmes beat and physically abused prisoners and detainees.

In March police arrested and reportedly beat Warris Mouhoumed, a businesswoman who refused police orders to close her restaurant during the two-week election campaign. Police charged that patrons of her restaurant, a gathering place for members of the opposition, insulted and threatened passersby. Mouhoumed was released the following day, and her restaurant remained closed for two weeks.

Police beat protesters while dispersing a demonstration during the year (see section 2.b.).

No action was taken against the two police officers responsible for the April 2004 assault on and arrest of opposition figure Mohamed Darar Waberi.

Members of police vice squads targeted prostitutes on the streets and reportedly raped them as a precondition for their release.

Prison and Detention Center Conditions.—Prison conditions were harsh, and overcrowding was a serious problem. Conditions at Nagad detention center, where foreigners were held prior to deportation, were unsanitary, and detainees often were not fed for several days before their deportation. Medical care was inadequate, and several prisoners reportedly suffered from untreated illnesses or injuries received during arrest.

In principle juveniles were held separately from adult prisoners; however, this was not always the case. Children under the age of five sometimes were allowed to stay with their mothers. Pretrial detainees usually were not held separately from convicted prisoners due to the lack of facilities.

The government granted prison access to the International Committee of the Red Cross for annual inspections.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government did not respect these prohibitions.

Role of the Police and Security Apparatus.—Security forces include the National Police Force (FNP), under the Ministry of Interior, the army and Gendarmerie Nationale, under the Ministry of Defense, and an elite Republican Guard, under the

presidency. The FNP is responsible for internal security, border control, and prisons. The Gendarmerie Nationale is responsible for external security but also has some domestic security responsibilities. The Republican Guard is responsible for the protection of the president.

Police were generally effective; however, there were reports of corruption, particularly in the lower ranks, where wages were low. Official impunity was a problem.

Arrest and Detention.—The law requires arrest warrants and stipulates that the government may not detain a person beyond 48 hours without an examining magistrate's formal charge; however, the law was not always enforced in practice. Detainees may be held another 24 hours with the prior approval of the public prosecutor. All persons, including those accused of political or national security offenses, must be tried within eight months of arraignment. The law also provides for bail and expeditious trial; however, police occasionally disregarded these procedures. Detainees have the right to prompt access to an attorney of their choice; in criminal cases, the state provides attorneys for detainees without legal representation.

Security forces arbitrarily arrested and detained numerous persons, some of whom were beaten (see section 1.c.). Security forces also arrested demonstrators and strikers during the year (see sections 2.b. and 6.b.).

Unlike in the previous year, there were no reports of persons having to pay bribes to be released during roundups of illegal foreigners.

On March 19, Houssein Robleh Darar, Awad Robleh Waiss, and Abdi Osman Nour, members of the opposition Djiboutian Union for Justice, were arrested and detained for being "threats to the population" and for "degradation of the wellbeing of others and violence." The government claimed the arrests were to prevent the three men from carrying out threats to plant bombs and destroy property; however, opposition journals claimed the three were arrested because of their opposition to the government. In August the court dismissed all charges against the men, who were subsequently released from Gabode Prison.

There were no other reports of political detainees at year's end.

Lengthy pretrial detention was a problem; however, no statistics were available.

Amnesty.—On June 27, the government released or reduced sentences of prisoners as part of an Independence Day amnesty. Prisoners serving one year or less were released; prisoners with longer terms received reductions in their sentences. The amnesty excluded drug dealers, those held for misuse of public funds, those that committed violence against their families, and rapists.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, in practice the judiciary was not independent of the executive. Constitutional provisions for a fair trial were not universally respected, even in nonpolitical cases. The judiciary was subject to inefficiency and corruption.

The judiciary, based on the French Napoleonic code, was composed of a lower court, an appeals court, and a Supreme Court. The Supreme Court may overrule lower court decisions. Magistrates are appointed for life terms. The constitutional council rules on the constitutionality of laws, including those related to the protection of human rights and civil liberties; however, its rulings did not always protect these rights.

The legal system is based on legislation and executive decrees, French codified law adopted at independence, Islamic law (*Shari'a*), and nomadic traditions. Urban crime was dealt with in the regular courts in accordance with French-inspired law and judicial practice. Civil actions may be brought in regular or traditional courts. In 2004 the government published and began implementing the 2002 Family Code, which replaces *Shari'a* in governing the majority of laws pertaining to family and personal matters, including marriage, divorce, child custody, and inheritance matters. Issues that fall under the Family Code are brought to civil court, and both parties can present their case to a judge; the court then tries to reach a reconciliation agreement between the two parties. If no solution can be found, the judge decides the case based on the appropriate statutes in the Family Code.

Trial Procedures.—Trials generally were public, except in politically sensitive cases when security measures effectively prevented public access. Legal counsel was supposed to be available to the indigent in criminal and civil matters, but defendants often did not have legal representation. The law states that the accused is innocent until proven guilty; however, defendants were not always presumed innocent. A presiding judge and two accompanying judges heard court cases. The latter received assistance from two lay assessors who were not members of the bench but who were considered to possess sufficient legal knowledge to comprehend court proceedings. The government chose lay assessors from the public, but reports indicated that political and ethnic affiliations played a role in the selection.

Traditional law often applied in conflict resolution and victim compensation. For example, traditional law often stipulated that a blood price be paid to the victim's clan for crimes such as murder and rape.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government did not respect these prohibitions in practice. The law requires that authorities obtain a warrant before conducting searches on private property, but in practice the government did not always obtain such warrants. The government reportedly monitored and sometimes disrupted the communications of government opponents by cutting their telephone or electricity service. Police reportedly frequently followed persons who attended opposition rallies.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government restricted these rights in practice. The government intimidated journalists into practicing self-censorship.

The law prohibits the dissemination of false information and regulates the publication of newspapers. The government owned the principal newspaper, *La Nation*, which published three times a week. In addition, each registered political party is permitted to publish a public journal. There were several opposition-run weekly and monthly publications that circulated freely and openly criticized the government.

The government also owned the radio and television stations. The official media generally did not criticize government leaders and government policy. Radio-Television Djibouti, the official government station, broadcast 24 hours a day in four languages on the radio. Foreign media also broadcast throughout the country.

The government used several tactics to intimidate journalists, including surveillance and the removal from newsstands of publications that criticized the government; however, unlike in previous years, no publications were closed.

Unlike in the previous year, no persons were arrested for libel, nor were any journalists detained.

There were no government restrictions on the Internet.

The government generally did not restrict academic freedom, and teachers could speak and conduct research without restriction, provided that they did not violate sedition laws. However, the government continued to block the salaries of teachers involved in strike activity (see section 6.b.).

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of assembly, the government limited this right in practice. The Ministry of Interior requires permits for peaceful assembly and monitors opposition activities. Some opposition leaders effectively practiced self-censorship and refrained from organizing popular demonstrations to avoid provoking a government crackdown.

Police forcibly dispersed demonstrations during the year, which resulted in one death and several injuries. For example, on April 8, police fired tear gas into a crowd of demonstrators assembled in front of opposition headquarters, resulting in injuries; several persons were briefly detained. Police, who denied there were any injuries, charged that the protesters had not received permission and that only those refusing to disperse were arrested.

On October 24, police fired shots into a violent crowd of approximately 300 protestors after the demonstrators dragged several police officers into the crowd; one demonstrator was killed, and another was seriously injured. Seven police officers were injured from rocks thrown by the crowd. An investigation into the incident was ongoing at year's end.

On November 30, the last day of a weeklong operation to remove illegal housing in the Arhiba II neighborhood of Djibouti, police fired on residents protesting the removal of their homes; 4 persons were killed, and approximately 10 were injured. According to the Interior Ministry, 15 police officers also were injured during the confrontation.

Police forcibly dispersed violent labor demonstrations during the year (see section 6.b.).

Freedom of Association.—The law provides for freedom of association provided that certain legal requirements are met; however, the government restricted this right in practice. The government required political parties and nonpolitical associations to register. The government continued to harass and intimidate members of opposition groups (see section 1.f.).

c. Freedom of Religion.—The constitution, while declaring Islam to be the state religion, provides for freedom of religion, and the government generally respected

this right in practice. The government did not sanction those who ignored Islamic teachings or practiced other faiths. More than 99 percent of the population was Sunni Muslim.

The government requires that religious groups register. Unlike in previous years, there were no reports that Baha'i groups were denied the right to register; however, they did not attempt to register during the year because they believed the government would not allow their registration.

There is no legal prohibition against proselytizing; however, it was discouraged.

Societal Abuses and Discrimination.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government at times limited them in practice.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared protection. However, there were unconfirmed reports during the year of the forced return of persons to a country where they feared persecution, specifically Ethiopia and Eritrea. The government did not routinely grant refugee or asylum status, and the government did not accept refugees for resettlement during the year. The government cooperated with the UN High Commissioner for Refugees (UNHCR) in providing assistance to refugees and asylum seekers.

On June 9, three Ethiopian Air Force personnel landed an Ethiopian military helicopter at Ambouli International Airport; two of the three reportedly requested asylum. The government contacted the Ethiopian military, which sent a delegation that met with the three and reportedly convinced them to return to Ethiopia the following day. On June 15, Amnesty International and the UNHCR, which were not granted access to the men, issued a press release noting that the crewmembers could face treason charges and the death penalty upon their return to Ethiopia. No information on the treatment of the crewmembers upon arrival in Ethiopia was available. At year's end family members told the local press that the pilots were being held incommunicado at an airforce base.

In June 2004 the government processed approximately eight thousand requests for asylum from undocumented foreigners who claimed fear of persecution during the 2003 mass expulsion of illegal immigrants. The government granted prima facie refugee status (temporary refugee status which can be revoked once a case is investigated) to more than 4 thousand southern Somalis and 100 Ethiopians, all of whom were transferred to either Ali-Adde or Hol-Hol refugee camps.

Unlike in the previous year, there were no reports of the rape of refugee women.

During the year the government continued to round up and deport undocumented foreigners—primarily from Ethiopia, Somalia, and Yemen; there were no reports of abuses during these roundups. In 2003 more than 80 thousand undocumented foreigners were forced to leave the country, and there were numerous reports of deaths resulting from exposure and overcrowding.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government; however, the government limited this right in practice.

Elections and Political Participation.—On April 8, President Guelleh of the RPP, which has ruled the country since independence, won reelection with 95 percent of the vote; Guelleh ran unopposed. The opposition boycotted the election, charging that the government ignored its demands for electoral reform. International observers considered the election generally free and fair; however, there were irregularities, including double voting, the presence of campaigners in and around polling stations, and the absence of blank ballots for those who did not want to vote for President Guelleh.

There were 7 women in the 65-seat legislature; these seats were reserved for women by presidential decree. The country's first female parliament members took office when the Union for the Presidential Majority (UMP) legislature convened in 2003. In July the Ministry of Foreign Affairs promoted Hawa Ahmed Youssouf to minister of international cooperation. Aicha Mohamed Robleh replaced Youssouf as

minister of state for the promotion of women, family, and social affairs. Khadija Abeba is president of the Supreme Court and the highest-ranking female official.

There were 9 members of minorities—non-Issa Somali clans (Issaks, Gadaboursis, and Darood) and Arabs—in the 65-seat legislature. There were 3 members of minorities in the 20-seat cabinet. The president's subclan, the Issa Mamassans, wielded disproportionate power in affairs of state. Afars held a number of senior ministerial posts, but they were not well represented at lower levels. Somali clans other than the Issa, and citizens of Yemeni origin, were limited unofficially to one ministerial post each. There also were informal limits on the number of seats for each group to preserve balance in the parliament.

Government Corruption and Transparency.—During the year the government took significant steps to combat corruption, which was a problem. In July the Ministry of Finance arrested two officials suspected of corruption and suspended several others while their cases were under investigation. The two officials who were arrested remained in Gabode Prison awaiting trial at year's end. The director of Gabode Prison also was arrested for alleged corruption and was awaiting trial in the prison he directed at year's end.

There were no laws to provide public access to government information, and it was unclear whether persons would be granted such access if they asked. During the year the Chamber of Public Accounts and Fiscal Discipline, a public expenditures audit board established to fight corruption and promote transparency, released the results of its second annual report on government expenditures to the public.

Section 4. Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A few domestic human rights groups generally operated without serious government restriction, conducting limited investigations and sometimes publishing their findings on human rights cases. Government officials generally disregarded their views. The local human rights group LDDH operated without government interference during the year. The Union of Djiboutian Women and the Djiboutian Association for the Promotion of the Family promoted the rights of women and children.

The International Committee of the Red Cross (ICRC) maintained a small office that was staffed with locally hired personnel. The ICRC regional representative, who was based in Nairobi, visited the country during the year.

There was a government ombudsman, who also served as a legislator in the parliament and whose specific responsibilities included mediation between governmental and nongovernmental organizations (NGOs). According to the 2004 ombudsman report, however, less than half the cases submitted were successfully mediated.

In May 2004 the government held a national forum on human rights to solicit public views and discuss possible human rights legislation; however, the results of the forum had not been released by year's end.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of language, race, or sex; however, discrimination against women and ethnic minorities persisted. The government's enforcement of laws to protect women and children was ineffective.

Women.—Domestic violence against women existed, but few cases were reported. The law prohibits "torture and barbaric acts against a spouse," which are punishable by 20 years' imprisonment. Violence against women generally was addressed within the family or clan structure rather than in the courts. Police rarely intervened in domestic violence incidents, and the media reported only the most extreme examples, such as murder. The law includes sentences of up to 20 years' imprisonment for rapists. The number of such cases prosecuted during the year was unknown. There is no law against spousal rape.

An estimated 98 percent of females in the country have undergone FGM, which traditionally was performed on girls between the ages of 7 and 10. The efforts of the Union of Djiboutian Women and other groups to educate women against the practice were having some effect in the capital city; however, infibulation, the most extreme form of FGM, continued to be widely practiced in rural areas. The law states that "violence causing genital mutilation" is punishable by 5 years' imprisonment and a fine of more than $5,650 (1 million DF); the government had not yet convicted anyone under this statute.

During the year the government launched a campaign against FGM, which culminated with the country's ratification of the Maputo Protocol outlawing FGM. The government also hosted a February subregional conference to address Islam's position regarding FGM, and government representatives from 10 African countries and high-ranking Islamic authorities from throughout the region attended. In a written statement distributed to conference participants, President Guelleh called for an end

to FGM, noting, "We no longer want it practiced by Arabs, nor by Somalis, nor by Afars, nor in any other form . . . no female circumcision is justifiable."

Prostitution is illegal, but it was a significant problem. In general there were two categories of prostitutes: those with apartments and those on the streets. The first group was largely tolerated and catered to the foreign (particularly military) community, while police usually targeted those on the streets. Refugees and girls from poor families were at greater risk of becoming street prostitutes.

The law does not prohibit sexual harassment, and it was a problem.

Women legally possess full civil rights; however, custom and traditional societal discrimination in education have resulted in a secondary role for women in public life and fewer employment opportunities. Women largely were confined to trade and secretarial fields. In 2004 the government published and began implementing the 2002 Family Code, which replaces Shari'a in governing the majority of laws pertaining to family and personal matters (see section 1.e.). Male children inherited larger percentages of estates than did female children. The few women who were educated increasingly turned to the regular courts to defend their interests.

Children.—The government devoted almost no public funds to the advancement of children's rights and welfare. A few charitable organizations worked with children.

Primary education was compulsory; however, the government did not monitor compliance. The highest level of education reached by most students was completion of primary school. The government provided tuition-free public education, but extra expenses, such as transportation, book fees, and chalk, could be prohibitive to poorer families. School facilities continued to be inadequate. Teacher salaries continued to be in arrears, and a large percentage of highly qualified teachers have left the profession (see section 6.e.). Approximately 20 percent of children who started secondary school completed their education.

The educational system did not discriminate against girls, but societal attitudes resulted in differences in the attendance and treatment of girls in school. According to the Ministry of Education, 50 percent of girls were enrolled in primary school during the year, compared with 60 percent of boys; during the previous year primary school enrollment rates were 42 percent for girls and 58 percent for boys. In rural areas, limited access to schools, a shortage of educational materials, and cultural attitudes led to significantly lower enrollment and greater disparities in enrollment between boys and girls.

Child abuse existed; however, the government has not used existing provisions of the law to deal seriously with child abuse, and punishments generally were light. For example, perpetrators of rape or abuse generally were fined an amount sufficient to cover the child's medical care.

FGM was performed on as many as 98 percent of young girls (see section 5, Women).

Child marriage occurred in rural areas and among some tribal groups; however, it was not considered a significant problem. The government worked together with several NGOs to increase school enrollment for girls, in part to reduce the likelihood that parents would force their young girls into marriage. The Ministry for the Promotion of Women, Family, and Social Affairs also worked actively with women's groups throughout the country to protect the rights of girls, including the right to decide when and whom to marry.

Child prostitution existed. Some children that immigrated to the country for economic reasons engaged in prostitution to survive. There was no known system of organized pimps who exploited children; however, older children sometimes acted as "protectors" and took a portion of other children's earnings as a fee.

Child labor existed (see section 6.d.).

Trafficking in Persons.—The law does not prohibit trafficking in persons. Although there were no known reports of persons being trafficked to, from, or within the country, observers believed the country to be a destination for individuals trafficked from Ethiopia and Somalia and a country of transit to the Middle East. Trafficking could be prosecuted under various sections of the law, including "exploitation of the weakness or ignorance of persons" or "exerting pressure on a person so that the person engages in prostitution." On February 8, the government ratified the UN Convention Against Corruption and the UN Convention Against Transnational Organized Crime, including antitrafficking protocols.

Persons with Disabilities.—Although persons with disabilities have access to education and public health facilities, there is no specific law that addresses the needs of persons with disabilities, and there are no laws or regulations that prevent job discrimination against persons with disabilities. There was societal discrimination

against persons with disabilities. The government did not mandate accessibility to buildings or government services for persons with disabilities.

National/Racial/Ethnic Minorities.—The government continued to discriminate against citizens on the basis of ethnicity in employment and job advancement. Somali Issas were the majority ethnic group and controlled the ruling party, the civil and security services, and the military forces. Discrimination based on ethnicity and clan affiliation limited the role of members of minority groups and clans in government and politics.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to join unions; however, the government restricted these rights. Under the labor code, a union must have government sanction to exist. The government continued to suppress independent, representative unions by firing their leaders, preventing them from holding congresses, and creating government-sponsored shadow unions to replace them.

The law prohibits antiunion discrimination, and employers found guilty of discrimination were required to reinstate workers fired for union activities; however, the government neither enforced nor complied with the law.

b. The Right to Organize and Bargain Collectively.—Although the law allows unions to conduct their activities without interference, the government did not protect this right in practice. Collective bargaining did not occur.

There were no special laws or exemptions from regular labor laws in the export processing zone.

Relations between employers and workers were informal and paternalistic. The government could and did select labor representatives. Employers generally established wage rates based on labor ministry guidelines. In disputes over wages or health and safety problems, the Ministry of Labor encouraged direct resolution by labor representatives and employers. Workers or employers may request formal administrative hearings before the ministry's inspection service. Critics claimed that inspection and dispute settlement suffered from poor enforcement due to their low priority and inadequate funding.

The law provides for the right to strike and requires representatives of employees who plan to strike to notify the Ministry of Interior 48 hours in advance; workers exercised this right in practice.

The law confers upon the president broad powers to requisition public servants who are considered indispensable to the operation of essential public services.

During the year the government retaliated against strikers. For example, on May 17, opposition publications reported that Hassan Cher Hared, a postal service agent and vice president of the Djiboutian Workers' Union, was suspended for eight days and subsequently dismissed from the postal service for "recidivism." Hared had criticized postal service management during a May 1 demonstration to celebrate International Labor Day. Postal service management claimed the dismissal resulted from Hared's failure to return to work after his suspension; however, some observers charged that the dismissal resulted from Hared's union activities.

After the September 14 port strikes, the Direction of the Port of Djibouti (the direction) dismissed 11 members of the Port Workers Union (UTP) for failing to properly follow regulations for declaring a strike and arrested them for "public disturbance" and "incitement to rebellion." On October 2, the National Prosecutor found the 11 not guilty and released them. On September 15, the direction dismissed 25 union members, allegedly for poor work records prior to the September 14 strike. On September 24, after a breakdown in mediation, the direction detained 167 strikers for 48 hours.

The government continued to block the salary of Kamil Hassan, a schoolteacher who led a teacher's strike in 1997; however, Hassan was allowed to return to teaching during the year.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits all labor by children under the age of 14, but the government did not always enforce this prohibition effectively, and child labor, although not common, existed. Children generally were not employed in hazardous work but worked in family-owned businesses, such as restaurants and small shops, at all hours of the day and night. A shortage of labor inspectors reduced the likelihood that reports of child labor would be investigated.

e. Acceptable Conditions of Work.—Only a small minority of the population was engaged in wage employment. The government administratively sets minimum

wage rates according to occupational categories, and the Ministry of Labor is charged with enforcement. The monthly wage rate for unskilled labor, set in 1976, was approximately $125 (22 thousand DF); however, it was not enforced in practice. The national minimum wage did not provide a decent standard of living for a worker and family. The government still owed three months of salary arrears from 1995 and 1997 to teachers, security forces, and civil servants.

By law, the workweek was 40 hours, normally spread over 6 days. The law mandates a weekly rest period of 24 consecutive hours and the provision of overtime pay. The Ministry of Labor is responsible for enforcing occupational health and safety standards, wages, and work hours. Because enforcement was ineffective, workers sometimes faced hazardous working conditions. Workers rarely protested, mainly due to fear that others willing to accept the risks would replace them. There were no laws or regulations permitting workers to refuse to carry out dangerous work assignments without jeopardizing their continued employment.

Only legal foreign workers were protected under the law.

EQUATORIAL GUINEA [1]

Equatorial Guinea, with an estimated population of 500 thousand, is nominally a multiparty constitutional republic. In practice the party founded by President Teodoro Obiang Nguema Mbasogo (Partido Democratico de Guinea Ecuatorial) and his Fang ethnic group, which has ruled since the country's independence in 1968, dominated the government. The 2002 presidential election was marred by extensive fraud and intimidation. The international community widely criticized the 2004 parliamentary elections as seriously flawed. While civilian authorities generally maintained effective control of the security forces, there were some instances in which security forces acted independently of government authority.

The government's human rights record remained poor, and the government continued to commit or condone serious abuses. The following human rights problems were reported:

- abridgement of citizens' right to change their government
- security force torture, beating, and other physical abuse of prisoners and detainees
- harsh and life-threatening prison conditions
- impunity
- arbitrary arrest, detention, and incommunicado detention
- harassment, detention, and deportation of foreign residents
- judicial corruption and lack of due process
- restrictions on the right of privacy
- severe restrictions on freedom of speech and of the press
- restrictions on the rights of assembly, association, and movement
- government corruption
- restrictions on human rights nongovernmental organizations (NGOs)
- violence and discrimination against women
- trafficking in persons
- discrimination against ethnic minorities and HIV/AIDS victims
- restrictions on labor rights
- forced labor
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Based on available information, the government or its agents did not commit politically motivated killings; however, security forces reportedly killed several persons through abuse and excessive force.

[1] The American Embassy in Malabo was reopened in October 2003 and was staffed during the year by one officer; this officer was assisted by other Embassy officials who were resident in Cameroon, which limited the ability to gather information. An increase in international media coverage of Equatorial Guinea during the year facilitated the preparation of this report.

The link between the June shooting in Spain of Manuel Moto Tomo, brother of exiled activist German Pedro Tomo Mangue (who reportedly was the target), and the shooting of the manager for a business in which the Minister of National Security is the major shareholder is being investigated by Spanish authorities. There were continuing reports of government figures hiring persons in foreign countries to intimidate, threaten, and even assassinate citizens in exile, including Severo Moto.

There were no developments, nor were any expected, in the alleged torture case of German citizen Gerhard Eugen Nershz, who was arrested in March 2004 on accusations of plotting a coup and died in Black Beach Prison in Malabo.

No action was taken, nor was any expected to be taken, against soldiers responsible for the May 2004 killings of between 12 and 16 persons suspected to be plotting a coup attempt.

There was no action taken, nor was any expected, against border guards responsible for the July 2003 killing of a Spanish aid worker in Bata.

The government did not prosecute any members of the security forces considered responsible for unlawful killings in previous years, nor was it likely to do so.

b. Disappearance.—There were reports of politically motivated kidnappings. For example, in August two political refugees were reportedly kidnapped at night from their home in Libreville, Gabon. Their kidnappers drove them to the Equatorial Guinean Embassy, where the two refugees escaped to the UN High Commission for Refugees (UNHCR) with the help of local Gabonese. In 2004 the government had accused some of its citizens living in Gabon of attacking the island of Corisco.

In September Amnesty International (AI) reported that navy Commandant Juan Ondo Abaga, former Lieutenant Colonel Florencio Ela Bibang, Felipe Esono Ntumu "Pancho," and Antimo Edu had all disappeared. Abaga, a refugee resident in Benin, allegedly was abducted from Benin by Equatorial Guinean security personnel in January and taken to Black Beach Prison where he allegedly was tortured. Bibang and Ntumu had fled the country in October 2004 and were arrested in Lagos, Nigeria in April along with Edu and held incommunicado, first at the Nigerian Army Intelligence Authority in Lagos and subsequently in the Nigerian State Security Services in Abuja. In July security personnel from the country, with the participation of Nigerian security personnel, reportedly abducted them, transported them to Malabo, and imprisoned them at Black Beach Prison, where they were reportedly severely tortured. When asked about their status, the government claimed to have no record. Reportedly they were being held in an old section of Black Beach prison.

In a May press report, exiled opposition leader Severo Moto claimed the government attempted to kidnap and assassinate him; the government denied the charge. A UN IRIN (press agency) report confirmed that Severo Moto had accused the government of hiring hit men to kill him while in Croatia. A member of the opposition told IRIN that Moto denied earlier reports that Spanish officials were behind the plot to kill him. Spain, where he had been living in exile, rescinded his political refugee status during the year, for what they considered activities incompatible with his status as a political refugee. Others criticized this as a Spanish bid to normalize relations with Equatorial Guinea. Severo Moto had been convicted by the country's courts three times in *absentia* of attempting to overthrow the government. He was most recently sentenced to 63 years in prison in November 2004.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law does not specifically prohibit such practices, and although the law mandates respect for the liberty and dignity of persons and adherence to the Universal Declaration on Human Rights, members of the security forces tortured, beat, and otherwise abused suspects, prisoners, and opposition politicians. In September AI reported that torture was widespread in the country's places of detention and during the course of trials. In 2004 senior government officials told foreign diplomats that human rights did not apply to criminals and that torture of known criminals was not a human rights abuse. No action has been taken, or is expected to be taken against security forces responsible for torture.

Unlike in the previous year, there were no reports that prisoners died from torture; however, there were reports that officials tortured political opposition activists and other persons during the year. For example, on May 8, a group of 15 members of the opposition party Convergence for Social Democracy (CPDS) were violently attacked at the Malabo airport. When the group was passing through the police checkpoint to enter the departure hall, policemen asked the group for interior ministry authorization as a condition of travel. Policemen then violently attacked the young people and those accompanying them, hitting them with the butts of their handguns, causing substantial injury to several of them, and leaving some girls in the group undressed in public. At least 10 were detained on police premises, including

one who suffered serious injuries and was given no medical treatment. They were released one week later.

About 70 people charged with offenses related to an alleged coup attempt in October 2004 reportedly were tortured before and during their questionable secret military trial in September. The group consisted of former military officers and relatives of the alleged leader of the attempted coup. Most of the defendants were held incommunicado in Bata Prison since their arrests in October and November 2004. All but two of the defendants reportedly stated in court that they had been tortured in detention and some reportedly still bore visible marks. One man apparently had to be carried in and out of court as he was still unable to walk. One woman reportedly suffered from vaginal bleeding as a result of torture. AI reported that statements were extracted by torture during incommunicado detention at Bata Prison and used as evidence (see section 1.d.).

No action was taken, nor is any expected to be taken, against the responsible authorities for the following 2004 cases: the torture of five persons arrested on Corisco Island; the shooting of Popular Party (PP) leader, Marcelino Manuel Nguema Esono; the torture of Weja Chicampo; and the torture of Lieutenant Colonel Maximiliano Owono Nguema. Weja Chicampo, Marcelino Esono, and Maximiliano Nguema apparently remained in jail at year's end.

No action was taken against members of the security forces responsible for the 2003 of torture of opposition leader Felipe Ondo Obiang.

During the year local authorities singled out foreigners from neighboring countries for harassment, such as verbal intimidation and arbitrary arrest. Police routinely extorted money from citizens of Cameroon, Nigeria, Ghana, Togo, and Benin. In March 2004 following a coup attempt led by foreigners, the government increasingly and arbitrarily harassed, arrested, and deported foreigners of African nationalities. Police in Bata and Malabo often used excessive force, including beatings, and looted property during the arrests and deportations; in addition, some deportees said that police raped them. Reports of police harassment continued during the year. Foreigners from neighboring countries, South Americans, Asians, and Eastern Europeans traveling or working in the country were often stopped and asked to present their papers. This was reportedly done because the government believed there were many clandestine and illegal arrivals of potential terrorists and mercenaries. Many were asked to pay bribes (fines) while they waited for their residence documents. In some cases local authorities were relieved of their duties when these events came to international attention.

During the year security personnel continued to periodically harass oil company employees, primarily by delaying them at checkpoints and demanding small bribes.

Prison and Detention Center Conditions.—The conditions of jails and prisons in the country remained harsh and life threatening; inmates frequently were not provided with sufficient and consistent food, medical care, working toilets, drinkable water, or clean and healthful living space. Medical attention was often denied or unavailable to prisoners with gangrene, broken bones, infections, and potentially fatal but curable illnesses. There were credible reports that conditions at Black Beach Prison continued to improve, and some prisoners occupied a new building there with better facilities; however, there were also credible reports that prison authorities tortured prisoners (see section 1.c.). In March members of the opposition National Popular Union (NPU) reported that prison authorities of Black Beach Prison had toughened conditions by denying prisoners access to food brought to them by relatives. In April AI charged that Black Beach officials had stopped providing at least 70 prisoners with meals and blocked all contact with their families, lawyers, and consular officials, and were in danger of death due to starvation and torture. AI also reported that all prisoners were kept in their cells for 24 hours a day and that foreign detainees were held with their hands and legs cuffed at all times. President Obiang denied the allegations on national radio, claiming that the facility's prisoners were well treated, and invited AI to visit the prison. In June AI reported that the food situation had improved since the press release was issued. According to AI the prisoners' diet remained inadequate, but prison authorities had resumed daily rations of rice. AI did not state whether its representatives visited the prison to make this determination, but almost certainly they did not. Later reports indicated that food rations ran short during each month to the extent that the prison management again had to permit family members to bring food.

Some prisoners received some medical treatment, but this was irregular and undependable. Prisoners needing daily medication, such as diabetics, almost never received it. Only in those cases where family members had connections and provided the medication, or there was international attention regarding the case, did prisoners receive medications. Not even aspirin was stocked at the prisons, and there was no treatment for common but potentially fatal illnesses such as malaria.

Prison authorities and male prisoners sexually assaulted female prisoners. There were credible reports that police gang-raped female prisoners in Malabo. Prisoners were used habitually as labor and as workers on construction projects for certain officials, without pay or other compensation. There were unconfirmed reports that judges used prisoners as domestic workers.

Male and female prisoners were not held in separate facilities, nor were juveniles held separately from adult prisoners. Pretrial detainees were not held separately from convicted prisoners.

The International Committee of the Red Cross (ICRC) and some foreign diplomats visited detainees and prisoners at prisons and police stations multiple times during the year. The ICRC was allowed visits in accordance with its standard modalities—meetings with prisoners without third parties and regular, repeated visits. The ICRC made recommendations to the government but did not release them publicly.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, but the government did not enforce it. There were nominal legal procedural safeguards regarding the protection of citizens' rights, including provisions concerning detention and the requirement for search warrants; however, security forces systematically ignored these safeguards and continued to arrest and detain persons arbitrarily and with impunity. Security forces often detained individuals "on orders from superiors" without any further formality.

Role of the Police and Security Apparatus.—Responsibility for public security is divided between the police, who are primarily responsible for security in urban centers, and the gendarmes, who have responsibility for the areas outside the cities and for special events within cities. Both are under the control of the Ministry of National Security. Corruption was endemic within the security forces. Citizens who were not police officers were allowed to arrest persons suspected of being illegal residents, increasing the frequency of arbitrary arrests based on xenophobia. Members of the security forces were rarely held accountable for abuses; impunity for police officers and gendarmes was a serious problem. There are no mechanisms to investigate allegations of police abuse. The police are misused by other ministries to harass and threaten persons and to confiscate property, instead of those ministries pursuing proper legal recourse for supposed infractions.

The government frequently requested assistance for the retraining and to professionalize the police forces. One western country has reportedly been involved in that to a very limited extent. The government began limited workshops on human rights specifically for security personnel.

Arrest and Detention.—Arrests do not require warrants. Police can detain persons whom they arrest for up to five days before a judicial hearing. In practice the length of such detentions was usually much longer, even years. The law provides a person in detention with the right to a prompt judicial determination of the legality of the detention, but the authorities did not respect this right in practice. Defense lawyers did not receive full indictments against their clients. A request by the attorney Fabian Nsue to visit the eight South African mercenaries sentenced in November 2004 for conspiracy against the government was rejected in April by the Supreme Court. Detainees were not promptly informed of the charges against them. Four Nigerians connected with the coup attempt were held at Black Beach prison for several months without charges or trial and without their embassy being notified. There was no official bail system. Legal access depended on the nature of the crime and bribes, and there was no system to provide lawyers for the indigent. The South African prisoners from the 2004 coup attempt were not allowed to meet with their attorney until three days before the trial. Some limited visitation by family members was permitted at Black Beach prison, though it was periodically cut off during the year for unexplained reasons.

The lack of a published penal code allows for frequent abuses by security forces. Police routinely detained prisoners and held them incommunicado (see section 1.c.). Reliable files, including medical records, were not kept on those imprisoned.

The government did provide responses on the status of 39 persons previously detained for crimes against the state. Several of the persons had been detained for months or years without judicial proceedings. They were brought before a judge during the year for brief hearings and remanded back to prison for unspecified crimes against the state, rebellion, or terrorism, to be held in "preventive detention" until trial. In at least three cases, a previous judgment of completion of sentence was overruled by the government's Fiscal (attorney general) for unexplained reasons. For 20 persons the government said there was no information, although many sources have reported their detention.

The government used arrest, beatings, and other forms of harassment to intimidate opposition party officials and members.

Arbitrary arrest was a serious problem. Local authorities singled out foreigners from neighboring countries for arbitrary arrest, harassment, and deportation (see section 1.c.). On February 7, security officials detained 12 Cameroonian forestry workers, including 1 woman, as they were carrying out a routine operation to identify timber species in the forest bordering the two countries. The forestry workers were reportedly paraded nude through the town of Ebebiyin before being taken to Bata Prison, where they were molested and held in unsanitary conditions until May 10 (two of the hostages had escaped two weeks earlier.) Upon their release, the Cameroonian detainees were reported to be visibly emaciated and weak. In May the governor of the Littoral Province had a Cameroonian auto mechanic arrested and beaten in Bata over a petty commercial dispute involving the governor's automobile.

Security forces detained relatives of prisoners and criminal suspects in an attempt to force the prisoners or suspects to cooperate (see section 1.f.).

There were reports of political detainees. During the year authorities reportedly detained members of political opposition parties (see section 1.c.). Prominent members of the "illegal" opposition Republican Democratic Forces (FDR), the PP, and the NPU remain detained at Black Beach Prison for their political activities. It remained difficult to estimate the number of political detainees, although it was believed to be fewer than 100 persons. FDR leader Felipe Ondo Obiang, arrested in March 2002 in connection with an alleged coup plot, was reportedly tortured and remained in Evaniyong Prison at year's end. He was chained to the wall by his left leg, which became swollen, and was held in solitary confinement for several months. It was believed that the 30 other prisoners arrested along with Ondo Obiang, including FDR leader Guillermo Nguema Ela, remained in prison, despite having been granted partial amnesty. Access to political detainees was highly restricted. If international organizations were willing to apply for permission, the government would consider their requests on a case by case basis.

In 2004 police arrested Air Force Captain Felipe Obama. There were no reports that charges had been filed against him or that he had been released. Also in 2004 CPDS party member Pio Miguel Obama was arrested and held at the central Malabo police station. At year's end no charges had been filed, and according to opposition reports, he had not been released. According to the CPDS, in connection with the November 2004 arrest of 50 military officers, 100 additional persons were arrested in January. The government did not explain the reasons for the arrests. Although not clear, it appeared that these were the same individuals that were tried in a secret military court in September. All received long sentences and had no access to a defense attorney.

Pretrial detention was a problem. The majority of political detainees had not been charged, and their cases had not been heard in court. They may be held "pending completion of investigation" for an undefined amount of time. Persons often remained in detention at police stations awaiting hearings for longer than the five days prescribed by law because judges were absent from their posts.

Amnesty.—In June President Obiang pardoned the six Armenians convicted in the March 2004 attempted coup after intense lobbying by the Armenian government and others.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the government did not respect this provision in practice. Judges served at the pleasure of the president, and they were appointed, transferred, and dismissed for political reasons. Judicial corruption was widespread. The president criticized corruption at the end of the year, and indicated that an overhauling of the judicial system was imminent.

The court system is composed of lower provincial courts, two appeals courts, a military tribunal, and the Supreme Court. The president appoints members of the Supreme Court, who report to him and take their orders from him in practice. At least two military generals, neither of whom was a lawyer, served on the Supreme Court. The president was the most powerful influence on the judicial branch. The law provides for the Ministry of Justice to undertake periodic inspections and name judges. There were approximately 60 judges in the country, about 20 percent of whom were trained lawyers. Some judges were regularly absent from their posts, resulting in delays in judicial proceedings.

In December 2004 upon the recommendation of the president of the Supreme Court, President Obiang fired a Malabo court of first instance judge and two of his clerks for incompetence and inaction in cases on his docket. The parliament's complaints commission was a virtual judicial authority, although it had no formal legal jurisdiction. According to local media, the parliament's president acted as a court of last resort.

Tribal elders adjudicated civil claims and minor criminal matters in traditional courts in the countryside.

Trial Procedures.—Some trials are public, if the defendant is accused of a minor crime, but juries are not used. Defendants have the right to be present, but they rarely were able to consult with an attorney in a timely manner. An attorney was not provided at public expense if defendants face serious criminal charges. By law defendants could confront or question witnesses against them or present witnesses and evidence on their behalf, but in practice this was rarely done. Defendants and their attorneys have limited access to government-held evidence relevant to their cases. By law defendants enjoy a presumption of innocence; and they have a right of appeal. Civil cases rarely came to public trial.

The code of military justice permits persons who disobey a military authority to be tried in a military tribunal even if they are not military personnel. Cases involving national security were tried by a military tribunal. Cases that essentially were political in nature frequently were referred to military courts, even when the defendants were civilians and the charges were not related to the military. Some defendants were tried without being present. The defense attorneys sometimes did not receive full indictments and only received their client's statements. The defense did not always have the right to cross-examine the accusers. Military courts did not provide due process or other procedural safeguards, and the proceedings were not public.

In July the Bar Association of Equatorial Guinea suspended the lawyer Fabian Nsue Nguema from practice for one year, along with a colleague from his law firm, after he defended South African mercenaries involved in a March 2004 coup attempt. Nsue Nguema received no prior notice of any allegations against him, nor was he given the opportunity to defend himself against any allegations. The International Bar Association (IBA) reported that the decision to disbar the attorneys was made in collaboration with the government. The IBA sent an observer to the November 2004 trials of alleged coup plotters and mercenaries. Their assessment was that the trial "fell far short of international fair trail standards." According to the IBA, the court refused to take into consideration allegations of torture by the defendants and their lawyers. The government failed to notify defendants of the charges against them during the pretrial period, and then denied them access to legal counsel until three days before the trial began. The prosecution did not present any evidence to substantiate the charges other than statements made by the defendants, later said to have been obtained under duress.

Political Prisoners.—The government continued to hold political prisoners, and it was estimated that there were fewer than 100 by year's end. These prisoners were all members of opposition parties or persons the government accused of involvement in coup attempts. During the year the ICRC and some foreign diplomats were permitted to visit them.

AI reported that the secret September trial of about 70 military officers, former military officers, and relatives of the alleged leader of the October 2004 attempted coup did not conform to international law standards of fair trials. A military court in Bata sentenced 22 men and a woman to lengthy prison terms. At least six persons were tried without being present, in contravention of national law. In all cases the defense lawyers did not have access to government-held evidence and only had their clients' statements. Defense attorneys' requests to cross-examine accusers were denied. Those convicted had no right of appeal. Allegations of torture in the course of the trial were ignored and no investigation into the allegations was conducted (see section 1.c.). Nine persons, including those tried without being present, were sentenced to 30 years in prison on the charges of undermining the security of the state and attempting to overthrow the government. Eleven others, including Florencia Nchama Mba, were convicted of the same offenses as accessories and sentenced to 21 years' imprisonment. Francisco Mba Mendama (who was also convicted of undermining the security of the state and received a 30-year prison sentence) and two others were convicted of treason and received 25-year prison sentences. One person received a 12-year prison sentence. Statements obtained under torture during incommunicado detention were used as evidence.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government did not respect these prohibitions in practice. There continued to be reports that security forces regularly searched homes and arrested occupants without warrants, generally with impunity. After making arrests, security personnel regularly looted homes, confiscated cars, and had family members evicted. After their release, arrested persons had no recourse for recovery of property and were often blacklisted from employment opportunities, reportedly under orders from members of the president's family.

There continued to be reports of government monitoring of members of the opposition parties, NGOs, and of foreign diplomats. During the year journalists and citizens continued to report that they strongly suspected monitoring of their telephone calls and e-mails by the government.

Authorities harassed, arrested, deported, and robbed foreign nationals, particularly West Africans (see section 1.c.).

The one Internet service provider was affiliated with the government telephone monopoly, and there were unconfirmed reports that the government monitored citizens using the Internet.

Security forces detained relatives of prisoners and criminal suspects to force the prisoners or suspects to cooperate (see section 1.c.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government severely restricted these rights in practice. During the year the government monitored journalists, the media remained firmly under government control, and journalists practiced self-censorship.

The government did not tolerate criticism of public institutions and public sector mismanagement and permitted no criticism of the president or the security forces. Opposition figures were warned that they should limit their criticisms to the floor of the parliament, where they were severely outnumbered and easily overruled. Expatriates dependent on the government did not voice complaints about the frequent abuses against them, ranging from the police demanding bribes for imaginary offenses to extortion of money by city, provincial, and federal officials for "licenses" for which there was no statutory basis. Private complaints about official conduct continued to be accompanied by requests not to be identified to avoid reprisals.

An independent or privately owned press was nearly nonexistent. There were three general-interest periodicals operating under nominal government control that published irregularly: *La Gaceta*, a Malabo-based monthly magazine printed in Spain and published by an employee of the Ministry of Information, Tourism, and Culture; *El Correo Guineo Ecuatoriano*, a bimonthly newspaper that was discontinued by the Gaceta group; and *Ebano*, a publication of the Ministry of Information, which appeared approximately twice a month. Foreign celebrity and sports publications were available for sale at foreign-owned grocery stores, but no newspapers; there were no bookstores or newsstands in the country.

Journalists were subject to harassment; however, unlike in the previous year, there were no reports that journalists were deported. For example on April 11, Pablo Gracia Saez, the editor of the Spanish-language service of the pan-African news agency AFROL News, received a threatening phone call from presidential spokesman Miguel Oyono. Oyono accused the Norway-based news agency of "waging a campaign against Equatorial Guinea" and warned Gracia of the "consequences" of what he reported. No known action was taken by the government at year's end.

The law authorizes government censorship of all publications. During the year the Ministry of Information sometimes required publishers to submit a copy for approval prior to publication. In addition all local publications exercised self-censorship and were subject to prior restraint.

On June 9, airport police in Bata seized 200 copies of *La Verdad*, a small CPDS newspaper and the country's sole opposition publication, which were destined for distribution on the mainland.

Radio was the most important and influential medium of mass communication. During the year the government continued to dominate domestic radio broadcasting. It owned and operated the station Radio Malabo, officially known as National Radio of Equatorial Guinea. The president's son, Teodoro Nguema Obiang Mangue, owned the only private radio station, Radio Asonga. The government had not approved other applications for private radio stations that have reportedly been pending for several years.

The government generally withheld access to domestic broadcasting from opposition parties and rarely referred to the opposition in anything but negative terms when broadcasting the news.

The government-controlled national television station broadcast some government activities live, such as some sessions of parliament and national conferences. In some cases, voices of dissent were broadcast. Television Asonga, also operated by the president's son, is broadcast by cable only in Bata. Foreign cable television was available and provided news in French, Spanish, and English, as well as entertainment programming. Satellite reception increasingly was available. The station broadcast foreign channels that reported news, which were not censored. The Spanish channel has occasionally reported stories about the country, which prompted

complaints from the government but not censorship. Satellite or cable programming was well beyond the means of the average citizen.

International electronic media was available and included Radio France International, which broadcast in Malabo, and Radio Exterior, the international shortwave service from Spain. Radio Exterior often broadcast news about the country and interviews with opposition politicians and was virtually the only means for the opposition to disseminate its views and positions widely. Its editorials frequently were highly critical of the government. The government regularly accused Radio Exterior, sometimes with justification, of misrepresenting the situation in the country.

The government may monitor citizens Internet access (see section 1.f.).

During the year the government did not overtly restrict academic freedom; however, professors practiced self-censorship regarding political matters.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for the right of assembly; however, the government restricted this right in practice. Government authorization must be obtained for private home meetings of more than 10 persons for discussions that the government considers political in nature. Although the government formally has abolished permit requirements for party meetings within party buildings, in practice opposition parties must inform the authorities if they wish to hold gatherings of any kind, regardless of location. Security forces generally monitored gatherings in public places, even small gatherings. The government required notification for public events; however, it usually granted permission for such events.

Unlike in the previous year, the government did not deny the CPDS permission to hold a convention. In July the CPDS was allowed to hold a convention in Bata, attended by foreign diplomats, with relatively little harassment. CPDS was not permitted to publicize the conference dealing with human rights laws passed by the government and by international bodies, nor was it allowed to invite the general public or members of other parties to participate in panel discussions.

Freedom of Association.—The law provides for the right of association; however, the government restricted this right in practice. The law prohibits the formation of political parties along ethnic lines. The law prohibits coalitions between political parties; however, six opposition groups continued to be part of a coalition, which allied itself with the ruling party during the year. Opposition party members complained of disruption of meetings. In addition the political opposition was often monitored during meetings.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The law includes a stated official preference for the Catholic Church and the Reform Church of Equatorial Guinea due to their traditional roots and historic influence in the social and cultural life. A Roman Catholic Mass normally was part of any major ceremonial function, such as the October 12 national day.

Unlike in the previous year, the government did not arrest and detain foreign missionaries, although one pastor received such serious threats that he returned to his West African country voluntarily.

A religious organization must be formally registered with the ministries of justice, religion, and penal institutions before its religious activities are allowed. There were no reports during the year that the government refused to register any group, although one group that believed it was registered was told that the process was not completed correctly and was temporarily shutdown. The approval process usually took several years, due primarily to general bureaucratic slowness and not generally as the result of any apparent policy designed to impede the operation of any religious group. However, in the previously mentioned case, it seemed that the lack of clearly written registration procedures can be used against a church when a political figure has a problem with its pastor or one of its influential members. In another case a major US evangelical figure had been brought to the country to conduct a crusade, and the church was blocked by a squad of armed police to embarrass a church officer and try to force him to conform to the wishes of a high government figure.

The government continued to restrict the clergy, particularly regarding open criticism of the government. During the year church representatives reported that they practiced self-censorship on these issues. The church requires government permission for any religious activity outside the church building, but in practice this requirement did not appear to hinder organized religious groups.

Religious study was required in schools and was usually, but not exclusively, Catholic.

Societal Abuses and Discrimination.—Protestants sometimes faced discrimination in schooling. For example, in 2004 a Protestant church official cited difficulties when

enrolling his children at school. At the school each child was required to lead a daily Catholic-based devotional. When the child's father requested that a teacher of the child's own faith be made available, the school official claimed there was a lack of funds and stated that the school could provide the teacher only if the child's church was willing to pay the teacher's salary.

The Jewish community is extremely small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government limited them in practice. The police routinely stopped citizens at roadblocks, subjected them to searches, harassed travelers, and extorted money from them. Police and soldiers continued to harass foreigners, mainly because they were perceived to be wealthier than most citizens (see section 1.c.). The government justified the roadblocks as internal controls to compensate for its inability to control the country's borders effectively. These checkpoints effectively restricted the freedom of movement by members of the opposition.

In June Catholic Relief Services (CRS) reported worse than usual delays, bribery, and harassment at checkpoints during one of its regular trips to the country's mainland.

Officials of the government, including members of parliament, are supposed to receive permission from their ministers or heads before traveling abroad—supposedly so that they can be notified in case an emergency session of parliament or interministerial meeting must be held. Those prominent figures that did travel abroad without express permission were usually interrogated upon their return. For example on June 8 airport police searched luggage for two hours and confiscated documents in the possession of a CPDS leader as he returned to Malabo from a trip abroad. The police told him they were acting on orders from a superior.

The law does not permit forced exile; however, the government used forced internal exile but not forced external exile. Some persons have fled the country for political reasons. The leaders of the National Resistance of Equatorial Guinea Group reported that their attempts to return to the country were unsuccessful, and there were no reports of returnees during the year. In February Juan Ondo Abaga's refugee rights were abrogated, he was kidnapped, brought back to Malabo, and detained in Black Beach Prison (see section 1.b.). The government said it had no information regarding his circumstances. In August and September political refugees living in Gabon accused the government of two different attempts to kidnap them in Libreville (see section 1.b.).

Protection of Refugees.—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the forced return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The police reportedly continued to harass individual asylum seekers, often for bribes.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens with the right to change their government peacefully; however, in practice citizens could not freely choose and change the laws and officials that govern them.

Elections and Political Participation.—There have been no free, fair, and transparent elections since independence in 1968.

The international community criticized the 2004 parliamentary elections as seriously flawed. Prior to elections the government harassed opposition party members and subjected them to arbitrary arrest. PDGE members went door-to-door, seeking out and threatening opposition supporters. PDGE party posters appeared in public places, including churches. On election day there were widespread reports of irregularities, including intimidation at the polls. Voters were discouraged from voting in secret, ballots were opened, and ruling party representatives reportedly cast their own votes as well as those of children and the deceased. There also were reports

that security forces intimidated voters with their presence in polling booths. There was a lack of observers in rural areas. Although international observers claimed that the opposition CPDS party received about 12 percent of the vote, the ruling party offered the CPDS only 2 seats in the 100-seat parliament.

The president exercised strong powers as head of state, commander of the armed forces, and founder and head of the government party, the PDGE. Impeachment of the head of state is forbidden by the constitution. Leadership positions within the government in general were restricted to the president's party or the coalition (loyal opposition). The ruling party completely dominated the elected chamber of deputies, and the minister of the interior also acted as president of the national electoral board.

Membership in the ruling party generally was a great advantage for hiring and promotion, both in the public and private sectors. Membership in a rival political organization was reportedly grounds for dismissal from any position, public or private. Opposition politicians who were not participating in the government often claimed to have been dismissed from their jobs after joining alternate political groups, but had no legal redress.

There were 12 political parties that the government called "opposition parties;" 11 have allied themselves with the PDGE. The government pointed to these opposition parties as examples of the country's multiparty democracy. Government officials routinely referred to any politicians from opposition parties deemed illegal as "terrorists." The law regarding registration of opposition parties was developed before there was a real opposition, and it prevents many groups from having a legal, peaceful means of expression. The government generally withheld access to domestic broadcasting from opposition parties and referred to the opposition negatively when broadcasting the news. The government reportedly applied pressure to persuade opposition members or officials from most, but not all, opposition parties to join the PDGE party; opposition members joining the PDGE during the year suggested that such practices persisted. Reportedly, the government bribed members of the opposition to join PDGE; if they did not, they found themselves out of work, disbarred, and their family members denied opportunities.

There were 20 women in the 100-member parliament and 5 women in the 50-member cabinet.

The prime minister is a member of the minority Bubi ethnic group. There is a very small number of minority members in parliament as well as in the cabinet (approximately 5 to 10 percent), but other than the prime minister no numbers were available.

Government Corruption and Transparency.—Official corruption in all branches of the government remained a significant problem.

In 2004 an extensive investigation by the legislature of a foreign country revealed the misappropriation of at least $35 million (1.75 billion CFA francs) of oil revenues from foreign oil companies by President Obiang, his family, and other senior government officials through foreign bank accounts since the country started exporting oil in the mid-1990s. The report found that, in many cases, the money went directly into accounts controlled by the president and his close associates. In response to the report, the government released a report refuting the allegations of oil revenue misappropriation. The government said that the accounts were maintained to meet needs in the country, despite the name on the account, and were established so that the government would earn interest, which their funds deposited in the Central African Bank did not.

The law does not provide for access to government information, and citizens and noncitizens, including foreign media, were denied access to government information by the government, as well as by a lack of organized recordkeeping and archiving.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no domestic human rights NGOs. The law restricts NGOs and identifies specific areas in which they may operate; human rights were not among these areas.

No international human rights NGOs were resident in the country; however, there were signs of improvement in the relations between some international organizations and the government during the year. For example the government continued to allow UN International Children's Emergency Fund (UNICEF) and the UN Development Program to be active in the areas of trafficking in persons, child protection, human rights workshops, and economic development. There continued to be allegations from CRS, Reporters Without Borders, and the Center for Rural Development that NGO representatives visiting Malabo had their movements, calls, e-mails, and faxes monitored.

The government-controlled National Commission for Human Rights (CNDH) operated without adequate funding and staff. The president appointed the members of the CNDH, and the CNDH refrained from criticizing the government during the year. The Center for Human Rights, organized by the government as a quasi-independent body, received minimal support and at the end of the year lost its office space. Its role was primarily advocacy and public sensitization, not investigation or reporting of violations.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these provisions effectively. Violence and discrimination against women, trafficking in persons, discrimination against ethnic minorities, and discrimination against HIV/AIDS victims were problems.

Women.—Violence against women, including spousal abuse, is illegal, but, the government did not enforce the law effectively. The police and the judiciary were reluctant to prosecute domestic violence cases. The number of prosecutions during the year was not available. Domestic and other societal violence against women, particularly wife beating, was common. The public beating of wives is forbidden by government decree; however, violence in the home generally was tolerated. The government generally did not prosecute perpetrators of domestic violence. The government did not have a hot line, shelter, or other services for domestic violence victims.

The government did sponsor a three day national conference on women's issues, inviting women from all over the country and all ethnic groups. The topic of domestic violence and women's rights dominated the public discussions, and criticism of lack of government protection and punishment of abusers was strongly voiced. The first lady pledged to ensure that this would change, and legislation was introduced but not enacted by year's end.

Rape is illegal, but spousal rape is not specified in the law; the government did not enforce the law effectively.

Prostitution is illegal; however, the massive influx of unaccompanied foreign men in the petroleum sector contributed to increasing prostitution. During periodic crime sweeps police arrested prostitutes but released their clients—generally expatriates. Prostitutes were almost never prosecuted and were usually held only a few hours or days. Prostitutes were abused and subjected to police extortion. The bars or restaurants where they met clients were occasionally closed, but allowed to reopen after some type of fine was paid and a pledge made not to permit soliciting on the premises, which was not enforced.

Sexual harassment was not illegal; its extent was unknown.

Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system; however, in the Fang, Ndowe, and Bisio cultures, primogeniture was practiced. Because women become members of their husband's family upon marriage, they usually were not accorded inheritance rights. For an estimated 90 percent of women, including virtually all ethnic groups except the Bubi, tradition dictates that if a marriage is dissolved, the wife (or her father or brother) must return the dowry given to her family by the bridegroom at the time of marriage. Tradition also dictates that if a girl's family accepts a dowry from a man, she must then marry him, regardless of her wishes. If the marriage does not take place, the family is required by tradition to return the dowry, and failure to pay the debt can result in the imprisonment of the bride or a family member. The law protects women from imprisonment for not repaying the dowry following divorce; however, in practice many divorced women faced intense family pressure to repay the dowry. If a marriage dissolved, the husband also automatically received custody of all children born during the marriage, while the wife maintained custody of the children born prior to the marriage.

Polygamy, which was widespread, contributed to women's secondary status, as did limited educational opportunities. The Ministry of Women's Affairs is responsible for women's issues.

Women largely were confined by custom to traditional roles, particularly in agriculture. Women experienced economic discrimination in access to employment or credit, pay for substantially similar work, or owning or managing businesses. During the year the Ministry of Women's Affairs administered some economic empowerment programs with assistance from bilateral and international partners.

Children.—The government devoted little attention to children's rights or their welfare and had few policies in this area, although it sponsored a few seminars, media programs, and announcements on the Convention on the Rights of the Child. In 2004 the parliament passed a trafficking in persons law, focused almost exclu-

sively on trafficked children (see section 5, Trafficking); however, no other provisions for the welfare of children were legislated.

Education is compulsory through primary school, but the law was not enforced. Public schooling is provided until university level. Education is compulsory until age 14. In practice boys were expected either to complete an additional seven years of secondary school or to finish a program of vocational study following primary education. For girls pregnancy and the requirement to assist in agricultural or other work made attainment of even a primary level of education less likely. Many rural families were unable to afford school fees and book expenses for children more than 10 years of age. A UNICEF report noted that net primary school attendance from 1992 to 2002 was 60 percent for boys and 61 percent for girls; however, from 1997 to 2000, the secondary school enrollment ratio was 43 percent for boys and 19 percent for girls. Women generally had only one-fifth of the educational level of men. The government cooperated with a foreign government to provide textbooks to all schools. Teachers could be political appointees and often received no training. The national budget, passed by the parliament in September 2004, allocated increased expenditures to education, but flow of funds to projects was restricted.

Children suffered poor health and had a high mortality rate. The government provided very little health care, but boys and girls have equal access to what was offered.

Child abuse is illegal, but the government did not enforce the law effectively. Child abuse occurred.

Child prostitution existed but was rare.

Trafficking of children was a problem (see section 5, Trafficking).

Child labor occurred (see section 6.d.).

There are instances of street children living in the country. The average age was 10. They have been the targets of police sweeps in an effort to reduce trafficking in persons.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to and from the country. The penalties for trafficking in persons for sexual exploitation or labor exploitation are imprisonment of 10 to 15 years' imprisonment and a fine of approximately $100 thousand (at least 50 million CFA francs). The government was not active in identification and investigation of trafficking cases. The Ministry of Justice is responsible for combating trafficking in persons and the minister of justice is president of the interinstitutional commission on illegal trafficking of migrants and trafficking of persons. The government did not cooperate with other governments in the investigation and prosecution of trafficking cases.

Reliable figures on the current number of trafficking victims were not available, but anecdotal evidence indicated the numbers were small. The country was a transit point and destination for trafficked persons. Although less prevalent than external trafficking, internal trafficking was a problem. Children, mostly from Benin and Nigeria, primarily were trafficked into the agricultural and commercial sectors in Malabo and Bata. Nigerian boys worked in market stalls in Bata, often without pay or personal freedom. The country was both a destination and a transit point for trafficked girls and boys, mostly from Cameroon, Benin, and Nigeria. Women were trafficked for sexual exploitation, especially to Malabo. In June a mother of three children was arrested in Malabo while she tried to sell her three-month old infant. At year's end she had not been prosecuted.

Trafficking victims had no access to health care; they generally worked on the streets or in agriculture.

In Benin organized criminal networks were reportedly involved in trafficking of children to the country, where fishing boats were commonly employed to transport children to avoid formal entry procedures. Increasing numbers of foreign and local women were attracted to prostitution in Malabo, generally independently, because of the number of unaccompanied expatriate men working in the energy sector who tended to patronize such services.

Traffickers took advantage of the African tradition of placing children with relatives or friends in other regions or countries to advance the children's and the family's academic and economic prospects. Many parents throughout West and Central Africa were overwhelmed by the conditions of poverty and looked to the country with its new oil wealth as a good place for their children to earn money. Traffickers also preyed upon the cultural view of work as socialization and preparation for adulthood. Children usually started working in their own families' households by the age of six. Traffickers gained the confidence of parents in countries of origin by presenting themselves as successful people with the promise of improving the family's plight through apprenticeships and schooling. The traffickers were often well

known and respected in the community, and they offered families the opportunity for supplementary income.

There were no reports of senior government officials involved in trafficking activities. However, there were reports that lower-level law enforcement officials, such as border guards and immigration officers, facilitated trafficking in exchange for bribes. No known action was taken against them.

The government did not provide protection to victims and witnesses, nor were there any NGOs in the country to assist victims. There is no victim restitution program. The only identified victims thus far were repatriated, but without assurance of adequate care back in their home countries.

A government interministerial working group and UNICEF developed a national action plan early in the year that was adopted by the official Commission Against Trafficking in Persons and Illegal Immigration in the fall, but the government had not approved the national action plan by year's end. During the year the government conducted a radio campaign and workshops to raise awareness of the new law against trafficking.

Persons with Disabilities.—The law does not provide protection for persons with disabilities from discrimination in employment, education, or the provision of other state services, and while there was no formal evidence of discrimination against persons with disabilities, educational services for the mentally and/or physically handicapped are minimal. They were usually provided by churches or NGOs when available. The law does not mandate access for persons with disabilities to buildings, and there was societal discrimination against persons with disabilities.

National/Racial/Ethnic Minorities.—Discrimination against ethnic or racial minorities was not legal, and the government did not overtly limit the participation of minorities in politics; however, the near monopolization of political and economic power by the Fang ethnic group persisted (see section 3). Differences among subclans of the Fang, especially resentment of the political dominance of the Mongomo subclan, were also sources of political tensions. In practice some members of ethnic minorities, particularly the Bubi ethnic group, faced discrimination, especially when they were not members of the dominant party. Tensions also arose because the dominant group controlled most property, which afforded it greater access to economic prosperity and prevented competition from minorities from developing. Minorities felt discriminated against in regard to appropriation of property for public works, ability to obtain loans, compete for scholarships, and obtain and keep jobs, although they attributed this condition as much to assumed party affiliation as to ethnic background.

Several thousand citizens of Nigeria, Ghana, and Francophone Africa continued to reside in the country, even after the deportations of numerous foreigners in March 2004 (see section 1.c.). Most were small traders and business persons. The police reportedly continued to harass and extort money from them.

Citizens arbitrarily detained foreigners during the year, reportedly as a result of xenophobia (see section 1.d.).

Other Societal Abuses and Discrimination.—Societal discrimination against homosexuals occurred.

Persons with HIV/AIDS continued to be victims of societal discrimination and often kept their illnesses hidden. However, during the latter part of the year, the government and the World Health Organization cosponsored public awareness and sensitization campaigns on HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements; however, the Small Farmers Syndicate was the country's only legally recognized labor union. According to the International Confederation of Free Trade Unions, authorities have consistently refused to register the Equatorial Guinea Trade Union, which has been forced to carry out its activities in secret. The law stipulates that a union must have at least 50 members who are from a specific workplace and located in the same geographic area to register; this rule effectively blocked union formation. Authorities refused to legalize the public sector union, the Independent Syndicated Services, despite it having met the requirements of the law.

During the year, the country's major private employer, the oil industry, which was dominated by foreign firms, continued to take steps to reduce government control of hiring in the industry. To eliminate political bias in the hiring process, companies employed methods ranging from public advertising of jobs and objective testing to screening of applicants by noncitizens only. According to regional representatives of the International Labor Organization, these efforts largely have been ineffective,

and the government continued to influence employment in all sectors. Requirements to utilize employment and security agencies controlled largely by presidential relatives continued.

There was no law prohibiting antiunion discrimination, and during the year there were reports that when workers tried to form unions, the police visited their homes and threatened them.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, but the government did not protect this right in practice. The government placed practical obstacles before groups wishing to organize. The government and employers set wages with little or no participation by workers. There was no evidence of collective bargaining by any group; however, the labor ministry sometimes mediated labor disputes. It met with oil companies to reconcile a language dispute over minimum wages and facilitated an agreement.

The law provides for the right to strike; however, workers were effectively prohibited from striking. On rare occasions workers engaged in temporary protests or "go slows" (work slowdowns and planned absences). The law contains provisions to uphold worker rights, but the government generally did not enforce them. Apart from the labor ministry, workers had few other places to seek redress. Members of parliament reportedly tried to mediate employer-worker disputes over wages or dismissals; however, they had no legal authority to do so.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law forbids forced or compulsory labor and slavery; however, detainees and convicted felons reportedly performed extensive labor outside prison, including for prison officials, without compensation (see section 1.c.).

In 2004 the government enforced for the first time existing laws on forced labor and convicted a Beninois woman for holding a Beninois girl of 14 as an indentured servant. The woman was ordered to pay back wages and fined; she was sentenced to serve a prison term.

The law prohibits forced or compulsory labor by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are no comprehensive laws or policies to protect children from exploitation in the workplace, and the government did not effectively implement the few that there are. The legal minimum age for employment is 14 years, but the Ministry of Labor did not enforce this law, and child labor was common particularly on family farms and businesses. In June the government issued a decree relating to child labor, forbidding the employment of children in street vending, car-washing, and selling or attending in bars and restaurants, but this law was rarely and only periodically enforced. According to a 2001 child labor study by UNICEF, the most recent information available, child labor existed primarily in the form of children working as farmhands and market vendors in family businesses. In addition during the year there were unconfirmed reports that foreign children were used as market vendors by nonrelatives and had no access to schooling. While the Ministry of Labor was responsible for the enforcement of labor legislation, it did not enforce the legislation effectively.

e. Acceptable Conditions of Work.—Employers must pay the minimum wages set by the government, and most companies paid more than the government-established minimum wage. The national minimum wage did not provide a decent standard of living for a worker and family. By law hydrocarbon industry workers received salaries many times higher than those in other sectors, which fueled inflation and disadvantaged those who could not fairly compete for those jobs. The Ministry of Labor is responsible for enforcing the minimum wage.

The law prescribes a standard 35-hour workweek and a 48-hour rest period, which generally were observed in practice in the formal economy. Exceptions were made for particular jobs, such as those concerning offshore oil industry work. Premium pay for overtime is required, but the requirement was not effectively enforced.

The law provides for comprehensive protection for workers from occupational hazards; however, the government did not enforce this in practice. The government had an insufficient number of labor inspectors to oversee local industry. The government continued training more inspectors during the year. The law does not provide workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment.

Although payment into the social security system is mandatory, it is rare to hear of workers who received health care, worker's compensation, or retirement benefits from this system after contributing. Employment agencies that were supposed to

pass on payments for social security benefits of workers were notorious for going out of business without meeting their obligations.

ERITREA

Eritrea, with a population of approximately 4.4 million, is a one-party state that became independent in 1993 when citizens voted for independence from Ethiopia. The People's Front for Democracy and Justice (PFDJ), previously known as the Eritrean People's Liberation Front, is the sole political party and has controlled the country since 1991. The country's president, Isaias Afwerki, is also the leader of the PFDJ. The government continuously postponed presidential and legislative elections. An unresolved border dispute with Ethiopia seriously hindered international trade and affected the government's external relations. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record worsened, and it continued to commit numerous serious abuses. Tensions increased over the border impasse with Ethiopia, and the government increased its roundups of young men and women for national service and imposed additional travel restrictions on diplomats, humanitarian and development agencies, and UN Mission to Eritrea and Ethiopia (UNMEE). The following human rights problems were reported:

- the inability of citizens to change their government
- unlawful killings by security forces, including some resulting from torture
- numerous reports of torture and physical beatings of prisoners, particularly draft evaders
- poor prison conditions for detainees
- prohibition on prison visits by local or international groups, except in limited cases the International Committee of the Red Cross (ICRC)
- arbitrary arrests and detentions, including an unknown number of political detainees
- executive interference in the judiciary and the use of a special court system to limit due process
- infringements on privacy rights
- severe restrictions on freedom of speech and press
- restrictions on freedom of assembly and association
- interference with freedom of religion for religious groups not approved by the government
- restrictions on freedom of movement, both within the country and departing the country
- limits on the activities of nongovernmental organizations (NGOs)
- violence and societal discrimination against women and the widespread practice of female genital mutilation (FGM)
- societal discrimination against members of the Kunama ethnic group and homosexuals
- restrictions on workers' rights

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, the government continued to authorize the use of deadly force against anyone resisting or attempting to flee during military searches for deserters and draft evaders, and deaths reportedly occurred during the year. Several persons detained for evading national service died after harsh treatment by security forces (see section 1.c.). There were also reports that numerous members of unregistered churches died following abuse by security forces (see section 2.c.).

The London-based NGO Eritreans for Human and Democratic Rights reported that on June 10 military personnel shot and killed 161 youth at Wia Military Camp who were trying to escape.

No action was taken during the year against the guards who killed draft evaders trying to escape from a collapsing detention center in November 2004.

According to the Government Commission for Coordination with the UN Peacekeeping Mission, there were an estimated 3 million landmines and unexploded ordnance in the country left over from the country's 30-year war of independence and the 1998–2000 conflict with Ethiopia. The Eritrean Islamic Jihad Movement and others laid some new mines during the year. The UN reported 11 deaths and 46 injuries from landmine incidents during the year; at least 3 of these casualties involved newly laid landmines. It was probable that there were additional, unreported deaths in remote areas. The government halted its demining program in April. The UN demining programs continued throughout the year, although their effectiveness was limited by a government order in October grounding all UN helicopters. As a result UNMEE transferred most of the demining activities to Ethiopia. The air restrictions also constrained UNMEE's ability to supply troops in the field, monitor the Temporary Security Zone area, and support medical evacuations.

There was no additional information during the year regarding the 2003 killing of British national Timothy Butt in the western Bisha region or the 2003 killing of two citizens who worked for Mercy Corps International.

b. Disappearance.—There were no reports of politically motivated disappearances during the year; however, there were unresolved disappearances from previous years.

At year's end the whereabouts of an unknown number of Kunama, members of an ethnic group residing predominantly near the border with Ethiopia and detained because of their association with other captured or killed Kunama insurgents, remained unknown.

At year's end the whereabouts of 11 senior PFDJ and National Assembly members, arrested by the government in 2001, remained unknown.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture; however, there were numerous reports that security forces resorted to torture and physical beatings of prisoners, particularly during interrogations. During the year security forces severely mistreated and beat army deserters, draft evaders, and members of particular religious groups (see section 2.c.). Security forces subjected deserters and draft evaders to various disciplinary actions that included prolonged sun exposure in temperatures of up to 120 degrees Fahrenheit or the binding of the hands, elbows, and feet for extended periods.

There were reliable reports that torture was widespread in an unknown number of detention facilities. In addition to psychological abuse, escapees reported the use of physical torture at a few prisons. Authorities suspended prisoners from trees with their arms tied behind their backs, a technique known as "almaz" (diamond). Authorities also placed prisoners face down with their hands tied to their feet, a torture technique known as the "helicopter."

There were reports that some women drafted to the national service were subjected to sexual harassment and abuse. There were unconfirmed reports that instructors raped young girls at Sawa Military Camp.

Prison and Detention Center Conditions.—Prison conditions for the general prison population were poor. There were reports that prisoners were held in shipping containers with little or no ventilation in extreme temperatures. At Aderser, near Sawa, there were reports that prisoners were held in underground cells.

There were substantial reports that prison conditions for persons temporarily held for evading military service were also poor. Unconfirmed reports suggested there may be hundreds of such detainees. Draft evaders were typically held for 1 to 12 weeks before being reassigned to their units. At one detention facility outside Asmara, detainees reportedly were held in an underground hall with no access to light or ventilation, and in sometimes very crowded conditions. Some detainees reportedly suffered from severe mental and physical stress due to these conditions.

Several persons detained for evading national service died after harsh treatment by security forces, including the binding of hands and feet behind the head. In addition several detainees who suffered from ill health in prison died within days of their release from lack of medical care.

There were no juvenile detention centers or correction facilities, and juvenile offenders often were incarcerated with adults. Pretrial detainees generally were not held separately from convicted prisoners; however, in some cases, detainees were held separately. For example, 11 PFDJ and national assembly detainees and others detained on national security grounds in 2001 were believed to be held separately, although their whereabouts remained unknown. These political detainees continued to be denied visitors during the year.

Local groups and human rights organizations were not allowed to monitor prison conditions. The government prohibited the ICRC from visiting the unknown number of Ethiopian soldiers who the government claimed were deserters from the Ethio-

pian army or to visit any Eritrean detainees or prisoners, although the ICRC was allowed to visit and register Ethiopian civilian detainees in police stations and prisons. Authorities generally permitted three visits per week by family members, except for detainees arrested for reasons of national security or for evading national service.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, arbitrary arrest and detention were serious problems.

Role of the Police and Security Apparatus.—Police are officially responsible for maintaining internal security, and the army is responsible for external security; however, the government can call on the armed forces, the reserves, and demobilized soldiers in response to both domestic and external security requirements. For example, agents of the National Security Office, which reports to the Office of the President, are responsible for detaining persons suspected of threatening national security.

Active duty police officers are in charge of key police divisions. The police force was adequate in enforcing traffic laws and combating petty crime. Generally the police did not have a role in cases involving national security, but beginning in the fall, the police became involved in the rounding up of individuals evading national service. The military has the power to arrest and detain persons, and internal security forces and the military detained many persons during the year.

Corruption was not prevalent. There were no mechanisms to address allegations of abuse among the police, internal security, or military forces.

Arrest and Detention.—The law stipulates that detainees may be held for a maximum of 30 days without being charged with a crime. In practice, authorities often detained persons suspected of crimes for much longer periods, usually without warrants. Authorities often did not promptly inform detainees of the charges against them. Often detainees did not have access to legal counsel (see section 1.e.) or appear before a judge, and incommunicado detention was widespread. There was a functioning bail system for all cases, except those involving national security or for which capital punishment might be handed down.

Security forces detained, generally for less than three days, many persons during searches for evaders of national service even if they had valid papers showing that they had completed or were exempt from national service (see section 1.c.). Beginning in June, security forces began detaining and arresting parents of individuals who had evaded national service duties or fled the country (see section 1.f.).

On March 30, the government arrested three union leaders. They remained in police custody without charge or access to a lawyer at year's end.

There were reports of up to several hundred politically motivated detentions of those who were seen as critical of the government, and many of those detained remained in prison at year's end. Many were perceived to have ties to political dissidents or were believed to have spoken against government actions. Most of these detainees had not been tried and did not have access to legal counsel. The ICRC was not authorized to visit these detainees.

There were no developments in the 2002 arrests of individuals associated with the detained group of 11 PFDJ/national assembly members and of diplomats who were recalled from their posts. At least four of these detainees, in addition to many detained in previous years, remained in prison without charges at year's end. Among the detainees were former Ambassador to China Ermias Debessai (Papayo) and Aster Yohannes, wife of former Foreign Minister Petros Solomon.

Two citizens who worked for a foreign embassy have remained in detention without charge since 2001.

The government continued to detain journalists it took into custody in 2001 (see section 2.a.).

The government continued to arrest and detain members of nonregistered religious groups, some of whom have been detained for more than 11 years (see section 2.c.).

Ethiopian nationals reportedly were singled out for arrest because they were unable to pay the necessary fees to renew their residency permits every six months.

In May the government reportedly freed approximately 110 citizens who had been deported from Libya in July 2004 and imprisoned and held without charge. Also in May the government reportedly released citizens who were deported from Malta in 2002. Approximately 220 persons had been deported from Malta, but an unknown number died in detention or reportedly were killed while trying to escape since their incarceration in 2002.

There were reports that the government continued to hold without charge numerous members of the Eritrean Liberation Front, an armed opposition group that fought against Ethiopia during the struggle for independence.

The government held numerous pretrial detainees during the year; however, there were widespread reports that the government released an unknown number of detainees held without charge during the year. An unknown number of persons suspected of antigovernment speech, association with the 11 former PFDJ members arrested in 2001, Islamic elements considered radical, or suspected terrorist organizations continued to remain in detention without charge, some of whom have been detained for more than 10 years. These detainees reportedly did not have access to legal counsel and were not brought before a judge.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary was weak and subject to executive control. Public trials generally were perceived as fair, but virtually all cases involving individuals detained for national security or political reasons were not brought to trial. The drafting into national service of many civilians, including court administrators, defendants, judges, lawyers, and others involved in the legal system, continued to have a significant negative impact on the judiciary.

The judicial system had two parts: civilian and special courts. The civilian court system consisted of community courts, regional courts, and the High Court, which also served as an appellate court. Appeals could be made in the civilian courts up to the High Court. The High Court took an average of 2 months to decide if it would hear an appeal, and at year's end had a backlog of approximately 200 cases. Minor infractions involving sums of less than approximately $7,300 (100 thousand nakfa) are brought to community courts. More serious offenses are argued before regional courts, but a significant proportion of cases involving murder, rape, and other felonies are heard by the High Court. A single judge hears all cases, except those argued before the High Court, where panels of three judges hear cases. A panel of five judges hear cases in which the High Court serves as the court of final appeal.

The executive-controlled Special Court issues directives to other courts regarding administrative matters, although their domain was supposed to be restricted to criminal cases involving capital offenses, theft, embezzlement, and corruption. The Office of the Attorney General decides which cases are to be tried by a special court. No lawyers practice in the special courts. The judges serve as the prosecutors and may request that individuals involved in the cases present their positions. The special courts, which do not permit defense counsel or the right of appeal, allowed the executive branch to mete out punishment without respect for due process.

The judges in the special court in both branches are senior military officers, with no formal legal training. They generally based their decisions on "conscience," without reference to the law. There is no limitation on punishment, although the special courts did not hand down capital punishment sentences during the year. The attorney general also allowed special courts to retry civilian court cases, including those decided by the High Court, thereby subjecting defendants to double jeopardy. Reportedly in rare instances, appeals made to the Office of the President resulted in special courts rehearing certain cases.

Trial Procedures.—The judicial system suffered from a lack of trained personnel, inadequate funding, and poor infrastructure that in practice limited the government's ability to grant accused persons a speedy and fair trial.

Unlike the special court system, the law provides specific rights to defendants in the regular court system. Although defendants could hire a legal representative at their own expense, most detainees could not afford to do so and consequently did not have access to legal counsel. The government frequently assigned attorneys to represent defendants accused of serious crimes punishable by more than 10 years in prison and who could not afford legal counsel. Defendants have the right to confront and question witnesses, present evidence, have access to government held evidence, appeal a decision, and have presumption of innocence; it was unknown how well these rights were enforced in practice.

Most citizens only had contact with the legal system through the traditional village courts. Elected village judges heard civil cases, while magistrates versed in criminal law heard criminal cases. Village courts and local elders used customary law to adjudicate local problems such as property disputes and petty crimes. The Ministry of Justice offered training in alternative dispute resolution to handle some civil and criminal cases.

Shari'a law could be applied when both litigants in civil cases were Muslims. Traditional courts cannot impose sentences involving physical punishment.

Political Prisoners.—There were no reports of political prisoners; however, there were numerous reports of persons detained for political reasons (see section 1.d.).

Property Restitution.—The government failed to compensate foreigners for property taken by preindependence governments or to restore the property to them.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government at times infringed on the right to privacy.

The government deployed military and police throughout the country using roadblocks, street sweeps, and house-to-house searches to find deserters and draft evaders as well as parents of deserters and draft evaders. There were reports that security forces targeted gatherings of unregistered religious groups.

The government monitored mail, e-mail, and telephone calls without obtaining warrants as required under the law. Government informers were believed to be present throughout the country.

There were reports that military officials seized residences belonging to relatives of persons identified with the political opposition and rented the property or used it as housing for senior military officers' families.

Beginning in June, security forces began detaining and arresting parents of individuals who had evaded national service duties or fled the country. They required the parents to pay a fine and bring their children back before they would release them. These arrests and detainments continued through year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government severely restricted these rights in practice. Citizens did not have the right to criticize their government in public or in private. The private press remained banned, and most independent journalists remained in detention or had fled the country, which effectively prevented all public criticism of the government.

The government controlled all media, including three newspapers, two magazines, one radio station, and one television station. There was no private media in the country, the law does not allow private ownership of broadcast media or foreign influence or ownership of media, and the government also banned the import of foreign publications. The government had to approve publications distributed by religious or international organizations before their release, and the government continued to restrict the right of the religious media to comment on politics or government policies. The press law forbids reprinting of articles from banned publications.

The government permitted three reporters from foreign news organizations to operate in the country. In November the Swedish reporter, who was held by the government for nearly four years, was released for medical treatment and then was detained again a few days later; he remained in detention without charge at year's end.

Contrary to what was reported in 2004, authorities did not at any time arrest Goitom Biahon, a journalist who submits reports to *Deutsche Welle*.

At least 15 local journalists who were arrested in 2001 remained in government custody at year's end. The four Oromo journalists, who came to the country initially at the invitation of the government to seek refuge from Ethiopia, spent two months in UN High Commissioner for Refugees (UNHCR) protection in the fall. They have an agreement with a foreign country to be repatriated; however, the government refused to issue them exit visas.

There were no government restrictions on the Internet.

The government restricted academic freedom; freedom of speech, movement of students, and their ability to assemble were not respected in the academic context. The status of the University of Asmara, the only institution of higher education, was uncertain, because for the last three years prospective students were diverted to the Mai Nafhi Technical Institute and did not continue to the university (see section 5). Students at Mai Nafhi Technical Institute were not allowed to choose what subjects they studied. The government did not provide exit visas to students who wanted to study abroad.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association; however, the government did not permit freedom of assembly or association. The government did not allow the formation of any political parties other than the PFDJ.

c. Freedom of Religion.—The law provides for freedom of religion; however, the government restricted this right in practice. Only four religious groups whose registrations had been approved by the government were allowed to meet legally during the year. These were: Orthodox Christians, Muslims, Catholics, and members of the Evangelical Church of Eritrea (an umbrella group of several Protestant churches affiliated with the Lutheran World Federation). Members of the nonregistered churches continued to be arbitrarily arrested throughout the year.

During the year there continued to be reports that security forces used extreme physical abuse such as bondage, heat exposure, and beatings to punish those de-

tained for their religious beliefs, and that numerous detainees were required to sign statements repudiating their faith or agreeing not to practice it as a condition for release. There also continued to be reports that relatives were asked to sign for detainees who refused to sign such documents.

During the year there were reports that several dozen followers of various unregistered churches (mostly Protestant) were detained, harassed, and abused. For example, there were credible reports that 19 members of unregistered churches died in June at the Wia military camp after authorities bound them by the hands and feet and left them outside in extremely hot conditions.

In February the government shut down and arrested the organizers of a Sunday school organized by an Orthodox church group known as Medhane Alem, a group whose religious services the government did not approve. At year's end the three organizers remained in jail. The three ministers who led the Medhane Alem group and who were arrested in October 2004 remained imprisoned without charge at year's end.

On May 28, authorities arrested over 200 members of unregistered churches at a wedding party in Asmara. Authorities reportedly detained several minors from that event for up to two days. Apparently 11 were still being detained at year's end.

In September the government reportedly detained 20 members of the Hallelujah and Philadelphia churches for organizing a wedding party in Asmara; they were released 1 month later.

In January the government released 47 of the 60 Rema Church members who had been arrested in December 2004 during a home prayer meeting. The remaining 13 persons were reportedly still being detained on grounds of evading national service at year's end.

Opposition websites reported in October that the government detained nearly 200 members of evangelical churches.

There were no known developments relating to the March 2004 arrest of 20 members of the Kalehiwot Church or the May 2004 arrest of the leaders of the Eritrean Evangelical Alliance, the Full Gospel Church, and the Rhema Church.

It was unknown whether the government had released the 57 students arrested in 2003.

There were credible reports that, at the government's direction, the functions of the Patriarch of the Orthodox Church were reduced to a ceremonial role and his administrative responsibilities were transferred to an administrator who is neither a member of the clergy nor an appointee of the Patriarch as required by the constitution of the Eritrean Orthodox Church. The Patriarch reportedly was put under house arrest. This effectively put the government in control of the Orthodox Church. The government also harassed and monitored members of one Orthodox church whose religious services it did not approve.

There were some complaints that the government discriminated against the Muslim community and Catholics because the government offered tax relief to Orthodox churches but not to some mosques and Catholic churches.

The government prohibited political activity by religious groups and faith-based NGOs. The government's Office of Religious Affairs monitored religious compliance with this proscription.

The government does not excuse individuals who object to national service for religious reasons or reasons of conscience, nor does the government allow for alternative service. The government continued to harass, detain, and discriminate against the small community of members of Jehovah's Witnesses because of their refusal, on religious grounds, to vote in the independence referendum or the refusal of some to perform national service. Although members of several religious groups, including Muslims, reportedly have been imprisoned in past years for failure to participate in national military service, the government singled out Jehovah's Witnesses for harsher treatment than that received by followers of other faiths for similar actions. The government dismissed members of Jehovah's Witnesses from the civil service. Many were evicted from or not allowed to occupy government-owned housing. Members of Jehovah's Witnesses frequently were denied passports and exit visas, and some had their identity cards revoked or were not issued them at all.

At year's end approximately 15 of the 40 Jehovah's Witnesses arrested during a home prayer meeting in January 2004 remained incarcerated.

According to the Office of General Counsel for the Jehovah's Witnesses, up to 22 Jehovah's Witnesses remained imprisoned without charge, including 3 allegedly detained during the year for failing to participate in national service. Although the maximum penalty for refusing to perform national service is 3 years' imprisonment, 3 of the individuals have been detained for more than 11 years. Of the members of Jehovah's Witnesses detained, 10 were reportedly held at Sawa Military camp and 1 in prison in Asmara.

The army resorted to various forms of extreme physical punishment to force objectors, including some members of Jehovah's Witnesses, to perform their military service (see section 1.c.).

Societal Abuses and Discrimination.—There were negative societal attitudes toward members of some religious denominations other than the four sanctioned ones. Some citizens approved of the strict measures levied against unsanctioned churches, especially the Pentecostal groups and Jehovah's Witnesses during the year.

There was a very small Jewish population in the country; there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government restricted some of them in practice. While citizens could generally travel freely within the country and change their place of residence, the government restricted travel to some areas within the country particularly along the border with Sudan and Ethiopia. Military police periodically set up roadblocks in Asmara and on roads between other cities to find draft evaders and deserters (see section 1.d.). The government tightened restrictions on travel permits for diplomats; however, they continued to issue travel permits to most NGOs, tourists, and journalists.

There were reports that Ethiopians who remained in the country were not allowed to live in the Debub Province bordering Ethiopia.

Citizens and foreign nationals were required to obtain an exit visa to depart the country. There were numerous cases where foreign nationals were delayed in leaving for up to two months or initially denied permission to leave when they applied for an exit visa. Men under the age of 50, regardless of whether they had completed national service; women ages 18 to 27; members of Jehovah's Witnesses (see section 2.c.); and others who were out of favor with or seen as critical of the government were routinely denied exit visas. In addition, the government often refused to issue exit visas to adolescents and children as young as 5 years of age, either on the grounds that they were approaching the age of eligibility for national service or because their diasporal parents had not paid the 2 percent income tax required of all citizens residing abroad. Some citizens were given exit visas only after posting bonds of approximately $7,300 (100 thousand nakfa).

The law has no provisions concerning exile, and the government generally did not use exile.

In general citizens had the right to return; however, citizens had to show proof that they paid the 2 percent tax on their income to the government while living abroad to be eligible for some government services, including exit visas, upon their return to the country. Applications to return from citizens living abroad who had broken the law, contracted a serious contagious disease, or had been declared ineligible for political asylum by other governments were considered on a case-by-case basis.

During the year, in conjunction with the ICRC, the government repatriated approximately 979 Ethiopians to Ethiopia.

Internally Displaced Persons (IDPs).—Approximately 20 thousand IDPs from the conflict with Ethiopia were permanently resettled during the year. Approximately 51 thousand IDPs remained in 7 camps in the Debub and Gash Barka zones at year's end. Camp facilities were rudimentary, but conditions generally were adequate. There also was a large but unknown number of IDPs residing outside camps during the year. The government allowed UN organizations to provide assistance to IDPS. In late May the government seized approximately 45 UNHCR vehicles, which seriously impacted their ability to monitor programs and provide follow-up. The vehicles were not returned by year's end.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the definition in the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. As a result the government cannot issue legal refugee or asylum status. However, in practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution and provided temporary protection to approximately four thousand persons from Sudan and Somalia on a *prima facie* basis. The government granted 19 Ethiopians who deserted the Ethiopian army, residency status. Another 1,400 Ethiopians sought asylum with the UNHCR, but the government refused to issue them exit visas. Approximately 16 thousand Ethiopian had temporary residence in the country. The government cooperated with the office of the UNHCR in assisting refugees who were not from Ethiopia.

There were 770 Sudanese refugees at Elit camp in the West and 3,500 Somali refugees at Emkulu camp, near Massawa. There were also up to 30 thousand Beja Sudanese and approximately 600 Ethiopians in the Gash Barka region to which the UNHCR had no access or responsibility. The UNHCR was accommodating 1,100 Ethiopians in urban areas, an increase from only 5 cases in 2002. The government issued residency permits to Ethiopians living in the country for a fee; however, it did not issue them exit visas.

The UNHCR reported that although it ended organized repatriation of refugees from Sudan on December 31, 2004, 18 refugees returned to the country spontaneously during the year.

There were reports during the year that the government refused to allow the UNHCR to resettle several ethnic Oromo journalists from Ethiopia (see section 2.a.).

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully; however, citizens were not allowed to exercise this right.

Elections and Political Participation.—The government came to power in a 1993 popular referendum in which voters chose to have an independent country managed by a transitional government run by the PFDJ. The PFDJ has not allowed for a democratically elected government, and national elections, originally scheduled for 1997, were never held. The only authorized political party is the PFDJ.

There were 3 women on PFDJ's 19-member Executive Council, and 11 women served on the 75-member Central Council. Women participated in the constitutional commission, occupying almost half of the positions on the 50-person committee. They also served in several senior government positions, including the ministers of justice, tourism, and labor and welfare.

There was no information on whether members of ethnic minorities were on PFDJ's 19-member Executive Council, served on the 75-member Central Council, or participated in the constitutional commission.

Government Corruption and Transparency.—There were reports of petty corruption within the executive branch, largely based on family connections. There were unconfirmed reports of more serious corruption among military leaders involving illicit trade and the appropriation of houses.

Although the law provides for public access to government information, the government did not provide information to persons who submitted requests.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government allowed one domestic human rights NGO—Citizens for Peace in Eritrea (CPE)—to operate, and its work was limited to advocacy on behalf of war victims. Government officials were cooperative and responsive to CPE's views on these issues.

The government did not permit international human rights organizations to operate within the country.

All NGOs, regardless of their scope of work, were required to register with the Ministry of Labor and Human Welfare. In May the government issued a law that requires all NGOs to register with the government for permission to continue operations in the country. It also requires international NGOs to have $2 million (in US currency) in the local bank. Many NGOs were unable to register under the new law and were required to leave the country. As of year's end there were 16 registered NGOs.

During the year the government ordered a foreign government's aid agency to stop operating in the country.

The government allowed the ICRC to operate. During the year the ICRC provided shelter to approximately one thousand persons who were displaced by the conflict with Ethiopia (see section 2.d.). The ICRC also visited prisons and detention centers where Ethiopians were held (see section 1.c.) and provided assistance to approximately 50 thousand citizens through projects in water supply, health structure rehabilitation, and housing.

The government cooperated with the UNMEE's Office for Human Rights.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination against women and persons with disabilities, and while the government generally enforced these provisions, violence against women and discrimination against minority ethnic groups continued.

Women.—Violence against women was pervasive. Domestic violence is a crime; however, domestic violence, especially wife beating, was widespread. Women seldom

openly discussed domestic violence because of societal pressures. Although the law prohibits domestic violence, the government did not effectively enforce the law. Such incidents were more commonly addressed, if at all, within families or by religious clergy. The government's response to domestic violence was hindered by a lack of training, inadequate funding, and societal attitudes.

Rape is a crime; however, it was unclear whether spousal rape is illegal. There was no specific information available on the prevalence of rape in the country. The government responded to reports of rape by encouraging the perpetrator to marry the victim.

FGM was widespread, with some estimates as high as 89 percent frequency among girls. Almost all ethnic and religious groups in the country practiced FGM. In the lowlands, infibulation—the most severe from of FGM—was practiced. There is no law prohibiting FGM; however, the government worked to combat the practice. The government and other organizations, including the National Union of Eritrean Women and the National Union of Eritrean Youth and Students, sponsored education programs that discouraged the practice.

Prostitution is illegal but was a serious problem. Security forces, who regularly patrolled the city at night, occasionally followed prostitutes and arrested those who had spent the night with a foreigner.

Laws exist prohibiting sexual harassment; however, cultural norms prevented women from reporting these types of incidents, and no one was charged or prosecuted for sexual harassment.

Women have a legal right to equal educational opportunities, equal pay for equal work, and equal property rights; however, in practice men retained privileged access to education, employment, and control of economic resources, with greater disparities in rural areas than in cities. Women generally did not enjoy a social status equal to men.

The law requires that women ages 18 to 27 participate in national service (see section 6.c.). During the year the government continued efforts to detain women draft evaders and deserters. According to reports some women drafted for national service were subject to sexual harassment and abuse.

Children.—Although the government was generally committed to children's rights and welfare, its programs were limited by resource constraints. The Ministry of Labor and Human Welfare is responsible for policies concerning children rights and welfare. The Children's Affairs Division in the Ministry of Labor and Human Welfare covered childcare, counseling, and probation.

Education through grade seven is compulsory and tuition-free; however, students were responsible for uniforms, supplies, and transportation, which was prohibitively expensive for many families. Education above grade seven requires a nominal fee and is not compulsory. There was a shortage of schools and teachers at all levels, remedied in part by holding morning and afternoon shifts at schools. According to Ministry of Education estimates, the net enrollment rate of school-age children in the 2001–02 school year was approximately 38 percent. Approximately 75 percent of the population was illiterate. In rural areas young girls usually left school early to work at home.

The government required that all students attend their final year of secondary school at a location adjacent to the Sawa military training facility in the western section of the country. Students who do not attend this final year do not graduate and cannot sit for examinations to be eligible for advanced education. The remote location of this boarding school, security concerns, and societal attitudes resulted in few girl students enrolling for their final year; however, women may earn an alternative secondary school certificate by attending night school after completing national service.

The government operated Mai Nafhi Technical Institute on the outskirts of Asmara. Students from the Sawa School who scored well on the university exams were admitted to Mai Nafhi and then could be eligible to attend the University of Asmara. Mai Nafhi offered a wide variety of classes, ranging from the sciences to business and technology. No new students were accepted at the University of Asmara in the last three years.

Although the government did not provide medical care for children, it operated an extensive vaccination program.

There are no laws against child abuse, and child abuse was not common.

FGM was performed on an estimated 89 percent of young girls (see section 5, women).

The minimum age for marriage for both men and women is 18, although religious entities may bless marriages at younger ages. UN Children's Fund reported that in the west and in costal areas child marriage occurred. Within the Tigrinya and Tigre ethnic groups underage marriage was relatively rare.

The law criminalizes child prostitution, pornography, and sexual exploitation; however, some children were involved in prostitution. The government had an aggressive program to identify these children and reintegrate them into their families and society.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, or in the provision of other state services, and there were no reports of discrimination in practice. The government dedicated substantial resources to support and train the thousands of men and women with physical disabilities that resulted from the war for independence and the conflict with Ethiopia. There are no laws mandating access for persons with disabilities to public thoroughfares or public or private buildings, but many newly constructed buildings provided such access.

National/Racial/Ethnic Minorities.—There were reports of government and societal discrimination against the Kunama, one of nine ethnic groups residing primarily in the west. Members of the Kunama ethnic group remained in detention without charges during the year (see section 1.b.).

During the year abuse of Ethiopians by individuals was not systematic, and there were fewer cases than in previous years.

Other Societal Abuses and Discrimination.—Homosexuals faced severe societal discrimination, and there were reports that the government expelled several expatriates in 2004 due to their sexual orientation.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers with the legal right to form unions to protect their interests; however, some government policies restricted free association or prevented the formation of unions, including within the civil service, military, police, and other essential services. The Ministry of Labor and Human Welfare must grant special approval for groups of 20 or more persons seeking to form a union. There were no reports that the government opposed the formation of labor associations during the year; however, the government did not approve the formation of any unions. All unions, including the Teacher's Union, Women's Union, Youth's Union, and Worker's Union, were run by the government. Usually the leaders are government employees and any activity is government sanctioned.

On March 30, the government arrested three trade union activists. At year's end they were being held incommunicado, reportedly, in a secret detention center controlled by security forces.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. Collective bargain is protected under the law, however, no agreements existed. The law allows strikes; however, workers did not exercise this right in practice. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were unconfirmed reports that it occurred during the year. The government required all men between the ages of 18 and 45 and women between the ages of 18 and 27, to participate in the national service program, which included military training and civilian work programs. In addition some national service members were assigned to return to their civilian jobs while nominally kept in the military, because their skills were deemed critical to the functioning of the government or the economy. These individuals continued to receive only their national service salary. The government required them to forfeit to the government any money they earned above and beyond that salary. Government employees generally were unable to leave their jobs or take new employment. Draft evaders often were used as laborers on government development projects.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the government has a national plan of action to protect children from exploitation in the workplace, it was not enforced effectively, and child labor occurred. The legal minimum age for employment is 18 years, although apprentices may be hired at age 14. The law bars children, young workers, and apprentices under age 18 from performing certain dangerous or unhealthy labor, including working in transport industries, working in jobs involving toxic chemicals or dangerous machines, and working underground such as in mines and sewers. It was common for rural children who did not attend school to work on family farms, fetching firewood and water and

herding livestock, among other activities. In urban areas, some children worked as street vendors of cigarettes, newspapers, or chewing gum.

Labor inspectors from the Ministry of Labor and Human Welfare are responsible for enforcing child labor laws, but inspections were infrequent.

e. Acceptable Conditions of Work.—The minimum wage in the civil service sector of $24 (325 nakfa) per month did not provide a decent standard of living for a worker and family. Most people in national service and the service industry made even less than the minimum wage. The government did not enforce the minimum wage law. There is no legally mandated minimum wage in the private sector.

The standard workweek is 44½ hours, but many persons worked fewer hours. Workers are entitled to one rest day per week; most workers were allowed 1 to 1½ days off per week. There are no prohibitions against excessive overtime. The government has instituted occupational health and safety standards, but inspection and enforcement varied widely among factories. In practice some workers were permitted to remove themselves from dangerous work sites without retaliation.

ETHIOPIA

Ethiopia continued its transition from a unitary to a federal system of government, under the leadership of Prime Minister Meles Zenawi and the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) coalition. The country's population was approximately 74 million. On September 5, the government certified the results of the May 15 national parliamentary elections, in which the EPRDF won a third consecutive five-year term. Domestic and international observers reported that polling throughout the country was generally credible, although irregularities and intimidation of voters and election observers marred polling in many areas. Although political parties predominantly were ethnically based, opposition parties engaged in a steady process of consolidation. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements within those forces acted independently of government authority.

After the May elections, serious human rights abuses occurred, when the opposition parties refused to accept the announced results, and in November after the Coalition for Unity and Democracy (CUD) called for civil disobedience, which resulted in widespread riots and excessive use of force by the police and military. Although there were some improvements, the government's human rights record remained poor and worsened in some areas. In the period leading up to the May national elections, campaigning was open and debates were televised. The Carter Center described this period as credible and commendable. However, in the period following the elections, authorities arbitrarily detained, beat, and killed opposition members, ethnic minorities, NGO workers, and members of the press. Authorities also imposed additional restrictions on civil liberties, including freedom of the press and freedom of assembly. The following human rights problems were reported:

- limitation on citizens' right to change their government
- unlawful killings, including alleged political killings, and beating, abuse, and mistreatment of detainees and opposition supporters by security forces
- poor prison conditions
- arbitrary arrest and detention of thousands of persons, particularly those suspected of sympathizing with or being members of the opposition
- detention of thousands without charge, and lengthy pretrial detention
- government infringement on citizens' privacy rights, and frequent refusal to follow the law regarding search warrants
- government restrictions on freedom of the press; arrest, detention, and harassment of journalists for publishing articles critical of the government; self-censorship by journalists
- government restrictions on freedom of assembly including denial of permits, burdensome preconditions or refusal to provide assembly halls to opposition political groups, and at times use of excessive force to disperse demonstrations
- government limitations on freedom of association
- violence and societal discrimination against women, and abuse of children
- female genital mutilation (FGM)
- exploitation of children for economic and sexual purposes

- trafficking in persons
- societal discrimination against persons with disabilities, and discrimination against religious and ethnic minorities
- government interference in union activities

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—During the year paramilitary groups committed unlawful killings, including political killings. The Ethiopian Human Rights Council (EHRCO) reported that from January to March armed militia killed several members of the opposition All-Ethiopia Unity Party/Coalition for Unity and Democracy (AEUP/CUD) in the Amhara Region. For example, on January 19, militia killed AEUP member Anley Adis and local AEUP chairman Eyilegne Wendimneh, both of Debay Telat-gen District, Yebabat Kebele. On February 28, militia killed Tilahun Kerebe of Ankesha District, Sostu Shumata Zegsa Abo Kebele; and on March 21, Alamir Aemero of Shikudad District, Absela Kebele. By year's end, police had arrested two suspects in the killing of Tilahun Kerebe.

The Oromo National Congress (ONC) reported that, between March 19 and September 24, police, militia, and *kebele* (local administration) officials shot and killed 24 members and supporters. For example, on March 28, police shot and killed Ahmed Adem of Chelia District, Ijai Town. On June 12, police shot and killed parliamentarian-elect Tesfaye Adane, representing Arsi Negeli Town, East Shoa Zone. Some of these killings were a result of confrontations in which both sides were armed. By year's end, three policemen suspected of being involved in the killing of parliamentarian-elect Tesfaye Adane were detained at Zway Prison and their case was under investigation.

EHRCO reported that on April 23, *kebele* officials shot and killed Hassan Endris, a coordinator for the CUD in South Wollo Zone, Were-Ilu District, Kebele 11, in the Amhara Region. On May 15, government security forces shot and killed Sheikh Osman Haji Abdella of Shashamane District, Hurso Sembo Kebele, Oromo Region.

The Ethiopian Social Democratic Federalist Party (ESDFP) reported that on August 18 army troops killed Bezela Lombiso of Gibe District in the Southern Nations, Nationalities, and Peoples Region, and raped his wife. Bezela faced charges of killing a policeman during the 2000 national and regional elections.

The CUD reported that on September 11 armed militia beat CUD member Asefa Getahun and that he died of his injuries the following day. On October 1, local militia shot and killed CUD member Girma Biru, of Sultulta Wereda, Mulo Town. The CUD stated that local administrators and armed militia were responsible for the October 11 extrajudicial killing of Mosse Wasse, in Shoga District, west Gojjam/Jiga, Amhara Region; and the October 16 extrajudicial killing of Tila Tsega, at Lay Gaynt/Nefas Mewucha, North Gonder.

In October 2004 EHRCO reported several alleged killings by police. For example, on October 18, police shot and killed Geletaw Mamo, of North Shoa Zone, Keya Gebriel Kebele, Amhara Region. A suspect in the killing was in police custody in the town of Jima. Authorities released a suspect in the November 2004 fatal police shooting of Nesredin Shehselo, a baker in Bole Subcity, Addis Ababa, on bail. Three suspects in the November 2004 fatal police shooting of Ashenafi Tabor, of Ilu District, Teji Town, were in custody at Sebeta police station. A suspect in the December 2004 fatal police shooting of Efrem Alemayehu, of Kirkos Subcity in Addis Ababa, was in police custody. A suspect in the January 3 fatal police shooting of Kebede Uzo, of Jijiga Town in the Somali Region, was in police custody in Jijiga.

There were no significant developments in the following cases of persons killed by security forces in 2004: the March killing of ninth-grade student Alemu Tesfaye in Oromiya Region; the killing of high school student Amelework Buli of Oromiya Region; the March to May killings of AEUP supporters; and the June incident of military personnel colliding with and then firing on a civilian vehicle in Gode town, killing 10 persons.

There were no developments in the case of district police responsible for the 2003 killing of opposition Southern Ethiopian People's Democratic Coalition (SEPDC) member Aeliso Tieliso.

The government reported that prosecutions had begun against several individuals suspected of the December 2003 to May 2004 extrajudicial killings of 13 Anuak civilians in the Gambella Region. In March Amnesty International reported that government soldiers had killed, raped, and tortured hundreds of Anuaks in the Gambella Region during that period.

During 2005 EHRCO reported that, from June 6 to 8, the police and army shot and killed 42 unarmed demonstrators in Addis Ababa. Between November 1 and 7,

military and police forces opened fire on rioters who were throwing rocks, and in some cases were armed with machetes and grenades, killing at least 40 individuals in Addis Ababa (see section 2.b.). For example, on June 6, following unrest at Addis Ababa University, police shot and killed Shibre Desalegn of Yeka Subcity and Yesuf Abdela, a student at Kotebe Teacher's Training College. On June 8, police shot and killed 16-year-old student Nebiy Alemayehu of Kolfe Subcity, and Zulufa Surur (a mother of seven children), while security forces killed 16-year-old brothers Fekadu Negash and Abraham Yilma. Federal police acknowledged the death of 26 persons on June 8 following an unlawful demonstration. Several police were also killed during the November riots. On December 7, the government established an independent commission of inquiry to investigate circumstances surrounding the killings. The commission publicly issued a call for information and complaints.

EHRCO reported that on July 24 and 26 unidentified persons detonated hand grenades inside 4 hotels and a residence in the town of Jijiga, killing 5 persons and injuring 31. Police took suspects into custody and the case was under investigation.

Armed elements of the Oromo Liberation Front (OLF) and the Ogaden National Liberation Front (ONLF) continued to operate within the country. Clashes with government forces on numerous occasions resulted in the death of an unknown number of civilians, government security forces, and OLF and ONLF troops and members.

At year's end there were approximately two million landmines in the country, many dating from the 1998–2000 war with Eritrea. During the year landmines killed seven civilians, injured four, and destroyed seven vehicles in districts bordering Eritrea. The government demining unit continued to make limited progress in its survey and demining of border areas. United Nations Mission in Eritrea and Ethiopia (UNMEE) officials reported that new landmines were planted on both sides of the Ethiopian-Eritrean border during the year. The government and UNMEE engaged in demining activities in selected areas along the border and disseminated information on the whereabouts of suspected mined areas to local residents.

In June, July, October, and November, suspects arrested for the April 2004 hand grenade attack on a television room at Addis Ababa University (AAU) during a Tigrigna language news program appeared in court; the trial was scheduled to resume in January 2006.

There were no developments in the May 2004 hand grenade attack on a Tigrayan-owned shop in Debre Zeit, Oromiya Region. Police blamed the OLF for the attack.

Ethnic clashes resulted in hundreds of deaths during the year (see section 5).

The federal high court in Addis Ababa continued to arraign and prosecute those formally charged with committing genocide and other war crimes, including extrajudicial killings, under the 1975–91 Derg regime (see section 1.e.).

b. Disappearance.—There were reports of disappearances perpetrated by government forces during the year, some of which may have been politically motivated. In nearly all cases, security forces abducted persons and detained them in undisclosed locations for varying lengths of time ranging from weeks to months. Thousands of such cases occurred in response to calls for struggle against the government by the OLF in Oromiya and during post-election public demonstrations in November and December.

EHRCO reported the disappearance of 17 persons between June 8 and 10. On June 8 police abducted Ashenafi Berhanu, Tsegaye Neguse, Daniel Worku, and Adem Hussien, all working in Addis Ababa, and Jelalu Temam of Arada Subcity in Addis Ababa, and the brothers Girum Seifu and Mekonnen Seifu of Lideta Subcity; on June 9, security forces abducted Endeshaw Terefe of Addis Ketema Subcity in Addis Ababa, and federal police abducted Daniel Abera, Tesfaye Bacha, Tesfaye Jemena, Bonsa Beyene, and Getu Begi of Bole Subcity in Addis Ababa; and on June 10, Solomon Bekele of Lideta Subcity, and Amanuel Asrat, Mesfin Mergia, and Dawit Demerew of District 9, Kebele 7. The whereabouts of these individuals were not known.

There were no new developments in the May 2004 detention of Jigsa Soressa, a guard at the Mecha and Tulema Association (MTA), an Oromo nongovernmental organization (NGO), who reportedly continued to be detained at Addis Ababa prison.

The government and independent sources reported that Oromo singer Raya Abamecha, who disappeared in 2004, had returned to Addis Ababa. Details of Abamecha's disappearance were not known at year's end.

On June 9, three Ethiopian air force personnel landed a military helicopter at Ambouli, Djibouti; two of them reportedly requested asylum, but an Ethiopian military delegation reportedly convinced them to return to Ethiopia the next day. AI and UNHCR attempted to visit them in Djibouti but were refused. At year's end, family members told local press that the pilots were detained at an air force base and were restricted from seeing visitors.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits the use of torture and mistreatment, there were numerous credible reports that security officials often beat or mistreated detainees. Opposition political parties reported frequent and systematic abuse of their supporters by police and regional militias.

EHRCO reported that on May 14, Abdeta Dita Entele, a member of the opposition coalition Oromo National Congress/United Ethiopian Democratic Forces of Siraro District in the Oromo Region, committed suicide following the severe beatings he received from *kebele* officials.

On October 16, two men armed with pistols attacked Daniel Bekele, a policy advocate for the NGO ActionAid Ethiopia and a member of the executive committee of the Network of Ethiopian Nongovernmental Organizations and Civil Society Organizations, which monitored the May 15 elections. According to ActionAid, the armed men beat him in the eye. At year's end, Bekele was in police detention on charges of treason and genocide.

Authorities took no action against police responsible for the February and March 2004 police beatings of students, teachers, and parents at Oromiya Region high schools and universities; or against militia responsible for May 2004 attacks on its members reported by the opposition All-Ethiopia Unity Party.

Security forces beat persons during demonstrations (see section 2.b.).

In October 2004 an undisclosed number of the approximately 330 students expelled from Addis Ababa University following the January 2004 Oromo student protests, who had been ordered by police to kneel and run barefoot on sharp gravel for several hours, were readmitted to the university (see section 2.b.).

There were no significant developments in cases of beatings and torture committed by security forces in 2003.

Unlike in previous years, there were no reports that security forces beat journalists.

On August 11, local and international media reported that the federal high court sentenced to death two former senior government officials accused of torturing political opponents during the former Mengistu regime—former National and Public Security Minister Tesfaye Woldeselase and Leggesse Belayneh, former head of criminal investigations.

During the year ethnic clashes resulted in hundreds of injuries and deaths (see section 5).

Prison and Detention Center Conditions.—Prison and pretrial detention center conditions remained very poor, and overcrowding continued to be a serious problem. Prisoners often were allocated fewer than 21.5 square feet of sleeping space in a room that could contain up to 200 persons. The daily meal budget was approximately 25 cents (2 birr) per prisoner, and many prisoners had family members deliver food daily or used personal funds to purchase food from local vendors. Prison conditions were unsanitary, and access to medical care was unreliable. There was no budget for prison maintenance.

In detention centers police often physically abused detainees. Diplomatic observers reported firsthand accounts of such beatings from Addis Ababa University student detainees in Oromiya. Authorities generally permitted visitors, but sometimes denied them access to detainees.

While statistics were unavailable, there were some deaths in prison due to illness and poor health care. Prison officials were not forthcoming with reports of such deaths.

Authorities sometimes incarcerated juveniles with adults, if they could not be accommodated at the juvenile remand home. There was only one juvenile remand home for children under age 15, with the capacity to hold 150 children.

Human rights organizations reported that the government had transported 10 to 18 thousand individuals (mostly youths aged 18–23 detained during the November mass house-to-house searches in Addis Ababa) to Dedessa, a military camp formerly used by the Derg regime located 375 kilometers west of the capital. Observers expressed concern that the camp's remote location and lack of facilities threatened the health of detainees. Human rights organizations reported on similar detention camps in and around Bahir Dar. Most of these detainees were released by year's end. The government transported an unknown number of other detainees to other detention facilities around the country during the same November period. By year's end the government publicly announced that it had released all but three thousand detainees, who would be charged with relatively minor crimes potentially carrying sentences of up to several months confinement. International observers were denied access to the detention facilities, but local NGO Prison Fellowship Association was permitted access.

During the year the International Committee of the Red Cross (ICRC) generally had access to federal and regional prisons, civilian detention facilities, and police stations throughout the country, and conducted hundreds of visits involving thousands of detainees. The government also granted diplomatic missions access, subject to advance notification, to prison officials. Authorities allowed the ICRC to meet regularly with prisoners without third parties being present. The ICRC received permission to visit military detention facilities where the government detained suspected OLF fighters. The ICRC also continued to visit civilian Eritrean nationals and local citizens of Eritrean origin detained on alleged national security grounds.

Government authorities continued to permit diplomats to visit prominent detainees held by the special prosecutor's office (SPO) for alleged involvement in war crimes and terrorist activities. However, the government denied representatives of the international community, including the ICRC, access to leaders of the CUD opposition party, members of civil society groups, and journalists detained in early November for alleged involvement in antigovernment demonstrations in Addis Ababa, who remained in federal police custody at Addis Ababa's Ma-Ekelawi detention facility at year's end. The government permitted Prison Fellowship Association and local religious leaders to visit these detainees.

d. Arbitrary Arrest or Detention.—Although the law prohibits arbitrary arrest and detention, the government frequently did not observe these provisions in practice.

Role of the Police and Security Apparatus.—The Federal Police Commission reports to the Ministry of Federal Affairs, which in turn is subordinate to the parliament. Local government militias also operated as local security forces largely independent of the police and the military. Petty corruption remained a problem in the police force, particularly among traffic policemen who solicited bribes from motorists. Impunity also remained a serious problem. The government rarely publicly disclosed the results of investigations into such types of abuses. The federal police acknowledged that many members of its police force as well as regional police lack professionalism.

The government continued its efforts to train police and army recruits in human rights. During the year the government continued to seek ICRC assistance to improve and professionalize its human rights training and curriculum to include more material on the constitution and international human rights treaties and conventions.

In late November parliament established a commission, whose members were appointed by the prime minister, to investigate the violent demonstrations of June and early November. The chair of the commission reported to a group of foreign ambassadors that it would begin in February 2006 to investigate alleged use of excessive force by security forces.

Arrest and Detention.—Authorities regularly detained persons without warrants and denied access to counsel and family members, particularly in outlying regions, and for those thousands of young persons detained during and after the November riots. According to law, detainees must be informed of the charges against them within 48 hours, but this generally was not respected in practice. While there was a functioning bail system, it was not available for some offenses, including murder, treason, and corruption. In most cases authorities set bail between $115 and $1,150 (1 to 10 thousand birr), which was too costly for most citizens. In addition police officials did not always respect court orders to release suspects on bail. With court approval, persons suspected of serious offenses can be detained for 14 days while police conduct an investigation, and for additional 14-day periods while the investigation continues. The law prohibits detention in any facilities other than an official detention center; however, there were dozens of crude, unofficial local detention centers used by local government militia. In the Oromiya region, a police training facility was used as a makeshift prison during and after the November riots.

The government provided public defenders for detainees unable to afford private legal counsel, but only when their cases went to court. While in pretrial detention, authorities allowed such detainees little or no contact with legal counsel.

There were many reports from opposition party members that in small towns authorities detained persons in police stations for long periods without access to a judge, and that sometimes these persons' whereabouts were unknown for several months. Opposition parties registered many complaints during the year that government militias beat and detained their supporters without charge for participating in opposition political rallies (see section 1.c.).

The government continued its harassment of teachers, particularly in Oromiya and Tigray. The independent Ethiopian Teachers Association (ETA) reported that authorities detained numerous teachers and accused them of being OLF sympathizers, many of whom remained in prison at year's end. Some of the teachers had

been in detention for several years without charges. Human rights observers suspected several of the prolonged detentions were politically motivated.

Police continued to enter private residences and arrest individuals without warrants.

Police detained journalists during the year (see section 2.a.).

Authorities took no action against Amhara Region government militia, district officials, police who arbitrarily detained AEUP members in April and May 2004, or against police who arbitrarily detained ONC member Olbana Lelisa from May to July 2004 without filing charges against him.

During the year police detained persons for holding meetings and demonstrations (see section 2.b.).

Opposition groups alleged that some of the persons detained by the SPO were held for political reasons, an allegation that the government denied (see section 1.e.).

Following the June 6 to 9 demonstrations protesting the announced outcome of the May 15 parliamentary elections, police detained thousands of opposition members and other residents of Addis Ababa. Government security forces took three to four thousand residents from their homes and detained them in Zway prison outside the capital. EHRCO reported the illegal detention between June 10 and 16 of 74 opposition political party activists, businessmen, and students. Security forces beat and detained an estimated five thousand individuals in various prisons around the country. On June 29, the federal police reported that it had detained 4,455 "suspects;" most were released after several days of detention. In mid-September, however, 40 percent of the prisoners at Shoa Robit prison (742 of 1,866 prisoners), north of Addis Ababa, were young men arrested around the time of the June demonstrations on charges of dangerous vagrancy.

In September the government arrested more than one thousand members of the CUD and UEDF opposition coalitions, following their announcement of plans to hold demonstrations on October 2.

In November, 30–200 motorists were arbitrarily detained for honking their horns during the African Union summit opening ceremony in response to an opposition call for civil disobedience.

In November military and police conducted door-to-door searches in Addis Ababa, often at night, and detained without warrant between 10 and 18 thousand youths, aged 18 to 23, believed to have been involved in violent antigovernment demonstrations.

In August and September police and local militia arrested six Oromo Federalist Democratic Movement (OFDM) members without warrant in the East and West Welega Zone of Oromiya Region: Shiferaw Fekadu, Fikru Benti, Mitiku Terfa, Abraham Jiregna, Abdeta Abraham, and Habte Tesema.

The OFDM reported that ruling Oromo People's Democratic Organization (OPDO) cadres harassed, intimidated, and detained hundreds of OFDM members who served as observers during the May 15 parliamentary elections. For example, in Arsi Zone, Assassa District, cadres arrested and detained Sheikh Mahmud Tusuru for several days. Authorities interrogated Gebeyehu Hayato, the son of a newly elected member of parliament, over 10 times. OFDM member Hussein Adem faced 20 days imprisonment in Sodere District. At year's end, nine OFDM members who served as observers during the May election remained detained in Gachi district of Illubabor zone. The OFDM reported to the NEB that local officials arrested 10 OFDM members in Kokosa Constituency, Nansibo District, Bale Zone. OFDM also reported the detention of 13 of its members in Borena Zone, Bule Hora District.

In response to attacks by armed opposition groups operating out of Somalia and Kenya, the military continued to conduct operations, which included occasional arbitrary detentions, in the Gambella, Somali, and Oromiya regions.

In November authorities re-arrested CUD member and mayor of Addis Ababa Dr. Berhanu Nega and Professor Mesfin Woldemariam, two prominent academics and human rights activists, for participating in planning antigovernment protests aimed at the removal of the government. At year's end they remained in confinement on charges of treason and genocide, along with several members of NGOs active in civic education, and independent journalists. Other prominent CUD leaders arrested included: CUD president Hailu Shawel; Dr. Yacob Hailemariam, a former prosecutor for the UN International Criminal Tribunal for Rwanda; and CUD vice-president Ms. Birtukan Mideksa, a former judge. Their prison conditions were reported to be adequate, especially those of the CUD leaders, who had separate cells. However, access to legal counsel was sporadic, and there were serious concerns about access to adequate medical care.

Authorities took no action against Amhara Region government militia, district officials, and police who arbitrarily detained AEUP members in April and May 2004;

or against police who arbitrarily detained ONC member Olbana Lelisa from May to July 2004 without filing charges against him.

Authorities took no action against police who detained hundreds of Oromo students and teachers for several weeks in detention centers on suspicion of being supporters of the OLF in 2004 (see section 1.c.).

Thousands of criminal suspects reportedly remained in pretrial detention, some for years. Some of the detainees were teachers and students from the Oromiya Region accused of involvement in OLF activities, or who were arrested after student unrest broke out in Oromiya in February and March 2004.

The government detained several persons without charge at the Gondar prison, some for years, while the police investigated their cases. In April authorities sentenced Wondante Mesfin to life imprisonment following his conviction on murder charges; he had been in detention in Nefas Mewcha prison in South Gondar Zone since 1994.

e. Denial of Fair Public Trial.—While the law provides for an independent judiciary, the judiciary remained weak and overburdened. Most perceived the judiciary to be subject to significant political intervention.

The government continued to decentralize and restructure the judiciary along federal lines with the establishment of courts at the district, zonal, and regional levels. The federal high court and the federal Supreme Court heard and adjudicated original and appeal cases involving federal law, transregional issues, and national security. The regional judiciary was increasingly autonomous and often heard regional cases.

Regional offices of the federal Ministry of Justice monitored local judicial developments. Some regional courts had jurisdiction over both local and federal matters, as the federal courts in those jurisdictions had not begun operation; overall, the federal judicial presence in the regions was limited. Anecdotal evidence suggested that some local officials believed they were not accountable to a higher authority. Pending the passage of regional legislation, federal procedural and substantive codes guide all judges.

To remedy the severe lack of experienced staff in the judicial system, the government continued to identify and train lower court judges and prosecutors, although officials acknowledged salaries did not attract the desired number of competent professionals.

Trial Procedures.—According to the law, accused persons have the right to a fair public trial by a court of law within a "reasonable time;" the right to a presumption of innocence; the right to be represented by legal counsel of their choice; and the right to appeal. Despite these protections, closed proceedings occurred, at times authorities allowed detainees little or no contact with their legal counsel (see section 1.d.), and detainees usually were not presumed innocent. The public defender's office provides legal counsel to indigent defendants, although its scope remained severely limited, particularly with respect to SPO trials. Although the law explicitly stipulates that persons charged with corruption are to be shown the body of evidence against them prior to their trials, authorities routinely denied defense counsel access to such evidence before trial.

The law provides legal standing to some pre-existing religious and customary courts and allows federal and regional legislatures to recognize other courts. By law, all parties to a dispute must agree that a customary or religious court will be used before it may hear a case. Shari'a (Islamic) courts may hear religious and family cases involving Muslims. In addition, other traditional systems of justice, such as councils of elders, continued to function. Although not sanctioned by law, these traditional courts resolved disputes for the majority of citizens who lived in rural areas, and who generally had little access to formal judicial systems.

The federal first instance court's seventh criminal branch handled cases of sexual abuse against women and children. By the end of the year the court had received 541 cases and had passed verdicts on 351 cases.

Three federal judges sat on one bench to hear all cases involving juvenile offenses. There was a large backlog of juvenile cases, and accused children often remained in detention with adults until officials heard their cases.

The military justice system lacked adequately trained staff to handle a growing caseload. Foreign assistance to train military justice officials resumed during the year.

There was no new information on the activities of the SPO, established in 1992 to create a historical record of the abuses committed during the Mengistu government (1975–91, also known as the Derg regime) and to bring to justice persons responsible for human rights violations. Approximately one thousand persons remained in detention charged with Derg-era offenses. Court-appointed attorneys,

sometimes with inadequate skills and experience, represented many of the defendants.

Political Prisoners.—The total number of political detainees during the year was estimated to be in the several thousands.

While the law stipulates that all suspects be arraigned before a court within 48 hours, the leaders of the CUD, civil society, and journalists were held without access to courts, counsel, and family for many days. Human rights groups and political parties (such as the CUD, UEDF, and OFDM) reported that police and local militia detained thousands of persons in police stations and detention camps for several days in order to conduct interrogations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law requires authorities to obtain judicial search warrants to search private property; however, in practice, particularly outside Addis Ababa, police often searched property without obtaining warrants (see section 1.d.). Opposition party representatives claimed that police sometimes used fraudulent warrants to enter homes and commit criminal acts, including extorting money. There were reports that members of the federal police robbed persons during the year, including through the use of false warrants.

There continued to be reports of police forcibly entering civilian homes. During and following antigovernment demonstrations in June and early November, security forces entered homes and searched premises without warrants, took thousands of persons from their homes in the middle of the night without warrants, and often detained family members or other residents,

Some opposition party members reported that authorities burned down their homes and looted their offices (see section 3).

All electronic communications facilities were state-owned. Political party leaders and one foreign diplomat reported incidents of phone-tapping and other electronic eavesdropping.

The government used a system of paid informants to report on the activities of particular individuals.

There were reports during the year of the forced displacement of families in rural areas. The government stated that its resettlement program, which moved families from drought-prone areas to more fertile lands, was entirely voluntary, but opposition parties accused local authorities in some rural areas of targeting opposition supporters for resettlement by manipulating resettlement rosters. NGOs such as Doctors Without Borders reported that, in several instances, the government resettled persons in areas with no existing infrastructure or clean water supply, resulting in unusually high rates of infant mortality.

During the year there continued to be credible reports from EHRCO and opposition parties that in certain rural areas in the Oromiya Region, Amhara Region, and the Southern Nations, Nationalities, and Peoples Region, local officials used threats of land redistribution and withholding of food aid and fertilizer to garner support for the ruling coalition. There were many reports of ruling party or government harassment intended to prevent individuals from joining opposition parties or from renting property to them. There were numerous reports of more serious forms of harassment and violence directed against members of opposition parties in many areas of the country, including beatings, house burnings, and killings (see sections 1.c., 1.d., 3, and 5).

There also were credible reports that teachers and other government workers had their employment terminated if they belonged to opposition political parties. According to the opposition SEPDC, the regional government continued to dismiss SEPDC members—particularly teachers—from their jobs.

The law imposes a six-month waiting period on anyone seeking to remarry following a divorce or the death of one's spouse (see section 5). The government maintained that this waiting period was necessary to determine whether a woman may still be carrying the child of her former spouse. In practice, this was not enforced, although the official overseeing such weddings may request a pregnancy test to show the woman was not pregnant from a previous marriage. Any interested party may request a written official explanation of why a wedding was allowed to occur within the waiting period.

Security forces continued to detain family members of persons sought for questioning by the government.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—While the law provides for freedom of speech and press, the government restricted these rights in practice. The government continued to harass and prosecute journalists, publishers, and editors for publishing allegedly fabricated information and for other violations of the press law. The govern-

ment controlled all broadcast media. Private and government journalists routinely practiced self-censorship.

Prior to the May 15 national elections, government-controlled media provided unprecedented access to opposition views, but after the election they generally reflected only the views of the government and the ruling EPRDF coalition. Relations between the private press and the government were often strained.

Foreign journalists continued to operate freely and often wrote articles critical of government policies. Government officials often granted foreign journalists or local stringers greater access to government than local independent journalists received. However, prior to the May 15 national elections, some international correspondents reported strong government pressure to self-censor their coverage; they refused to do so, but suffered no immediate consequences.

Although the law allows for private radio stations, and the government said that it would license new stations, the government continued to control all radio and television broadcast media. The government operated the sole television station and tightly controlled news broadcasts. The broadcasting law prohibits political and religious organizations from owning broadcast stations. The law also prohibits foreign ownership.

State-run Radio Ethiopia sold broadcasting time to private groups and individuals who wanted to buy spots for programs and commercials. On April 1, the Southern Nations, Nationalities, and Peoples Region launched daily one-hour Amharic-language broadcasts on its regional FM radio station, Radio Voice of the South. On September 5, the Addis Ababa city administration started test transmissions for a daily five-hour FM broadcast.

There were some restrictions on access to international news broadcasts. Broadcasts of BBC and Deutsche Welle were listened to throughout the country. Opposition Web sites were also accessible by the Internet. At year's end, Voice of America broadcast signals remained subject to intentional jamming. The government permitted ownership of private satellite receiving dishes; however, high costs and the limited capacity of the sole telecommunications entity, the Ethiopian Telecommunications Corporation, effectively restricted access to this technology.

The government continued to use statutory provisions on the publication of false information, incitement of ethnic hatred, libel, and publication of articles offensive to public morality to justify the arrest and detention of journalists. Authorities also detained journalists to pressure them to identify sources of information. Independent journalists accused the government of selectively applying sections of the penal code to justify charges against them. The government charged, detained, and fined dozens of journalists during the year.

On January 11, authorities arrested Shiferaw Insermu, a journalist with the Oromo-language service of the state-owned Ethiopian television (ETV), for the third time, at the central criminal investigation office prison in Addis Ababa.

Shiferaw and fellow ETV journalist Dhabassa Wakjira, who was arrested in April 2004, remained in detention on several charges, including passing government information to the OLF leadership. Prison authorities ignored various court orders to free them.

Police asked *Addis Zena* editor-in-chief Fassil Yenealem to disclose his sources for two stories, including a May 17 article reporting that the ruling EPRDF had established a special intelligence force to arrest and assassinate CUD leaders, and had recruited 11 Tigrayan women to poison CUD leaders. Yenealem did not reveal his sources and was subsequently arrested for publishing a story that could not be corroborated.

On June 7, the Ministry of Information revoked the accreditation of five local journalists working for foreign media, accusing them of writing "unbalanced reports" on the May 15 elections: Helen Mohammed, Temam Aman, Bereket Teklu, Tadesse Engidaw, and Assegedech Yiberta.

On June 8, government security forces detained Addis Ababa newspaper distributor Fikre Gudu and held him for one month. After his release on July 7, he gave an interview to the private Amharic-language weekly *Asqual* discussing his arrest and subsequent imprisonment in a detention center outside the capital. He described poor prison conditions and criticized the government for jailing him. Authorities detained him again on August 19; they released him on bail after four days in police detention. During his latest detention, police accused Gudu of using the interview to spread false information and to defame the police and prison system.

In November the government issued a list of 58 persons, including 12 journalists, wanted for alleged involvement in the violent antigovernment demonstrations that occurred in early November. During November police arrested six of the journalists. The imprisoned opposition members and journalists were charged with treason, genocide, and attempts to subvert the constitution, charges which carry prison

terms and the possibility of a death penalty for those found guilty. By year's end the arrested journalists remained in detention awaiting arraignment. A byproduct of the arrests was the closure of more than a dozen Amharic-language newspapers, collectively representing more than 80 percent of the total circulation of Amharic newspapers.

At year's end, one journalist had been sentenced to one month in prison and released; more than 34 journalists had been summoned, questioned, arrested, detained on press charges, and made to pay bail ranging from $58 to $346 (500 to 3 thousand birr); approximately 54 journalists remained in self-imposed exile; and a number of journalists in the country faced criminal charges. In addition, two state-media journalists remained imprisoned on political rather than press-related charges.

All official media received government subsidies; however, the official media were legally autonomous and responsible for their own management and partial revenue generation. The minister of information was the government's official spokesperson and the ministry managed contacts between the government, the press, and the public; however, the government routinely refused to respond to queries from the private press and often limited its cooperation with the press to the government-run Ethiopian News Agency, the EPRDF-controlled Walta news agency, and correspondents of international news organizations. The prime minister's office continued to deny to the independent press all access for coverage of official events at the prime minister's office, limiting such coverage and access to government media representatives.

Reporters acknowledged that they routinely practiced self-censorship.

The Ministry of Information required that newspapers have a bank balance of $1,150 (10 thousand birr) when annually registering for a publishing license. This sum effectively precluded some smaller publications from registering. Authorities also required permanent residency for publishers to establish and operate a newspaper. The government did not require residency for other business owners, and some independent journalists maintained that the government used the residency requirement as a form of intimidation. The press law requires all publishers to provide free copies of their publications to the Ministry of Information on the day of publication.

The majority of private newspapers as well as government newspapers printed their publications on government-owned presses. Following the unrest in November, presses frequently refused to print some papers, citing Ministry of Justice statements indicating that presses would be held responsible for content they printed. Police had the authority to shut down any printing press without a court order, but during the year did not exercise that power.

The English-language press continued to publish articles critical of the government.

On March 3, the federal high court lifted a 17-month ban on the Ethiopian Free Press Journalists Association (EFPJA) and its leadership, by upholding a December 2004 decision by the court of first instance that the EFPJA was a legally recognized association, and rejecting the appeal of the Ministry of Justice. At year's end, the organization was inactive, as its president, journalist Kifle Mulat, was among journalists sought for arrest by the government. Mulat avoided detention, however, by not returning to the country at the time of the November unrest. A rival association with the same name as the EFPJA, sponsored by the government, was inactive during the year and its operating status was unknown.

At year's end the draft press law proposed in 2003 by the Ministry of Information had not been formally presented to parliament. However, on March 28, parliament included some of the most punitive provisions of the draft press law in the new penal code, which took effect in May. The articles include general provisions applicable to all offenses, and specific ones applicable to particular crimes. Among them are articles taken verbatim from the draft press law referring to liability for offenses committed by the press.

Journalists and international media organizations criticized the draft law, citing its ambiguity, restrictions, heavy penalties, and granting of excessive powers to the Ministry of Information. The government asked international donors to provide media experts to assist in redrafting and improving the press laws.

The government did not restrict Internet access. In the wake of the June 8 disturbances, however, the state telecommunications monopoly disabled mobile-phone text messaging, a block that remained largely in place at year's end, claiming that the CUD used text messaging to call for antigovernment actions.

The government restricted academic freedom during the year. The government maintained that professors could conduct research in their disciplines but that they could not espouse political sentiments. Authorities did not permit teachers at any level to deviate from official lesson plans and discouraged political activity on uni-

versity campuses. Prior to the June disturbances, some of which occurred on and adjacent to Addis Ababa University's campus and on the premises of a state technical institute, there were reports that uniformed and plainclothes police officers were present on campuses. The government arrested students and teachers during the year (see section 1.d.).

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly. Prior to the May 15 national elections, there were numerous opposition rallies, including one that occurred in Addis Ababa attended by nearly one million persons the weekend prior to the elections. However, immediately following the elections, the government restricted this right in practice.

Organizers of large public meetings or demonstrations must notify the government 72 hours in advance and obtain a permit. There were several reports during the year that authorities denied permits sought by opposition political parties. Opposition parties also reported long, unexplained delays by the regional authorities in issuing permits, and last minute revocation of permits. The independent Ethiopian Teacher's Association (ETA) continued to encounter government restrictions when attempting to hold meetings or demonstrations.

On May 14, the eve of national elections, the prime minister announced a one-month ban on all demonstrations in Addis Ababa and the surrounding area. In a May 25 press statement, EHRCO condemned the ban as an infringement on the constitutional rights of citizens.

Despite the ban (which was extended to August 13), demonstrators protested against the government from June 6 to 8, leading to the killing of at least 42 unarmed demonstrators by security forces in Addis Ababa. On June 6, following unrest at Addis Ababa University, police shot and killed Shibre Desalegn of Yeka Subcity and Yesuf Abdela, a student at Kotebe Teacher's Training College. On June 8, police shot and killed 16-year-old student Nebiy Alemayehu of Kolfe Subcity, and Zulufa Surur (a mother of seven children), while security forces killed brothers Fekadu Negash and Abraham Yilma (age 16). Federal police acknowledged the death of 26 persons on June 8 following an "unlawful demonstration." The government established an independent commission of inquiry to investigate circumstances surrounding the killings.

Between November 1 and 7, military and police forces opened fire on rock-throwing demonstrators in Addis Ababa, killing at least 40 individuals (see section 2.b.).

The government claimed that some demonstrators were armed with machetes and hand grenades. Several regions throughout the country, including Amhara and Oromiya, reported numerous deaths resulting from confrontations between opposition protestors and the military or police.

The opposition CUD and UEDF parties reported that in September local officials prohibited public meetings the parties had organized in various towns. The UEDF reported that it had to cancel a general assembly of its members planned for September 29 because the government directed hotel proprietors in Addis Ababa not to rent their assembly halls to the UEDF or other opposition parties. The CUD reported that the Addis Ababa city administration imposed extraregulatory restrictions that prevented a mass rally planned for October 2. The government prevented the CUD from meeting after charges were brought on December 21.

Opposition political parties reported that during the year their supporters were targets of frequent and systematic violence by ruling party supporters, often after leaving meetings (see sections 1.c., 1.d., and 3). EHRCO reported that regional governments, including the Addis Ababa regional administration, infringed on the right of peaceful assembly and association. For example, authorities cancelled public meetings planned for September 4 by the CUD in Addis Ababa, Gondar, Bahir Dar, Awasa, and Dessie. Police arbitrarily arrested several CUD members in various towns where public meetings were scheduled to be held. Most obtained their release after several days of detention.

The OFDM reported that OPDO cadres seized and destroyed membership cards of OFDM supporters, disrupted OFDM political meetings, and detained OFDM members in police stations and army camps. Officials picked up Kebede Jato and several other OFDM members from Manasibu district and detained them for several days in an army camp. On September 8, following a quarrel in Dembidollo, an OPDO cadre shot and injured OFDM member Beyene Alemu.

No actions were taken against police who in January 2004 reportedly beat demonstrators protesting the government's decision to transfer the capital of Oromiya from Addis Ababa to Adama; police who forced hundreds of detained student protestors in January 2004 to kneel and run barefoot on gravel for hours (see section 1.c.); nor against security forces who forcibly dispersed demonstrations in 2003

or 2002. It was unknown at year's end whether any persons detained in previous years for holding illegal meetings remained in detention.

During the year attacks by police, the army, and militia against members of the opposition and the general public escalated, particularly for demonstrations against the results of the May national elections. EHRCO reported that after facing police and armed soldiers during June 6 to 9 demonstrations in Addis Ababa, 35 Addis Ababa residents were admitted to hospitals with serious gunshot wounds. The government had not investigated these cases by year's end.

The opposition CUD and UEDF parties reported that after the May 15 parliamentary elections, security forces continued to follow, harass, and arrest their leaders. For example, security forces placed opposition political party leaders, including CUD chairman Hailu Shawel and CUD spokesman Lidetu Ayalew, under house arrest for several days, and barred visitors from seeing them. On September 16, unidentified persons severely beat Debebe Eshetu, a senior official of CUD; police have not investigated the incident. Throughout October unidentified persons followed and harassed CUD Chairman Dr. Berhanu Nega, mayor-elect of Addis Ababa, and Dr. Merera Gudina, UEDF chairman.

In September and October the UEDF, CUD, and ONC reported numerous arrests (see section 1.d.) and forced office closures throughout the country.

The CUD reported that on October 1, unidentified persons detained and assaulted Bertukan Mideksa, first vice president of the CUD, and Muluneh Eyoel, CUD secretary-general. The attackers also confiscated documents Muluneh was carrying in his briefcase.

There were no developments in the 2004 suspension of the MTA and arrests of its members. Some arrests appear to have been made without warrants, and some detentions continued despite court orders to release suspects (see section 1.d.).

Freedom of Association.—Although the law provides for freedom of association and the right to engage in unrestricted peaceful political activity, the government in practice limited this right. A number of policy issues regarding nongovernmental organizations (NGOs) remained unresolved, including the right of NGOs to enter into formal network arrangements that would enable them to pool funds. The Ministry of Justice registers and licenses NGOs, and there was some improvement in transparency of the NGO registration process. However, the government continued to deny registration to the Human Rights League (see section 4).

As provided by law, the government required political parties to register with the NEB. The NEB's independence was called into question when it made a series of decisions limiting the political activity of opposition parties, including the rejection of the CUD merger, unwillingness to recognize the CUD coalition after the elections, and the recognition of a disputed change in the ONC party leadership.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, local authorities occasionally infringed on this right. The Ethiopian Orthodox Church (EOC) and Islam are the dominant religions; nearly 90 percent of the population adhered to one or the other faith.

While the government required that religious institutions annually register with the Ministry of Justice, there were no reports of government action against institutions that chose not to register. Under the law, a religious organization that undertakes development activities must register its development wing separately as an NGO. The government did not issue work visas to foreign religious workers unless they were associated with the development wing of a religious organization.

Some religious property confiscated under the Mengistu (Derg) regime had not been returned by year's end.

Societal Abuses and Discrimination.—Minority religious groups reported discrimination in the allocation of government land for religious sites. Authorities banned a traditional animist Oromo religious group because it suspected that the group's leaders had close links to the OLF and Macha and Tulama Association (MTA). Protestant groups occasionally reported that local officials discriminated against them when they sought land for churches and cemeteries. Evangelical leaders stated that because authorities perceived them as "newcomers," they were at a disadvantage compared with the EOC and the EIASC in the allocation of land. The Ethiopian Islamic Affairs Supreme Council (EIASC) reported that it faced more difficulty obtaining land from the government than did the EOC, while others believed that the government favored the EIASC. Officials targeted for demolition many mosques that squatters had built without city government approval.

There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Travel, Emigration, and Repatriation.—Although the law provides for these rights, the government restricted some of these rights in practice.

Throughout the year in the Gambella Region, the government continued to monitor and sometimes control the passage of relief supplies and access by humanitarian organizations, explaining that it was doing so as a matter of security for those traveling in the region.

The law prohibits forced exile, and the government did not force any citizens into exile. A number of persons remained abroad in self-imposed exile, including 54 journalists (see section 2.a.).

During the year the ICRC repatriated 427 Ethiopians from Eritrea to Ethiopia and repatriated 192 Eritreans from Ethiopia to Eritrea. Most Eritreans and Ethiopians of Eritrean origin registered with the government and received identity cards and six-month renewable residence permits that allowed them to gain access to hospitals and other public services. However, there were anecdotal reports that local government officials denied indigent Eritreans the right to free medical services.

During the year the UNHCR processed 556 cases for resettlement in third countries and expected that number to exceed 600 by the end of the year.

Internally Displaced Persons (IDPs).—The 1998–2000 war with Eritrea produced approximately 350 thousand internally displaced persons (IDPs). Of these, humanitarian agencies resettled an estimated 225 thousand. In May the Norwegian Refugee Council's Global IDP Project estimated the number of IDPs at between 151 thousand and 167 thousand, including approximately 60 thousand in Tigray Region, 50 thousand in Gambella Region, 30 thousand in the Somali Region, and 10 thousand to 20 thousand in Oromiya Region.

Violent clashes between different ethnic groups during the year internally displaced thousands of persons, and resulted in deaths and injuries (see section 5).

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. A national refugee law was passed in August 2004 and took effect in May. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government generally cooperated with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and returning citizens.

The government, in cooperation with UNHCR, also continued to provide temporary protection to individuals from Sudan, Eritrea, and Somalia who may not qualify as refugees under the 1951 convention and the 1967 protocol.

As of September the country hosted approximately 100,200 refugees, down from 121 thousand refugees at the end of 2004. Conditions at the 10 thousand-person capacity camp improved, and refugees subsequently had adequate health, education, water, and sanitation facilities. Throughout the year there was a steady influx of Eritrean refugees at a monthly rate of 200 to 450 persons. In response the government and UNHCR worked to find a site for a new camp.

In April the state-run Ethiopian News Agency reported that the federal high court sentenced three persons to up to 14 years' imprisonment for the 2002 ethnically motivated murder in the Gambella Region of 28 Nuer refugees from southern Sudan.

At year's end, approximately 32 thousand Nuer and Dinka refugees remained in Fugnido camp in the Gambella Region.

The conflict between ethnic groups in the Gambella Region complicated UNHCR refugee protection efforts (see section 5). Food deliveries to refugees continued in spite of the crisis in the West; however, humanitarian organizations at times were unable to adequately monitor deliveries due to travel restrictions.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through generally free and fair elections held on the basis of universal suffrage; however, irregularities and intimidation of voters and election observers marred polling in many areas. In practice the EPRDF ruling party dominated the government.

The government policy of ethnic federalism led to the creation of individual constituencies to ensure representation of all major ethnic groups in the House of Peoples' Representatives. Nevertheless, small ethnic groups lacked representation in the legislature. There were 23 nationality groups in 6 regional states that did not have a sufficient population to qualify for constituency seats; however, in the May

elections, individuals from these nationality groups competed for 23 special seats in the 547-seat House of Peoples' Representatives.

Elections and Political Participation.—According to domestic and international observers, the May national elections, in which the EPRDF coalition won 372 of 547 seats, were generally credible. Opposition parties made an unexpectedly strong showing, increasing their parliamentary representation from 12 seats to 172. Irregularities, including intimidation of voters and election observers, marred polling in many areas. The GOE/EPRDF also announced the "final" election results before the NEB released them. Some observers reported killings, disappearances, voter intimidation and harassment, and unlawful detentions of opposition party supporters, particularly in the Amhara, Oromiya, and Southern Nations, Nationalities, and Peoples regions (see section 1.a., b., and d.). Nevertheless, international observers, including the Carter Center, hailed the elections as an important development in the country's efforts at democratization.

Opposition parties accused the NEB of being an instrument of the ruling party and of failing to act when informed of electoral irregularities, including ballot stuffing, vote count fraud, bribery, killings, beatings, and widespread intimidation and harassment by ruling party supporters during the national elections.

In protest against national election results, the CUD opposed taking seats in the House of People's Representatives.

On May 20, the state-run Ethiopian News Agency announced that new parliamentary elections would be held May 22 at several polling stations where voting had not occurred properly; parliamentary elections were subsequently rerun at these locations August 21.

On May 31, in protest against the election results, the CUD announced that it had filed complaints against the NEB, and disputed the results in more than 150 constituencies.

The Carter Center issued a statement expressing concern about reports of improper vote counting and tabulation, stating that its observer teams had "found evidence that ballot boxes have been moved improperly, were improperly secured, or that party agents were barred from polling stations or were not allowed to watch the entire count." It also reported, "election day and postelection intimidation and harassment."

The head of the European Union's Electoral Observation Mission (EUEOM), parliamentarian Ana Gomes, issued a preliminary report stating that the May 15 elections "did not live up to international standards," citing irregularities in key areas. The Minister of Information and other government officials publicly criticized the EUEOM and charged that it illegally and secretly leaked unfounded information to the opposition.

The EU issued a statement noting "continuing issues of concern, including respect for human rights and balanced access to the media," but stating that "the EU regards the elections as an important step forward in the democratization process."

On June 10, negotiations between the ruling and major opposition parties resulted in an agreement to adopt an ad hoc complaints resolution process to deal with the large number of unresolved electoral complaints. According to the Carter Center, 44 different complaints investigation panels conducted formal investigations and hearings in 178 constituencies across the country, resulting in a decision by the NEB to hold new elections in 31 constituencies.

On August 16, international media reported that the primary opposition parties would boycott parliamentary elections scheduled for August 21 in the Somali Region. As a result the incumbent Somali People's Democratic Party won all 23 federal parliament seats. Opposition political parties reported that significant irregularities marred the regional election; however, the NEB reviewed the allegations and dismissed them.

In October the government and opposition leaders participated in discussions on the opposition's participation in the House of People's Representatives. While several UEDF members decided to take their seats in the house, some newly elected CUD members of parliament announced they would boycott the opening of parliament, to protest the results of the May elections. By year's end, most of the CUD members had joined parliament. The CUD then called for civil disobedience measures, such as horn-honking, boycotting EPRDF-owned business and ostracizing alleged government supporters, which the government publicly declared illegal.

Beginning on November 1, violent antigovernment protests called by the opposition occurred in Addis Ababa, and the government arrested several dozen opposition leaders, as well as members of the independent media and civil society groups, for alleged participation in unlawful activities. Security forces also detained over 14 thousand demonstrators without charge. Military intervention led to widespread abuses such as arbitrary detention and killings. Security forces arrested at least 12

of the 20 CUD party executive committee members, including party president Hailu Shawel, vice chairman Bertukan Mideksa, secretary-general Muluneh Eyoel, and Addis Ababa mayor-elect Dr. Berhanu Nega, on charges of treason and genocide, among others. At year's end, they remained in prison as their trial began.

The EPRDF, its affiliates, and EPRDF supporters controlled all seats in the 108-member House of Federation, whose members were appointed by regional governments and by the federal government. Membership in the EPRDF conferred advantages upon its members, and the party owned many businesses and awarded jobs to loyal supporters. In addition to the government, only members of the Tigrayan People's Liberation Front (TPLF) had received permission to operate radio stations (see section 2.a.).

During the year the major opposition parties negotiated significant mergers. The AEUP, Rainbow Ethiopia, Ethiopians Democratic Party-Medhin, and the Ethiopian Democratic League formed the CUD, making it the strongest opposition political coalition in the country. During the year other opposition members founded the OFDM, which secured 11 seats in the federal parliament and 10 seats in the Oromiya Regional Council during the May national elections.

Registered political parties must receive permission from regional governments to open local offices. Opposition parties, such as the CUD, the UEDF, and the OFDM, claimed that the pattern of widespread intimidation and violence directed against members of opposition political parties by local government officials continued throughout the year. Opposition parties and the press reported hundreds of such cases, including killings, beatings, arrests, house burnings, and property confiscation.

In many of the cases reported, authorities allegedly told opposition members that they had to renounce their party membership if they wanted access to fertilizer, other agricultural services, health care, or other benefits controlled by the government. Authorities often disrupted or unlawfully banned opposition party meetings.

There were no new developments in the EPRDF's dissolution in late 2003 and early 2004 of offices of the Konso People's Democratic Union (KPDU) and the KPDU-dominated Abaroba and Jarsso local councils, or in the arrest and beatings of KPDU members. Authorities took no actions against those responsible for the February 2004 stoning of AEUP member Bekele Tadesse, or for the March 7 bombing of the house of Zemedkun Gebre Kidane, chairman of the AEUP organizing committee in Ankober District.

Of the 19 members of the Council of Ministers, two were women, and a number of women held senior positions. There were 116 women in the 547-seat House of Peoples' Representatives, and 21 women in the 113-member House of Federation. Of the 14 members of the Supreme Court, 3 were women. During the May 15 national elections women constituted nearly half of the community observers, party workers, and election officials at polling stations.

Government Corruption and Transparency.—The Ministry of Justice has primary responsibility for combatting corruption. A combination of social pressure, cultural norms, and legal restrictions limited corruption. Nevertheless, the lack of transparency in the cancellation of telecommunications, power, and other infrastructure tenders raised suspicions of corruption. In addition, government officials appeared to manipulate the privatization process, as state- and party-owned businesses received preferential access to land leases and credit.

The law provides for public access to government information, but access was largely restricted in practice.

The government publishes its laws and regulations in the national gazette prior to their taking effect. The Ministry of Information managed contacts between the government, the press, and the public; however, the government routinely refused to respond to queries from the private press (see section 2.a.).

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated with limited government restriction, investigating and publishing their findings on human rights cases. The government generally was distrustful and wary of domestic human rights groups and some international observers. After the November protests the government restricted human rights groups from visiting or investigating detention camps. In April the government expelled representatives of several foreign-based NGOs conducting electoral work. Siegried Pausewang, a senior EU observer monitoring the May elections, resigned after government authorities accused him of bias.

Two of the most prominent domestic human rights organizations were EHRCO and the Ethiopian Women Lawyers Association (EWLA). The government routinely

discounted EHRCO's reports and labeled it a political organization. On December 16, two of EHRCO's chief investigators, Cherinet Tadesse and Yared Hailemariam, were among 131 individuals the government charged with instigating violence in order to undermine the country.

The EWLA's primary function was to legally represent women. These and numerous other groups primarily engaged in civic and human rights education, legal assistance, and trial monitoring. However, the government neither shared information nor acknowledged the existence of human rights abuses with members of the domestic NGO community.

The government continued to investigate the Human Rights League for alleged ties to the OLF. The league's offices remained closed, and the government had not responded to its 1997 registration request by year's end, despite a court order to do so.

The government generally cooperated with international organizations like the UN and ICRC. ICRC access to prison and other detention facilities was restricted in the wake of election-related violence during the year.

While the government is required by law to establish a human rights commission and an office of the ombudsman with the authority to receive and investigate complaints with respect to misadministration by executive branch offices, neither entity was fully operational by year's end. The institutions had only limited resources. Neither organization had issued a report by year's end.

The Ministry of Justice continued to implement a three-year program of human rights training workshops for judges, prosecutors, and police, as well as community members around the country. Election-related violence, however, severely curtailed program activities.

A parliamentary commission investigated potential government human rights abuses in conjunction with ethnic violence in the Gambella Region in late 2003 and 2004 (see section 5). Human Rights Watch reported in March that the commission grossly underestimated the number of deaths associated with the ethnic violence and contended that neither the military or federal authorities took steps to bring the perpetrators to justice.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, color, gender, language, national origin, political or other opinion, or social status; however, in practice, the government did not effectively enforce these prohibitions.

Women.—Domestic violence, including spousal abuse and rape, was a pervasive social problem. A July World Bank study concluded that 88 percent of rural women and 69 percent of urban women think their husbands have the right to beat them. While women had recourse to the police and the courts, societal norms and limited infrastructure prevented many women from seeking legal redress, particularly in rural areas. The government began to prosecute offenders on a limited scale.

In October the government announced the establishment of a women's affairs ministry.

The new June 2004 penal code criminalized rape, but did not specifically address spousal rape. The government does not fully enforce the code due to lack of awareness of the law, lack of training, and lack of funds. Social mores continue to be a key constraint, particularly in the rural areas. It is difficult to prove rape because the country does not have appropriate laboratory facilities and rape kits. The government has taken limited action based on the penal code.

Social mores obstructed investigations and prosecutions in rape cases, and many women were not aware of their rights under the law, which led to widespread underreporting. Observers estimated that at least one thousand rapes occurred annually in Addis Ababa, but data based on official police reports counted only approximately 400 cases per year. The press continued to report regularly on rape cases, particularly when injury to minors resulted. Courts sentenced convicted rapists to 10 to 15 years' imprisonment, as prescribed by law. In 2004 the EWLA conducted research on the number of rapes committed and the number of rape convictions handed down; however, the results had not been released by year's end.

Although illegal, the abduction of women and girls as a form of marriage continued to be a widespread practice in several regions, including the Amhara, Oromiya, and Southern Nations, Nationalities, and Peoples regions, despite the government's attempts to combat the practice. Forced sexual relationships accompanied most marriages by abduction, and women often experienced physical abuse during the abduction. Many abducted girls married as early as the age of 7, despite the legal minimum age for marriage of 18. Abductions led to conflicts among families, communities, and ethnic groups. In cases of marriage by abduction, the perpetrator did not face punishment if the victim agreed to marry him (unless authorities annulled the

marriage); even after the conviction of a perpetrator, authorities often commuted the sentence if the victim married him. There were some signs of growing public awareness of the problems of attacks on women and early marriage.

The majority of girls undergo some form of female genital mutilation (FGM). Girls typically experienced clitoridectomies seven days after birth (consisting of an excision of the clitoris, often with partial labial excision, and faced infibulation (the most extreme and dangerous form of FGM) at the onset of puberty. According to a Ministry of Health Demographic and Health survey released during the year, the practice of FGM among all women had decreased from 80 to 74 percent, while support for the practice among women had dropped from 60 to 29 percent. In 2004 the new penal code criminalized the circumcision of any female by imprisonment of not less than 3 months or a fine of not less than $58 (500 birr). Likewise, infibulation of the genitals is punishable with imprisonment of 5 to 10 years.

The government took some measures to help eradicate FGM. It worked to discourage the practice through education in public schools and broader mass media campaigns. In July 2004 the Hamer District women's affairs bureau removed a district official from office for forcing his wife to undergo FGM. In 2004 the South Omo Zone Mobilization and Social Affairs Department Deputy Head reported that committees to eradicate harmful traditional practices were established in 197 localities through South Omo Zone. In 2004 Eastern Harerge Zone police arrested four women who had allegedly circumcised 62 girls in a single day; local residents allegedly tipped off the police following an intensive media campaign on the harmful effects of circumcision.

Prostitution was legal for persons over 18 but it remained a problem. Pimping and benefiting from prostitution were illegal. Persons exploited in prostitution routinely reported that poverty was the principal underlying cause.

The EWLA and the International Organization for Migration (IOM) reported that many female workers who traveled to the Middle East as industrial and domestic workers faced abuse (see section 5, Trafficking).

Sexual harassment was widespread. The penal code prescribes 1½ to 2 years' imprisonment; however, sexual harassment-related laws were not fully enforced.

Although the law provides for equality of all persons, the government did not effectively enforce these protections. The law sets the legal marriage age for girls and boys at 18; elevates civil law above customary and religious law; allows for the legal sharing of property by unmarried couples who live together for at least five years; eliminates family arbitrators as a means of settling marital disputes in lieu of the court system; allows for the joint administration of common marital property; requires the courts to take into account the situation of children or the weakest member of the family in the event of divorce or separation; and imposes a six-month waiting period on women seeking to remarry following divorce or the death of a spouse. However, regional councils had authority to determine family law for their respective regions. Four regions have established their own family law: Amhara, Tigray, Oromiya, and Addis Ababa. Regional laws are more specific to the region than are federal laws. Regional laws are not uniformly enforced. By law, they cannot conflict with the national constitution.

In July 2004, at the urging of a group of activists on women's issues, the head of the NEB publicly endorsed the candidacies of women for parliament.

Discrimination against women was most acute in rural areas, where 85 percent of the population lived. The law contains discriminatory regulations, such as the recognition of the husband as the legal head of the family and the sole guardian of children over five years old. Authorities did not consider domestic violence a serious justification for granting a divorce. There was only limited juridical recognition of common law marriage. Irrespective of the number of years the marriage existed, the number of children raised, and joint property, the law entitled women to only three months' financial support if the common law relationship ended. A husband had no obligation to provide financial assistance to his family and, as a result, women and children sometimes faced abandonment when there was a problem in the marriage. The law states that any property owned before marriage belongs to the spouse that had it. Any property gained during marriage is shared equally, although a wife does not have the right to inherit her deceased husband's share. Even with stronger formal laws, most rural residents continued to apply customary law in economic and social relationships.

All land belonged to the government. Although women could obtain government leases to land, and the government had an explicit policy to provide equal access for women to land, rural communities rarely enforced this policy. The EWLA reported that, in nearly all regions, women did not have access to land, except through marriage. However, when the husband dies, other family members often take the land from the wife.

In urban areas, women had fewer employment opportunities than men, and the jobs available did not provide equal pay for equal work.

Children.—The government supported efforts by domestic and international NGOs that focused on children's social, health, and legal issues, despite its limited ability to provide improved health care, basic education, or child protection.

Education is compulsory and universal through grade six, though approximately 20 percent of school-age children do not attend school. By law, primary education is tuition-free. There were not enough schools to accommodate the country's youth, particularly in rural areas, and the cost of uniforms and school supplies was prohibitive for many families. Approximately 74 percent of male primary school-age children and 59 percent of female primary school-age children attended school; in Addis Ababa girls' attendance was slightly higher. Government reports showed that 29 percent of the children who attended school left the system before they reached the second grade, and only 22 percent of children who began first grade completed eighth grade.

Child abuse was a problem. Members of an NGO staffed 10 child protection units in Addis Ababa's police stations to protect the rights of juvenile delinquents and juvenile victims of crime. Some police officers completed training on procedures for handling cases of child abuse and juvenile delinquency.

Societal abuse of young girls continued to be a problem. FGM was performed on the majority of girls (see section 5, Women). Other harmful traditional practices included uvulectomy, milk-teeth extraction, early marriage, marriage by abduction, and food and work prohibitions.

In the Afar Region in the East, older men continued to marry young girls, but media accounts suggested that this traditional practice continued to face greater scrutiny and criticism. Local NGOs, such as the Kembatta Women's Self-Help Center and the Tigray Women's Association, also influenced societal attitudes toward harmful traditional practices and early marriage in their areas by raising awareness of the problems. During the year regional governments in Amhara and Tigray instituted programs to educate young women on the issues of early marriage.

Pregnancy at an early age often led to obstetric fistulae and permanent incontinence. Treatment for fistulae was available at only one hospital, the Addis Ababa Fistula Hospital, which annually performed more than one thousand fistula operations. It estimated that for every successful operation performed, 10 other young women needed the treatment but did not receive it. The maternal mortality rate was extremely high, partly due to food taboos for pregnant women, poverty, early marriage, and birth complications related to FGM, particularly infibulation.

According to international NGOs, child prostitution was a growing problem, particularly in urban areas. According to an NGO report, 60 percent of persons exploited in prostitution were between the ages of 16 and 25. Underage girls worked as hotel workers, barmaids, and prostitutes in resort towns and rural truck stops. Pervasive poverty, migration to urban centers, early marriage, HIV/AIDS and sexually transmitted diseases, and limited educational and job opportunities aggravated the sexual exploitation of children. A few NGOs aided child victims, including the Forum on Street Children-Ethiopia, which provided children forced into prostitution or sexual exploitation with shelter, protection, and return to their families.

There were occasional reports that children were trafficked out of the country, including unconfirmed reports that children from the south were transported into Kenya by traffickers operating adoption rings, and adopted as other nationalities (see section 5, Trafficking).

Child labor remained a serious problem (see section 6.d.).

The government estimated the number of street children totaled 150 to 200 thousand, with approximately 50 to 60 thousand street children in Addis Ababa. The UN Children's Fund (UNICEF) estimated there were 600 thousand street children in the country and more than 100 thousand in the capital. UNICEF believed the problem was exacerbated because of families' inability to support children due to parental illness and decreased household income. These children begged, sometimes as part of a gang, or worked in the informal sector (see section 6.d.). Government and privately run orphanages were unable to handle the number of street children, and older children often abused younger ones. Due to severe resource constraints, hospitals and orphanages often overlooked or neglected abandoned infants. "Handlers" sometimes maimed or blinded children to raise their earnings from begging.

Trafficking in Persons.—Ethiopia was a source country for men, women, and children trafficked for forced labor and sexual exploitation. Young Ethiopian women were trafficked to Djibouti and the Middle East, particularly Lebanon, the United Arab Emirates, Saudi Arabia, and Bahrain for involuntary domestic labor. A small percentage were trafficked for sexual exploitation to Europe via Lebanon. Small

numbers of men were trafficked to Saudi Arabia and the Gulf states for exploitation as low-skilled laborers. Both children and adults were trafficked internally from rural to urban areas for domestic labor and, to a lesser extent, for commercial sexual exploitation and forced labor, such as street vending. NGOs estimated that international trafficking annually involved between 20 and 25 thousand victims.

The government does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The law provides penalties of up to 20 years imprisonment and a fine of $1,150 (10 thousand birr) for trafficking of women and children. Despite arrests of suspected traffickers in 2004, there were no successful prosecutions of traffickers by year's end. The Ministry of Labor and Social Affairs, in concert with local police, monitored trafficking in persons, while the Ministry of Justice enforced governmental law. The government assisted with international trafficking investigations.

Training programs for police officers on the criminal aspects of trafficking continued during the year. These institutions had limited resources and jurisdiction to protect or intervene in cases of prosecution of offending employers.

NGOs reported that houses of prostitution recruited impoverished girls as young as age 11 and kept them uninformed of the risks of HIV/AIDS infection and other sexually transmitted diseases. A 2003 Family Health International Report indicated that customers particularly sought younger girls because customers believed they were free of sexually transmitted diseases.

The International Organization for Migration (IOM) reported in 2004 that trafficking was "increasing at an alarming rate." A 2003 study by a foreign government on the problem of internal trafficking of women and children confirmed that the problem was pervasive. The overwhelming majority of respondents confirmed that traffickers, typically unorganized petty criminals, lured women and children from rural areas to Addis Ababa and other urban centers with false promises of employment. Of the 459 respondents, 46 percent were illiterate and 49 percent had completed no more than an eighth-grade education. Upon arrival at their new destinations, 54 percent worked as domestic servants, but that number dropped to 9 percent as the trafficked women and children took jobs in bars, became prostitutes, or begged on the street.

There were no reports that government officials participated in, facilitated, or condoned trafficking.

Although illegal, the abduction of women and girls as a form of marriage was still a widespread practice in the Oromiya, Amhara, and Southern Nations, Nationalities, and Peoples regions (see section 5, Women).

Private entities arranged for overseas work and, as a result, traffickers sent women to Middle Eastern countries—particularly Lebanon, Saudi Arabia, Bahrain, and the United Arab Emirates—as domestic or industrial workers. These women typically were trafficked through Djibouti, Yemen, and Syria. The chief of the investigation and detention center in Lebanon reported in October that 30 thousand Ethiopian women worked in Beirut, the vast majority of whom were trafficked. The government also began registering persons seeking employment overseas. Approximately 50 percent of these women were not able to return legally to their home country.

The government provided little assistance to trafficked victims who returned to the country. EWLA provided limited legal assistance to such victims. The federal police's Women's Affairs Bureau, in collaboration with the media, continued to implement a public awareness program on the dangers of migrating to Middle Eastern countries. The Children, Youth, and Family Affairs Department of the Ministry of Labor and Social Affairs chaired the National Steering Committee Against Sexual Exploitation of Children. There were some government initiatives during the year to combat trafficking, including government consultation with IOM. In August IOM published a brochure for distribution to young women on the dangers of domestic service overseas. The Ministry of Labor and Social Affairs continued to review the contracts of prospective domestic workers planning to work overseas and rejected contracts that did not appear satisfactory. Immigration officials at the airport also inspected the employment contracts of prospective workers traveling to the Middle East. The Ministry of Labor and Social Affairs had limited success in regulating employment agencies that sent migrant workers to Middle Eastern countries. Some illegal employment agencies escaped government scrutiny and continued to operate. The country's consulates in Beirut and Dubai continued to assist Ethiopian women trafficked to Lebanon and the United Arab Emirates.

Persons with Disabilities.—While the law mandates equal rights for persons with disabilities, the government had no established mechanisms to enforce these rights. Persons with minor disabilities sometimes complained of job discrimination. The government did not mandate access to buildings or provide services for persons with

disabilities. Although the law provides for rehabilitation and assistance to persons with physical and mental disabilities, the government devoted few resources to these purposes.

There were approximately six million persons with disabilities, according to local NGOs. Although there were an estimated 800 thousand persons with mental disabilities, there was only one mental hospital and only an estimated 10 psychiatrists in the country. The Ministry of Labor and Social Affairs was responsible for protecting the rights of the disabled.

National/Racial/Ethnic Minorities.—There were more than 80 ethnic groups living in the country, of which the Oromo was the largest, at 40 percent of the population. Although many groups influenced the political and cultural life of the country, Amharas and Tigrayans from the northern highlands played a dominant role. The federal system drew boundaries roughly along major ethnic group lines, and regional states had much greater control over their affairs than previously. Most political parties remained primarily ethnically based.

The military remained an ethnically diverse organization; however, members of the Tigrayan ethnic group dominated the senior officer corps. During the May elections and subsequent demonstrations, there were many reports of Tigrayan or Gambellan troops being used in Addis Ababa and other urban centers where the opposition was strong, and where officials did not consider Amhara members of the armed forces sufficiently reliable.

There were occasional reports that officials terminated the employment of teachers and other government workers if they were not of the dominant ethnic group in the region.

There were continued incidents of ethnic conflict during the year, particularly in the western, southern, and eastern areas. The OLF and the government engaged in many clashes. There were also clashes among ethnic groups in the Gambella, Somali, and Southern Nations, Nationalities, and Peoples regions.

Interethnic clashes resulted in hundreds of deaths during the year. EHRCO reported ethnic conflicts between Somalis and Oromos in East and West Hararghe Zones, and ethnic clashes between Gabras and Gujis in Borena Zone of the Oromiya Region. On February 22, armed ethnic Somali Ethiopian groups raided several Oromo villages and killed 18 persons, injured 31, burnt 103 huts, looted cattle, and destroyed property. Following the administrative transfer of several villages between the Oromiya and Somali regions after a December 2004 referendum, harassment and intimidation by Somalis of Oromos residing in Erer District caused the displacement of 760 persons.

EHRCO reported that on April 2, armed Somali tribesmen raided an Oromo village in Kurkur Kebele, Golo Oda District, and killed 14 persons, injured 10, and displaced 1,358 Oromos. An April 3 clash between Gabras and Gujis in Yabelo District, Borana Zone, Oromo Region, killed 24 persons. Intervention by the army stopped the clash from escalating, but fighting resumed on April 29, killing 19 individuals and displacing 30 thousand persons; 1,378 huts were also burned. On June 27, clashes between ethnic Somali and Oromo in Mieso and Doba districts of West Hararghe Zone resulted in 16 Oromos killed, 25 Oromos injured, and an unknown number of persons displaced.

EHRCO reported that on July 24 and 26, unidentified persons detonated hand grenades inside four hotels and a residence in the town of Jijiga, killing 5 persons and injuring 31. Police took suspects into custody and the case was under investigation at year's end. The federal high court in Addis Ababa continued to arraign and prosecute those formally charged with committing genocide and other war crimes, including extrajudicial killings, under the 1975–91 Derg regime (see section 1.e.).

On October 20, local media reported that two thousand farmers abandoned their homes in Gida-Kiramu village, East Wellega Zone, Oromiya Region and moved to nearby towns following beatings, arrests, and intimidation by local officials, reportedly for supporting the opposition CUD party. The population of Gida-Kiramu is primarily Amhara, while local officials are primarily Oromo, and the village had been the site of ethnic clashes in previous years. Following intervention by the regional government, most farmers returned to their homes.

Other Societal Abuses and Discrimination.—Homosexuality is illegal and punishable by imprisonment. Instances determined to be cruel, involving coercion, or involving a minor (age 13 to 16) are punishable by not less than 3 months or more than 5 years of incarceration. Where children under 13 years of age are involved, the law provides for imprisonment of 5 to 25 years. While society did not widely accept homosexuality, there were no reports of violence against homosexuals.

Societal discrimination against persons with HIV/AIDS continued during the year.

Section 6. Worker Rights

a. The Right of Association.—The law provides most workers with the right to form and join unions, and the government allowed this in practice. However, the law specifically excludes teachers and civil servants (including judges, prosecutors, and security service workers) from organizing unions. There was government interference in trade union activities during the year. According to the International Confederation of Free Trade Unions, many trade union leaders have been removed from their posts and/or forced to leave the country, while others have been sent to prison.

The minimum number of workers required to form a union was 20. While all unions had to be registered, the government retained the authority to cancel union registration. There were no reports that the government used this authority during the year. The law stipulates that a trade organization may not act in an overtly political manner. Approximately 300 thousand workers were union members.

Seasonal and part-time agricultural workers did not organize into labor unions. Compensation, benefits, and working conditions of seasonal workers were far below those of unionized permanent plantation employees.

Despite government recognition of the independent Ethiopian Teachers Association (ETA), authorities required all public school teachers to subsidize a separate government-created and controlled teacher's union (also called ETA) through mandatory withholding of $0.23 (2 birr) from their monthly salaries.

In late 2003 the federal high court ruled that the government's ETA had no legal standing or claim on the property of the independent ETA, and that authorities should return the assets of the independent ETA and allow its offices to reopen. The government-controlled ETA appealed to the Supreme Court, which instructed the federal high court to reinvestigate the case. That investigation continued at year's end, and the high court's decision to recognize the independent ETA had not been implemented.

Complete government control of the government-sponsored Confederation of Ethiopian Trade Unions (CETU) executive committee continued throughout the year, as it had since its inception.

Although the law prohibits antiunion discrimination by employers against union members and organizers, unions reported that employers frequently fired union activists. Lawsuits alleging unlawful dismissal often took years to resolve because of case backlogs in the labor courts. According to labor leaders, a number of court cases in which workers were terminated for union activities were pending after four or five years. Employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities and generally did so in practice.

b. The Right to Organize and Bargain Collectively.—The law protects the right of collective bargaining for most workers, and in practice the government allowed citizens to exercise this right freely. Labor experts estimated that collective bargaining agreements covered more than 90 percent of unionized workers. Representatives negotiated wages at the plant level. Unions in the formal industrial sector made some efforts to enforce labor regulations.

There are no export processing zones.

Although the law provides workers with the right to strike to protect their interests, it contains detailed provisions that make legal strike actions difficult to carry out, such as a minimum of 130 days advance notice before striking. There was one strike during the year, involving Dragados, a European road construction company. Striking workers returned to work, while the case remains pending in court. The law requires aggrieved workers to attempt reconciliation with employers before striking, and includes a lengthy dispute settlement process. These applied equally to an employer's right to lock out workers. A majority of the workers involved must support a strike for it to occur.

Workers nonetheless retain the right to strike without resorting to either of these options, provided they give at least 10 days notice to the other party and to the Ministry of Labor and Social Affairs, make efforts at reconciliation, and provide at least a 30-day warning in cases already before a court or labor relations board.

The law also prohibits strikes by workers who provide essential services, including air transport and urban bus service workers, electric power suppliers, gas station personnel, hospital and pharmacy personnel, firefighters, telecommunications personnel, and urban sanitary workers. Amendments to the 2003 Labor Proclamation narrowed the definition of essential services, giving workers in railways, the interurban transport services, banks, and postal services the right to strike.

The International Labor Organization (ILO) noted that labor disputes lasted for months or years.

The law prohibits retribution against strikers, but labor leaders stated that most workers were not convinced that the government would enforce this protection. Labor officials reported that, due to high unemployment and long delays in the hearing of labor cases, some workers were afraid to participate in strikes or other labor actions.

In June the government further amended the labor law, allowing one or more permanent labor relations boards in the regional states to decide on cases involving enterprises owned by the federal government. The amendment also allows ad hoc labor relations boards in the regions to fulfill the same purpose.

c. Prohibition of Forced or Compulsory Labor.—While the law prohibits forced or compulsory labor, including by children, there were reports such practices occurred (see sections 5 and 6.d.) Courts could order forced labor as a punitive measure.

d. Prohibition of Child Labor and Minimum Age for Employment.—There were laws against child labor; however, the government did not effectively implement these laws in practice and child labor remained a serious problem, both in urban and rural areas. Under the law, the minimum age for wage or salary employment is 14 years, which was consistent with the age for completing primary school; the minimum age for employment was not effectively enforced, however. Special provisions cover children between the ages of 14 and 18, including the prohibition of hazardous or night work. By law, children between the ages of 14 and 18 were not permitted to work more than 7 hours per day, work between the hours of 10 pm and 6 am, work on public holidays or rest days, or perform overtime work. The government defined hazardous work as work in factories or involving machinery with moving parts, or any work that could jeopardize a child's health.

The Ministry of Labor and Social Affairs is responsible for enforcing child labor laws, but it did not provide adequate resources and oversight. While the government made some effort to enforce these regulations within the formal industrial sector, social welfare activists, civic organizers, government officials, and employers agreed that child labor was pervasive throughout the country, particularly in agrarian areas and in the informal sector. In urban areas, many children worked in a variety of jobs, including shining shoes, sewing clothes, hustling passengers into cabs, working as porters, selling lottery tickets and other small items, and herding animals. In rural areas, children worked on family and commercial farms and as domestic laborers.

A 2001 ILO-funded survey on child labor found that 40 percent of children began working before the age of 6. It also found the average number of hours worked in a week by children ages 5 to 17 was 32.8 hours. Approximately 13 percent of boys and girls between the ages of 5 and 9 worked from 58 to 74 hours a week. More than two-thirds of all children surveyed were giving either all or part of their earnings to their parents or guardians. Reduced household income from poor crop harvests and children dropping out of school were two factors contributing to the increased incidence of child labor.

Child laborers often faced abuse. A 1999 study concluded that compared to nonworking children, child workers faced twice as much physical and emotional abuse, five times as much sexual abuse, and eight times as much neglect. Among child workers surveyed, rapes occurred exclusively among child domestic laborers.

The government's definition of worst forms of child labor included prostitution and bonded labor. During the year there were reports of forced or bonded labor of children who had been trafficked from the Oromiya Region and the Southern Nations, Nationalities, and Peoples Region to other regions of the country to work as domestic servants (see section 5). Family members reportedly forced young girls into prostitution (see section 5).

e. Acceptable Conditions of Work.—There is no national minimum wage. However, some government institutions and public enterprises have set their own minimum wages. For example, public sector employees, the largest group of wage earners, earned a monthly minimum wage of approximately $23 (200 birr); employees in the banking and insurance sector had a minimum monthly wage of $27 (230 birr). According to the Office of the Study of Wages and Other Remuneration, these wages did not provide a decent standard of living for a worker and family. Consequently, most families in the wage sector required at least two wage earners to survive, which forced many children to leave school early. Only a small percentage of the population was involved in wage labor employment, which was concentrated largely in urban areas.

The law provides for a 48-hour legal workweek (with a 24-hour rest period), premium pay for overtime, and prohibition of excessive, compulsory overtime. Although the government did little to enforce the law, in practice most employees in the formal sector worked a 40-hour workweek.

The government, industry, and unions negotiated to set occupational health and safety standards; however, the inspection department of the Ministry of Labor and Social Affairs did not effectively enforce these standards, due to a lack of resources. A lack of detailed, sector-specific health and safety guidelines also inhibited enforcement. Workers had the right to remove themselves from dangerous situations without jeopardizing their employment; however, most workers feared losing their jobs if they were to do so.

GABON

Gabon is a republic dominated by a strong presidency and the Gabonese Democratic Party (PDG), which has remained in power since 1968. The population was 1.3 million. On November 27, PDG leader El Hadj Omar Bongo Ondimba, president since 1967, was reelected for a seven-year term in an election marred by irregularities. The civilian authorities generally maintained effective control of the security forces.

The country's human rights record remained poor, although there were improvements in several areas. An extreme disparity in wealth contributed to some of the following human rights problems:

- limited ability of citizens to change their government
- use of excessive force, including torture, on prisoners and detainees
- harsh prison conditions
- violent dispersal of demonstrations
- arbitrary arrest and detention
- an inefficient judiciary susceptible to government influence
- restrictions on the right of privacy
- restrictions on freedom of the press, association, and movement
- widespread harassment of refugees by security forces
- widespread government corruption
- violence and societal discrimination against women and noncitizen Africans
- trafficking in persons, particularly children
- forced labor and child labor

The government conducted an aggressive campaign during the year to combat trafficking in persons.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Security forces killed persons during the year, and there were unconfirmed reports that police committed politically motivated killings.

For example, on November 29, security forces killed Gildas Mbina Boulingui. Opposition parties alleged Boulingui was targeted for his affiliation with the Union for Gabonese People (UPG). No investigation was conducted into the killing, and no further information was available at year's end.

On April 7, a taxi driver drowned after security forces restrained his rescuers at gun point. The driver, who was operating an unregistered taxi, had fled a police checkpoint to avoid paying a $48 (24,000 CFA francs) bribe. He then collided with a tree and jumped into a lake. On April 4, the driver had paid a $30 (15,000 CFA francs) bribe to police. The case generated widespread press criticism, and an investigation continued, but no action had been taken against responsible police by year's end.

In May security forces killed two men without explanation. Protests from family members led to the arrest of the responsible officers, who were awaiting trial at year's end. No further information was available.

Ritualistic killings occurred. In February the bodies of two boys bearing signs of such a death were found in Libreville. The government did not criticize the practice and took no action in the case.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution prohibits such practices, security forces sometimes beat or tortured prisoners and detainees to extract confessions. Unconfirmed reports from

the African immigrant community asserted that police and soldiers occasionally beat noncitizen Africans during operations to round up and deport illegal immigrants. During the year, the UN High Commission for Refugees (UNHCR) confirmed that it received reports from its regional offices that security forces continued to harass and extort refugees.

Unlike in the previous year, there were no reports that police raped women in their custody.

There continued to be reports that practitioners of certain traditional indigenous religions inflicted bodily harm on other persons.

Prison and Detention Center Conditions.—Prisons were overcrowded and conditions were harsh. Food, sanitation, and ventilation were poor, and medical care was almost nonexistent.

There were no known visits by human rights monitors to prisons during the year; however, there also were no reports that the government impeded such visits.

d. Arbitrary Arrest or Detention.—The constitution prohibits arbitrary arrest and detention, but the government did not always observe these prohibitions.

Role of the Police and Security Apparatus.—The national police, under the interior ministry, and the gendarmerie, under the defense ministry, were responsible for domestic law enforcement and public security; the gendarmerie was also responsible for setting up checkpoints. Elements of the armed forces and the Republican Guard, an elite, heavily armed unit that protects the president, sometimes performed internal security functions; both were subordinate to the defense ministry. The police were inefficient, and corruption was a serious problem. Security forces often used bribes at checkpoints to supplement their salaries (see section 1.a.). The Inspector General's Office is responsible for investigating police abuse; however, it took no known action.

Arrest and Detention.—The law requires arrest warrants based on sufficient evidence and issued by a duly authorized official; however, security forces frequently disregarded this provision. The law provides up to 48 hours for initial detention, during which police must charge a detainee before a judge, but police rarely respected this timetable. Charges often were not filed expeditiously, and persons were detained arbitrarily, sometimes for long periods. Bail may be set at arraignments if further investigation is required. Detainees were allowed prompt access to a lawyer and, if indigent, to one provided by the state.

Police arbitrarily arrested journalists, demonstrators, opposition members, refugees, and a labor leader during the year (see sections 2.a., 2.b., 2.d., and 6.b.).

Members of the security forces frequently detained individuals at roadblocks under the guise of checking vehicle registration and identity papers. Security forces frequently used such operations to extort money (see section 1.a.).

Pretrial detention, limited to six months for a misdemeanor and to one year for a felony charge, may be extended for six months by the examining magistrate. Pretrial detainees have the right to free access to their attorneys; this right was generally respected. Detainees also have the right to an expeditious trial, but overburdened dockets resulted in prolonged pretrial detention. Approximately 40 percent of persons in custody were pretrial detainees.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judiciary remained susceptible to government influence. The president appoints and can dismiss judges through the Ministry of Justice, to which the judiciary is responsible. The judiciary was subject to political influence and inefficient.

The judicial system includes regular courts, a military tribunal, and a civilian high court of justice. The regular court system includes trial courts, appellate courts, and the Supreme Court. The constitutional court is a separate body charged with examining constitutional questions, including the certification of elections. The high court of justice is constituted by the government as required to consider matters of security.

Systemic resource and personnel shortages in the judiciary often contributed to prolonged pretrial detention (see section 1.d.).

Trial Procedures.—The constitution provides the right to a public trial and the right to legal counsel, and the government generally respected these rights. Nevertheless, a judge may deliver an immediate verdict of guilty at the initial hearing in a state security trial if the government presents sufficient evidence. Defendants are presumed innocent and have the right to be present, to confront witnesses against them, to present witnesses or evidence on their behalf, and to appeal; the government generally respected these rights.

Minor disputes may be taken to a local chief, particularly in rural areas, but the government did not recognize such decisions.

Political Prisoners.—On December 1, security forces arrested 14 opposition members who were participating in a demonstration to protest the November 27 reelection of President Bongo; the 14 were charged with vandalism and remained in detention at year's end (see section 2.b.).

Herve Patrick Opiangah, arrested in November 2004 when he led a protest demanding that the government recognize his political party, was sentenced in May to two years in jail on weapons charges. His supporters and family members claimed that the charges were fabricated and that he was detained for political reasons. Opiangah, who was released on parole prior to his sentencing, remained in jail at year's end.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government did not respect these prohibitions in practice. As part of criminal investigations, police may request search warrants from judges, which they obtained easily, sometimes after the fact. Unlike in the previous year, the government did not use search warrants to gain access to the homes of opposition figures and their families.

Security forces conducted warrantless searches for illegal immigrants and criminals using street stops and identity checks. Security forces also entered homes and arrested and detained refugees (see section 2.d.).

Authorities reportedly routinely monitored private telephone conversations, personal mail, and the movements of citizens.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government generally did not respect these rights in practice. Few citizens criticized the government for fear of losing their jobs, and only a few opposition legislators in the National Assembly openly criticized the government. Journalists practiced self-censorship.

During the year President Bongo threatened to revoke the passports of citizens overseas who spoke against the government; he also demanded the names of such individuals from a foreign government.

The only daily newspaper was the government-affiliated *L'Union*. Approximately nine privately owned weekly or monthly newspapers represented independent views and those of various political parties, but most appeared irregularly due to financial constraints, or in some cases, government suspension of their publication licenses. All newspapers, including *L'Union*, criticized the government and political leaders of all parties, but not the president. Foreign newspapers and magazines were widely available.

The government owned and operated two radio stations that broadcast throughout the country. Much of their news coverage concerned the activities of government officials, although editorials sometimes criticized specific government policies or ministers. Seven privately owned radio stations were operating at year's end; most were apolitical. International radio stations broadcast locally.

The government owned and operated two television stations, RTG–1 and RTG–2. Four privately owned television stations transmitted eight hours per day. Satellite TV reception was available.

On December 1, the government briefly detained a foreign journalist from *AFP* and a local journalist from *Gabon News*, both of whom were covering police conduct during the dispersal of an opposition demonstration (see section 2.b.).

On December 21, police assaulted two journalists from Teleafrica and confiscated a camera. The two journalists were attempting to interview and film a small group of protesters in front of the presidential palace.

During the year a government official threatened an independent journalist who had provided balanced coverage of opposition figures during the election campaign and told him to stop such reports. The journalist reduced, but did not eliminate, his coverage of opposition figures.

The 2003 suspensions of satirical weeklies *Misamu* and *Sub-Version* and the bimonthly newspaper *Sagaie* remained in effect.

The law stipulates that penalties for libel and other offenses include a one- to three-month publishing suspension for a first offense and a three- to six-month suspension for repeat offenses. Editors and authors of libelous articles can be jailed for two to six months and fined $1 thousand to $10 thousand (500 thousand to 5 million CFA francs). Libel can be either a criminal offense or a civil matter. The law authorizes the government to initiate criminal libel prosecution against persons for libeling elected government officials; it also authorizes the state to criminalize civil libel suits. The government did not use libel laws during the year.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, but security forces violently dispersed demonstrations and strikes during the year. The law requires that groups obtain permits for public gatherings in advance, but the government usually did not grant them.

During the election campaign, the government banned all marches by political groups; however, groups allied with the president were allowed to march.

On December 1, police used tear gas and batons to disperse supporters of opposition UPG candidate Pierre Mamboundou; 23 supporters and bystanders were arrested, including 14 opposition members, who were charged with vandalism and remained in detention at year's end.

On December 13, police used tear gas to disperse a demonstration by students from a technical school. One of the tear gas canisters started a fire that destroyed three homes and a bar. Security forces violently dispersed other demonstrations held before and after the election, which resulted in at least one death.

Opposition leader Herve Patrick Opiangah, arrested in November 2004 when he led a demonstration demanding that the government recognize his political party, was sentenced in May to two years in jail on weapons charges (see section 1.e.).

No investigation was conducted into the September 2004 forcible dispersion of a student demonstration in Mandji-Dibangwui village that resulted in one death and numerous injuries.

No action was taken against security forces who forcibly dispersed other demonstrations in 2004 or 2003.

Freedom of Association.—The law provides for freedom of association; however, the government did not always respect this right in practice. During the year several government employees were fired because of their association with or relationship to Zacharie Myboto, who founded an opposition party in April (see section 3).

c. Freedom of Religion.—The constitution provides for religious freedom, and the government generally respected this right in practice.

The Ministry of the Interior maintained an official registry of religious groups but did not register traditional religious groups. The government did not require religious groups to register but recommended that they do so to assemble with full constitutional protection.

The government has refused to register approximately 10 religious groups, including Jehovah's Witnesses. A government decision on the registration of Jehovah's Witnesses has been pending for several years. In practice, the government allows Jehovah's Witnesses to assemble, practice their religion, and to proselytize.

Some Protestant denominations alleged that the government television station accorded free broadcast time to the Catholic Church but not to minority religious groups. Others alleged that the armed forces favored Roman Catholics and Muslims in hiring and promotions.

Societal Abuses and Discrimination.—There was no notable Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2005 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Although the law provides for these rights, the government frequently restricted them in practice. There were no legally mandated restrictions on internal movement, but police and gendarmes continued to stop travelers frequently to check identity, residence, registration documents, or to demand bribes (see sections 1.a. and 3). Members of the security forces harassed expatriate Africans working legally as merchants, service sector employees, and manual laborers. Some members of the security forces extorted bribes and demanded services with threats of confiscation of residency documents or imprisonment. Residency permits cost up to $200 (100 thousand CFA francs), and first-time applicants were required to provide the cost of a one-way air ticket to their country of origin. In theory, but usually not in practice, the government refunds the cost of the air ticket when the individual departs the country permanently.

In September the president announced that the government would revoke the passport of anyone who criticized the government in press conferences abroad. There were numerous reports that authorities refused to issue without explanation passports for travel abroad. There also were reports of unreasonable delays in obtaining passports, despite a government commitment in 2003 to process passports within three days. The government intermittently enforced a regulation requiring married women to obtain their husbands' permission to travel abroad.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refu-

gees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government generally provided protection against *refoulement*, the return of persons to a country where they feared persecution; however, during the year the government attempted to repatriate forcibly a group of such refugees. The government granted refugee status or asylum and cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. However, refugees complained about widespread harassment, extortion, and detentions by security forces.

In June the government arrested and attempted to repatriate forcibly 42 Congolese refugees to the Republic of the Congo; however, the UNHCR intervened, and the 42 were not repatriated.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully; however, mismanagement and serious irregularities in the November 27 presidential election and the 2003 legislative elections limited this right in practice. A single party, the PDG, has remained in power since its creation by President Bongo Ondimba in 1968, and political choice remained limited.

The country is dominated by a strong presidency. While the legislature is not in session, the president can veto legislation, dissolve the national legislature, call new elections, and issue decrees that have the force of law. The legislature generally approved legislation presented to it by the president. The president appoints ministers of government and heads of parastatals.

Elections and Political Participation.—On November 27, President Bongo Ondimba, who has been president since 1967, was re-elected for another seven-year term in an election marred by irregularities, including incomplete and inaccurate electoral lists, abuse of government resources, and unequal access to the media. Opposition candidates also charged that the ruling party engaged in vote buying, multiple voting, and ballot stuffing. Bongo received approximately 79 percent of the vote; Pierre Mamboundou of the UPG party received approximately 14 percent, according to the National Electoral Commission.

In the 2003 senatorial elections, the PDG won a majority of the 91 seats. There were widespread reports of irregularities, and the elections were considered neither free nor fair. Municipal and regional government officials elect the senators, who serve six-year terms. All senators were either members of the PDG or of political parties linked to the PDG.

Opposition parties included the UPG and the Gabonese Progressive Party (PGP).

In April former public works minister Zacharie Myboto formed an opposition party, the Gabonese Union for Democracy and Development (GUDD). Myboto and his family were subsequently harassed, and government employees related to Myboto were dismissed from their jobs. The government has not recognized the GUDD; Myboto ran in the November presidential election as an independent.

At year's end 11 of 120 members of the National Assembly, 12 of 91 senators, and 5 of 43 government ministers were women.

Members of all major ethnic groups continued to occupy prominent positions; however, members of the president's Bateke ethnic group and other ethnic southerners held a disproportionately large number of key positions in the military and security forces. The general chief of staff, the minister of defense, the chief of the republican guard, and the minister of interior were from the same region as the president or from the same ethnic group.

Indigenous Pygmies rarely participated in the political process, and the government made only limited efforts to include them (see section 5).

Government Corruption and Transparency.—Official corruption was widespread, and there was extensive media coverage of police abuses, particularly at checkpoints; however, the anticorruption commission issued no reports and took no action against corrupt officials during the year.

The law does not provide public access to government information, and the government did not allow such access in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A few local human rights nongovernmental organizations (NGOs) and human rights activists operated in the country without government restriction, investigating and publishing their findings. Government officials took no actions on the recommendations of such individuals.

In 2004 the vice-prime minister in charge of human rights released a white book that detailed past human rights violations in the country, including graphic pic-

tures. President Bongo wrote a supportive preface to the book, which sharply criticized the country's human rights record.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law forbids discrimination based on national origin, race, gender, or opinion, the government did not enforce these provisions uniformly, and there was considerable discrimination against women, especially in domestic affairs. Security forces also discriminated against noncitizens. The government provided a lower level of health care and educational services to children of other African nationalities than it provided to citizens.

Women.—The law prohibits domestic violence; however, it was believed to be common, especially in rural areas. Police rarely intervened in such incidents, and women virtually never filed complaints with civil authorities.

Rape is against the law and carried a penalty of between 5 and 10 years' imprisonment; however, rape cases were seldom prosecuted. Only limited medical and legal assistance for rape victims was available.

Female genital mutilation (FGM) was believed to occur among the resident population of noncitizen Africans; however, there were no specific reports of such practices during the year.

Although the law prohibits prostitution, it was a problem.

There is no law that prohibits sexual harassment, and it was a problem. The government and NGOs reported cases of female domestic workers (often victims of child trafficking) who were sexually molested by employers.

The law provides that women have rights to equal access in education, business, and investment, but women continued to face considerable societal and legal discrimination, especially in rural areas. Women owned businesses and property, participated in politics, and worked throughout the government and the private sector.

By law, couples must stipulate at the time of marriage whether they intend to adhere to a monogamous or a polygynous relationship; polygynous marriages were more common. For monogamous married couples, a common property law provides for the equal distribution of assets after divorce. In a polygynous marriage, a husband is obligated to give all wives the same level of financial support, although he may marry additional wives without permission from his existing wives.

Wives who leave polygynous husbands received half of their existing support as a one-time payment. In inheritance cases, the husband's family must issue a written authorization before his widow can inherit property.

Common law marriage, which was accepted socially and practiced widely, afforded women no property rights.

A regulation requires that a woman obtain her husband's permission to travel abroad; this requirement was not enforced consistently.

Children.—The government publicly expressed its commitment to youth, provided 4 thousand academic scholarships during the year, and used oil revenues to build schools, pay teacher salaries, and promote education, even in rural areas. Nonetheless, the upkeep of schools and payment of teachers continued to decline. Education is compulsory until age 16 and generally was available through sixth grade. Approximately 78 percent of primary school-age children attended school, and less than half of secondary school-age children attended school. Secondary school attendance rates for immigrant children were lower, although public schools accepted immigrant children, and the government encouraged them to attend. Students were required to pay for books, uniforms, and other school supplies, which precluded numerous children from attending school. Despite low enrollment, a UN agency estimated that 64 percent of women and 78 percent of men were literate.

The country's infant mortality rate was 6 percent; at last report, approximately 16 percent of children had been vaccinated. International donors worked to improve the situation, and the government allocated some resources for vaccines and logistical support to administer them.

Children remained the responsibility of the extended family. There was little evidence of physical abuse of children, although there were occasional reports that family members sexually abused girls who had passed puberty. The law provides for protection against child labor, sexual and physical abuse, and the government prosecuted persons charged with child trafficking and child labor during the year (see sections 5, Trafficking, and 6.d.).

FGM was believed to occur among the resident population of noncitizen Africans (see section 5, Women).

Concerns about the problems facing the large community of children of noncitizen Africans persisted. Almost all enjoyed far less access to education and health care than did citizen children; some were victims of child trafficking and abuses (see sections 5, Trafficking, and 6.d.).

Child labor remained a serious problem (see section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons, particularly women and children, were trafficked to the country. The 2004 antitrafficking law provides for prison sentences for traffickers of 5 to 15 years' imprisonment and fines from $20 thousand (10 million CFA francs) to $40 thousand (20 million CFA francs). During the year the government took aggressive steps to combat trafficking, and numerous traffickers were being prosecuted at year's end.

The police and the inter-ministerial committee, composed of representatives from the labor, justice, foreign affairs, and family ministries, were responsible for combating trafficking.

On January 25, security forces began a series of antitrafficking sweeps that resulted in the rescue of 60 victims, most of whom were children, and the detention of 7 traffickers—5 from Benin and 2 from Nigeria. The traffickers claimed the trafficking had occurred with the consent—and sometimes at the initiative—of the children's families. The victims, who were from Benin, Nigeria, Togo, and Ghana, were either reunited with their families or under the care of a local orphanage.

In June police arrested and jailed two women for trafficking two teenaged Togolese girls to serve as street vendors. The traffickers allegedly tortured the girls when they failed to make their daily sales quota and then sold them as wives. The traffickers remained in detention awaiting trial at year's end.

In July police sweeps targeting children working illegally in shops or on the street resulted in the rescue of more than 100 children, many of whom were believed to be trafficking victims. The children were from Benin, Nigeria, Niger, Togo, Mali, Ghana, and Guinea.

Children (especially girls), primarily from Benin and Togo, worked as domestic servants or in the informal commercial sector. Nigerian children, also victims of trafficking, worked in the informal commercial sector as mechanics. Trafficked children generally worked long hours, were subjected to physical abuse, received inadequate food, and received no wages or schooling. No statistics were available on the number of trafficking victims in the country, but estimates ranged from 3 thousand to 25 thousand.

There have been unconfirmed reports that some government officials employed trafficked foreign children as domestic workers, and that individual police and immigration officers were involved in facilitating child trafficking.

The UN Children's Fund (UNICEF) and the government sponsored a toll-free assistance hot line for child trafficking victims that provided 24-hour response assistance and arranged free transport to a victims' shelter. The hot line received approximately 50 calls a day, of which approximately 10 were related to trafficking.

A government-funded reception center offered protection for trafficking victims, including food, education, medical care, and repatriation assistance. A second center run by Carmelite nuns provided similar services for older girls and young women.

During the year the government conducted conferences and publicity "caravans" to educate the public about trafficking and the 2004 antitrafficking law. The NGO Association for the Defense of the Rights of Women and Children also launched an antitrafficking campaign during the year to target the immigrant community in Franceville, a rural mining center near the Congolese border.

An inter-ministerial committee comprised of representatives from the labor, justice, foreign affairs, and family ministries was involved in antitrafficking efforts. The government also cooperated with UNICEF and the International Labor Organization (ILO).

Persons with Disabilities.—There are no laws that prohibit discrimination against persons with disabilities or provide for access to buildings or services; however, there were no reports of official discrimination against persons with disabilities. There was some societal discrimination against persons with disabilities, and employment opportunities and treatment facilities were limited.

Indigenous People.—The Baka (Pygmies) are the earliest known inhabitants of the country. Several thousand Pygmies lived in large tracts of still-intact rain forest in the northeast. The law grants them the same civil rights as other citizens, but Pygmies remained largely independent of formal authority, keeping their own traditions, independent communities, and local decision-making structures. Pygmies did not participate in government-instituted programs that integrated many small rural villages into larger ones along major roads.

Pygmies suffered societal discrimination, often lived in extreme poverty, and did not have easy access to public services. There were no specific government programs or policies to assist Pygmies.

A 2001 NGO study of the Bukoya Pygmy population in the northeast found that most Pygmies lived in conditions tantamount to slavery, working on plantations for "Gabonese masters" for one plate of rice and a few cents per day. The NGO described the children born to Pygmy families in these situations as the "property" of the master. A typical family lived on 13 cents per day. According to the NGO, Pygmies who complained about their situation faced the possibility of being beaten.

Section 6. Worker Rights

a. The Right of Association.—The law places no restrictions on the right of association and recognizes the right of citizens to form trade and labor unions; workers exercised this right in practice. The small private sector workforce was unionized. Unions must register with the government to be recognized officially, and registration was granted routinely.

While no laws specifically prohibit antiunion discrimination, the court may require employers who are found guilty by civil courts of having engaged in such discrimination to compensate employees.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without government interference, and the government protected this right in practice. The law provides for collective bargaining by industry, not by firm, and collectively bargained agreements set wages for whole industries. Labor and management met to negotiate differences, and the Ministry of Labor provided observers. Agreements negotiated by unions also applied to nonunion workers. There are no export processing zones.

The law provides for the right to strike after an eight-day notice advising that outside arbitration failed. Public sector employees' right to strike is limited if a strike could jeopardize public safety. A 2003 social truce signed by the government, employers, and the country's main trade unions provided for a three-year hiatus on strikes and the creation of a 35-member mediation committee to negotiate disputes; however, trade unions conducted numerous strikes during the year, charging that the government and employers had not complied with the social truce agreement. The law prohibits direct government action against individual strikers who abide by the arbitration and notification provisions.

In March a taxi driver De Menezess union held a brief strike in response to police extortion (see sections 1.a. and 1.f.). In April the union president Jean-Robert Menie was arrested, prosecuted, and sentenced to 60 days in prison for having an expired license. Menie was released when the government appealed its own conviction; the case remained pending at year's end.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred, including by children (see sections 5 and 6.d.).

Some Pygmies reportedly lived in conditions tantamount to slavery (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although children below the age of 16 may not work without the express consent of the ministries of labor, education, and public health, child labor was a serious problem. The law stipulates fines and prison sentences for violations of the minimum age for work. The ministries rigorously enforced this law in urban areas with respect to citizen children, and few citizens under the age of 18 worked in the formal wage sector; however, child labor occurred in rural areas, where the law was seldom enforced.

An unknown number of children—primarily foreign—worked in marketplaces or performed domestic duties; many of these children were reportedly the victims of child trafficking (see section 5). Such children generally did not attend school, received only limited medical attention, and often were exploited by employers or foster families. Laws forbidding child labor theoretically extended protection to these children, but abuses often were not reported. A 2001 ILO study estimated that the number of economically active children between the ages of 10 and 14 years was 19 thousand to 20 thousand, but the actual number was probably considerably higher since most children worked in the informal sector.

The Ministry of Justice is responsible for implementing and enforcing child labor laws and regulations. Inspectors from the Ministry of Labor are responsible for receiving, investigating, and addressing child labor complaints. However, violations were not systematically addressed because the inspection force was inadequate, and complaints were not investigated routinely.

e. Acceptable Conditions of Work.—The monthly minimum wage was approximately $120 (60 thousand CFA francs); government workers received an additional monthly allowance of $40 (20 thousand CFA francs) per child. Government workers also received transportation, housing, and family benefits. The law does not man-

date housing or family benefits for private sector workers. The minimum wage did not provide a decent standard of living for a worker and family.

The Labor Code governs working conditions and benefits for all sectors and theoretically provides a broad range of protection to workers; however, the government sometimes did not respect these protections. According to law, representatives of labor, management, and the government were required to meet annually to examine economic and labor conditions and to recommend a minimum wage rate to the president, who then issues an annual decree. This procedure had not been followed since 1994, in part because the government was following a policy of wage austerity recommended by international financial institutions.

The Labor Code stipulates a 40-hour workweek with a minimum rest period of 48 consecutive hours. Employers must compensate workers for overtime work. All companies in the formal sector paid competitive wages and granted the fringe benefits required by law, including maternity leave and six weeks annual paid vacation.

The Ministry of Health established occupational health and safety standards but did not enforce or regulate them. The application of labor standards varied from company to company and between industries. In the formal sector, workers may remove themselves from dangerous work situations without fear of retribution.

The government reportedly did not enforce labor code provisions in sectors where the majority of the labor force was foreign. Foreign workers, both documented and undocumented, were obliged to work under substandard conditions; dismissed without notice or recourse; or mistreated physically, especially in the case of illegal aliens. Employers frequently required longer hours of work from noncitizen Africans and paid them less, often hiring on a short-term, casual basis to avoid paying taxes, social security contributions, and other benefits.

THE GAMBIA

The Gambia is a republic under multiparty democratic rule with a population of 1.6 million. President Alhaji Yahya A.J.J. Jammeh was re-elected for a five year term in 2001 in an election considered free and fair, despite some shortcomings. The main opposition coalition initially accepted the results of the presidential elections but later changed its position and boycotted the legislative elections in 2002. President Jammeh's political party, the Alliance for Patriotic Reorientation and Construction (APRC), won majorities in the National Assembly and most local councils. While civilian authorities generally maintained effective control of the security forces, there were a few instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- security force harassment and mistreatment of detainees, prisoners, opposition members, a journalist, and in some cases, civilians
- arbitrary arrest and detention
- incommunicado detention and prolonged pretrial detention
- denial of due process
- infringement of privacy rights
- restrictions on freedom of speech and press
- violence and discrimination against women
- female genital mutilation (FGM)
- child labor
- trafficking in persons

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that security forces, notably soldiers acting outside official controls, beat persons and mistreated civilians.

The Indemnity Act continued to prevent victims from seeking redress in some cases. The army requested that victims file formal complaints so that cases could be investigated; however, there were no known prosecutions in civil courts of soldiers accused of beating or otherwise mistreating individuals during the year.

On October 4, the Police Intervention Unit (PIU)—a paramilitary wing of the police—severely beat workers at a hotel construction site for obstructing a police officer and allegedly helping to free a prisoner. Police arrested 7 of the workers and released them on bail 24 hours later. No trial had been scheduled by year's end.

There were no developments in the following 2004 cases: the January shooting by soldiers of a driver at a military checkpoint; the June beating by soldiers; the October beating of a young woman by a soldier; and the October shooting of a motorist by a soldier escorting the vice president's convoy.

There were unsubstantiated claims by opposition members that the government continued to conduct training for vigilante groups. These groups, also known as "green boys," were suspected of involvement in past human rights offenses.

Prison and Detention Center Conditions.—Prison conditions at Mile 2, Janjanbureh, and Jeshwang prisons generally met international standards, and the government permitted visits by independent human rights observers. However, local jails were overcrowded, and inmates, including detainees awaiting trial, occasionally slept on the floor. Prison guards were reluctant to intervene in fights between prisoners, and prisoners were injured.

Political prisoners were not held separately from other prisoners.

The government permitted independent monitoring of prison conditions by local and international human rights groups.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, police and security forces at times arbitrarily arrested and detained citizens.

Role of Police and Security Apparatus.—The armed forces are responsible for external defense and report to the secretary of state (minister) for defense, a position held by the president. The police, under the secretary of state for the interior, are responsible for public security. The National Intelligence Agency (NIA), responsible for protecting state security, collecting intelligence, and conducting covert investigations, reports directly to the president. The police generally were corrupt and ineffective. On occasion police acted with impunity and defied court orders.

Arrest and Detention.—The law requires that authorities obtain a warrant before arresting a person; however, on occasion individuals were arrested without a warrant. Periods of detention generally ranged from a few hours to 72 hours, the legal limit after which detainees must be charged or released. There was a functioning bail system; however, on several occasions, the courts released accused offenders on bail, while the police or other law enforcement agencies rearrested the offenders upon their leaving the court. Detainees generally were permitted prompt access to family members and legal counsel; however, some detainees were held incommunicado during the year.

The government has not formally revoked military decrees enacted prior to the Constitution that give the NIA and the secretary of state for the interior broad power to detain individuals indefinitely without charge "in the interest of national security." These detention decrees appeared to be inconsistent with the constitution, but they have not been subject to judicial challenge. The government claimed that it no longer enforced these decrees; however, in some instances, there continued to be cases of detentions that exceeded the 72-hour limit beyond which detainees must be charged or released.

On January 10, the former imam of the Banjul Airport Mosque, Al-Haiba Hydara, was arrested for undisclosed reasons and detained at Janjangbureh prison for 20 days before being released on bail. Hydara was held incommunicado and a delegation of the Supreme Islamic Council that wanted to visit him in prison was refused access.

On January 11, police arrested Abdoulie Kujabi, former director general of the NIA, two of his brothers, and his sister in-law on corruption allegations. Police later released Kujabi and his family members without charge and dropped the allegations.

On March 2, the PIU arrested the former managing director of Gambia International Airlines for alleged financial misappropriation and released him without charge after three weeks.

A government official briefly detained a journalist during the year (see section 2.a.).

On June 28, Andrew Sylva, former managing director of the social security and housing finance corporation, was acquitted of perjury for lack of evidence. In 2004

Sylva had testified before the Anti-Corruption Commission of Inquiry that President Jammeh had taken a government-owned generator from a government-owned hotel to use at his private residence.

There were no developments in the November 2004 case of businessman Momodou Jobe who was set free on bail and re-arrested by the police as he left the courthouse.

During the year the government arrested and detained opposition leaders who publicly criticized or who expressed views in disagreement with the government. For example in November three National Alliance for Democracy and Development (NADD) leaders were detained on charges of sedition and unauthorized possession of a government document (see sections 1.e. and 2.a.). No international human rights organizations reportedly requested access to the detainees.

The slow pace of the justice system resulted in lengthy pretrial detention. Approximately 40 of Mile 2 Prison's 230 inmates were in pretrial detention, and some had been incarcerated for up to 9 years. During a visit to Mile 2 Prison in April, the chief justice ordered the release of five detainees who had been in pretrial detention from four to nine years.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, in practice the courts, especially at the lower levels, were corrupt and subject to executive branch pressure at times. Nevertheless, the courts demonstrated independence on several occasions, including in significant cases.

The judicial system is composed of the Supreme Court, the court of appeal, high courts, and eight magistrate courts. District chiefs presided over local tribunals at the district level.

Trial Procedures.—The law provides for a fair and public trial. Indigent defendants charged with murder or manslaughter have a right to an attorney provided at public expense. The prosecution prepared a case file, including testimonies and evidence and provided a copy for the defense. Defendants are presumed innocent, have the right to confront witnesses and evidence against them, present witnesses on their own behalf, have the right to an attorney at their own expense, and appeal judgment to a higher court. These rights were generally protected by the government.

The judicial system suffered from corruption, particularly at the lower levels, and from inefficiency at all levels. Cases continued to be delayed because the court system was overburdened. To alleviate the backlog and reduce the possibility of undue influence and corruption, the government continued to recruit judges and magistrates from other Commonwealth countries who share a similar legal system. The attorney general oversees the hiring of foreign judges on contract. The government reserves the right not to renew a judge's contract. Foreign judges were generally less susceptible to corruption and executive branch pressure. Despite these steps, corruption in the legal system persisted.

The judicial system recognizes customary, Shari'a (Islamic law), and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. Shari'a was observed primarily in Muslim marriage and divorce matters; it favored men in its provisions (see section 5). General law, following the British model, applied to felonies and misdemeanors in urban areas and to the formal business sector.

On June 23, Ousainou Darboe, a lawyer and leader of the opposition United Democratic Party (UDP) who was charged with the 2000 murder of ruling APRC party supporter Alieu Njio, was acquitted. The four persons arrested with him were also acquitted.

Political Prisoners.—During the year the government detained executive members of the NADD in connection with allegations of subversive activities and threats to national security. Reportedly no international human rights organizations requested access to the detainees, but they were allowed access to family members.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and although the government generally respected these prohibitions, there were some exceptions. The government has not repealed Decree 45, which abrogates constitutional safeguards against arbitrary search and permits search and seizure of property without due process. This decree formally remained in effect, pending a judicial finding that it is unconstitutional; however, in practice the government did not use it. In some instances security forces forcibly and without warrants entered homes to arrest citizens. In November three NADD members were arrested without warrants and held for questioning without charge for 72 hours.

Observers believed the government monitored citizens engaged in activities that it deemed objectionable.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and the press; however, the government limited these rights by intimidation and restrictive legislation. Journalists practiced a degree of self-censorship.

On occasion security forces detained persons who publicly criticized or who expressed views in disagreement with the government. For example in November two of the three NADD opposition leaders were charged with sedition for statements made in a press statement including a statement by one of the two referring to the president as a "brutal dictator." The government published one newspaper, *The Gambia Daily*. The *Daily Observer*, although privately owned, tended to favor the government in its coverage. There were three other independent newspapers, including one published by an opposition political party. There was one independent weekly magazine.

During the year one government-owned and four private radio stations broadcast throughout the country. There were at least two independent radio stations. Local stations rebroadcast the BBC, Radio France Internationale, the Voice of America, and other foreign news reports, and all were available via short-wave radio. Both the government-owned GRTS television and foreign cable and satellite television channels were available in many parts of the country. The government allowed unrestricted access to satellite television, and residents who could afford it received independent news coverage by satellite dish or antenna.

The deterioration of the country's media environment continued during the year. In October the government revoked the operating license of Senegalese-owned radio station Sud FM for allegedly broadcasting derogatory remarks regarding both the Senegalese and Gambian governments. Sud FM's closure worsened the already strained relationship between the media and the government. The radio station remained closed at year's end.

During most of the year government-owned television and radio gave very limited coverage to opposition activities, but some statements by opposition parliamentarians in the National Assembly were reported.

Unlike in the previous year, no journalists were killed or injured by unknown assailants.

Unlike in the previous year, there were no attacks or threats on the independent media.

There were fewer reports than in the previous year that the government harassed journalists and editors of newspapers that published articles it considered inaccurate or sensitive. However, in October a journalist with *The Independent* newspaper, Pa Modou Secka, was detained at Soma Police Station for more than four hours by an immigration officer who accused the journalist of trying to destroy the good image of the country. He was released without charge. Also in October the editor of *The Independent*, Musa Saidykhan, was reportedly questioned by authorities for several hours for security reasons.

There were no developments in the following 2004 cases: the April arson attack on the printing press of *The Independent* newspaper; the July detention and beating of Seedy Fanneh; the August arson attack on the home of a BBC stringer; and the December murder of Deyda Hydara, the editor and publisher of *The Point* newspaper.

Although the independent press practiced a degree of self-censorship, the press frequently voiced strong, direct criticism of the government, and opposition views regularly appeared in the independent press.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice; however, in November and December the police obstructed NADD's ability to hold rallies in support of their detained leaders. Although permits were granted for the rallies, the police refused, allegedly for security reasons, the use of public address systems at the rallies.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. The AFPRC's Decree 81 requires nongovernmental organizations (NGOs) to register with the National Advisory Council, which has the authority to deny, suspend, or cancel the right of any NGO to operate, including that of international NGOs.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights but allows for "reasonable restrictions," which the government at times enforced.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law did not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has established a system for providing such protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The constitution provides for the democratic elections of the president and National Assembly every five years. The APRC remained the dominant political party.

Elections and Political Participation.—International observers described the 2001 presidential electoral process as generally free and fair, despite some shortcomings. President Jammeh won approximately 53 percent of the vote. The opposition political parties initially conceded the elections but then accused the government of bribing voters and issuing threats, both explicit and veiled, against individuals and communities that did not support the incumbent. Observers agreed there probably were some irregularities in the registration process but on a much smaller scale than the opposition coalition alleged. The postelection period was marred when Jammeh fired more than 20 village heads and civil servants who had not publicly supported for him during the campaign or who had been accused of corruption or incompetence; security forces also arrested and detained many opposition supporters throughout the country.

The major opposition coalition boycotted the 2002 national assembly elections accusing the Independent Electoral Commission of allowing fraudulent voter registrations and mismanaging both the presidential and legislative elections. The boycott was criticized widely as unjustified and as an inappropriate response to the alleged fraud and left many of the opposition's own candidates unfunded and unsupported during the elections. The APRC won the majority for the National Assembly. The People's Democratic Organization for Independence and Socialism (PDOIS) won two seats and the National Reconciliation Party won one seat. The president appointed 4 members of his own party and 1 former opposition presidential candidate to the 48-member National Assembly.

On January 17, five of the country's opposition parties formed an alliance to contest the 2006 presidential and 2007 National Assembly elections. Leaders of the National Democratic Action Movement, the National Reconciliation Party, the PDOIS, the PPP and the UDP signed the Memorandum of Understanding that established NADD.

The four members of the National Assembly who fell under the newly-formed NADD were required by a supreme court decision to vacate their seats in July and run in a special election. In September three of the four opponents won their seats back in a special election deemed by international observers to be generally free and fair. The assembly member who lost contested the vote in court.

The government arrested political leaders during the year (see section 1.d.).

There were 6 women in the 54-seat National Assembly; 3 were elected, 3 were appointed by the president. There were 4 women in the 15-member cabinet, including the vice president.

There were no statistics available on the percentage of minorities who compose the legislature or the cabinet. President Jammeh and some members of his administration were from the previously marginalized minority Jola ethnic group.

Government Corruption and Transparency.—Official corruption remained a serious problem despite government efforts to curb it.

On April 27, Lang Conteh, a former foreign exchange manager at the Central Bank of The Gambia, pleaded guilty to charges of defrauding the bank of $7.72 mil-

lion (216 million dalasi). Conteh entered a plea bargain, was sentenced to one year in prison, and agreed to forfeit some of his properties to the state.

On March 21, the Commission of Inquiry, which the president established in 2004 to investigate the assets of all senior officials who served in the government during the past 10 years, submitted its report. The commission submitted a four-volume report detailing widespread instances of alleged tax evasion and fraud among high ranking public officials. A number of senior government officials, including cabinet ministers, subsequently lost their jobs and forfeited assets to the state. However, some officials who were sanctioned by the commission were reappointed to government positions after paying fines stipulated by the commission.

Also in July the special commission of inquiry established to investigate alleged corruption surrounding a $3 million (85 million dalasi) fiber optic cable transaction by the national telecommunications company GAMTEL submitted its findings. The commission's reports were never published and no formal charges were filed, but two senior officials at the company subsequently lost their jobs. GAMTEL's managing director at the time of the transaction was dismissed from his position; however, he was reinstated a few months later.

The law does not provide for public access to government information. Under the Official Secrets Act, civil servants are not allowed to divulge information about their department or to speak to the press without prior clearance with their head of department. In some cases journalists from certain independent newspapers have been refused access to public events, apparently because certain government officials disapproved of their editorial stance.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, religion, sex, disability, language, or social status, and the government generally enforced these prohibitions.

Women.—Domestic violence, including spousal abuse, was a problem. It was reported occasionally, but its occurrence was believed to be common. Police considered these incidents to be domestic issues outside of their jurisdiction. There was no law prohibiting domestic violence; however, cases of domestic violence could be prosecuted under laws prohibiting rape, spousal rape, and assault. The penalty for rape is life in prison and it was enforced. Although the law against spousal rape was difficult to enforce effectively, as many did not consider spousal rape a crime and failed to report it.

The law does not prohibit FGM and the practice remained widespread and entrenched. Between 60 and 90 percent of women have undergone FGM. Approximately 7 of the 9 major ethnic groups practiced FGM at ages varying from shortly after birth until age 16. FGM was less frequent among the educated and urban segments of those groups. There were unconfirmed reports of incidences of health-related complications, including deaths, associated with the practice of FGM; however, no accurate statistics were available. The government publicly supported efforts to eradicate FGM and discouraged it through health education; however, authorities have not passed legislation against FGM, which was not considered a criminal act. President Jammeh stated that the government would not impose a ban on FGM but has spoken out against it publicly, and his administration worked to convince traditional village leaders to abandon the practice. Practitioners of FGM and other types of circumcision believed that Islam mandates it; however, at least one influential imam declared that Islam forbids such harmful customs. Several NGOs conducted public education programs to discourage the practice, and the National Assembly Select Committee on Women and Children also campaigned actively against FGM and other harmful traditional practices affecting the lives of women and children.

Prostitution is illegal but was a problem, especially in the tourist areas. The government expelled numerous foreign prostitutes. The 2003 Tourism Offences Act was passed to deal with increasing incidents of tourism-related offences, including sex tourism. The act prohibits child prostitution, trafficking, and pornography.

There were no laws against sexual harassment. Although individual instances have been noted, sexual harassment was not believed to be widespread.

Traditional views of women's roles resulted in extensive societal discrimination in education and employment. Employment in the formal sector was open to women

at the same salary rates as men. No statutory discrimination existed in other kinds of employment; however, women generally were employed in such pursuits as food vending or subsistence farming.

Shari'a law is applied in divorce and inheritance matters for Muslims, who make up more than 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than did males. The appropriate church and the Office of the Attorney General settled Christian and civil marriage and divorce matters.

Marriages often were arranged and, depending on the ethnic group, polygamy was practiced. Women in polygamous unions have property and other rights arising from the marriage. They also have the option to divorce but not a legal right to approve or be notified in advance of subsequent marriages. The Women's Bureau, which is under the Office of the Vice President, oversees programs to ensure the legal rights of women. Active women's rights groups existed.

Children.—The government was committed to children's welfare. The Department of Education and the Department of Health and Social Welfare were the two most generously funded government departments; however, lack of resources limited state provision of both education and health services.

In June the government passed the Children's Act, a comprehensive piece of legislation designed to protect and promote the welfare of children and to curb abuses against children, such as trafficking in persons.

The law mandates free, compulsory primary education up to eight years of age, but the state of the educational infrastructure prevented effective compulsory education, and children still must pay school fees. During the year the government estimated that 75 percent of children were enrolled in primary schools. Another 15 percent were enrolled in the Islamic schools called "madrasas." Girls constituted approximately 51 percent of primary school students and roughly one-third of high school students. The enrollment of girls was low, particularly in rural areas where a combination of poverty and sociocultural factors influenced parents' decisions not to send girls to school. As part of the government's initiative to get girls to go to school, the government implemented a countrywide program to pay school fees for all girls.

Authorities generally intervened when cases of child abuse or mistreatment were brought to their attention; however, there was no societal pattern of abuse against children. Any person who has carnal knowledge of a girl under the age of 16 is guilty of a felony (except in the case of marriage, which can be as early as 12 years of age). Incest also is illegal. These laws generally were enforced. Serious cases of abuse and violence against children were subject to criminal penalties.

Trafficking of children for prostitution was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

The Child Protection Alliance (CPA), a consortium of various organizations (national and international) that promote the protection of children from abuse, conducted countrywide workshops for teachers on alternatives to corporal punishments and awareness campaigns for community and religious leaders on sexual exploitation of children. In August the CPA conducted a 3-day training course for 40 law enforcement officers on investigative and interviewing techniques to combat sexual abuse and exploitation of children. The course was a continuation of a similar training conducted for 30 security officers conducted in September 2004 in collaboration with the Dutch-based NGO, Terre des Hommes.

Trafficking in Persons.—Trafficking occurred, and the government considered it a serious problem. In June the government enacted the Children's Act, which explicitly prohibits trafficking in persons, particularly children; however, there were no prosecutions for trafficking by year's end.

The penalty for trafficking in children (anyone under the age of 18) is life in prison, along with a substantial monetary fine. Before the passing of the Children's Act, there were no laws that specifically prohibited trafficking in persons. Enforcement of the act is primarily the responsibility of the Tourism Security Unit, a unit of the national army created specifically to enhance security in the tourism sector and keep minors out of the resort areas. There were no prosecutions under this law by year's end.

The country was a source, transit point, and destination for trafficked persons. The number of persons, mostly children, trafficked for commercial sexual exploitation was small but growing.

In January 2004 a joint UN Children's Fund (UNICEF)-government study reported that children engaged in prostitution in the main tourist resort areas were predominantly underage, some as young as 12. The report stated that the country has become an attraction for suspected or convicted European pedophiles that en-

tered the country as tourists and committed their crimes against children with impunity. Victims of trafficking were children of both sexes, normally younger than 16 to 18 years old, and included both citizens and immigrants or refugees from Sierra Leone, Liberia, Senegal, and Guinea-Bissau. The foreign children were war migrants without proper family support.

Most trafficking victims were forced into prostitution and/or begging; a few became domestic servants. Trafficking victims mostly came from conflict-ravaged countries, such as Liberia and Sierra Leone. Victims from Senegal, Guinea Bissau, and Sierra Leone told CPA that foreign residents obtained permission from their home country families to employ them as bar waitresses or domestic maids. After their arrival the local employers informed them their duties entailed commercial sex work.

Some child prostitution victims stated they worked to support their families, or because they were orphans and their guardian/procurer supported them. The guardian/procurer often assumed the role of the "African uncle," allowing the children to live in his compound with their younger siblings or paying school fees on their behalf in return for their servitude.

There was no evidence of government involvement at any level in trafficking in persons.

The government had no established victim care and health facilities for trafficked persons. Although a shelter for trafficked children was completed, it did not open in November as scheduled. The government provided temporary shelter and access to medical and psychological services to reported victims of trafficking.

In July the government, in collaboration with foreign donors, organized the First Annual Conference on Best Practices to Combat the Trafficking of Children in The Gambia. The one-day conference brought together representatives of international organizations, policy makers, and civil society to analyze the extent of child trafficking in the country and to develop measures to eradicate the violation of children's rights. In 2004 the government created a multi-agency trafficking in persons taskforce, which consisted of representatives from the departments of immigration, police, national intelligence, justice, foreign affairs, social welfare, and trade and industry as well as from UNICEF, the National Assembly, and the CPA.

Persons with Disabilities.—There were no statutes or regulations requiring accessibility for persons with disabilities. No legal discrimination against persons with physical disabilities existed in employment, education, or other state services; however, some societal discrimination existed towards persons with disabilities. Persons with severe disabilities subsisted primarily through private charity. Persons with less severe disabilities were accepted fully in society, and they encountered little discrimination in employment for which they physically were capable. There were no laws to ensure access to buildings for persons with disabilities, and very few buildings in the country were specifically accessible to persons with disabilities.

Other Societal Abuses and Discrimination.—There was evidence of societal discrimination against persons infected with the HIV/AIDS virus. Stigma and discrimination hindered disclosure and led to rejection from partners and relatives. In some cases persons infected with HIV/AIDS were prevented from meeting visitors.

The government committed itself to protecting the rights of persons living with HIV/AIDS by developing a five-year National Strategic Plan that includes the provision of care, treatment, and support to persons living with, or affected by, HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The Labor Act, which applies to all workers except civil servants, specifies that workers are free to form associations, including trade unions, and workers exercised this right in practice. Unions must register to be recognized, and there were no cases where registration was denied to a union that applied for it. The act specifically prohibits police officers and military personnel, as well as other civil service employees, from forming unions. Approximately 20 percent of the work force was employed in the modern wage sector, where unions were most active.

In 2004 the International Confederation of Free Trade Unions reported that the government had not implemented the eight International Labor Organization (ILO) conventions known as "core labor rights" and criticized the government for prohibiting civil servants from forming unions. The government responded that it is updating the Labor Act to incorporate the ILO conventions; however, no new labor legislation was in place at year's end.

Employers may not fire or discriminate against members of registered unions for engaging in legal union activities, and the government intervened to assist workers who were fired or discriminated against by employers.

b. The Right to Organize and Bargain Collectively.—Unions were able to negotiate without government interference; however, in practice the unions lacked experience, organization, and professionalism, and often turned to the government for assistance in negotiations. The law allows workers to organize and bargain collectively, and although trade unions were small and fragmented, collective bargaining took place. Union members' wages, which generally exceeded legal minimums, were determined by collective bargaining, arbitration, or agreements reached between unions and management. The act also sets minimum contract standards for hiring, training, and terms of employment, and provides that contracts may not prohibit union membership.

The law authorizes strikes but also places restrictions on strikes by requiring unions to give the commissioner of labor 14 days' written notice before beginning an industrial action (28 days for essential services); given the restriction on strikes and weak trade unions, no strikes occurred during the year. The law specifically prohibits police officers and military personnel, as well as other civil service employees, from striking. Upon application by an employer to a court, the court may prohibit industrial action that is ruled to be in pursuit of a political objective. The court also may forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. It prohibits retribution against strikers who comply with the law regulating strikes.

There is a government-established export-processing zone (EPZ) at the port of Banjul and the adjacent bonded warehouses. The labor code covers workers in the EPZs, and they were afforded the same rights as workers elsewhere in the economy.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The statutory minimum age for employment is 14 years; however, child labor was a problem. There was no effective compulsory education, and because of limited secondary school openings, most children completed formal education by the age of 14 and then began work. Child labor protection does not extend to youth performing customary chores on family farms or engaged in petty trading. In rural areas most children assisted their families in farming and housework. In urban areas many children worked as street vendors or taxi and bus assistants. There were a few instances of children begging on the street. The tourist industry stimulated a low, but growing level of child prostitution (see section 5). Employee labor cards, which include a person's age, were registered with the labor commissioner, who was authorized to enforce child labor laws; however, enforcement inspections rarely took place. The Department of Labor under the Department of State for Trade and Employment was responsible for implementing the provisions of the ILO Convention 182 on the worst forms of child labor; however, the government generally was ineffective in enforcing those provisions.

e. Acceptable Conditions of Work.—Minimum wages and working hours are established by law through six joint industrial councils, comprised of representatives from labor, management, and the government. The lowest minimum wage, according to law was approximately $0.42 (12 dalasi) per day for unskilled labor, but in practice the minimum wage was approximately $1.78 (50 dalasi). The national minimum wage did not provide a decent standard of living for a worker and family. The minimum wage law covered only 20 percent of the labor force, essentially those workers in the formal economic sector. A majority of workers were employed privately or were self-employed, often in agriculture. Most citizens did not live on a single worker's earnings and shared resources within extended families. The Department of Labor is responsible for enforcing the minimum wage and it did so when cases of underpayment were brought to its attention.

The basic legal workweek is 48 hours within a period not to exceed 6 consecutive days. Nationwide, the workweek included four eight-hour workdays and two four-hour workdays (Friday and Saturday). There are no limits on hours worked per week and no prohibition on excessive compulsory overtime. A 30-minute lunch break is mandated. Government employees are entitled to one month of paid annual leave after one year of service. Most government employees were not paid overtime. However, government workers holding temporary positions and private sector workers received overtime calculated per hour. Private sector employees received between 14 and 30 days of paid annual leave, depending on length of service.

The law specifies safety equipment that an employer must provide to employees working in designated occupations. The law also authorizes the Department of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and to appoint inspectors to ensure compliance with safety standards. En-

forcement was inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the labor department. The law provides that workers may refuse to work in dangerous situations without risking loss of employment; however, in practice workers who do so risk loss of employment.

The law protects foreign workers employed by the government; however, it only provides protection for privately employed foreigners if they have a current valid work permit. Legal foreign workers may join local unions.

GHANA

Ghana is a constitutional democracy with a strong presidency and a unicameral 230-seat parliament. The country's population is approximately 21 million. In December 2004 eight political parties contested parliamentary elections, and four parties, including the ruling New Patriotic Party (NPP), contested presidential elections. NPP candidate John Agyekum Kufuor was reelected president with 52.45 percent of the vote. Despite a few incidents of intimidation and minor irregularities, domestic and international observers judged the elections generally free and fair. While civilian authorities generally maintained effective control over security forces, there were some instances in which elements of the security forces acted independently of government authorities.

The government generally respected the human rights of its citizens and made significant improvements during the year; however, there were problems in several areas, including a sharp increase in incidents of vigilante justice. The following human rights problems were reported:

- police use of excessive force, which resulted in deaths
- vigilante justice
- harsh and life-threatening prison conditions
- police corruption and impunity
- arbitrary arrest and detention
- prolonged pretrial detention
- infringement on citizens' privacy rights
- arrest, detention, interrogation, and harassment of journalists
- forcible dispersal of demonstrations
- corruption in all branches of government
- violence against women and children
- female genital mutilation (FGM)
- societal discrimination against women, persons with disabilities, homosexuals, and persons with HIV/AIDS
- trafficking in women and children
- ethnic discrimination and politically and ethnically motivated violence
- child labor, including forced child labor

During the year the government took significant steps to improve human rights, including passage of an antihuman trafficking law.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in the previous year, there were no reports that the government or its agents committed political killings; however, security force use of excessive force resulted in the deaths of criminal suspects and citizens during the year.

At year's end the trial of three security officers charged with the December 2004 suspected political killing of the regional chairman, Issa Mobilla of the opposition Convention People's Party (CPP) was ongoing. The CPP chairman died from abuse sustained in military custody, according to an autopsy report.

Security forces were responsible for several deaths during the year. On January 9, superior military officials reportedly ordered the fellow seamen of 25-year-old Ordinary Seaman Philip Kuekebey to beat him and leave him in a guardroom for 21 days without medical attention. Kuekebey subsequently died from his injuries. The military denies he was beaten. Kuekebey reportedly had been caught jumping a barracks wall when returning from celebrating a soccer game victory. The superiors

who ordered his torture were allegedly supporters of the rival team. According to military authorities, a medical inquiry determined that the deceased did not die as a result of torture but rather as a result of failure to take prescribed medicine. The Commission on Human Rights and Administrative Justice (CHRAJ) and the deceased's family disputed these findings since photographs of the body show wounds.

In May an elderly woman in Dormaa, Brong Ahafo Region, reportedly died after a policeman struck her in the chest with his elbow. The woman had objected when six policemen assaulted her son, including one officer who struck the boy with a gun barrel. No information regarding an investigation or disciplinary action against the officer was available at year's end.

On October 9, soldiers at the El-Wak Barracks in Accra reportedly beat and burned to death an accused thief. Military police continued to investigate the incident at year's end.

On March 30, robbers attempting to steal a car engine in the Koforidua area opened fire on police officers who confronted them. Police returned fire, and killed one and arrested another while two other suspects escaped.

Unlike in the previous year, political clashes did not result in deaths; however, such incidents resulted in injuries and property damage (see section 1.c.).

Investigations into the 2004 killings by opposing political party activists were inconclusive.

Despite calls by opposition National Democratic Congress (NDC) party members for an official inquiry into alleged security force abuses during the 2003 clashes between NPP and NDC supporters in Tamale, Northern Region, no judicial inquiry occurred by year's end; the government continued to deny the allegations.

A police investigation into the 2003 incident in which a bystander was killed when police officers fired warning shots to disperse a crowd was ongoing at year's end.

During the year chieftaincy disputes continued to result in deaths, injuries, and destruction of property (see section 5).

As in the previous year, there were a number of killings that resulted from disputes between indigenous locals and migrant herdsmen. Joint military and police teams disarmed and removed Fulani herdsmen in Volta, Eastern, and Upper West regions.

Deaths resulted during the year from vigilante-style instant justice by angry citizens and mobs on suspected criminals and suspected witches. Security forces sometimes intervened to save the lives of the intended victims, and government officials urged citizens to leave law enforcement to the police. However, security forces on occasion appeared to sanction vigilante justice. For example, on April 1, the police service commended and promoted a police constable who led motorists near Abofour to disarm a group of highway robbers. In the struggle, two of the robbers were killed.

On June 8, four men beat to death a 16-year-old student who was mistaken for a bag snatcher. The four were arraigned by the La District magistrate and were awaiting trial on remand at year's end.

On September 29, a mob beat a 38-year-old Accra man who had shot a former girlfriend and her female friend. The man later died from his injuries. Investigations remained inconclusive, and no arrests were made by year's end.

The father of a 16-year-old from Nsuaem, Western Region, who police denied killing during a mob attack in March 2004, petitioned the inspector general of police for an investigation into his son's death. The new inspector general of police referred the petition to the police legal directorate for advice.

Investigations were ongoing into the following 2003 cases of vigilante justice: the lynching of a Malian man and the mob killing of a fetish priest. Police could not identify the perpetrators.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there continued to be credible reports that police beat and abused suspects, prisoners, demonstrators, and other citizens. Security force use of torture resulted in at least one death during the year (see section 1.a.). Severe beatings of suspects in police custody reportedly occurred throughout the country but largely went unreported. In many cases, police denied allegations or claimed that force was justified.

On March 18, police officers allegedly beat the traditional ruler of the Mfantsiman District who was wanted for theft.

On September 26, in Accra, police officers acting on orders of a superior reportedly stripped a teacher of his trousers and beat him with hockey sticks after the teacher

allegedly trespassed across a courtyard. The inspector general of police personally apologized to the victim and directed the police administration to pay his medical bills and otherwise compensate him. The police officer involved was admonished.

On October 21, a police officer in Sunyani allegedly fired shots at a taxi whose driver was evading them. One of the bullets lodged close to the spine of, a bystander along the road.

Forcible dispersion of demonstrators by security forces resulted in injures (see section 2.b.).

Unlike in the previous year, there were no reports that police beat political party activists.

During the year the police officer who shot a taxi driver in 2004 for failing to stop was arrested.

There were no developments in other 2004 cases of police beatings. Investigations were ongoing in the June 2004 case involving police beatings of political party activists.

There were reports of inter- and intra-party clashes. In April, in Asawase, a dispute between the ruling NPP and opposition NDC parties became violent, resulting in injuries. In August a similar dispute in Odododiodoo, resulted in injuries and property destruction. In December some members of the NDC said intraparty rivals physically attacked them, and a number of party members resigned in protest.

NPP supporters beat a journalist during the year (see section 2.a.).

Authorities abandoned the trial of the four suspects involved in a 2003 bombing outside the residence of the regional NPP organizer in Ho, Volta Region.

Machomen (party thugs) and land guards (private security enforcers hired by citizens to settle private disputes and vendettas) caused injury and property damage during the year. The machomen were organized privately and operated outside the law. There were some allegations of police complicity with these extralegal security agents. Police denied any involvement and arrested a number of land guards, some of whom were prosecuted and jailed in Accra and Tema.

During the year the NPP's national organizer was secretly taped stating that he commanded up to 1,100 "action troopers" who could disrupt elections and intimidate voters. He later told media that these party supporters were only present at the polls to ensure fair proceedings.

In January 2004 the national organizer of the NDC said that all political parties in the country were guilty of using machomen to intimidate their opponents during election periods.

During the year the government tried 23 land guards and jailed those who were found guilty of harassing land developers in 2004.

Vigilante-style justice conducted by angry citizens and mobs against suspected criminals and witches resulted in deaths and injuries (see section 1.a.). For example, Sakalo villagers tried to humiliate a suspected livestock thief by tying him to a tree.

The 2003 case in which a mob severely beat four men who were falsely accused of theft was still under investigation at year's end.

Prison and Detention Center Conditions.—Prison conditions in most cases were harsh and sometimes life threatening, despite government efforts to improve them. Much of the prison population was held in buildings that were originally old colonial forts or abandoned public or military buildings, with poor ventilation and sanitation, dilapidated construction, and limited space. According to the 2004 Prisons Service Annual Report, approximately 11,700 prisoners were held in prisons designed to hold 6,500. During a visit to Winneba Central Prison during the year, CHRAJ found 45 prisoners occupying a room designed for 3. Medical facilities were inadequate, and the prisons supplied only the most basic medicines. Prisoners relied on families or outside organizations for additional food, medicine, and other necessities. A shortage of bedding and clothing for prisoners continued. Overcrowding contributed to a high prevalence of communicable diseases. Some suspects allegedly pled guilty to be removed from unsanitary police cells and sent to prison.

During the year the government took steps to improve prison conditions. For instance, the police service constructed toilets and added showers to the Sunyani police cell, and the government purchased $6 million in vehicles and machinery for income-generating agricultural and industrial projects for inmates. In 2004 the prisons service opened a new prison at Yeji and improved sanitation facilities in more than 20 locations.

According to the prisons service report, 110 prisoners died in 2004 from diseases such as tuberculosis, AIDS, and anemia.

On March 28, a prisoner died in Kumasi Central Prison after fellow inmates tied him up and he stopped breathing.

In certain facilities female prisoners in police cells were only separated by a few feet and were within the reach of male prisoners. In the Accra Central police cells,

female prisoners were kept in a small vestibule, only separated from men by a gate. The law stipulates that regardless of the offense, female convicts should be tested for pregnancy upon incarceration, and that pregnant convicts should be held in a facility where their health needs could be met.

Some juveniles inflated their ages to avoid lengthy rehabilitation sentences in the Borstal Institute; however, the Department of Social Welfare and Prison Services collaborated to transfer any known juveniles in adult cells to juvenile correction centers.

Pretrial detainees were held with convicted prisoners.

During the year CHRAJ, Prisoners Rehabilitation and Welfare Action, and the Prison Ministry all visited prisons and police cells to monitor conditions.

d. Arbitrary Arrest or Detention.—The law provides for protection against arbitrary arrest and detention; however, the government did not always observe these prohibitions.

Role of the Police and Security Apparatus.—The police, under the jurisdiction of an eight-member Police Council, are responsible for maintaining law and order. The military continued to participate in law enforcement activities during the year. A separate entity, the Bureau of National Investigations, handles cases considered critical to state security and answers directly to the executive branch.

The police maintained specialized units for homicide, forensics, domestic violence, visa fraud, narcotics, and cybercrimes in Accra. However, there were significant barriers to extending such services nationwide, including a lack of office accommodation, police vehicles, and equipment outside of Accra.

The police service came under repeated criticism following incidents of police brutality, corruption, and negligence. Impunity remained a problem. Delays in prosecuting suspects, rumors of police collaboration with criminals, and the widespread perception of police ineptitude contributed to an increase in vigilante justice during the year. There were also credible reports that police extorted money from local businesses by acting as private debt collectors and by arresting citizens in exchange for bribes from detainees' disgruntled business associates.

Government officials publicly stated that the government's zero tolerance for corruption policy applied to police and other security officials; however, a July public opinion survey by the Ghana Integrity Initiative, the local chapter of Transparency International, found the police to be the public institution most frequently perceived as corrupt (77 percent of respondents).

The 30-person Police Intelligence and Professional Standards Unit (PIPS) investigated human rights abuses and police misconduct. During the year PIPS received 247 complaints and petitions, compared with 590 in 2004. There were 79 complaints related to harassment, unlawful arrest, and detention with human rights violations, compared with 48 in 2004 and 22 in 2003.

In July the newly appointed Inspector General warned police officials that incidents of misconduct would be punished, and the government took a few steps to punish offenders. On October 23, the police administration disciplined eight officers: four for allegedly using a police vehicle to haul lumber, two for allegedly permitting illegal timber operations, and two for misconduct related to selection for a peacekeeping mission. The police also dismissed a constable for extorting $40 (363,320 cedis) from a foreign couple by threatening their arrest.

From July 14 to October 28, the government allowed trainers from a foreign government to put 30 senior police officers through a 14-week basic police skills course, which included modules on appropriate use of force, international human rights standards, trafficking in persons, and domestic violence.

Arrest and Detention.—The law provides that an individual detained should be informed immediately, in a language that the detained person understands, of the reasons for the detention, and of his or her right to a lawyer and an interpreter at state expense. The law requires judicial warrants for arrest and provides for arraignment within 48 hours. The law requires that a detainee who has not been tried within a reasonable time be released either unconditionally or subject to conditions necessary to ensure that the person appear in court at a later date. The law also provides for bail. In practice, however, many abuses of these rights occurred, including detention without charge for periods longer than 48 hours, failure to obtain a warrant for arrest, and remand of prisoners into investigative custody for indefinite periods by renewing warrants or by simply allowing them to lapse.

On August 29, the Commonwealth Human Rights Initiative criticized the police for routinely detaining persons for more than 48 hours without a warrant signed by a magistrate. A 2003 Center for Democratic Development (CDD) survey found that 46 percent of the persons arrested were not informed of the charges against them, 51 percent were not read their rights, 67 percent reported they were not given

the opportunity to contact a lawyer, and 44 percent believed they were presumed guilty from the onset.

At times persons were detained for trivial offenses or based on unsubstantiated accusations such as insulting behavior, petty stealing, and disturbing the public peace. Authorities routinely failed to notify prisoners' families of their incarceration; such information often was obtained only by chance. The court has unlimited discretion to set bail, which was often prohibitively high. The court may refuse to release prisoners on bail and instead remand them without charge for an indefinite period, subject to weekly review by judicial authorities. On occasion, police also demanded money from suspects as a precondition for their release on bail.

Security forces used checkpoints and mass arrests while searching for criminals (see section 2.d.).

Lengthy pretrial detention was a serious problem. The Prison Service's 2004 Annual Report reported that of 18,866 admissions, 10,709 (57 percent) were on remand while the remaining 8,157 were convicted. In October 2004 the attorney general announced a nationwide review of all cases on remand; however, no progress was made in reducing that number during the year. The chief justice and appellate judges characterized the situation as a grave injustice, particularly since some detainees had been remanded for traffic and other minor offenses. Detainees sometimes served more time in remand cells than the allotted time for the crime committed. During 2004 inspections of prison facilities, the director general of prisons met numerous remand prisoners who had been detained for up to 10 years without trial.

There were no further developments in the April 2004 remand of 34 persons, including juveniles and several chiefs, who were detained for more than 48 hours.

During the year judicial officials continued to implement procedures for voluntary, court-facilitated alternate dispute resolution (ADR) for settling civil disputes. Trained ADR judges and lawyers mediated some cases pending before the Fast track/automated courts in July; however, most cases were still pending resolution at year's end.

Amnesty.—On March 6, President Kufuor granted amnesty to 1,317 prisoners, including two opposition leaders who were involved in scandals under the former Rawlings regime.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary was inefficient and subject to influence and corruption.

On September 29, addressing judicial inefficiency the chief justice noted that one judge had adjourned three cases 96, 120, and 127 times, respectively. In August 2004 the chief justice noted that some judges had not heard a single case or written a decision all year. A 2003 report adopted by the Parliamentary Select Committee on the Judiciary included accounts of extortion; misuse of remand, bail, and contempt of court charges for extortion; and acceptance of gifts or money in exchange for expedited or postponed cases, or for losing records.

During the year the government took steps to address these problems. In January new high court rules to shorten trials took effect and included the establishment of a commercial court. In July the chief justice inaugurated a National Center for Arbitrators to train judges and other officials in ADR procedures to reduce court backlogs. Improved information technology resulted in an increase in cases handled by the fast track high courts from 7,378 in 2004 to 10,111 during the year. The chief justice also adopted a code of ethics and issued two annual reports in his continuing campaign to increase transparency, curb corruption, and improve efficiency.

The country also had a judicial complaints unit, headed by a retired supreme court judge, to address public complaints. During the year the unit received 378 complaints, of which 80 were resolved, 103 were under investigation, and 195 were pending.

The law establishes two basic levels of courts, the lower courts and the superior courts. The lower courts consist of the circuit and district courts, which serve as juvenile courts and family tribunals. These courts try civil cases involving $5,498 (50 million cedis) or less and criminal cases for offenses punishable by a fine not exceeding $1,100 (10 million cedis) or imprisonment for a term not exceeding two years or both. The superior courts consist of the Supreme Court, the appeals court, the high court, the commercial court, regional tribunals, and fast track courts. Fast track courts hear cases to conclusion within six months. The majority of cases filed before the fast track court involved banking and commercial matters, human rights, and defamation.

Trial Procedures.—Defendants are presumed innocent, trials are public, and defendants have a right to be present, to be represented by an attorney (at public expense if necessary), and to cross-examine witnesses. Defendants and their attorneys

have access to government-held evidence relevant to their cases and have a right to appeal. In practice, authorities generally respected these safeguards.

The trial of the former head of the Ghana National Petroleum Corporation on charges of causing financial loss to the state was ongoing at year's end.

The trial of a retired military personnel arrested in 2004 for allegedly plotting a coup against the government was ongoing at year's end. The trial of two suspects accused of plotting a coup during the year also was ongoing at year's end.

The Chieftaincy Act gives village and other traditional chiefs power to mediate local matters and enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes. However, the authority of traditional rulers has steadily eroded because of a commensurate increase in the power of civil institutions, such as courts and district assemblies. In January 2004 chiefs in Tema participated in an ADR training program, which resulted in the recommendation that traditional councils have their own constitutions, apart from the Chieftaincy Act, to help institutionalize the role of local leaders in settling cases. The recommendation had not been implemented by year's end.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, in practice the government sometimes infringed on privacy rights. Although the law requires judicial search warrants, police seldom obtained them in practice.

Opposition party activists claimed the government engaged in surveillance and harassment of those it perceived to be opposed to the ruling party. Some civil society organizations expressed concerns that the government used surveillance, free of any oversight or regulation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. However, opposition parties occasionally complained that state-owned media outlets minimized media coverage of opposition politicians. Individuals criticized the government publicly without reprisal.

More than 70 newspapers, including 3 state-owned dailies, and 2 state-owned weeklies, existed in the country. Two of the state-owned dailies had national circulation. Most newspapers circulated only in regional capitals, and many of the smaller privately owned newspapers were available only in Accra.

Accra had one state-owned and 17 privately owned FM radio stations, and there were approximately 11 state-owned and 100 privately owned FM stations across the country. Most stations were independent and aired a wide range of viewpoints. There was one state-owned television station that broadcast nationwide; three semiprivately owned television stations that broadcast in the Greater Accra, Eastern, and Ashanti regions; and three cable networks broadcasting in the Greater Accra Region, two of which also broadcast in Kumasi.

Foreign media operated freely in the country, including the BBC, Radio France International, and Voice of America. Foreign periodicals were available in major cities and circulated freely, even when they contained articles critical of the government.

The state-owned media reported extensively on charges of corruption or mismanagement by both current and past government officials. During the year the state-owned media gave some coverage to opposition politicians and printed occasional editorials critical of government policies. The opposition NDC claimed that government media denied it equal access and coverage on numerous occasions, and in practice the state-controlled media gave greater exposure to government officials.

During the year the police harassed and arrested journalists. For example, on July 22, police detained a television crew at the president's private residence because they were filming a nearby property allegedly purchased by the president in his son's name with funds obtained through abuse of office. The inspector general of police apologized for the incident the following day.

On October 14, police questioned and released two journalists who published articles questioning the president's travel expenses.

On April 21, NPP supporters allegedly beat a journalist who reported on election irregularities in Asawase, Ashanti Region.

On November 14, unknown assailants attacked a journalist in his car and smashed his windshield with a machete. Some media sources believe the journalist was attacked because he had been investigating allegations of corruption linked to the presidency.

In response to media criticism, government officials called for more media discipline and sometimes sued for libel. For example, in April 2004 the president's

brother sued a newspaper for libel and was awarded $4,500 (400 million cedis). Other key political figures also sued media outlets for libel. The president's younger brother George Kufuor, minister for regional cooperation and NEPAD Kofi Konadu Apraku, and minister of works and housing Hackman Owusu Agyemang pursued libel suits against media outlets during the year.

There were no government restrictions on the Internet or on academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of peaceful assembly; however, at times the government restricted this right. The government does not require permits for demonstrations, but police can deny use of a particular route. During the year police arbitrarily cancelled demonstrations and forcibly dispersed demonstrations, which resulted in injuries.

In March Kumasi police sought a court order to postpone a well-publicized opposition street protest. Also in April, police cancelled a planned demonstration by media practitioners to protest the lack of development in the Ashanti Region; no explanation for the cancellation was provided.

On June 13, a joint team of military and police shot and wounded at least seven persons who were protesting surface mining in Prestea in the Western Region. Numerous persons were injured. Neither the police nor the government responded to requests for an investigation by year's end.

Also in June police used water cannons and batons to deter protestors from going to the president's office.Police used excessive force to disburse refugees in a demonstration (see 2.d.).

No action was taken against police and soldiers who assaulted and beat supporters of the ruling party for failing to obtain permission to demonstrate in the capitol in 2004.

There were no developments in the 2004 beatings of individuals by NPP party thugs.

Unlike in the previous year, no bans were imposed on outdoor political activities or demonstrations; however, the ban on campus demonstrations remained in effect during the year, although it has never been challenged or enforced.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. Members of security forces are prohibited from joining political assemblies or groups within the security services, but they are allowed to participate outside police or military compounds.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Religious institutions that wanted formal recognition were required to register with the Registrar General's Department; however, there were no reports that the government denied registration to any group. Most traditional religions, with the exception of the Afrikania Mission, did not register.

Because Christianity over the years has come to pervade many aspects of society, some Muslims feel a sense of political and social exclusion, due to factors such as the token representation of Muslims in national leadership positions, public prayers that often are Christian only, and the ubiquity of Christian slogans.

Trokosi, a religious practice indigenous to the southern Volta region, involves pledging family members, most commonly teenagers but sometimes children under the age of 10, to extended service at a shrine to atone for another family member's sins. Trokosis help with the upkeep of these shrines and pour libations during prayers. Trokosis sometimes live near shrines, often with extended family members, during their period of service, which lasts from a few months to three years. Government agencies, such as CHRAJ, have at times actively campaigned against Trokosi, although local officials portray it as a traditional practice that is not abusive. Some NGOs maintain that Trokosis are subject to sexual exploitation and forced labor, while supporters of traditional African religions, such as the Afrikania Renaissance Mission, have said these NGOs misrepresent their beliefs and regard their campaigns against Trokosi as religious persecution.

Societal Abuses and Discrimination.—There were occasional reports of interreligious and intrareligious friction, but no violent incidents based on religious affiliation occurred during the year.

The Jewish community had a few hundred residents. There were no reports of anti-Semitic acts; however, two weekly newspapers that generally supported the opposition occasionally published anti-Semitic articles.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

Security officers manned checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many were unmanned during daylight hours; however, the police acknowledged that some officers occasionally erected illegal barriers to solicit bribes from motorists. The police continued to erect security checkpoints and conduct highway patrols in response to an upsurge in highway robberies. Police roadblocks and car searches were a normal part of nighttime travel in larger cities. The regional police commanders monitored the activities of police personnel working at the checkpoints.

The law prohibits forced exile, and the government did not use it.

Traditional village authorities can punish rural women with banishment for being pregnant out of wedlock or for suspected witchcraft. Approximately 300 women accused of witchcraft were sent to penal villages known as witch camps in the Northern Region (see section 5).

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The government has established a refugee board to adjudicate claims for refugee status and to ensure refugees receive all appropriate protections. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government also granted refugee status or asylum. The law also incorporates the broadened refugee definition under the African Union Convention Governing Specific Aspects of Refugee Problems in Africa. The country cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The country generally had a liberal policy of accepting refugees from other West African nations, although this did not generally extend to granting work permits or permanent residence.

On November 9, police fired tear gas and warning shots in at Krisan refugee camp in the Southwestern Region to control a riot that left buildings and a vehicle burned. Several hours after the riot police proceeded from house to house, beating refugees. Records at the camp clinic indicate that 100 refugees were treated for injuries sustained during the period November 8–11. The government promised to investigate the incident.

Since January 270 Sudanese refugees were held at a former prison in Accra, pending refugee status determination. On July 21, two refugees attempted to leave the prison to seek medical treatment but were mistakenly refused permission to exit. Violence ensued between refugees and community residents. Two refugees and two Ghanaians sustained minor injuries.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In December 2004 presidential and parliamentary elections were held nation-wide. John Agyekum Kufuor of the NPP was reelected with 52.45 percent of the vote. Despite some irregularities, domestic and international observers characterized the elections as generally free and fair. There were reports of a shortage of ballot at some polls and minor problems with the voter register, such as misspelled names or photos not matching names. In the parliamentary elections the NPP won 128 seats; the National Democratic Congress 94; the Convention People's Party 3; the Peoples' National Convention (PNC), 4; and 1 independent candidate won a seat.

The country continued its transition from a one-party state to a more established multiparty constitutional system. The political system includes recognized opposition parties, which expressed their views freely within parliament and won a near majority of the parliamentary seats. Registered political parties operated freely within the country; however, opposition parties and some persons in private business continued to allege that some government contracts were awarded on the basis of ruling party membership.

Women held 25 of 230 parliamentary seats, and there were 4 female ministers, 14 deputy ministers, and 3 female council of state members out of 112 such positions.

Government Corruption and Transparency.—Corruption in the executive and legislative branches continued to be a problem. At year's end the CHRAJ continued to

investigate allegations that President Kufuor purchased a hotel with wrongfully obtained funds. Unlike in the previous year, the opposition NDC did not accuse the government of using anticorruption investigations to intimidate and harass its members; however, opposition parties charged that corruption continued unabated and that the government failed to use the institutions and mechanisms at its disposal to address the problem. There were reports that government officials pressured businesses to steer contracts toward favored companies and individuals.

In a report on political party financing released in September 2004, the CDD found that 42 percent of those surveyed cited kickbacks as the strongest manifestation of political corruption, followed by political appointment and extortion.

On November 21, *The Enquirer* newspaper publicly released secretly recorded tapes in which the then ruling party chairman alleged that government contractors regularly paid money to the president and his staff, either directly or through ministers, some of which went to fund the ruling party. The presidency denies these charges, although there was no official investigation.

The law does not provides for public access to government information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

At least 20 domestic and international human rights NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were responsive to their views. Prominent NGOs that operated in the country included the International Committee of the Red Cross (ICRC), Abantu for Development, Amnesty International, the International Federation of Woman Lawyers (FIDA), as well as local NGOs such as the African Center for Human Development and Ghanalert. In addition to cooperating with these NGOs, the government cooperated with international humanitarian organizations, including the ICRC and the International Organization for Migration (IOM).

The CHRAJ was charged with investigating alleged violations of human rights, including corruption of public officials, and taking action to remedy proven violations. The CHRAJ continued to hold workshops to educate the public, traditional leaders, police, and the military on human rights issues. It mediated and settled cases brought to it by individuals with grievances against government agencies or private companies. CHRAJ received an average of 10 thousand complaints annually. The bulk of these were family-related issues, although the commission investigated some corruption cases, specifically those involving conflict of interest. Since its inception in 1993, CHRAJ has received over 78 thousand petitions and successfully resolved 64,024.

The CHRAJ operated with no overt interference from the government; however, some critics questioned its ability to independently investigate high-level corruption within the Kufuor administration. Its biggest obstacle was a lack of adequate funding, which resulted in low salaries, poor working conditions, and the loss of many of its staff to other government and nongovernmental agencies.

On April 22, the government issued a formal response to the October 2004 recommendations made by the National Reconciliation Commission (NRC), which was established to create an historical record of human rights abuses for the periods of unconstitutional government between 1957 and 1993 and to make recommendations for redress. The government agreed to sensitize security forces to the importance of human rights, fairness, and professionalism. The government also established a Reparation and Rehabilitation Fund for victims; however, the budget was reportedly limited.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, sex, disability, language, or social status; however, enforcement by authorities was generally inadequate, in part due to limited financial resources. The courts were empowered to specifically order enforcement of these prohibitions.

Women.—Violence against women, including rape and domestic violence, remained a significant problem. The law does not prohibit domestic violence, and the criminal code grants husbands spousal immunity from any charges of assault against their wives. According to FIDA, one in three women experienced domestic violence, and most abuses went unreported. The police service's Domestic Violence Victim Support Unit (DOVVISU), formerly the Women and Juvenile Unit, handled cases of domestic violence, child abuse, and juvenile offenses. During the year, DOVVISU received 13,224 cases, the majority of which involved non payment of child maintenance (4,266) or failure to provide necessities of life (3,171). There were also 206 rape cases. DOVVISU worked closely with the Department of Social Wel-

fare, FIDA, the Legal Aid Board, and several human rights NGOs to combat domestic violence.

Prosecution of domestic violence cases remained difficult. Of 11,335 cases reported to DOVVISU's Accra branch between 1998 and 2004, only 19 percent led to a court appearance and less than 3 percent resulted in convictions. Many victims did not have access to appropriate medical assistance to record abuses, which hampered prosecution efforts. However, during the year the court sentenced a man who shot his wife to 10 years' imprisonment, and police arrested another man who allegedly killed his wife.

Unless specifically called upon by DOVVISU, police seldom intervened in cases of domestic violence, in part due to a lack of counseling skills, shelter, and other resources to assist victims. An NGO operated a single shelter for victims in the Eastern Region, and two provided free legal clinics for victims

The criminal code outlaws rape, and in practice the country arrest and prosecutes perpetrators for this crime. However, husbands have immunity from such charges.

A strong belief in witchcraft continued in many parts of the country. Most accused witches were older women, often widows, who were identified by fellow villagers as the cause of difficulties, such as illness, crop failure, or financial misfortune. Many of these women were banished by traditional village authorities or their families and went to live in witch camps, villages in the north populated by suspected witches. The women did not face formal legal sanction if they returned home; however, most feared that they could be beaten or lynched. During the year a few women successfully reintegrated into their communities. The law provides protection to alleged witches, and DOVVISU continued to prosecute violence and societal abuses related to allegations of witchcraft.

There were several cases of lynching and assault of accused witches. In September Yendi police arrested a Tamabo farmer for allegedly cudgeling to death a woman suspected of being a witch. In August 2004 the court sentenced a man to death for killing his wife, who he believed was a witch.

Various organizations, including Catholic Relief Services, provided food, medical care, and other support to residents of the witch camps. The CHRAJ and human rights NGOs had little success in their efforts to end this traditional practice but held a series of workshops to sensitize communities in the area on proper treatment of alleged witches.

The law prohibits FGM, but it remained a serious problem. The typical age for circumcision was 15, although it was often performed on girls under 15. According to a recent study conducted by the Ministry of Health, approximately 15 percent of women between 12 and 19 in the three northern regions had undergone FGM, although some observers believed that education on the illegality of FGM had driven the practice underground and the real rate was as high as 30 percent. Intervention programs have been somewhat successful in reducing the prevalence. Officials at all levels, including traditional chiefs, have spoken against the practice, and local NGOs continued their educational campaigns to encourage abandonment of FGM and to retrain practitioners. In some cases FGM victims actively sought out practitioners, sometimes without their parents' knowledge, to prepare for marriage. One NGO in the Northern Region reported that mothers frequently failed to return to the hospitals where they delivered their babies for immunizations and to attend postnatal clinics, allegedly because they did not want the hospitals to discover that they were engaging in FGM.

In January 2004 a 70-year-old woman was imprisoned for 5 years for circumcising 7 girls who subsequently required medical attention.

The law imposes punishments for prostitution involving children; however, it occurred (see section 5, Children).

Trafficking of women and children for prostitution occurred (see section 5, Trafficking).

There were no laws to specifically protect women from sexual harassment; however, some sexual harassment cases were prosecuted under the existing criminal code. Women's advocacy groups reported that sexual harassment was a problem. A survey by the African Women Lawyers Association found that 63 percent of 789 female respondents had experienced some form of sexual harassment in the workplace and at educational institutions.

Women continued to experience discrimination. Women in urban centers and those with skills and training encountered little overt bias, but resistance to women entering nontraditional fields persisted. Women, especially in rural areas, remained subject to burdensome labor conditions and traditional male dominance. Traditional practices and social norms often denied women their statutory entitlements to inheritances and property, a legally registered marriage (and with it, certain legal rights), and the maintenance and custody of children. There were a number of fe-

male entrepreneurs, but access to banking resources remained a serious barrier for women who wanted to start or expand a business.

Women's rights groups were active in educational campaigns and in programs to provide vocational training, legal aid, and other support to women. In March the Ministry of Women and Children's Affairs (MOWAC) began developing plans to include women's concerns in government policies and to increase the hiring of women in civil service positions. The government was active in educational programs, and many officials were active, outspoken advocates of women's rights.

Children.—Within the limits of its resources, the government was committed to protecting the rights and welfare of children. The government continued to implement the Education Sector Plan (ESP) 2003–2015, which provides for free universal primary school education by 2015.

Education is compulsory through primary and junior secondary school (the equivalent of grades 1 through 9); however, education is generally not free. Parents are required to purchase uniforms and books. In the past some schools also imposed levies of up to $50 (455,thousand cedis) per term, and teachers often imposed extra classes for an additional fee to supplement their incomes. As part of its overall goal of making education accessible to all children, the government during the year abolished the payment of school charges and levies nationwide and introduced a capitation grant scheme, under which these charges were paid by the government.

The gross enrollment rate was 87.5 percent at the primary level with 90.5 percent of boys enrolled compared with 84.4 percent of girls. At the junior secondary school (JSS) level, 72.8 percent of eligible children were enrolled, with 77.3 percent of eligible boys and 68.1 percent of eligible girls enrolled. Some children were unable to attend school because they worked to supplement their family's income (see section 6.d.), they had to travel long distances to reach the school, or their school had insufficient teachers, especially in rural areas. In addition, authorities did not enforce children's attendance at school regularly, and parents rarely, if ever, were sanctioned for keeping their children out of school.

The government strongly supported the UN's Education for All goals. During the year, the Ghana Education Service (GES) actively campaigned to expand education for girls by providing scholarships at the JSS and senior secondary school levels and by offering incentives for female teachers to work in rural areas. The GES placed girls education officers at regional and district levels, and there were community participation coordinators in every district office to mobilize communities to increase school enrollments for girls. The government established science and math clinics at the JSS level to encourage more girls to pursue careers in science and technology.

These efforts have been accompanied by increased government support of informal schools, which target children that must work to help support their families. The government also increased educational opportunities for students with disabilities by increasing grants to primary schools serving these students during the year.

Children under five years of age, regardless of gender, had access to free health care at public hospitals.

The law prohibits defilement, incest, and sexual abuse against minors, but such abuse remained a serious problem. There were frequent reports that male teachers sexually assaulted and harassed female students. The girls often were reluctant to report these incidents to their parents, and social pressure often prevented parents from going to authorities. A 2003 survey reported that 27 percent of school girls interviewed stated their teacher had pressured them for sex, 25 percent stated they knew at least 1 teacher having an affair with a school girl, and 79 percent stated they were sexually harassed by male classmates. Approximately 40 percent of female students reported being sexually harassed at school often or very often, according to a study conducted during the year in upper primary and junior secondary schools. During the year there were several press reports of teachers and headmasters/headmistresses either arrested for sexual harassment of female students or dismissed for ignoring reported problems.

DOVVISU announced in June that between January 1999 and May 2004, there were 1,756 cases reported in which men victimized children between the ages of 2 and 15, 397 cases in which girls over the age of 16 had been raped, and 44 cases of reported incest. DOVVISU further advised that during the year 237 cases of defilement, 15 cases of causing harm to a child, and 2,341 cases of child neglect were reported.

Law enforcement officials have pursued such cases aggressively.

The Tarkwa Circuit Court recorded 44 defilement cases between May and July 2004. During the year police arrested a man for allegedly defiling a two-year-old girl. On March 30, 3 teenage boys were remanded for defiling a 15-year-old girl, and on October 7, a man was sentenced to 25 years' imprisonment with hard labor for defiling a 5-year-old girl. On October 11, a man was sentenced to 10 years' imprison-

ment with hard labor for molesting an 8-year-old boy. On October 20, the Akyem Swedru Circuit Court sentenced a man to 14 years' imprisonment for defiling an 11-year-old girl.

There were no developments in the following 2004 cases: the June remand of a man for sexually abusing a 13-year-old girl with disabilities, the remand of a man for sexually abusing a 7-year-old girl in the Central Region, and the September arrest and remand of a chief in the Ashanti Region for allegedly defiling a 14-year-old girl.

Reports have been received regarding corporal punishment, including caning of students.

Trokosi, which occurs in the Southern Volta Region among the ethnic Ewe group, is a practice in which a family member, most commonly a teen but sometimes a child under the age of 10, serves and is trained in traditional religion at a fetish shrine. A Trokosi, may live near the shrine for a period lasting between several weeks and 3 years to atone for an allegedly heinous crime committed by a family member. Local authorities estimated there were fewer than 50 Trokosis, some of whom were male or adult. While instances of sexual abuse may occur, there was no evidence that sexual or physical abuse was an ingrained or systematic part of the practice. The practice explicitly forbids a Trokosi to engage in sexual activity or contact during the atonement period. After a ritual, the Trokosi returns to his or her family. In the vast majority of cases, there is no particular stigma attached to one's status as a former Trokosi shrine participant. Multiple investigations by foreign embassy representatives have turned up no credible evidence of systematic or widespread abuses.

FGM was performed primarily on girls (see section 5, Women).

Forced child marriage, which is illegal, remained a problem. In August 2004 the Acting Commissioner for CHRAJ declared forced marriage the major human rights abuse issue in the Northern Region. In June 2004 a 16-year-old girl committed suicide to protest an abusive marriage into which she had been forced. Schoolteachers reported two other cases of forced marriages in 2004.

There were no further developments in the attempt by the Children's Department of the MOWAC and the CHRAJ to effect the prosecution of a chief who married a 14-year-old and impregnated her.

There were reports that trafficking in children occurred, for forced labor or sexual exploitation, including children being sold into various forms of involuntary servitude (see section 5, Trafficking).

Child labor was a serious problem (see section 6.d.).

The migration of children from rural to urban areas increased, due to economic hardship. Children were driven to the streets to fend for themselves, increasing both the occurrence of child labor and the school dropout rate (see section 6.d.). During the year MOWAC officials estimated that as many as 40 thousand porters, most of whom were girls under 18, lived on the streets in major cities, including Accra, Kumasi and Takoradi. These girls were among the most vulnerable child laborers, as many also engaged in prostitution or were sexually exploited in exchange for protection while living on the streets. In 2003 the Ghana Statistical Service and the ILO International Program to Eliminate Child Labor (ILO/IPEC) surveyed 2,314 street children throughout the country, most of whom lived in the urban areas of the Greater Accra and Ashanti Regions and had migrated from northern rural areas. Of those surveyed, 45.7 percent had never attended school, 98.1 percent were engaged in economic activity within the last 12 months, and 80 percent stated the work was demanding. Over three-quarters of street children surveyed reported that both parents were alive, indicating poverty was the main cause of the problem.

Local and international NGOs worked with the government to promote children's rights and were somewhat successful in sensitizing communities to protecting the welfare of children.

Trafficking in Persons.—On July 28, parliament passed an antitrafficking law that provides for a minimum prison sentence of five years for convicted traffickers. President Kufuor signed the new antitrafficking law on December 5. There were no prosecutions under the new law by year's end; however, on October 27, the Obuasi High Court sentenced a farmer under the criminal code to 10 years' imprisonment with hard labor for attempting to sell his son for $8,869 (80 million cedis). The country was a source, transit, and destination country for women and children trafficked for the purpose of forced domestic and commercial labor and sexual exploitation.

The government, the ILO, and NGOs trained security forces, immigration authorities, customs officials, and police on the problems of trafficking.

Child prostitution was a problem. The ILO/IPEC organized workshops throughout the year on the problem of increased child prostitution in the tourism industry and

to combat the problem. During the year a government minister told hotel administrators to prevent adults from bringing children to hotels for sexual exploitation.

From January to May there were 105 cases of child abduction and 131 cases of child stealing, according to the DOVVISU.

On July 12, a 25-year-old Ivorian man was remanded in custody in Sekondi for attempting to sell his 21-year-old male friend for $42,771 (25 million cedis).

On September 4, the Immigration Service reported its largest interception of traffickers to date when Kulungugu border officials arrested a woman for attempting to traffic 17 children, ages 5 to 17, to Burkina Faso.

The government generally assisted with international investigations of trafficking; however, during the year the government refused to extradite a member of parliament to face an indictment for trafficking charges.

Under the new antitrafficking law, the DOVVISU has responsibility for enforcement, and the Ministry of Manpower's Department of Social Welfare has responsibility for victim assistance, including temporary shelter, counseling, family tracing, and skills training. The law also establishes a 17-member Human Trafficking Board composed of all relevant ministries, the security services, the private sector, and other stakeholders.

There was no reliable estimate of the number of internally or externally trafficked victims, although the figure was thought to be in the thousands.

Trafficking was both internal and international, with the majority of trafficking in the country involving children from impoverished rural backgrounds. The most common forms of internal trafficking involved boys from the Northern Region going to work in the fishing communities along the Volta Lake or in small mines in the west, and girls from the north and east going to Accra and Kumasi to work as domestic helpers, porters, and assistants to local traders (see section 6.d.). Local NGOs reported these children were subjected to dangerous working conditions and sometimes were injured or killed as a result of the labor they performed.

Children between the ages of 7 and 17 also were trafficked to and from the neighboring countries of Cote d'Ivoire, Togo, the Gambia, Nigeria, and Equatorial Guinea to work as farm workers, laborers, divers, street hawkers, or domestics.

Much of the recruitment of children was done with the consent of the parents, who sometimes were given an advance payment or promised regular stipends from the recruiter and were told the children would receive food, shelter, and often some sort of training or education. Some parents sent their children to work for extended family members in urban areas. Treatment of children sent to work in relatives' homes varied. Many children were given to professional recruiters, usually women, who placed the children with employers in cities. A child in these circumstances usually was paid between $2.20 and $3.30 (20 thousand to 30 thousand cedis) per month. In many cases, the children never received the education or vocational training the recruiters promised. Girls could be forced into prostitution and were sometimes sexually abused by their employers.

Women also were trafficked to Western Europe, mostly to Italy, Germany, and the Netherlands. International traffickers promised the women jobs; however, the women often were forced into prostitution once they reached their destination. The women were sometimes sent directly to Europe while others were trafficked through other countries. Some young women were trafficked to the Middle East, particularly Lebanon, where they worked in menial jobs or as domestic help. There also was a trade in Nigerian women transiting through the country on their way to Western Europe or the Middle East to work in the commercial sex industry. Traffickers from other countries reportedly used Accra as a transit point to Europe and the Middle East. Reportedly, there was some trafficking in persons from Burkina Faso, mostly transiting through the country on the way to Cote d'Ivoire.

Authorities were unaware of any organized crime syndicates involved in human trafficking in the country.

Various ministries worked with ILO/IPEC, the IOM, and NGOs to address trafficking. The Ministry of Manpower Development and Employment, in conjunction with ILO/IPEC, continued to implement a National Plan of Action for the Elimination of Child Labor (see section 6.d.). The IOM, the African Center for Human Development, and MOWAC worked to identify and return children trafficked to fishing villages. The government lead a nine-nation multilateral protocol for international cooperation on child trafficking that was signed in July.

Authorities made efforts to shelter and reintegrate trafficking victims from the country and other West African countries. In June the Department of Social Welfare opened its second shelter in Medina near Accra.

Several NGOs, both local and international, worked with trafficking victims. These organizations, as well as the University of Ghana's Center for Social Policy Studies, conducted studies into trafficking as part of their broader agenda, per-

formed some rescue operations for street children, provided training and education for victims of trafficking and abuse, and in some cases, assisted with family reunification.

Persons with Disabilities.—The law specifically provides for the rights of persons with disabilities, including protection against exploitation and discrimination. While the government did not systematically or overtly discriminate against persons with disabilities, in practice, such persons often experienced societal discrimination. The law provides persons with disabilities access to public buildings as far as practicable; however, in practice this provision was not implemented. In 2003 department of social welfare officials estimated that 10 percent of the population had some form of physical disability.

In 1999 the government established a policy whereby blind and wheelchair-bound persons would receive a disability allowance. In June 2004 the interim chairman of the Ghana Union of Physically Disabled Workers accused the GES of not paying workers with disabilities the disability allowance to which they are entitled. According to the Ghana Union of Physically Disabled Workers, approximately 60 persons with disabilities were denied this allowance, with GES the main offender.

Person with disabilities were frequently subjected to abuse and intolerance. Some religious sects believed that persons with disabilities were afflicted by demons and should be exorcised. The abuse of children with disabilities was common. There were reports that children with disabilities were tied to trees or under market stalls and caned regularly. There also were reports of family members killing children with disabilities.

There were multiple government agencies involved in addressing discrimination against persons with disabilities, including the Ministry of Health, the Department of Social Welfare, and the Ministry of Education.

National/Racial/Ethnic Minorities.—Although the government deemphasized the importance of ethnic differences, its opponents complained that the government was dominated by Ashantis and other Akans at the expense of Ewes and northerners. The president and some of his ministers and close advisors were Ashanti, but the vice president and many ministers were of other ethnic origins.

Efforts by NGOs to encourage reconciliation continued during the year; however, there were several violent confrontations within ethnic groups related to chieftaincy issues, particularly those involving succession and land. For example, on April 1, a chieftaincy conflict between 2 factions at Tetegu, a suburb of Accra left a number of persons with gunshot wounds, more than 2 thousand persons displaced, and approximately 120 houses belonging to members of the feuding factions destroyed. At Bortianor, near Krokobite in Accra, two persons belonging to different chieftaincy factions were shot and killed while eight others were brutally injured. In December gun battles returned to Bimbila, the site of a long-standing chieftaincy dispute. The clashes between rival factions vying for the chieftancy resulted in gunshot wounds to one and machete wounds to four others as well as five arrests.

The trial of four persons charged with rioting, conspiracy, attempted murder, and murder from a 2003 clash in Brekusu, Eastern Region, was ongoing at year's end.

Other Societal Abuses and Discrimination.—The law is discriminatory toward homosexuals, and homosexuality is criminalized in the country. There is a minimum misdemeanor charge for homosexual activity, and homosexual men often are subjected to abuse in prison. In May 2004 the acting commissioner for CHRAJ publicly suggested that the government consider decriminalizing homosexuality to conform to international standards of human rights.

In April four male students were dismissed from a boy's school in Akosombo for allegedly engaging in homosexual acts. Additionally, gay and lesbian activists reported that gay men were particularly vulnerable to extortion by police.

Discrimination against persons with HIV/AIDS was a problem, and the fear of being stigmatized continued to discourage persons from being tested. In April 2004 the inspector general of police publicly urged all police officers to be tested voluntarily through a free service available to the police. During the year several key government representatives publicly denounced discrimination against persons with HIV/AIDS. In 2004 the cabinet approved a policy to protect the rights of persons living with HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The law provides for freedom of association, and workers exercised this right in practice. Workers form unions without excessive requirements, and workers exercised this right in practice. The percentage of workers belonging to unions appeared to be decreasing as more of the workforce entered the informal sector, where there was no union activity. The Ministry of Employment

and Manpower Development estimated that 80 percent of the work force was employed in the informal sector.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law also provides a framework for collective bargaining, and trade unions engaged in collective bargaining for wages and benefits with both private and state-owned enterprises without government interference. However, only unions that represented the majority of workers in a given company can obtain a Collective Bargaining Certificate, which is required to engage in collective bargaining.

The law recognizes the right to strike; however, the law restricts that right for workers who provide essential services. The Minister of Manpower, Youth, and Employment had not formally designated the list of essential services by year's end. The right to strike can also be restricted for workers in private enterprise whose services were deemed essential to the survival of the enterprise by a union and an employer. A union may call a legal strike if the parties fail to agree to refer the dispute to voluntary arbitration or if the dispute remains unresolved at the end of arbitration proceedings. No union has ever gone through the complete dispute resolution process, and there were numerous unsanctioned strike actions during the year. There have been no legal strikes since independence.

Existing labor law applies in export processing zones (EPZs), including the right to organize.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

The law provides for fines to employers found guilty of using forced labor; however, by year's end the law had not been used. During the year the ILO continued to urge the government to revise various legal provisions that permit imprisonment with an obligation to perform labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets a minimum employment age of 15 years and prohibits night work and certain types of hazardous labor for those under 18 and provides for fines and imprisonment for violators; however, child labor remained a serious problem in the informal sector. The law allows for children age 15 and above to have an apprenticeship under which craftsmen and employers have the obligation to provide a safe and healthy work environment along with training and tools. However, child labor laws were not enforced effectively or consistently, and law enforcement officials, including judges, police, and labor officials, often were unfamiliar with the provisions of the law that protected children. Observance of minimum age laws was eroded by local custom and economic circumstances that encouraged children to work to help support their families.

An ILO/IPEC-Ghana Statistical Service survey of child labor released in 2003 found that 2.47 million children were engaged in some economic activity and 64.3 percent of those children attended school. Of those children engaged in economic activity, 1.27 million children were found to be engaged in child labor as defined by age and hazardous working conditions. Children as young as seven worked as domestic laborers, porters, hawkers, miners, quarry workers, fare collectors, and in agriculture. The fishing industry on Lake Volta had a particularly high number of child laborers engaged in potentially hazardous work, such as deep diving. According to an ILO representative, child labor in the tourism industry also increased. Child laborers were poorly paid and subjected to physical abuse; they received little or no health care and generally did not attend school. According to government labor officials and the Ghana Employers Association, child labor problems did not exist in the formal labor sector because the formal sector was better regulated.

The law prohibits forced and compulsory labor by children; however, during the year children were reportedly sold, leased, or given away by parents to work in agriculture, fishing villages, quarry mines, shops, or homes. It was difficult to determine the extent to which forced and bonded labor by children was practiced (see section 5).

There were newspaper reports of children being sold into various forms of involuntary servitude for either sexual exploitation or labor, such as 10- to 12-year-old boys working for fisherman in exchange for a yearly remittance to their families. The practice often involved the consent of their generally impoverished parents. Reliable data was not available on the number of children who were working in fishing villages along Lake Volta; nevertheless, NGOs who worked on this issue estimated the number to be well into the thousands (see section 5).

Inspectors from the Ministry of Labor and Social Welfare are responsible for enforcement of child labor regulations, and district labor officers and the social serv-

ices sub-committees of district assemblies are charged with seeing that the relevant provisions of the law are observed. They visited each workplace annually and made spot checks whenever they received allegations of violations. However, all law enforcement and judicial authorities in the country were hampered by severe resource constraints and a lack of public awareness about the problem.

When Ministry of Manpower Development and Employment inspectors found infractions of child labor laws during their routine monitoring of companies' labor practices, they generally informed the employers about the provisions of the law and asked them to make changes. There were no prosecutions for child labor resulting from these inspections. Officials only occasionally punished violators of regulations that prohibit heavy labor and night work for children. In addition, the inspectors' efforts were concentrated only in the formal sector, which was not where most child labor was performed.

ILO/IPEC, government representatives, the TUC, the media, international organizations, and NGOs continued to build upon the 2001–02 National Plan of Action for the Elimination of Child Labor in Ghana by increasing institutional capacity to combat child labor. Education and sensitization workshops were conducted with police, labor inspectors, local governments, and communities. Forums were held throughout the country to develop and implement an ILO/IPEC Time-Bound Program, which aimed to eliminate all forms of child labor under specified time periods and benchmarks.

e. Acceptable Conditions of Work.—A National Tripartite Committee composed of representatives of the government, labor, and employers set daily minimum wages. In February, after lobbying by trade unions, the Tripartite Committee raised the daily minimum wage to $1.45 (13,520 cedis), which did not provide a decent standard of living for a worker and family. Furthermore, there was widespread violation of the minimum wage law. In most cases, households had multiple wage earners, and family members engaged in some family farming or other family-based commercial activities. The Ministry of Manpower, Youth, and Employment was unable to credibly enforce this law.

The law sets the maximum workweek at 40 hours, with a break of at least 48 consecutive hours every 7 days. The government compensated extra duty hours only for overtime actually worked, in accordance with labor equity, rather than as an automatic salary supplement.

Occupational safety and health regulations exist, and the Labor Department of the Ministry of Health and Social Welfare occasionally imposed sanctions on violators. However, safety inspectors were few and poorly trained. They took action if matters were called to their attention but lacked the resources to seek out violations. Workers have the right to withdraw themselves from dangerous work situations without jeopardy to continued employment, although they rarely exercised this right.

GUINEA

Guinea is a constitutional republic in which effective power is concentrated in a strong presidency. President Lansana Conte has ruled this country of approximately 9.2 million persons since 1984, first as head of a military junta and, since 1994, as a civilian president. Despite openly acknowledged health problems, the president ran for re-lection in December 2003, winning against a candidate who was virtually unknown. All major opposition parties boycotted the election, criticized by international observers as neither free nor fair. The civilian authorities generally did not maintain effective control of the security forces.

The government's human rights record improved as it implemented political and macroeconomic reforms begun in 2004 with the appointment of Prime Minister Cellou Dalein Diallo although serious problems remained. Some international donors withheld foreign aid pending progress on reforms, including with regard to human rights. High inflation, severe power blackouts, and water shortages led to increased hardship for most citizens. Lack of health care services and basic infrastructure combined with endemic poverty caused systemic pressures on daily life. The following human rights problems were reported:

- restrictions on the right of citizens to change their government
- unlawful killings by security forces
- beatings and abuse of civilians, particularly detainees, by security forces
- inhumane and life-threatening prison conditions

- impunity
- arbitrary arrest and prolonged pretrial detention
- executive influence in the judiciary
- infringements on citizens' privacy rights
- infringements on freedom of speech, the press, assembly, association, and movement government corruption
- violence and societal discrimination against women, prostitution of young girls, and female genital mutilation (FGM)
- trafficking of persons
- ethnic discrimination
- antiunion discrimination
- child labor

The government took significant steps to improve freedom of the press through a media liberalization decree clearing the way for private radio and television broadcasting in the country. The government agreed to some electoral reforms proposed by political parties as part of an open dialogue, including an autonomous electoral commission, a single ballot listing all political parties, free and equitable access to radio and television during the campaign period, transparent ballot boxes, and the liberty to travel and campaign without government intervention. Freedom of movement and assembly increased, although to a lesser extent than in the previous year, including peaceful rallies and campaign trips across the country by political opposition leaders.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed political killings; however, security forces killed five persons during the year, and there were reports of deaths in custody due to torture, abuse, and neglect.

On November 24, 2 students and a 65-year old woman were killed by police during a student demonstration in Telimele. The officer was not punished.

On July 10, a gendarme officer killed a 19-year-old student in Conakry during a student strike at Ratoma Junior High School. The officer was not punished, and no investigation occurred by year's end.

In December 2004 a member of the military killed a school boy in Fria following a strike by employees of an aluminum company. No charges were filed. The government often considered killings by security forces to be "professional accidents" and instead, of prosecution or sanction, transferred the perpetrator to another district.

There were no developments in the following 2004 reported killings by security forces: the February beating to death of a man detained for burglary, the May police shooting and killing of two taxi drivers, or the October killing of a man by the Anti-Gang Brigade.

There were no developments in the reported 2003 killings by police.

Government authorities continued to block efforts by human rights groups and nongovernmental organizations (NGOs) to investigate political killings that took place in the 1970s under then President Sekou Toure.

Many victims of crime feared that they might never receive justice because of judicial corruption and at times resorted to vigilante violence. In September a Conakry homeowner and his neighbors caught and beat to death a suspected burglar.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, both civilian and military security forces beat and otherwise abused civilians. There also were reports that security forces used torture and beatings to extract confessions and employed other forms of brutality, including holding prisoners incommunicado without charges under inhumane conditions.

Students who were arrested in 2004 during a strike at the University of Conakry claimed to have been tortured in prison.

Police and members of the antigang brigade beat a journalist attempting to report on social and labor issues (see sections 2.a. and 6.b.).

Police injured several persons while using force to disperse demonstrations during the year (see section 2.b.).

No action was taken against security forces responsible for reported abuses in 2003.

Prison and Detention Center Conditions.—Prison conditions remained inhumane and life threatening. Neglect, mismanagement, and lack of resources were prevalent. The basic diet for prisoners was inadequate, and most inmates relied on supplemental assistance from families or friends to maintain their health. Guards often demanded bribes in exchange for allowing delivery of food to those incarcerated. Approximately 100 children, who were either born in prison or had no alternative means of care, lived permanently in the Conakry jail with their mothers. No provisions were made for the children's food, clothing, education, or medical care. The government did little to address prison conditions. National and international NGOs continued programs to improve the health of critically malnourished inmates.

Standards of sanitation remained poor, which resulted in several dozen deaths due to malnutrition and disease. Toilets did not function, and prisoners slept and ate in the same space where they relieved themselves. During the year there were reports that persons died due to lack of medical attention and poor conditions. On January 23, an imam arrested after the January assassination attempt on President Conte died in prison as a result of poor medical treatment and dangerous and unsanitary conditions.

Some prisoners reported sleeping on their knees because their cells were so small. Prisoners reported that guards threatened, beat, and harassed them, and some reported being denied food and a place to lie down. For example, one prisoner lost his sight due to beatings. A student imprisoned on assault and battery charges was paralyzed. Prison guards were suspected of torture in both incidents; however, no investigation took place by year's end. Some prisoners wielded more power than the guards, offering more sanitary cells and conditions to new prisoners who were able to pay.

Efforts by the International Committee of the Red Cross (ICRC) helped improve conditions with several prison rehabilitation projects in the country. In the overcrowded N'Zerekore prison, ICRC established access to clean water and constructed a secured area to allow prisoners to go outside.

On May 15, 63 prisoners escaped from the main prison in downtown Conakry; of these, 6 were military detainees. The facility was built in 1950 to hold 200 prisoners but at the time of the escape, 836 inmates were listed. An official in the Ministry of Justice reported that the prison may have held two thousand prisoners. At year's end one of the military prisoners remained at large.

On December 25, four prisoners escaped from prison in Kankan. The following day three of the prisoners were rearrested and the fourth was still at large at year's end.

In most prisons, men and women were held separately, but juveniles generally were held with adults, and first-time offenders were not separated from common criminals. There were credible reports from prisoners that guards harassed and sexually assaulted female inmates. An unknown number of boys below the age of 14 were also held in the Conakry prison with no legal representation. One boy had been detained for eight years on a petty shoplifting charge. An international NGO reported the prevalence rate of HIV/AIDS among incarcerated minor boys to be as high as 50 percent, suggesting sexual abuse. Local and international NGOs were providing some food and legal representation to these boys.

Pretrial detainees were not separated from convicted prisoners, and the prison system often was unable to track pretrial detainees after arrest. Prisoners of political importance usually were held in the main prison in Conakry with the general prison population but were held in separate cells.

The government permitted prison visits by the ICRC and other local humanitarian and religious organizations, which offered medical care and food for those in severe need. The ICRC reported that it was allowed regular access to all 33 official detention facilities and 2,500 prisoners during the year. The ICRC continued to initiate partnership programs with prison and security authorities to improve prison conditions. A former prisoner reported that without this assistance, those who did not have families or friends would have starved to death.

On February 5, UN Development Program (UNDP) and local NGOs organized a day of charity for prisoners. The government did not interfere as volunteers went into Conakry's main prison to clean the facilities and provide food, medicines, and clothing to prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, security forces regularly used arbitrary arrest and detention.

Role of the Police and Security Apparatus.—The gendarmerie, a part of the Ministry of Defense, and the national police, under the Ministry of Security, share re-

sponsibility for internal security and sometimes played an oppressive role in the daily lives of citizens. The Code of Penal Procedure permits only the gendarmerie to make arrests, but the army, the Presidential Guard (Red Berets), and the state police often detained persons as well. A quasi-police unit called the Anti-Crime Brigade (BAC), created to fight criminal gangs and bandits, operated in Conakry and in most major regions and prefectures. In practice administrative controls over the police were ineffective, and security forces rarely followed the penal code. Many citizens viewed the security forces as corrupt, ineffective, and even dangerous. Police ignored legal procedures and extorted money from citizens at roadblocks (see section 2.d.). There were no reported judicial proceedings against officers suspected of committing abuses. National and international NGOs conducted seminars to train security forces on human rights issues and conflict resolution techniques.

The penal code stipulates that the arrest of persons in their home is illegal between 4:30 p.m. and 6 a.m.; nevertheless, midnight arrests took place. The penal code also requires that the government issue a warrant before an arrest can be made and that detainees be charged before a magistrate within 72 hours. In practice many detainees were incarcerated for longer periods before being charged. After being charged, the accused may be held until the conclusion of the case, including a period of appeal. Authorities frequently did not respect the provision of the law that provides for access by attorneys to their clients. Although the law proscribes incommunicado detention, at times it occurred in practice. Release on bail was at the discretion of the magistrate who had jurisdiction.

Arrest and Detention.—The government detained approximately 60 civilians and military officers for suspected involvement in the January 19 assassination attempt on President Conte. Antoine G'Bokolon Soromou, former mayor of Lola, was suspected to have organized the attack. Soromou left the country, and his whereabouts were unknown. Mohamed Lamine Diallo (also known as Benn Pepito, a journalist for the private weekly newspaper *La Lance* was released on February 19 after three days in custody. At year's end both Soromou and Diallo were in self-imposed exile. Police arrested Mohamed Diane and Paul Yomba Kourouma, both affiliated with the political opposition party Rally of the People of Guinea (RPG). Diane was released the same day and Kourouma released two days later.

On February 25, the military police placed Colonel Mamadou "Toto" Camara under house arrest and accused him of being involved in the January assassination attempt of the president. Police released him on July 20. Camara was detained in March 2004 along with former mayor and prominent member of the UFR opposition party Rougui Barry and another UFR member for being involved in efforts to subvert the government. Charges against the two party officials were later dismissed.

Gendarmes detained an unknown number of active and ex-military personnel for unspecified reasons. Credible human rights sources reported that these detainees were not allowed to receive visits by family members, and their treatment was not monitored by independent agents. In violation of the law, an unknown number of prisoners were held on army bases where virtually all contact was forbidden.

Police detained members of political opposition parties during the year. The government acknowledged the existence of several temporary political detainees. Opposition parties estimated that there were approximately 200 political detainees, and the majority of their arrests occurred during the campaign period and on election day. At years end no charges had been filed against these persons. In practice political detentions rarely exceeded a few days, and these persons were generally extended more protections than other detainees because of the attention to their cases by NGOs and the media. In high profile detentions, the persons were often held separately from other detainees and prisoners, and access to them was unrestricted.

Prolonged pretrial detention was a problem. At times detainees remained in prison for more than two years without trial. For example, at years end seven military offers who were arrested in December 2003 for suspected coup plotting were still in prison awaiting trial. By one account, at Conakry central prison only 313 of the 627 persons in detention had been tried, while 314 were in investigative detention. Two prisoners, Abdoulaye Camara and Mohamed Diasy reportedly served nine years at the central prison without judgment or sentencing. The men were held in a cramped section of the prison where they were prevented from moving freely. At least one of them has suffered permanent paralysis as a result of prison conditions. Police arrested the men in March 1996 in connection with a burglary.

Unlike in previous years, there were no reports of a parallel and covert system of justice run by unidentified uniformed personnel who conducted midnight arrests, detained suspects, and used torture in secret prisons to obtain confessions before transferring detainees to prosecutors.

e. Denial of Fair Public Trial.—Although the law provides for the judiciary's independence, judicial authorities routinely deferred to executive authorities in politically sensitive cases. Magistrates were civil servants with no assurance of tenure. Because of corruption and nepotism in the judiciary, relatives of influential members of the government often were, in effect, above the law. Judges often did not act independently, and their verdicts were subject to outside interference. The judicial system was plagued by numerous problems, including a shortage of qualified lawyers and magistrates and an outdated and restrictive penal code.

On August 1, President Conte appointed Lamine Sidibe as chief justice of the Supreme Court. Sidibe also served in this position from 1992 to 1999, during which time he officially validated Conte's victory in the disputed 1993 and 1998 presidential elections.

The judiciary includes courts of first instance, two courts of appeal, and the Supreme Court, which is the court of final appeal. In practice the two courts of appeal for Kankan and Conakry that handle serious crimes barely functioned due to lack of resources and organizational problems, and many prisoners were detained for lengthy periods without trial (see section 1.d.).

Trial Procedures.—The penal code provides for the presumption of innocence of accused persons, the independence of judges, the equality of citizens before the law, the right of the accused to counsel, and the right to appeal a judicial decision; however, these rights were not consistently observed in practice. Although in principle the government is responsible for funding legal defense costs in serious criminal cases, in practice it rarely disbursed funds for this purpose. The attorney for the defense frequently received no payment.

Trials were public, and juries were used for criminal cases. Defendants had the right to be present and to consult with an attorney in a timely manner. Defendants were allowed to confront and question prosecution witnesses and present witnesses on their behalf. The prosecution prepared a case file, including testimonies and evidence, and provided a copy for the defense.

Many citizens wary of judicial corruption preferred to rely on traditional systems of justice at the village or urban neighborhood level. Litigants presented their civil cases before a village chief, a neighborhood leader, or a council of "wise men." The dividing line between the formal and informal justice systems was vague, and authorities may refer a case from the formal to the traditional system to ensure compliance by all parties. Similarly, if a case cannot be resolved to the satisfaction of all parties in the traditional system, it may be referred to the formal system for adjudication. The traditional system discriminated against women in that evidence given by women carried less weight (see section 5).

A military tribunal prepares and adjudicates charges against accused military personnel, to whom the penal code does not apply. Civilians were not subject to military tribunals.

The state security court is comprised of magistrates directly appointed by the president, and the verdict is open to appeal only on a point of law, not for the reexamination of evidence.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for the inviolability of the home and requires judicial search warrants; however, police and paramilitary police often ignored legal procedures in the pursuit of criminals. For example, after the January presidential assassination attempt, police went door-to-door in the Enco 5 neighborhood, searching homes and private vehicles, and detaining private citizens on suspicion of involvement.

Although the belief that security forces monitor the mail no longer exists, many believed that they monitored electronic communications. Local businesses, including foreign companies, often complained that public officials and authorities intimidated and harassed them.

In some instances the government coerced membership in political organizations by conferring preferential treatment on those who were members of the majority Party of Unity and Progress (PUP). For example, the government demoted and reassigned a government employee, who was the local representative of the UPG opposition party, to another region because of his active political affiliation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of expression, subject to certain limitations. Although the government made substantial progress in ensuring these freedoms, journalists still faced government harassment. On August 20, President Conte signed a media liberalization decree that cleared the way for private radio and television broadcasting. The decree limited ownership of media by

political parties and religious institutions but did not restrict programming on political and religious subjects.

The government prohibited talk or chants in public that it considered seditious; established defamation and slander as criminal offenses; and prohibited communications that insulted the president, incited violence, discrimination, or hatred; or disturbed the public peace or security. Sanctions include fines, revocation of press cards, imprisonment, and banishment.

On January 31, in Conakry, security forces destroyed the stalls belonging to market women who insulted the president as his motorcade passed.

In August, President Conte appointed Boubacar Yaccine Diallo, an independent journalist and newspaper editor, as chairman of the National Communications Council (CNC). The CNC was expected to play a pivotal oversight role in the new privately owned broadcast media. Diallo initiated programs to increase professionalism in journalistic practice and implemented a requirement that journalists must meet higher professional standards to obtain press credentials.

The government published an official newspaper, the daily *Horoya*, and continued to operate official television and radio stations. The state-owned media provided extensive and mostly favorable coverage of the government and ruling party; however, government media increased coverage of opposition activities and were more critical of the government officials on the local level.

Private newspapers openly criticized the president and the government. Ten private newspapers were published weekly in Conakry, and up to 10 other publications appeared sporadically, although technical difficulties and high operating costs impeded regular publication. One newspaper, *L'Espoir*, was affiliated with the governing political party, and several other newspapers openly supported opposition parties. Other newspapers offered news and criticism of both the government and the opposition. In September the government announced financial subsidies of approximately $100 thousand (450 thousand francs) to private newspapers. The Guinean Association of Independent Editors received the funds and divided them among the various private press organizations.

Foreign publications, some of which criticized the government on a regular basis, were available both in print and electronic format. Despite the limited reach of the print media due to low literary rates and high prices of newspapers, the government continued occasionally to criticize and harass print journalists.

In August the government authorized private radio and television broadcasting. However, at year's end the government continued to own and operate all domestic broadcast media including radio, which was the most important source of information for the public. During the year 2 additional rural and community radio stations were opened bringing the total number to 12. License applications for private radio and television stations were not filed by year's end. Many citizens listened regularly to foreign-origin short wave radio. The government did not restrict access to or distribution of foreign television programming via satellite or cable; however, relatively few citizens could afford these services.

On February 14, police beat Lansana Sarr, a journalist at *Horoya*, and Satigui Kaba, a journalist from *Le Lynx*, as they attempted to report on a labor dispute. Sarr was detained for five hours (see section 6.b.). The municipal police were suspended for one week for their actions.

In July the police briefly detained Youlaké and Youssouf Boundou from the online newspaper *Guinée News*, after they asked questions regarding a French national with close ties to President Conte.

On November 2, police arrested Louis Esperant Celestin, editor of *Guinea Actuelle*, because of an article he published about the prime minister. Police released Celestin the next day following intervention by President Conte.

Unlike in the previous year, there were no reports that the CNC suspended newspapers activities. In April the Ministry of Security refused to allow the magazine *Jeune Afrique L'intelligent* permission to distribute a weekly edition that featured a story reporting on President Conte's ill health. President Conte ordered the ban lifted 24 hours later, and the magazine became freely available to the public.

There were no government restrictions on the Internet.

The Ministry of National Education and Scientific Research exercised limited control over academic freedom through its influence on faculty hiring and control over the curriculum. In general, teachers were not subject to classroom censorship.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law restricts freedom of assembly; however, unlike in previous years, the government did not exercise its power to restrict unwanted political activity. For example, the government authorized opposition political rallies more liberally than in the previous year. The penal code bans any meeting that has

an ethnic or racial character or any gathering "whose nature threatens national unity." The government requires a 72-working-hour advance notification of public gatherings; otherwise the events are considered illegal. The government no longer required political party leaders to provide advance notification of their attendance at funerals, weddings, or any other gathering with a large number of citizens.

In January the minister of territorial administration provided written instructions to governors and prefects to allow peaceful meetings and demonstrations organized by opposition political parties, and the government generally observed this in practice. However, during the December election period security forces arrested and injured opposition party supporters. Police arrested several opposition party supporters in several towns, and security forces injured several persons.

On December 15, police stopped a vehicle with supporters of Sidya Toure's Union of Republican Forces (UFR) party. They were arrested, beaten, and released the same day.

On December 18, the day of the elections, supporters of the RPG party clashed with police and security personnel in several cities. In Kouroussa security forces fired on a crowd and wounded three persons. No arrests were made, and an investigation of the incident was ongoing at year's end. In Kissidougou 24 persons were injured, including 11 women, when security forces clashed with party supporters. There was no investigation and no arrests. On election day, there were arrests during political demonstrations. In Siguiri 19 persons were arrested and detained for 10 days, in Mandiana 6 persons were arrested and detained for a week, in Kerouane 39 persons were arrested and held for 2 days, and in Beyla 1 person was arrested and released 2 days later. On December 18 in Conakry, a Union for Renewal and Progress (UPR) candidate was arrested and released three hours later.

The law permits local authorities to cancel a demonstration or meeting if they believe it poses a threat to public order. They may hold event organizers criminally liable if violence or destruction of property ensues. The new governor of Conakry does not require written permission from his office for public meetings of all associations, NGOs, groups, cooperatives, and political parties. The government generally respected rights of assembly by opposition parties. Police did not interfere with groups traveling to rallies or assembled to support opposition leaders. For example, on July 5, more than 20 thousand supporters assembled to greet Alpha Condé, leader of the opposition party RPG, who returned to the country after 2 years in France.

Unlike in the previous year, there were no reports of a street march ban by the government.

In October 12 school children were injured when students clashed with police in Dalaba.

During the year protests continued in the country, although fewer than in the previous year. Some demonstrations were broken up using force. On November 24, security forces fired on a crowd during a student demonstration in Telimele. Three persons were killed, including two students and a 65-year-old woman, and four persons were seriously injured. Many persons were arrested and later released.

The country experienced several demonstrations to protest rising food and fuel prices, some of which were broken up by force. For example, on June 29, law enforcement officials clashed with approximately 500 young persons protesting the lack of basic services such as electricity and water. Police fired shots in the air and used tear gas to disperse the crowd. No injuries were reported and no arrests were made.

On September 8, in the northern town of Kouroussa, military guards opened fire on demonstrators who demanded to know the whereabouts of approximately $40 thousand (150 million francs) in development assistance given by a mining company operating in the area. Military guards seriously injured 2 persons and arrested 15, who were released the same day.

No action was taken against security forces that killed or injured persons while forcibly dispersing demonstrations in 2004.

Freedom of Association.—The law provides for freedom of association; however, the government infringed on this right in practice. The government imposed cumbersome requirements to obtain official recognition for public social, cultural, religious, or political associations. Most of the restrictions focused on political associations as opposed to nonpolitical associations. For example, political parties had to provide information on their founding members and produce internal statutes and political platforms consistent with the constitution before the government recognized them.

In July and August, Sidya Toure, president of the opposition party UFR visited 30 party federations throughout the country without hindrance by government officials. Simultaneously, RPG leader Alpha Conde made a similar trip to several regions of the country without government interference.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected these rights in practice.

The Ministry of the Islamic League represented the country's Sunni Muslim majority, which comprised 85 percent of the population. Government support of the powerful ministry led some non-Muslims to complain that the government used its influence to favor Muslims over non-Muslims, although non-Muslims were represented in the cabinet, administrative bureaucracy, and the armed forces. The ministry oversees the choice of imams and prevented certain individuals who they believed were extremists or who did not support the ministry's positions from becoming imams. The ministry also monitored the messages broadcast in Friday prayer services by drafting and distributing the weekly sermons. The government refrained from appointing non-Muslims to important administrative positions in certain parts of the country in deference to the particularly strong social dominance of Islam in these regions.

Societal Abuses and Discrimination.—Relations among the various religions generally were amicable; however, in some parts of the country, Islam's dominance created strong social pressure that discouraged non-Muslims from practicing their religion openly.

The Koniankes complained that the music from a Guerze baptism ceremony disturbed prayers at a nearby mosque. Police injured 10 persons and detained approximately 50 persons.

There were few Jewish persons in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, authorities at times infringed on them. The government requires all citizens to carry national identification cards, which they must present on demand at security checkpoints.

There was a noticeable decrease in the practice of police and security forces detaining persons at military roadblocks to extort money. At year's end only one roadblock remained in Conakry, on the road leading out of town. Some roadblocks remained in rural areas and in the Forest Region close to international borders.

Unlike in the previous year, the government did not ban opposition leaders from leaving the country.

The law does not prohibit forced exile, but the government did not use it.

Internally Displaced Persons (IDPs).—Although during the year the UN High Commissioner for Refugees (UNHCR), the International Organization of Migration, and the government reported that all IDPs were reintegrated, the Norwegian Refugee Council's February report indicated many IDPs did not return to their former homes. Throughout the year the IDP Consultative Forum distributed return and reintegration packages, but in some cases theft increased in IDP camps where these packages were delivered.

Protection of Refugees.—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system of providing protection to refugees through an advisor on territorial issues within the Ministry of Territorial Administration. In practice the government did not always provide protection against *refoulement*, the return of persons to a country where they feared persecution, and did not always grant refugee status or asylum. The government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

Many positive developments in the area of refugee repatriation occurred during the year. The UNHCR accommodated all refugees desiring voluntary return from the country. In January the UNCHR visited the country and offered financial support for the rehabilitation of communities severely affected after 16 years of hosting refugees.

The country has been a place of refuge for asylum seekers from the neighboring countries of conflict, including Liberia, Sierra Leone, Côte d'Ivoire, and Guinea Bissau. At year's end the National Bureau for Refugee Coordination estimated that the total refugee population left in the country was 63,264 persons; the vast majority reportedly were Liberians. The government agreed to facilitate the integration of approximately two thousand citizens of Sierra Leone who had chosen to remain in the country.

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 UN convention or its 1967 protocol and provided it to approximately 45 persons of different West African nationalities.

There were also reports of rape, assaults, and forced prostitution in refugee areas. The American Refugee Committee reported that a woman was raped in front of her children by perpetrators from the host community. Tension continued between host communities and refugee populations because of disparities in living standards. Economic decline in the country exacerbated situations where refugees received basic services and opportunities unavailable to citizens.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides for a popularly elected president and national assembly; however, the government restricted citizens' ability to exercise this right. Political reforms resulted in some improvements during the year.

Elections and Political Participation.—Despite openly acknowledged health problems, the president ran for reelection in December 2003, winning against a candidate who was virtually unknown. All major opposition parties boycotted the election, criticized by international observers as neither free nor fair. Although the municipal and local council elections were originally scheduled for June, they were held on December 18. The government held nationwide elections, and 16 of 46 registered political parties, including all the major opposition parties, participated. According to official results, President Conte's ruling PUP garnered approximately 80 percent of the vote with certified victories in 31 of 38 municipalities and 241 of 303 local councils. The PUP and associated parties held 91 of the 114 seats in the National Assembly.

The local electoral process was characterized by both improvements over past practice as well as serious flaws. Positive developments included freer campaigning, a single ballot listing all parties, transparent ballot boxes, political parties represented at the polling stations, media coverage of events, and free access for national observers. However, the turnout was low, and there were significant irregularities and bias by officials towards the ruling party before and during the vote. These included government revision of voter rolls with limited oversight, exclusion of up to 50 percent of the opposition candidate lists, unequal provision and distribution of voter registration cards and identity documents, and susceptibility to cheating in the district-level vote consolidations.

The government invited participation by the electoral commission, opposition parties and civil society in the electoral process. In practice it retained control of most registration and election procedures, including the casting and counting of votes. Despite pressure from opposition parties to change the constitution to enable an independent electoral commission to have full responsibility for organizing all aspects of elections and reporting the results of the vote, the government retained responsibility for organizing the elections, with the electoral commission validating the final results.

With few local exceptions, the National Autonomous Electoral Commission was ineffective. Political parties were unsuccessful in gaining judicial relief in some cases of alleged malfeasance.

The government engaged in a formal dialogue with opposition and non-opposition political parties, agreed to some demands for reform, and ceased restrictions on the travel of opposition leaders and the holding of rallies upcountry (see section 2.b.).

The law allows the president to run for an unlimited number of seven-year terms. There were 46 legally recognized political parties; deputies of 5 different parties were represented in the National Assembly. Only 1 opposition political party, the UPR, which had 20 seats, participated in the 114-member National Assembly. All of the other parties represented in the National Assembly joined the PUP government party alliance. Government employees are required to campaign for the ruling party in each election.

The president continued to hold the power to appoint governors, prefects, and sub prefects to administer regions, prefectures and sub prefectures, respectively. Most of these officials were members of the PUP or parties allied with it. Local governments generally had limited autonomy. Although they had some financial resources with which to fund local programs, most of their funds were controlled by the central government.

Prefects and other local officials who were members of opposition parties found that higher-level officials effectively blocked their authority. In some cases, they were forced to join the ruling PUP party or lose their jobs. Those who continued their allegiance to opposition parties were relocated to different prefectures far from their home communities. To prevent risking their livelihood, others chose to remain uninvolved in politics.

Elected and appointed government officials continued to be disproportionately male. There were 20 female deputies in the 114-member National Assembly. Six

women held seats in the 26-member cabinet. There were few women at senior levels below minister, and there were no women in the senior ranks of the armed forces. Women generally played a minor role in the leadership of the major political parties; however, Assiatou Bah was vice president of the UPR. The RPG named Fatou Bangoura to the post of political secretary.

Members of the three main ethnic groups (Soussou, Malinke, and Peuhl) as well as all smaller groups in the country (Gerze, Toma, Kisse, Koniake, and Mano) served in the National Assembly. The cabinet and armed forces leadership included representatives of all major ethnic groups. However, a disproportionate number of senior military officers were Soussou, the president's ethnic group.

Government Corruption and Transparency.—Corruption remained widespread throughout society, including in the executive, legislative, and judicial branches. The president holds powers to overrule legislative decisions and did so in practice. Connection to the president or his powerful associates sometimes conferred exemptions from taxes and other fiscal obligations. Public funds were diverted for private use or for illegitimate public uses, such as buying expensive vehicles for government workers. Land sales and business contracts lacked transparency.

The government and the World Bank published a critical report on corruption in the country during the year. Using polling data gathered in 2003, the report identified government agencies widely viewed as corrupt by citizens. It also identified how corruption affected everything from commercial transactions to judicial decision to civil service promotions. The report was released as part of a two-day conference on corruption and was then presented during similar meetings throughout the country. Businessmen, government workers, and average citizens were among the hundreds of persons surveyed in the study.

The Commission to Combat Corruption within the Ministry of Economic and Financial Control is located within the Office of the President. A public complaints bureau to report corruption was located on the premises of the commission in Conakry, but communication and coordination between the commission and the Ministry of Justice remained weak. There was much discussion of corruption in the media, but little action was taken during the year. One highly publicized corruption investigation involved prominent businessman Mamadou Sylla and allegations that he had defrauded the government over a period of several years through business transactions between his company, Futurlec, and the government. During the year the prime minister ordered an audit into those transactions, which revealed Sylla owed millions of dollars to the government because of over billing, double billing, and other suspect accounting procedures. Sylla refused to open his company's books to the auditor, and he denounced the result. Before any action could be taken, political allies of Sylla ordered a second audit, which found that it was the government that owed Sylla several million dollars. The issue remained unresolved at year's end.

There is no law providing free access to government information. Most government information is not available to the public, and there is no mechanism to request it formally. The government did provide free official information in the government-run press or through limited publications.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of local and international NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views; however, some local organizations alleged that government officials tried to intimidate them and that they often met resistance when trying to investigate abuses or engage in civil education.

Various government officials continued to block private efforts to memorialize victims of the Sekou Toure regime that ruled the country from independence until 1984. The Association of Victims of Camp Boiro was forbidden to establish a museum focusing on human rights in the former location of the prison where political detainees were tortured and killed.

The government cooperated with both the UNHCR and the ICRC. Unlike in previous years, there were no accusations that the government was complicit in abuses of Liberian refugees through its support of the Liberians United For Reconciliation and Democracy (LURD) rebels. In previous years LURD rebels had been accused of forced recruitment of Liberian refugees as well as infiltration of refugee camps such as Kouankan.

A human rights office within the Ministry of Defense, the Office of International Humanitarian Rights, in conjunction with the ICRC, conducted human rights semi-

nars during the year to teach military and security personnel about human rights recognized by international and regional agreements.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law states that all persons are equal before the law regardless of gender, race, ethnicity, language, beliefs, political opinions, philosophy, or creed; however, the government did not enforce these provisions uniformly. Violence and discrimination against women, FGM, trafficking in persons, and discrimination against ethnic minorities were problems.

Women.—Domestic violence against women was common, although estimates differed as to the extent of the problem. Due to fear of stigmatization and reprisal, women rarely reported abuse except at the point of divorce. Wife beating is not addressed specifically within the law. Assault in general carries a penalty of up to 2 years in prison and a fine from $11 to $44 (50 thousand to 200 thousand francs). If the assault is premeditated the prison time increases from 2 to 5 years in prison and a fine of $22 to $66 (100 thousand to 300 thousand) and constitutes grounds for divorce under civil law; however, police rarely intervened in domestic disputes, and few perpetrators were punished.

On October 17, M'Balia Soumah died as a result of injuries she sustained from a beating by her husband. He was arrested and was in prison awaiting trial at year's end.

Although rape is a criminal offense, in practice spousal rape is neither punished nor regarded as a criminal offense. Social beliefs prevented most rape victims from reporting incidents of rape. Local NGOs and government representatives reported that sexual assault increased during the year. According to a doctor at the central public hospital in Conakry, victims of sexual assault constituted 20 percent of all cases in hospital. Many of these assaults were perpetrated by a person the victim knew and often took place at school; more than half the victims were young girls. Several local NGOs worked to increase public awareness of the nature of these crimes and promote increased reporting. The authorities were reluctant to pursue criminal investigations of alleged sexual crimes.

FGM was practiced widely in all regions and among all religious and ethnic groups, and the country had one of the highest rates of FGM in the world. FGM is illegal and carries a penalty of three months in prison and a fine of approximately $22 (100,000 francs), although there were no prosecutions during the year. Senior officials and both the official and private press spoke against the practice. FGM was performed on girls between the ages of 4 and 17, but exact figures on this procedure were difficult to establish. The Coordinating Committee on Traditional Practices Affecting Women's and Children's Health (CPTAFE), a local NGO dedicated to eradicating FGM and ritual scarring, cited a continuing decline in the percentage of women and girls subjected to the worst forms of FGM. The CPTAFE estimated 60 and 65 percent of girls were subjected to FGM.

Infibulation, the most dangerous form of FGM, was still performed in the Forest Region but less frequently than in previous years. Despite diseases resulting from crude and unsanitary surgical instruments and deaths resulting from the practice, the tradition continued, seriously affecting many women's lives. FGM also increased the risk of HIV infection, since unsterilized instruments were shared among participants.

The government continued efforts to educate health workers on the dangers of this procedure, and it supported the CPTAFE's efforts. The CPTAFE reported high rates of infant mortality and maternal mortality due to FGM. The government continued its plan to eradicate FGM, and government ministers, health officials, and the media discussed FGM more frequently, but there were no statistics evaluating the success of the program.

A growing number of men and women opposed FGM. Urban, educated families were opting increasingly to perform only a slight symbolic incision on a girl's genitals rather than the complete procedure. During the year the CPTAFE held large public ceremonies celebrating the "laying down of the excision knife," in which some traditional practitioners of FGM pledged to discontinue the practice; however, most of those who performed FGM opposed its eradication since the practice was lucrative. CPTAFE stressed the health consequences of excision while supporting the customary observance of the transition to womanhood through traditional dances and songs.

Although the government made regular statements in the media against sexual harassment, it is not against the law. Although women working in the formal sector in urban areas complained of frequent sexual harassment, it was not penalized by employers.

The law provides for equal treatment of men and women. The Ministry of Social Affairs and Women's Promotion worked to advance such equality; however, women faced discrimination throughout society. Women faced discrimination particularly in rural areas where opportunities were limited by custom and the demands of childrearing and subsistence farming. Women were not denied access to land, credit, or businesses, but inheritance laws favor male heirs over female heirs. Government officials acknowledged that polygyny was a common practice. Divorce laws generally tended to favor men in awarding custody and dividing communal assets. Legal evidence given by women carries less weight than testimony by men, in accordance with Islamic precepts and customary law. The government affirmed the principle of equal pay for equal work, although in practice women received lower pay than men.

On August 27, the government sponsored a seminar on women and microcredit to commemorate National Women's Day.

Children.—The law provides that the government should support children's rights and welfare, and the government allocated and spent a significant percentage of the budget on primary education. The minister of youth and the Ministry of Social Affairs were tasked by the president to defend women's and children's rights, and a permanent committee dedicated to defending the rights of the child, with members chosen from different ministries, NGOs, and other sectors, continued to work.

Government policy provides for tuition-free, compulsory primary school education for six years, but enrollment rates were low due to additional school fees and lax enforcement of laws mandating school attendance. Approximately 63 percent of all eligible students were enrolled in primary school, with a higher percentage of eligible boys enrolled compared with eligible girls. Gender equity was one of the main goals of the government plan, Education for All. The increase in girls' school enrollment was a result of several government programs to increase access to school and to promote girls' education. The net primary enrollment rate (NER) was the ratio of official school-age children enrolled in primary school to the total population of children of official primary school age, as defined by the national education system. The total NER for the 2004–2005 school year was 63 percent. For girls, the NER was 60 percent.

Child abuse, particularly sexual assault was a problem. Girls between the age of 11 and 15 years were most vulnerable and represented 55 percent of the victims. In February a teacher raped a nine year-old-girl in Sangoyah. The teacher's salary was reduced by 20 percent with this amount being paid to care for the victim. The perpetrator pled guilty, was released from prison, and returned to his teaching job.

FGM was performed commonly on girls (see section 5, Women).

The legal age for marriage is 21 years for men and 17 years for women. Although there were no official reports of underage marriage, it allegedly was a problem. Parents contracted marriages for girls as young as 11 years of age in the Forest Region. The CPTAFE, in conjunction with the government, local journalists, and international NGOs, continued to promote an education campaign to discourage underage marriage and reported lower rates than in previous years. According to CPTAFE, some families that sanctioned early marriages nevertheless kept their married daughters in the family home until they had at least completed secondary school.

There were reports that girls were trafficked for prostitution and other labor (see section 5, Trafficking).

The International Rescue Committee and UN Children's Fund (UNICEF) reported that children living in foster families often did not receive adequate food, shelter, and clothing and were compelled to work in the streets, sometimes as prostitutes, for their subsistence.

Trafficking in Persons.—Although the law prohibits trafficking in persons, the country was a source, transit, and destination point for trafficking. The law carries a penalty of 5 to 10 years' imprisonment and confiscation of any money or property received as a result of trafficking activities.

The Interministerial Committee to Combat Trafficking in Persons was created by the government to better coordinate their antitrafficking efforts. It comprised representatives from the Ministry of Social Affairs and the Promotion of Women, and the ministries of children, justice, security, and tourism. The committee held several educational seminars during the year and on November 14 held a roundtable to evaluate progress made on the 2004 National Action Plan to Combat Trafficking in Persons. The roundtable report concluded that significant progress was made in prevention, data collection, and awareness.

Efforts to draft and ratify antitrafficking legislation were underway along with programs to strengthen law enforcement capacity. However, while certain projects

focused on victim protection, lack of funding prevented more effective work, particularly repatriation, accompaniment, and case follow-up.

There has only been one alleged trafficking case turned over to the Ministry of Justice. In April a Malian woman, accused of trafficking in 2004, was deported rather than prosecuted. There were no developments in the 2004 case of a Sierra Leonean child trafficking ring.

On June 16, the government signed a bilateral agreement with Mali to combat child trafficking. On July 27, the government signed a multilateral agreement with nine nations in the region to increase cooperation, harmonize antitrafficking legislation, and exchange information.

Some NGOs reported that women, men, and children were trafficked within the country, as well as internationally, for the sex trade and illegal labor. Trafficking in persons from rural areas, mainly from the poorest areas in Upper Guinea, to urban centers was more common than international trafficking. As NGOs and the government increasingly recognized trafficking within the country, more emphasis was placed on this practice in the December launch of a national awareness campaign by UNICEF to combat trafficking. Accurate statistics were difficult to obtain because victims did not report the crime.

Some children were trafficked for forced labor in agriculture and diamond mining camps and for household work in Conakry. NGOs claimed that the country was frequently a transit route for a West African trafficking network, because fraudulent passports can be easily obtained and no visas are required for local nationals to travel to certain North Africa countries. From these nations, children were then sent to destinations in Europe.

Girls under the age of 14 were involved in prostitution. The government did not take action when prostitution of minors was brought to its attention, and it did not actively monitor child or adult prostitution.

The ICRC reported that trafficking of children was a problem among repatriates from Sierra Leone and Liberia, some of whom hoped to gain advantage from reunification projects intended to reconstitute families separated through war.

Persons with Disabilities.—The law does not prohibit discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. In practice there were no official reports of societal or governmental discrimination against person with disabilities. The government had not mandated accessibility for persons with disabilities, and buildings and vehicles remained inaccessible. Few persons with disabilities worked in the formal sector. Some worked in the informal sector in small family-run businesses, and many lived by begging on the streets.

In April the government, in cooperation with an international donor, launched a national civic education program that included persons with disabilities as well as persons with HIV/AIDS. One of the programs for persons with disabilities was staged at the School for the Deaf of Conakry. The program, in American Sign Language, explained concepts of citizenship, nationality, and equal participation.

National/Racial/Ethnic Minorities.—The country's population was ethnically and regionally diverse. The Peuhls were the largest ethnic groups (approximately 40 percent of the population), followed by the Malinke (approximately 30 percent), and the Soussou (approximately 20 percent). There were several smaller ethnic groups in the Forest Region. Each group spoke a distinct primary language and was concentrated in a distinct region: the Soussou in lower Guinea, the Peuhl in middle Guinea, and the Malinke in upper Guinea. Conakry and other large urban areas such as Kankan and the Forest Region were ethnically heterogeneous.

While the law prohibits racial or ethnic discrimination, ethnic identification was strong.

Mutual suspicion, both inside and outside the government, affected relations across ethnic lines. Widespread societal ethnic discrimination by members of all major ethnic groups was evident in private sector hiring patterns, in the ethnic segregation of urban neighborhoods, and in the relatively low levels of interethnic marriage. The proportion of public sector positions occupied by Soussous, particularly at senior levels, was widely perceived as exceeding their share of the national population.

The ruling PUP party, although generally supported by Soussous, transcended ethnic boundaries more effectively than the major opposition parties, which have readily identifiable ethnic and regional bases. The UPR's main base was the Peuhls, while the RPG's main base was the Malinke. Soussou preeminence in the public sector and Malinke migration into the traditional homelands of smaller ethnic groups in the Forest Region were sources of local political tensions that sometimes erupted into violence.

On July 21, a Peuhl living in Kankan shot and killed a young Malinke, mistaking him for a robber. Malinke youth pillaged stores owned by a Peuhl business person, and tensions between the two communities increased. Security forces established order in the area without the use of extreme force.

Other Societal Abuses and Discrimination.—Discrimination against homosexuals is not prohibited by law, and there are no discriminatory laws based on sexual orientation. There were no reports of either the police or government agents perpetrating violence against persons with HIV/AIDS or homosexuals. Although there were deep social, religious, and cultural taboos against homosexuality, there were no official reports of discrimination against homosexuals.

There have been reports that various hospitals in the country have refused to treat patients with AIDS; hospital workers feared contracting the disease.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of employees, except for military and paramilitary personnel, to form and join independent labor unions, and this right was respected in practice. The labor code requires elected worker representatives for any enterprise employing 25 or more salaried workers. Approximately 160 thousand workers were reported as unionized, although there were inadequate labor statistics. Approximately 52 thousand were government workers and thus automatically members of the National Federation of Guinean Workers, the government union. The largest independent union, Union of Workers of Guinea, claimed 66 thousand members, 20 thousand of which were women. During the year five unions remained active.

Although the law prohibits antiunion discrimination at regional and prefecture levels, unionized labor faced strong opposition from government officials. Union officials were selected on the basis of nepotism and patronage; these individuals were not sensitized to the rights of workers and often viewed unions as an enemy of the government. As a result union members in the interior of the country faced harassment and interference from many governors and prefects. Union activities in Conakry faced less harassment and interference. Individual workers threatened with dismissal or other sanctions have the right to a hearing before management with a union representative present and, if necessary, to take the complaint to the Conakry Labor Court, which convened weekly to hear such cases. In the interior, civil courts heard labor cases.

b. The Right to Organize and Bargain Collectively.—Under the labor code, representative workers' unions or union groups may organize in the workplace and negotiate with employers or employer organizations, and workers exercised this right in practice. The law protects the right to bargain collectively concerning wages and salaries without government interference, and employers established rules and hours of work in consultation with union delegates. There are no export processing zones.

The law grants salaried workers, including public sector civilian employees, the right to strike 10 days after their representative union makes known its intention to strike, but strikes were sometimes met with intimidation from security forces and, as a result, often did not take place. In addition, the law prohibits strikes in sectors providing "essential services," which include hospitals, radio and television, army, police, communications, and transport services. There were reports that government officials offered better positions and political posts to members of labor unions in exchange for ceasing strike activities.

On February 7, commercial drivers went on strike to protest roadblocks set up after the attempted assassination of President Conte. Police arrested nine drivers and released them after they paid a fine. On February 14, police from the Anti-Gang Brigade responded to a call from a local hotel operator. The police beat the workers who were demanding severance payments from the employer.

In July the government pressured two leaders of the teachers' union coalition to retire. One instructor had three years of eligibility remaining and the other had nine years. With support from the union, they did not retire by year's end.

Some internationally funded NGOs experienced labor disputes with local employees that were often contrived. There were documented accounts of government officials who sought bribes from, harassed, or otherwise threatened expatriate officials for these alleged labor infractions.

c. Prohibition of Forced or Compulsory Labor.—Although the law specifically prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see sections 5 and 6.d.).

The law prohibits the exploitation of vulnerable persons for unpaid or underpaid labor. Violations carried a penalty of 6 months to 5 years imprisonment and a fine

of approximately $11 to $85 (50 thousand to 382,500 francs). The government did not enforce this provision in practice.

d. Prohibition of Child Labor and Minimum Age for Employment.—The general labor code has specific provisions that pertain to child labor; however, child labor was a serious problem. By law the minimum age for employment is 16 years. Apprentices may start to work at 14 years of age. Workers and apprentices under the age of 18 were not permitted to work at night, for more than 10 consecutive hours, or on Sundays. The labor code also stipulates that the minister of labor and social affairs maintain a list of occupations in which women and youth under the age of 18 cannot be employed. In practice enforcement by ministry inspectors was limited to large firms in the modern sector of the economy.

Overall, approximately 48 percent of children under age 15 were employed, accounting for approximately 20 percent of the total working population and 26 percent of agricultural workers. Child labor in factories was not prevalent because of the low level of manufacturing. Working children were mostly in the informal sector areas of subsistence farming, small-scale commerce, and mining.

Girls as young as age 14 engaged in prostitution (see section 5). The worst forms of child labor were found in the artisanal mining sector, where children hauled granite and sand for little or no money.

Many young Muslim children sent to live with a Koranic master for instruction in Arabic, Islam, and the Koran worked for the teacher as payment. Children often were sent from rural areas to Conakry to live with family members while they attended school. If the host family was unwilling or unable to pay school fees, the children sold water or shined shoes on the streets, and the host family took the money in exchange for their room and board or simply used the child as a cheap source of domestic labor (see section 5).

There were reports that forced and compulsory child labor occurred (see section 5).

The government has spoken out against child labor but lacked the resources, enforcement mechanisms, and legislative will to combat the problem. As a result child laborers did not have access to education or health care and suffered from chronic malnutrition, traumatic stress, and depression.

e. Acceptable Conditions of Work.—The labor code allows the government to set a minimum hourly wage; however, the government has not exercised this provision nor does it promote a standard wage. Prevailing wages often did not provide a decent standard of living for a worker and family.

The labor code mandates that regular work should not exceed 10-hour days or 48-hour weeks, and it also mandates a period of at least 24 consecutive hours of rest each week, usually on Sunday. Every salaried worker has the legal right to an annual paid vacation, accumulated at the rate of at least two workdays per month of work. There also were provisions in the law for overtime and night wages, which were fixed percentages of the regular wage. In practice the authorities enforced these rules only in the relatively small modern urban sector. Little evidence showed that the government monitored employers' work practices or sanctioned them for failure to follow the law.

Worker conditions were worse in the private sector, excluding banking, insurance, and other similar institutions. Employees often were fired if they joined a union (see section 6.a.).

The teachers' union reported that working conditions were deplorable. Teacher wages were extremely low and not always paid on time, if they were paid at all. In some cases teachers went six months or more without salaries. Local Ministry of Finance employees charged with administering teacher pay allegedly withheld the salaries and used the funds for personal business. Some teachers lived in abject poverty, reporting to work without shoes and even the minimum requirements to do their jobs.

The labor code contains general provisions regarding occupational safety and health, but the government has not elaborated a set of practical workplace health and safety standards. Moreover, it has not issued any ministerial orders laying out the specific requirements for certain occupations and for certain methods of work that are called for in the labor code. The Ministry of Labor and Social Affairs is responsible for enforcing labor standards, and its inspectors are empowered to suspend work immediately in situations hazardous to health. Enforcement efforts were sporadic. Labor inspectors acknowledged that they did not have adequate resources to cover even Conakry, much less the entire country.

Under the labor code, workers have the right to refuse to work under unsafe conditions without penalty; however, many workers feared retaliation should they refuse to work under unsafe conditions.

GUINEA–BISSAU [1]

Guinea-Bissau is a multiparty republic with a population of approximately 1.3 million. On July 24, João Bernardo "Nino" Vieira was elected president, narrowly defeating Malam Bacai Sanha, the candidate of the ruling African Party for the Independence of Guinea-Bissau and Cape Verde (PAIGC). The presidential election, which international observers characterized as free and fair, represented another milestone in the country's return to constitutional government. Civilian authorities generally maintained effective control of the security forces; however, soldiers loyal to former president Kumba Yala briefly occupied the presidential residence on May 24 and attacked the Interior Ministry on July 16.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Poverty, pervasive underemployment, disease, and inadequate pay for public servants contributed to the country's human rights problems, which included:

- violent dispersal of demonstrations
- poor prison conditions
- official corruption and impunity
- violence and discrimination against women
- female genital mutilation (FGM)
- child labor, including some forced labor, and
- child trafficking

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in the previous year, the government or its agents did not commit any politically motivated killings; however, on June 23, police shot and killed demonstrators (see section 2.b.).

On May 24, soldiers loyal to former president Yala occupied the presidential residence for several hours and demanded that Yala be reinstated as president. In a similar July 16 incident, approximately 20 soldiers believed to be loyal to Yala attacked the Interior Ministry, killed 2 security guards, and injured a third. No arrests were made, and the perpetrators had not been identified by year's end.

There were no developments in the October 2004 killing by military mutineers of former Defense Chief General Verissimo Correia Seabra and Colonel Domingos de Barros; the soldiers responsible for the killings had not been identified by year's end.

There were no developments in the 2003 case of Army Second Lieutenant Mussa Cassama, who died from injuries inflicted during torture.

Unlike in the previous year, there were no deaths from landmines or unexploded ordnance.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them. The government rarely punished members of the security forces who committed abuses.

On July 16, soldiers attacked the Interior Ministry, which resulted in deaths and injury (see section 1.a.).

The military mutineers who beat and abused senior officers in October 2004 had not been identified by year's end.

There were no developments in the 2004 reported road rage incident involving the former Deputy Chief of Defense.

[1] In June 1998, the United States Embassy suspended operations in the midst of heavy fighting in Guinea-Bissau, and all official personnel in the country were evacuated. This report is based on information obtained by U.S. embassies in neighboring countries, especially Senegal, from other independent sources, and regular visits to Guinea-Bissau by U.S. officials assigned to the U.S. Embassy in Dakar. The U.S. Ambassador to Senegal, resident in Dakar, is also accredited to Guinea-Bissau.

Demining operations continued; however, unlike in the previous year, landmines and unexploded ordnance did not result in deaths or injury.

Prison and Detention Center Conditions.—Prison conditions remained poor. There were no formal prisons, and the government detained most prisoners in makeshift detention facilities on military bases in Bissau and neighboring cities. Detention facilities generally lacked running water and adequate sanitation. Detainees' diets were poor, and medical care was virtually nonexistent. Pretrial detainees were not held separately from convicted prisoners.

The government generally permitted independent monitoring of prison conditions by local and international human rights groups. During the year representatives from the Red Cross and the Office of the Representative of the UN Secretary General visited prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, police arbitrarily arrested and detained demonstrators (see section 2.b.).

Role of the Police and Security Apparatus.—The police, under the direction of the Ministry of the Interior, have primary responsibility for the country's internal security. The armed forces are responsible for external security and can be called upon to assist the police in internal emergencies.

The country is divided into 37 police districts; there were an estimated 600 police in the country. Impunity and corruption were rampant, and police generally were ineffective. Transit police were particularly corrupt and demanded bribes from vehicle drivers whether their documents were in order or not. Police were poorly and irregularly paid, and there was a severe lack of resources and training. The attorney general was responsible for investigating police abuses, but no investigations occurred during the year.

Arrest and Detention.—The law requires arrest warrants and provides for the right to counsel, and, if indigent, to one provided by the state; the right to release if no timely indictment is brought; and the right to a speedy trial. However, authorities did not respect these rights in practice. There was a functioning bail system.

Unlike in the previous year, no human rights activists were detained during the year.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the judiciary continued its 2004 efforts to establish its independence; however, judges were poorly trained and paid and sometimes were subject to corruption.

Civilian courts conduct trials involving state security. Under the Code of Military Justice, military courts only try crimes committed by armed forces personnel. The Supreme Court is the final court of appeal for both military and civilian cases. The president has the authority to grant pardons and reduce sentences.

Trial Procedures.—The law provides for the right to a fair trial, and the judiciary generally enforced this right. There is no trial by jury, but the law provides for a presumption of innocence and the right to timely access to an attorney, to question witnesses, to have access to evidence held by the government, and to appeal. Citizens who cannot afford an attorney have the right to a court-appointed lawyer.

Traditional practices still prevailed in most rural areas, and persons who lived in urban areas often brought judicial disputes to traditional counselors to avoid the costs and bureaucratic impediments of the official system. The police often resolved disputes.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Unlike in the previous year, there were no reports that security forces arrested persons for exercising their right of free speech.

In addition to the government-owned newspaper *No Pintcha*, several private newspapers published without restriction. All newspapers published sporadically during the year due to financial constraints and dependence on the state-owned printing house. The national printing press often lacked raw materials.

There were several independent radio stations and a national television stations.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government did not always respect this right in practice. Permits were required for all assemblies and demonstrations.

On June 23, police intercepted approximately 200 Social Renovation Party (PRS) youth demonstrators and fired into the crowd; the demonstrators were walking to the National Elections Commission to demand the results of the presidential election. Three protesters were killed, and a fourth subsequently died of injuries inflicted by the police. Eleven demonstrators, including PRS Secretary-General Artur Sanha, were arrested and detained until June 26. No action was taken against the police, who claimed that the government had not authorized the demonstration.

Freedom of Association.—The law provides for the right of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. However, in March the government prohibited activity by the Ahmadiya, an Islamic religious group. Although the government must license religious groups, there were no reports that any applications were refused.

Societal Abuses and Discrimination.—During the year, feuding leaders of the country's mainstream Muslim community and converts to the Ahmadiyya sect used local radio to incite their followers. On February 16, a Muslim leader broadcast a call to his followers to meet at the courthouse in Gabu, which hundreds did. The crowd subsequently beat and detained four Ahmadiyya believers and attacked local police who were trying to control the situation. No action was taken against the perpetrators by year's end.

There is no Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law did not specifically prohibit forced exile; however, the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum during the year. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR reported that the government was tolerant of refugees and permitted them to engage in economic activities to support themselves. There were approximately seven to eight thousand refugees from Casamance region of Senegal living within the country.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through free and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—On July 24, Joao Bernardo Vieira, the country's former military ruler, defeated ruling PAIGC candidate Malam Bacai Sanha in a run-off presidential election. President Vieira replaced Henrique Pereira Rosa, who headed the previous civilian transition government. Bacai appealed the election results to the Supreme Court, which on August 19 upheld Vieira's victory. The election, which international observers declared free and fair, constituted a major step in the country's return to constitutional government that began with the 2003 removal of former president Kumba Yala, who had ruled by decree and undermined democratic institutions.

In March 2004 legislative elections were held for the 100-seat National Popular Assembly (ANP), which had been dissolved in 2002 by former president Yala. The PAIGC won with a plurality of 45 seats, and Carlos Domingos Gomes Junior was appointed Prime Minister. International observers deemed the elections free and fair.

There were 14 women in the 100-seat ANP. The supreme court chief justice, 2 of the country's 19 government ministers, and 1 of 9 state secretaries also were women.

All ethnic groups were represented in the government.

Government Corruption and Transparency.—Official corruption and lack of transparency were endemic at all levels of government. Customs officers frequently accepted bribes for not collecting import taxes, which greatly reduced government revenues.

The law provides that "everyone has the right to information and judicial protection"; however, such access was seldom provided.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The government did not arrest human rights activists during the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of sex and race; however, the government did not enforce these provisions effectively.

Women.—Domestic violence, including wife beating, was an accepted means of settling domestic disputes. There was no law that prohibited domestic violence, and politicians were reportedly reluctant to address the subject for fear of alienating more traditional voters or particular ethnic groups. Although police intervened in domestic disputes if requested, the government had not undertaken specific measures to counter social pressure against reporting domestic violence, rape, incest, and other mistreatment of women.

The law prohibits rape, but government enforcement was limited, in large part because of lack of resources.

Certain ethnic groups, especially the Fulas and the Mandinkas, practiced FGM. The practice has increased as the Muslim population has grown and was performed not only on adolescent girls, but also on babies as young as four months old. The government has not outlawed the practice; however, a national committee and international and domestic nongovernmental organizations (NGOs) continued to conduct a nationwide education campaign to discourage FGM.

Sinim Mira Nassique, a local NGO, runs alternative FGM summer camps for young girls throughout the country. During the summer girls attended camps in Farim, Buba, and Gabu, where they experienced all traditional initiation rights except excision. The camps, which taught the dangers of FGM, also provided training in hygiene, sewing, embroidery, and other skills.

The law prohibits prostitution, but enforcement was weak.

There was no law prohibiting sexual harassment, and it was a problem.

The law treats men and women equally and prohibits discrimination; however, discrimination against women was a problem, particularly in rural areas where traditional and Islamic law were dominant. Women were responsible for most work on subsistence farms and had limited access to education, especially in rural areas. Women did not have equal access to employment. Among certain ethnic groups, women cannot own or manage land or inherit property.

Children.—The government allocated limited resources for children's welfare and education. Public schooling was universal, compulsory until seven years of age, and free through the fourth grade. A 2003 UN Development Program study indicated that 60 percent of school-age children did not attend school, in large part because schools were closed for most or all of 2003 as a result of the government's failure to pay teachers' salaries.

FGM was performed commonly on young girls and sometimes even infants (see section 5, Women).

Child marriage occurred among all ethnic groups, but no reliable data existed to quantify the problem. Girls who fled arranged marriages often were forced into prostitution to support themselves. Local NGOs worked to protect the rights of women and children and operated programs to fight child marriage and to protect the victims of child marriage.

Child trafficking occurred (see section 5, Trafficking).

Trafficking in Persons.—The law does not prohibit trafficking in persons, and there were reports that children were trafficked from or within the country. The government has not prosecuted any cases against traffickers. The Ministry of Interior has responsibility for antitrafficking efforts; however, the government had no national plan to combat trafficking or the capability to monitor, interdict, or prosecute traffickers.

Some boys sent from rural areas to attend Koranic schools in Senegal reportedly were exploited and forced to beg to earn money for the school leadership. The practice of buying and selling child brides also reportedly occurred on occasion.

There were reports that customs, border guards, immigration officials, labor inspectors, or local police may have been bribed to facilitate such trafficking; however, no specific information was available.

Neither the government nor NGOs assisted trafficking victims.

Persons with Disabilities.—The law does not specifically prohibit discrimination against persons with disabilities, mandate building access for them, or provide for equal access to employment and education; however, there were no reports of overt societal discrimination. The government has made some efforts to assist military veterans with disabilities through pension programs, but these programs did not adequately address veterans' health, housing, and food needs.

Section 6. Worker Rights

a. The Right of Association.—The law provides all civilian workers with the freedom to form and join independent trade unions, and workers exercised this right in practice. The vast majority of the population worked in subsistence agriculture; only a small percentage of workers were in the wage sector and organized. Most union members were government or parastatal employees.

The law does not prohibit antiunion discrimination; however, no workers alleged antiunion discrimination, and the practice was not believed to be widespread.

b. The Right to Organize and Bargain Collectively.—The law does not provide for or protect the right to bargain collectively; however, the tripartite National Council for Social Consultation conducted collective consultations on salary issues. Most wages were established in bilateral negotiations between workers and employers. There are no export processing zones.

The law provides for the right to strike and protection for workers from retribution for strike activities, and workers exercised this right during the year. The only legal restriction on strike activity was a prior notice requirement.

During the previous year, soldiers returning from a peacekeeping mission in Liberia mutinied to protest salary arrears and poor living conditions; two officers were killed, and several were injured. No action was taken against the responsible soldiers. During the year the government addressed the soldiers' concerns by paying wage and allowance arrears and by appointing a defense chief acceptable to the mutineers.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but there were reports such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—There were no specific laws that protected children from exploitation in the workplace, and child labor occurred. The legal minimum age is 14 years for general factory labor and 18 years for heavy or dangerous labor, including all labor in mines. The small formal sector generally adhered to these minimum age requirements; however, the Ministry of Justice and the Ministry of Civil Service and Labor did not enforce these requirements in other sectors.

Children in cities often worked in street trading, and those in rural communities did domestic and field work without pay; children generally performed such labor to support families or because of a lack of educational opportunities. The government had not taken action to combat such practices by year's end.

e. Acceptable Conditions of Work.—The government's Council of Ministers annually establishes minimum wage rates for all categories of work, but it did not enforce them. The lowest monthly wage was approximately $35 (19,030 CFA) per month plus a bag of rice. This wage did not provide a decent standard of living for a worker and family, and workers had to supplement their incomes through other work, reliance on the extended family, and subsistence agriculture.

In 2004 the government resumed paying the salaries of its teachers, civil servants, and medical practitioners after years of arrearages; however, the government again failed to regularly pay its public servants during the year.

The law provides for a maximum 45-hour workweek, but the government did not enforce this provision. The law also provides for overtime pay, provided that it does not exceed 200 hours per year, and a mandatory 12-hour rest period between workdays.

With the cooperation of the unions, the ministries of justice and labor establish legal health and safety standards for workers, which the ANP then adopts into law; however, these standards were not enforced, and many persons worked under condi-

tions that endangered their health and safety. Workers do not have the right to remove themselves from unsafe working conditions without losing their jobs.

KENYA

Kenya is a republic with a population of approximately 34 million and is dominated by a strong presidency. The President is both the chief of state and head of government. In 2002 citizens elected Mwai Kibaki of the opposition National Rainbow Coalition (NARC) as the country's third president. Kibaki succeeded Daniel Arap Moi, who led the former ruling party, the Kenya African National Union (KANU), and who served as president from 1978 to 2002. During the 2002 general elections, KANU which had controlled both the presidency and the parliament continuously since 1963, lost its parliamentary majority to NARC, a coalition of more than a dozen political parties. Observers concluded that the elections reflected the popular will and were free and fair. While civilian authorities generally maintained effective control of the security forces, there were some instances in which the security forces acted independently of government authority.

The government in many areas respected the human rights of its citizens or attempted to institute reforms to address deficiencies. However, serious problems remained, particularly with regard to abuses by the police service. The following human rights problems were reported:

- unlawful killings by police
- police beatings and torture of detainees
- impunity
- harsh and life-threatening prison conditions
- arbitrary arrest and detention
- use of excessive force
- prolonged pretrial detention
- executive interference in the judiciary
- restrictions on freedom of speech, the press, and assembly
- government corruption
- abuse of and discrimination against women
- female genital mutilation (FGM)
- child prostitution and labor
- trafficking of persons
- vigilante justice and interethnic violence
- lack of enforcement of workers' rights

On November 21, the government held its first national referendum for a proposed constitution. The citizens accepted the referendum result—57 percent opposed. Election observers did not witness any serious incidents of intimidation or violence, and stated the referendum process was peaceful and professional. In addition the government consolidated and extended some of the human rights reforms it had taken the previous two years. For the third straight year, there were no politically motivated arrests or disappearances, and prison visits by human rights groups increased.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed politically motivated killings during the year; however, security forces did commit arbitrary or unlawful killings. On March 15 a special committee of parliament prepared a report, issued on May 12, implicating a sitting minister, a prominent Nairobi businessman, and several government officials in the 1990 murder of the Foreign Minister Robert Ouko. The committee did not present its findings to parliament by year's end.

The Independent Medico Legal Unit (IMLU), a leading human rights nongovernmental organization (NGO), reported that police officers killed 196 persons as of June(compared with 47 in 2004). The IMLU concluded that all 196 of these deaths were unlawful. Thirty of these occurred while the deceased were in police custody and showed evidence of torture—compared with 40 in 2004 (see section 1.c.).

There were reports of summary police executions. On March 15, several witnesses reported that Nairobi police officers dragged three robbery suspects out of their car, forced them to lie down on their stomachs, and then shot them to death. There were no arrests or charges against the police by year's end.

On March 21, the minister of internal security issued a "shoot-to-kill" order against anyone found in possession of an illegal firearm; later that month, the minister explained that he meant for officers only to defend themselves if fired upon.

Police shot to death 5 reportedly unarmed men in separate incidents: in Nairobi (May 14), Mombasa (May 28), and Central Province (May 29 and 30). Nine police officers were detained for questioning in two of the shootings; some were released, some trials were ongoing, and at least one officer remained under arrest at year's end.

In June the Parliamentary Committee on National Security summoned the commissioner of police to explain why the police had recently killed so many individuals. No reports were published by year's end.

Law enforcement officials maintained that security forces usually were justified in their use of deadly force because of the heavily armed, violent criminals they often encountered. Police claimed that criminals' frequent use of sophisticated weapons had increased the risks faced by police in performing their duties.

There were no developments in the March 2004 murder trial against six prison guards accused of killing six prisoners in the central part of the country in 2000. But there were three civil suits pending against the state at year's end.

There were no developments in the following 2004 cases: the February police shooting of Purity Mburu; the February police killing of a secondary school student in Kisii; the May police beating to death of a man with mental disabilities in Mwingi District; and the July summary execution of seven persons in Kisii.

There were fewer reports that persons died while in police custody or shortly after. On June 8, a court charged a number of wardens in the 2000 case of seven death row inmates in King'ong'o prison who had died in suspicious circumstances. Prison authorities claimed they fell from a 24-foot fence while trying to escape, but a medical report indicated that the men were probably beaten to death because their injuries were inconsistent with a fall. There were no convictions by year's end.

The investigation into the September 2004 killing of five prisoners at Meru G.K. Prison was ongoing at year's end.

There were no developments in the November 2004 medical report that concluded an inmate in Naivasha maximum security prison was beaten to death before being hanged to give the impression of a suicide.

On January 24, five police officers accused of torturing to death Paul Kimani Wambiru in 2002 were acquitted of all charges after spending two years in pretrial detention. An autopsy on the victim established that Kimani had died from trauma resulting from a beating, but the prosecution failed to link the five officers to Kimani's death.

On January 10, a Nairobi court acquitted six police officers on trial for torturing three suspects accused of the 2003 killing of Crispin Odhiambo Mbai, the chairman of the Devolution Committee of the National Legal Conference. On April 7, the three suspects were themselves acquitted of Mbai's murder.

On December 31, the Kenya Ports Authority District Investigation Officer, Hassan Ahmed Abdillahi, was killed. Abdillahi was involved in the investigation of governmental corruption linked to international narcotics and other contraband trafficking through the port. The investigation of his killing had just begun at year's end.

During the year, police at times used excessive force to disperse demonstrations and strikes, which resulted in deaths (see section 2.b.).

There were numerous instances of mob violence and vigilante justice. The great majority of victims killed by mobs were suspected of criminal activities, including robbery, killings, cattle rustling, and membership in terror gangs. The government rarely made arrests or prosecuted the perpetrators of these acts.

On January 10, a mob in Nairobi stoned to death a man they caught sodomizing a minor; another mob killed a man caught stealing a mobile phone and about $50 (3,650 shillings) in cash.

On April 5, villagers in the Kiambu District killed a 17-year-old-boy and set his body on fire after the boy was caught stealing household goods.

On April 25, a mob beat to death a man in Meru District who allegedly had sodomized a 13-year-old boy.

On June 20, residents of Kisumu stoned to death a gang member who had attempted to steal a two-month-old baby.

On August 12, a mob in Molo killed a man who had locked his parents inside a grass-thatched house and set it on fire.

Human rights observers attributed mob violence to a lack of public confidence in police and the judicial process. The social acceptability of mob violence also sometimes provided cover for personal vengeance and the settling of land disputes.

Mob violence against individuals suspected of witchcraft was a problem, particularly in Kisii, Luo Nyanza, and Western Province. Human rights NGOs noted a reluctance to report such cases due to fear of retribution.

The *Mungiki*, a banned cultural and political movement and criminal protection racket based in part on Kikuyi traditions, was less organized and was implicated in fewer violent crimes than in the past due to a police crackdown. On February 10 and March 1, a total of 37 *Mungiki* members were released for lack of evidence in their murder charges.

On May 9, the high court acquitted for lack of evidence 11 Mungiki members who had been arrested in 2004 on various charges including the killings of a police officer and Mungiki defectors.

By year's end police arrested approximately 24 suspected Mungiki members in connection with an upsurge in transportation sector crimes.

Interethnic violence continued to cause numerous deaths (see section 5).

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices and the government took steps to eliminate prisoner abuse. There were documented instances of police using physical violence and torture during interrogations and as punishment of both pretrial detainees and convicted prisoners.

Detainees frequently claimed that they had been tortured or abused, making it difficult to separate real from fabricated incidents. But human rights organizations, churches, and the press highlighted and criticized numerous cases of torture and several cases of indiscriminate police beatings. The IMLU received 397 cases alleging torture at the hands of security officers, an increase from the 304 allegations IMLU received in 2004. According to the IMLU, a common form of torture was *falanga*, the beating of the feet and joints while the feet and hands were handcuffed and the victim was suspended upside down. Another method included placing a metallic drum over the victim's head and shooting at the drum.

The IMLU reported that cases of police torture resulted in death (see section 1.a.). Since the police themselves were responsible for investigating and prosecuting most crimes, reports from IMLU and other human rights organizations that provided evidence of torture by security forces were routinely ignored.

In February Salim Elijah Masinde, an inmate in Kamiti Prison told IMLU he had been severely beaten while in custody since 1988. A doctor's examination revealed that he had been abused. An IMLU investigation was ongoing at year's end and Masinde remains in prison.

There were no developments in the May 2004 case of Margaret Muthoni Murage who miscarried after being detained.

There were no developments in the June 2004 case of David Ndegwa Kimemia who suffered a broken leg while in custody. On May 4, Ndegwa was acquitted of abusing a local chief due to lack of evidence.

Police occasionally used excessive force, which resulted in deaths and injuries, to disperse demonstrations and strikes (see section 2.b.).

Police occasionally abused street children (see section 5).

There were some allegations of rape by security forces. On June 15, citizens complained that soldiers raped women as they were evicting the women from illegal settlements in the Mau forest earlier in the month. No investigations had occurred by year's end.

Acts of violence, including rape, banditry, and shootings, occurred frequently near refugee camps (see section 2.d.).

Prison and Detention Center Conditions.—Prison conditions continued to be harsh and life threatening, although the government made some improvements in prison conditions. Most prisons, especially the men's facilities, continued to be severely overcrowded. In September 93 prisons housed 50 thousand inmates, a decrease from 2004, but still more than three times their intended capacity of 16 thousand. Overcrowding in some prisons was more severe; Meru prison had three times as many inmates as its intended capacity. To decrease congestion, the government began sentencing petty offenders to community service, imposing fines rather than confinement, and offering probation, but the implementation of this program was too slow and weak to effectively address overcrowding. Prison overcrowding was also due to a backlog of cases in the judicial system (see section 1.d.).

Reforms begun in 2003 improved conditions in some prisons. All women's prisons, and some men's prisons, opened or expanded health clinics during the year. Some

facilities received expanded access to academic classes, enabling a number of inmates to sit for national exams, or vocational training, such as carpentry or tailoring. Charitable associations organized occasional medical clinics for inmates.

Prisoners generally received three meals per day, but portions were inadequate, and prisoners were sometimes given half rations as punishment. Water shortages continued to be a problem.

Civil society organizations began visiting prisons in 2003, and these visits revealed harsh conditions as well as allegations by prisoners of inhumane treatment and torture. Such treatment, perpetrated by police, prison guards, and inmates at times resulted in deaths (see section 1.d.).

Prison personnel said that rapes of both male and female inmates, primarily by fellow inmates, continued to be a problem. There was an increasing incidence of HIV/AIDS, although statistics were difficult to obtain since there were no voluntary counseling or testing services in most prisons. Hundreds of prisoners died in prisons from infectious diseases caused by overcrowding and inadequate medical treatment. According to government statistics, 536 prisoners died in 2002, primarily as a result of pulmonary tuberculosis, gastroenteritis, pneumonia, and malaria. Dysentery, anemia, malaria, heart attack, typhoid fever, and HIV/AIDS also were common causes of death among prisoners.

Prisoners sometimes were kept in solitary confinement far longer than the maximum 90 days allowed by law. Prisoners and detainees sometimes were denied the right to contact relatives or lawyers. Family members who visited prisoners faced numerous bureaucratic and physical obstacles, each requiring a bribe.

In August 2004 the *People Daily* reported that prison officers at Thika Prison routinely released prisoners and colluded with them to commit crimes. The newspaper added that torture, illegal sales of hard drugs, and sexual abuse were routine in the prison. There were no investigations of the prison during the year.

In September 2004, 3 prison guards at Naivasha prison went on trial for helping 28 pretrial detainees accused of capital offenses escape from that prison; the escapees were later captured. The trial was ongoing at year's end.

There were no separate facilities for minors in pretrial detention. As a result, teenage detainees were routinely confined with adult detainees. On August 31, pretrial detainees in Embu prison petitioned the government to separate young boys from their adult counterparts, citing allegations of sodomy in the cells. There was no further information on the petition by year's end.

Minors were sometimes confined with adult prisoners. A February 5 media report noted that high court judges touring King'ong'o maximum security prison discovered several minors, one only 15-years-old, serving long sentences among adult prisoners. The judges ordered the prison to provide information on the minors' conviction and jailing in order to conduct a review. There was no further information on the review by year's end.

A total of 369 children under the age of four accompanied their mothers in the country's 14 prisons for women.

The Kenyan National Commission for Human Rights (KNCHR), as well as the International Committee of the Red Cross (ICRC), had the authority to inspect prison facilities on demand at any time, but the government did not permit consistent independent monitoring of prison conditions. The KNCHR conducted four visits, and the IMLU conducted six visits. There were no ICRC visits during the year. Although media coverage of prisons increased compared to last year, media members were selectively allowed visits.

d. Arbitrary Arrest or Detention.—The law prohibits arrest or detention absent a court order unless there is reasonable suspicion of a suspect having committed, or being about to commit, a criminal offense under the law; however, police occasionally arrested and detained citizens arbitrarily.

Role of the Police and Security Apparatus.—There was a large internal security apparatus that included the police's Criminal Investigation Department (CID), the National Security Intelligence Service (NSIS), the National Police, the Administration Police, and the paramilitary General Services Unit. The CID investigates criminal activity, and the NSIS collects intelligence and monitors persons considered subversive. These security forces are under the authority of the Ministry of State for Provincial Administration and National Security in the Office of the President. There was a public perception that police often were involved or complicit in criminal activity.

According to the *Kenya Bribery Index 2005*, the police service remained the most corrupt agency in the government. Although the number of extortions by police decreased dramatically from 2003 to 2004, the average bribe amount increased from approximately $9 (657 shillings) in 2003 to $125 (9125 shillings) in 2004.

Police, in conjunction with prosecutors, resorted to unexplained illegal confinements, extortion, torture, and highly questionable and fabricated charges as a cover-up for malpractice.

Impunity was a problem. Officers were only occasionally arrested and prosecuted for corruption or for using excessive force. Following the December 19 Kenya Anti Corruption Commission (KACC) report, nearly 200 officers were suspended pending investigation for corruption (see section 3). Authorities sometimes attributed the absence of an investigation into corruption or an unlawful killing to the failure of citizens to file official complaints. However, the required complaint form was available only at police stations, and there was considerable public skepticism of a process that assigned the investigation of police abuse to the police themselves.

During the year the government took some steps to curb abuses of authority by police. The government arrested and charged some police officers for various offenses, including corruption, although the government did not provide details on how many of these indicted police officers were tried, acquitted, convicted, or imprisoned. To reduce incentives for corruption, the government provided the police with a 115 percent increase in salaries.

Arrest and Detention.—Individuals may be apprehended on suspicion since police may make arrests without a warrant. By law, detainees must be brought before a court within 24 hours in non-capital offenses and within 14 days in capital cases; the penal code specifically excludes weekends and holidays from this 14-day period. Those who are charged may be released on bail with a bond or other assurance of the suspect's return, but many indigent pretrial detainees could not afford bail.

Although the law provides families and attorneys access to pretrial detainees, security forces rarely allowed access in practice (see section 1.c.).

The law does not stipulate the period within which the trial of a charged suspect must begin. Police from the arresting location are responsible for serving court summons and for picking up detainees from the prison each time the courts hear their cases. Police often failed to show up or lacked the means to transport the detainees, who then were forced to await the next hearing of their case.

Arbitrary arrest was a problem. Police often arrested citizens with the sole purpose of extorting bribes.

On July 21, civil society groups claimed that police arbitrarily arrested persons demonstrating against the parliament (see section 2.b.).

On September 30, police arrested two members of parliament (MPs) for violently disrupting a pro-draft law meeting on September 28. The two initially presented themselves before a magistrate and were released on bail for charges of incitement and assault in connection with the incident. Upon leaving the magistrate's office, they were re-arrested on different charges. While in custody, the MPs were moved to various police stations, and their whereabouts were unknown. On October 3, both were charged with "malicious damage of property" and released on bail. There were no further developments by year's end as the owners of the damaged property never pressed charges.

Lengthy pretrial detention continued to be a serious problem. The government reported that approximately 40 percent of the prison population consisted of pretrial detainees. The government claimed the average time spent by suspects in pretrial detention on capital charges was approximately 16 months; however, many detainees spent more than 3 years in prison before their trials were completed. Very few could afford attorneys. The government acknowledged cases in which persons were held in pretrial detention for several years. The backlog of judicial cases filled the prisons with 20,612 pretrial detainees, constituting more than 40 percent of the total prison population.

On September 8, a judge dropped charges and ordered the release from prison of Joseph Kamau Njoroge, who had been in pretrial custody for 22 years on charges of killing his 9-year-old son. However, Wanjiku Kamandere, who has served 17 years in pretrial detention, remained in custody at year's end.

Amnesty.—On December 5, the government announced the early release of 6,060 prisoners in certain categories to ease prison congestion.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the executive branch often influenced the judiciary. According to a December 31 article in *The Standard*, the executive branch at times openly defied court orders during the year.

The president has extensive powers over appointments, including those of the attorney general, the chief justice, and appeal and high court judges. The president also can dismiss judges and the attorney general upon the recommendation of a special tribunal appointed by the president. Although judges have life tenure (except

for the very few foreign judges hired by contract), the president has extensive authority over transfers.

Reforms begun in 2003 reduced corruption in the judiciary to some extent. In March, the chief justice formed a committee to probe complaints against the judiciary. By year's end, the committee's findings were not publicized. By year's end, only one out of eight judicial corruption cases had been heard; the judge was cleared.

The government significantly reduced the use of the legal system to harass government critics; however, the attorney general on several occasions used his legal power to discontinue proceedings in private prosecution cases, including one against him. On December 15, the chief justice called for a probe into the Attorney General's Office. According to a media report, this was the fourth time he had done so during the year.

The court system consists of a court of appeals, a high court, and two levels of magistrate courts, where most criminal and civil cases originated. The chief justice is a member of both the court of appeals and the high court. All judges in the court of appeals and the high court are appointed by the president upon recommendation of the Judicial Service Commission. Magistrates are hired by the Judicial Service Commission. Criminal law trials are conducted by magistrate courts, while the high court and court of appeals hear appeals. Civil cases may be heard by any of the courts, depending on the nature of the case.

Trial Procedures.—Civilians are tried publicly, although some testimony may be given in closed session. The law provides for a presumption of innocence, and defendants have the right to attend their trial, to confront witnesses, and to present witnesses and evidence. Civilians also can appeal a verdict to the high court and ultimately to the Court of Appeals. Judges hear all cases. In treason and murder cases, the deputy registrar of the High Court can appoint three assessors to sit with the high court judge. The assessors are taken from all walks of life and receive a sitting allowance for the case. Although the assessors render verdicts, their judgments are not binding. Lawyers can object to the appointments of specific assessors.

Defendants do not have the right to government-provided legal counsel except in capital cases. For lesser charges free legal aid rarely was available, and then only in Nairobi and other major cities where some human rights organizations, notably the Federation of Women Lawyers (FIDA), assured that it was provided. As a result, poor persons may be convicted for lack of an adequate defense. Defense lawyers do not always have access to government-held evidence in advance of a trial. The government may plead the State Security Secrets Law as a basis for withholding evidence, and local officials sometimes classified documents to hide the guilt of government officials. Court fees for filing and hearing cases were high for ordinary citizens. The daily rate of at least $28 (2,040 shillings) for arguing a civil case before a judge was beyond the reach of most citizens.

The law provides for Islamic courts that use Shari'a (Islamic law) and states that the "jurisdiction of a Kadhi's court shall extend to the determination of questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all the parties profess the Muslim religion." There are no other traditional courts in the country. The national courts used the law of an ethnic group as a guide in civil matters as long as it did not conflict with statutory law. This occurred most often in cases that involved marriage, death, and inheritance issues and in which there was an original contract founded in traditional law. Citizens may choose between national and traditional law when they enter into marriage or other contracts; however, thereafter the courts determine which kind of law governs the enforcement of the contract. Some women's organizations sought to eliminate traditional law, arguing that it was biased in favor of men (see section 5).

Military personnel are tried by military court-martial, and verdicts may be appealed through military court channels. The chief justice appoints attorneys for military personnel on a case-by-case basis.

Political Prisoners.—There were no reports of political prisoners. On March 11, the government released from detention Charles Wanyonyi Wamoto, who was the last of the 29 persons convicted and imprisoned for plotting a coup in 1982.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, except "to promote public benefit"; however, authorities sometimes infringed on citizens' privacy rights. The Police Act permits police to enter a home forcibly if the time required to obtain a search warrant would "prejudice" the investigation. Although security officers generally obtained search warrants, they occasionally conducted searches without warrants to apprehend suspected criminals or to seize property believed stolen. The police and intelligence

service continued to professionalize, modernize, and limit actions that could qualify as interference.

In June after nearly 18 months of planning, security guards from the Narok County Council and the administration police evicted approximately 10,200 squatters living illegally on protected lands near and in the Mau Forest. There were reports that security forces raped some of the evictees (see section 1.c.). Although some evictees had title deeds, the government claimed that the deeds were issued years ago as political patronage tools, in violation of the law. The government claimed it would work on a resettlement plan which had not been implemented by year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, but the government sometimes restricted these rights in practice. There were reports that security forces harassed, beat, or arrested members of the media during the year. Journalists practiced self-censorship.

The government occasionally interpreted existing laws to restrict freedom of expression. The legal prohibition of debates on issues under court consideration and a parliamentary ruling against debates on certain aspects of presidential conduct limited the scope of deliberation on a number of political issues. On April 13, security forces briefly detained MP Reuben Ndolo for singing a song in public that was interpreted as insulting to President Kibaki and First Lady Lucy Kibaki.

In general, the media remained independent. The mainstream print media included four daily newspapers that reported on national politics: *The Nation*, an independent daily that has long published articles generally critical of government policies; *The Standard*, which previously reflected KANU party views, but became more independent after the 2002 elections; *The People Daily*, owned by an opposition politician and highly critical of the government; and *The Kenya Times*, which generally reflected KANU party views. There also were numerous independent tabloid periodicals which appeared irregularly and were highly critical of the government. Reporting in these tabloids ranged from revealing insider reports to unsubstantiated rumor mongering.

The government-owned Kenya Broadcasting Corporation (KBC), the country's oldest broadcaster, was the only station with a national network of broadcast and cable television, AM and FM radio, and short-wave broadcasts. Although KBC coverage became increasingly more balanced, its monopoly on national broadcasting continued to limit the ability of opposition leaders and other critics of the government to communicate with the electorate outside the capital. Stations owned by other media companies, including 12 radio stations, operated primarily along the country's central corridor and more densely populated adjacent regions.

Kenya Television Network, owned by KANU supporters, aired news programs with more balanced political coverage than KBC, and remained the leading private television broadcaster. Stellavision, which was also owned by KANU supporters, rebroadcasted SKY TV and BBC world news. Other television stations operating in Nairobi were Nation-TV, associated with the Nation Media group, and Family, a Christian-oriented broadcaster. Citizen TV and Citizen Radio broadcast pro-government news and information programs. Nation Media Group and KBC hosted Kenya's first broadcast debates in the run-up to the legal referendum. These debates were well-organized and allowed to proceed without interference or manipulation.

The international media remained free to operate; 120 international correspondents worked in the country, and approximately 100 media organizations reported out of Nairobi. On June 21, the government granted a license to Radio France International (RFI) to operate an FM radio station in Nairobi; RFI had previously operated only in Mombasa. There were three international FM broadcasters in Nairobi: RFI, Voice of America, and the BBC.

Journalists continued to be susceptible to harassment, intimidation, and arrest. On January 8, *The Standard* published a story implicating the Internal Security Minister Christopher Murungaru in questionable land deals. On January 11, Minister Murungaru ordered police to detain and question a *Standard* editor and several days later a *Standard* journalist. Following protests by several civil society organizations as well as the KNCHR, the officials released the editor within hours. On January 20, the journalist was released after his criminal libel charges were dropped.

On January 20, the police in Nyanza Province threatened a *People Daily* journalist for filing negative articles about them. On the same day, the government freed the *Kenya Confidential* editor who had been detained after a November 2004 article alleged that the head of the Kenyan Civil Service, Francis Muthaura, was involved in a government motor vehicle racket.

On April 4, a court acquitted *East African Standard* journalist David Makali on charges that he stole a police tape containing the confession of suspects in the killing of Crispin Odhiambo Mbai in 2003 (see section 1.a.).

On May 2, First Lady Lucy Kibaki forcibly entered *The Nation* media house to protest negative press coverage of her activities several days earlier. During her visit she assaulted a television journalist and damaged his camera. On May 19, although the journalist filed suit against First Lady Kibaki, the attorney general dismissed the case. The journalist filed an appeal which had not been heard by year's end. On May 17, Mrs. Kibaki filed a formal complaint against *The Nation* and *The Standard* with reference to their reports on her activities.

On September 27, police arrested a *Kenya Times* writer and editor for publishing an opinion piece that officials considered inflammatory for suggesting a coup in the country was possible and would be a desirable development. The journalists were released on bail the following day, and there was no hearing by year's end.

On November 16, the government ordered the Kalenjin language radio station KASS FM to cease broadcasting, citing complaints that the station had incited listeners to violence in connection with the November 21 referendum. On November 18, following public criticism, the government allowed KASS FM to resume operations provided it complied with regulations requiring recordings of all broadcasts and agreed to submit recordings of past programming.

There were no developments in the September 2004 ransacking of the offices of *The Weekly Citizen* and *The Independent.*

The Media Bill requires publishers to purchase a bond of $12,800 (1 million shillings) before printing any publication and to deposit copies of their newspapers and books with a registrar within 2 weeks of publication. The law makes it a crime to sell or distribute publications not deposited or bonded, under penalty of a fine of $256 (21 thousand shillings) or 6 months' imprisonment. Some members of the media were concerned that the government would use this law, as well as the Books and Newspapers Act and the Official Secrets Act, to stifle freedom of expression; however, the law generally was not enforced.

The regulatory framework for broadcast media continued to allow abuse and manipulation in the issuance, withholding, and revoking of broadcast permits and frequencies. Although the government revised regulations and procedures in 2004 to streamline and regularize cumbersome licensing procedures, three MPs from North Eastern Province accused the government on April 19 of denying broadcasting station frequencies to the province, thus denying the residents the same information received in other areas.

There were no developments in the 2004 court case between the government and the East African Television Network (EATN). The government continued to block EATN broadcasts.

Individual journalists practiced self-censorship due to either pressure or bribes from government officials and other influential persons to avoid reporting on issues that could harm the interests of these persons or expose their alleged wrongdoings. There also were credible reports that journalists accepted payments to report certain stories, some of which were fabricated.

There were reports of an increased use of criminal libel laws by individuals closely associated with government officials to intimidate journalists and publications. In January the KNCHR issued a statement protesting the use of libel cases against journalists.

Sedition was not grounds for censorship of publications; however, the Prohibited Publications Review Board reviewed publication bans. A number of publications remained banned, including such works as *The Quotations of Chairman Mao Zedong* and Salman Rushdie's *Satanic Verses.*

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of assembly, the government occasionally restricted this right in practice. Organizers must notify the local police in advance of planned public meetings, and authorities may cancel such gatherings only if there are simultaneous meetings previously scheduled for the same venue or if there are specific security threats. Authorities sometimes disrupted public demonstrations and meetings, often characterizing them as "illegal" gatherings, even when the police had been informed in advance. There were a number of incidents during which security forces used force at political rallies connected to the November 21 legal referendum.

The police occasionally used excessive force to disperse demonstrations. Some MPs and civil society organizations accused the police of harassment and arbitrary arrests during several July demonstrations against parliament's attempts to amend

the draft of a new law. Civil society groups stated that 60 persons were arrested arbitrarily, but police stated the 60 were looters.

On October 29, during a pro-draft law rally in Kisumu, 40 persons were injured and 4 died as a result of clashes between security personnel and opponents of the draft law. KNCHR concluded from its investigation that the police used excessive force: forceful entry into homes; beating of persons and children; and the use of live bullets against nonviolent individuals who had already stopped protesting.

On November 11, at a rally against the draft law in Likoni, four persons died when police disrupted the rally for being held without permission.

On November 19, rival rallies, for and against the draft law, were held in public venues within two kilometers of each other. Police did not attempt to place restrictions on either event, and they successfully managed both activities through public information, careful control of traffic flows, and deploying high numbers of personnel.

On November 27, on the grounds of national security, the government banned victory rallies of the Orange Democratic Movement (ODM), the group opposed to the new draft law. The ODM had planned to hold nationwide rallies to thank supporters for defeating the November 21 legal referendum but cancelled them due to fear that a police confrontation would lead to violence.

No action was taken against security forces that used excessive force to disperse demonstrations in 2004 or 2003. On December 10, following the October and November referendum related violence, the police commissioner reportedly directed law enforcement to exercise greater caution regarding the use of live ammunition.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. The Societies Act requires that every association be registered or exempted from registration by the Registrar of Societies. Approximately 40 political parties were registered. The only party denied registration was the Islamic Party of Kenya (IPK); however, the IPK had not resubmitted an application to register since NARC came to power in 2002.

The *Mungiki*, whom the Moi government outlawed in 2002, remained banned. In previous years the *Mungiki* espoused political views and cultural practices that were controversial in mainstream society; many of its members engaged in criminal activities and harassed and intimidated residents in areas where the group was active. The number of Mungiki members was unknown, but the group had a significant following among the unemployed and other marginalized segments of society. Other groups that remained banned included the *Kamjesh, Chinnololo, Sanina Youth, Baghdad Boys, Jehila Embakai, Jeshi la Mzee, Nmachuma, and the Taliban.*

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. There was considerable tolerance among religious groups; however, some Muslims believed they were treated as second-class citizens in a predominantly Christian country. In a 2004 human rights poll only 7 percent of citizens listed freedom of worship as a problem; however, in the heavily Muslim Coast Province 31 percent deemed it a problem.

The government required religious organizations to register with the Registrar of Societies. The government allowed traditional indigenous religious organizations to register, although many chose not to do so. Religious organizations generally received equal treatment from the government; however, some small splinter groups found it difficult to register due to their inability to define their status as more than an offshoot of a larger religious organization.

According to Muslim leaders, authorities rigorously scrutinized the identification cards of persons with Muslim surnames, especially ethnic Somalis, and sometimes required additional documentation of citizenship, such as birth certificates of parents and even grandparents. The government stated that the heightened scrutiny was an attempt to deter illegal immigration rather than to discriminate against ethnic Somalis or their religious affiliation.

A long-standing debate over whether special Islamic courts should be recognized in the country's law continued to create tensions between Muslim and Christian groups. During the year leading Muslim groups opposed the new draft law since it granted widows the right to inherit land and property from their deceased husbands (see section 5).

Witchcraft was illegal, but still widely practiced. On March 25, a couple in Kakamega District was arrested for possessing traditional charms and subsequently released on bond. At year's end, they awaited trial.

On December 21, two people appeared in court for allegedly murdering in early November two family members whom they suspected of practicing witchcraft.

There were no further developments in the May 2004 case in which police arrested a Nigerian pastor, a prominent doctor, and six other members of Winners

Chapel International in the Western Province town of Kitale and charged them with torturing a church member. Local newspapers alleged that the man was tortured to force him to give up his child as a human sacrifice.

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination against members of religious groups. The Jewish community constituted less than 1 percent of the population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

Police routinely stopped vehicles and checked vehicle safety and driver documents on roads throughout the country. Police often committed extortion at such checkpoints. Ethnic Somalis were required to provide additional identification (see section 2.c.).

Civil servants and MPs must obtain government permission for international travel, which generally was granted.

The law prohibits forced exile, and the government did not use it in practice. However, John Githongo, who resigned as the government's highest anti-corruption official (see section 3), remained in self-imposed exile outside of the country, reportedly due to fear for his safety.

Internally Displaced Persons (IDPs).—An unknown proportion of the several thousand persons displaced by ethnic clashes from the 1990s to the present have not returned to their homes due to fear of renewed violence. The government provided assistance to IDPs, and coordinated support services with NGOs, particularly the Kenya Red Cross.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a legal system for providing protection to refugees. In practice the government generally provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government also voluntarily hosted approximately 240 thousand refugees in cooperation with the UN High Commissioner for Refugees (UNHCR), and recognizes UNHCR refugee status determinations. However, during the year approximately four refugees were deported, one without verification of his refugee status. In July approximately 17 thousand Somalis fled temporarily to El Wak in the northeast, escaping an outbreak of clan violence in Gedo, Somalia; they were not granted refugee status.

The government did not accept refugees for resettlement in country. The government worked closely with the UNHCR and other humanitarian organizations in assisting refugees.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and its 1967 protocol and provided it to approximately 240 thousand persons during the year.

The government required that all refugees reside at designated UNHCR camps, most of which were located near the Somalian and Sudanese borders, unless granted permission to live elsewhere in the country. Such permission was given primarily to attend higher education institutions, undergo medical treatment, or avoid security threats at the camps.

Security at refugee camps remained a problem, particularly at the Kakuma camp where rape was among the most frequently reported crimes, some perpetrated by members of the local community. Somali bandits who crossed over the border perpetrated the majority of the rapes. Rapes also occurred when women and girls left the camps to herd goats and collect water or firewood. Security forces and police committed a small number of the rapes.

According to the UNHCR, the incidence of rape in 2 camps (sheltering 240 thousand Somali refugees) had declined from 94 in 2000 to 19 in 2004. There were five rapes and four attempted rapes reported in Kakuma. At some camps, such as Dadaab, refugees formed committees to combat such abuse with some success although women and children remained vulnerable to rape, abuse, and exploitation.

To further reduce incidences of sexual abuse in these camps, 15 relief agencies began implementing the provisions of a November 2004 document, entitled *The Kenya Code of Conduct for Humanitarian Workers in the Kenya Refugee Program.*

Acts of violence, including banditry and shootings, occurred frequently near the camps. Refugees were mistreated and abused by citizens and by residents of different refugee camps because of ethnic and religious differences. Inter-clan violence

occasionally erupted among rival Somali clans at the camps; Somali refugees who married non-Muslims or openly espoused religions other than Islam were subject to abuse.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government through free and fair multiparty elections, and citizens exercised this right through periodic, free, and fair elections held on basis of universal suffrage.

Elections and Political Participation.—Since independence in 1963 KANU had continuously controlled both the presidency and the national legislature. The 2002 elections were the country's third multiparty elections for presidential, parliamentary, and civic seats. Five presidential candidates contested the elections, with the main contestants being KANU candidate Uhuru Kenyatta and NARC candidate Mwai Kibaki. NARC was a coalition of more than a dozen political parties, including former members of KANU, who formed a united front to contest the December general elections. Kibaki won 61.9 percent of the vote, and international observers determined the elections were peaceful, free, and fair.

In 2002 elections 210 members of the 222-member National Assembly were elected and 12 were appointed. As in previous years two by-elections held during the year did not change the representation of the political parties in the national legislature, although observers concluded that the by-elections were marred by voter intimidation and bribery.

In March 2004 the Constitution of Kenya Review Commission completed work on drafting of a new constitution. In August parliament voted for a number of important amendments to the draft, which was submitted to the citizens on November 21 in the country's first ever nationwide referendum. Approximately 3.5 million citizens (57 percent of the population) voted against the draft constitution. There were no serious incidents of intimidation or violence.

On November 23, President Kibaki dismissed his entire cabinet, citing the need to make it more cohesive and better able to serve the citizens. On November 24, he suspended the return of parliament, noting his legal authority to do so. On December 7, the president announced a reconstituted cabinet which excluded a number of former ministers who had opposed him during the legal referendum. The parliament had not reconvened by year's end.

In June 2004 KANU and the Liberal Democratic Party (LDP) filed lawsuits alleging that the president violated the law by naming ministers without the parties' consent. During the year the LDP withdrew its lawsuit; KANU's lawsuit was pending at year's end.

There were fewer reports of criminal youth gangs. During the September through November legal referendum debate, groups of youth sometimes assembled to disrupt rallies for or against the draft law. Violence was mostly confined to stone throwing, but two rallies resulted in eight deaths. There were no arrests in the case by year's end.

In March 2004 a gang of youths attacked Cabinet Minister Raila Odinga and LDP Secretary General Joseph Kamotho in Coast Province. The two politicians accused their nominal allies within the government of hiring the youths to attack them. Although a report of the incident was made to police, there was no subsequent action taken.

In April 2004 assailants in Kisumu stoned the vehicle of Orie Rogo Manduli who was the KANU candidate in a by-election for the National Assembly.

There were 15 women in the 222-seat parliament, and 8 female ministers and assistant ministers in the new 83-member cabinet.

There were 189 members of the country's 5 largest ethnic groups in the 222-seat parliament. There were 18 minority ministers and assistant ministers in the expanded cabinet.

Government Corruption and Transparency.—Incidents of government corruption and frequent press reports fueled a widespread public perception that large-scale corruption at the highest levels of government and in parliament continued, and the problem had worsened from last year.

Throughout the year several high-ranking government officials publicly charged (without naming names) that a number of their colleagues were involved in high-level corruption. On February 7, Permanent Secretary for Governance and Ethics John Githongo (popularly known as the anti-corruption czar), abruptly resigned while on an official overseas trip. In December, President Kibaki eliminated the position of the Permanent Secretary for Ethics and Governance during restructuring of the cabinet.

The government created the KACC in 2003 and appointed a chairman and other staff in 2004. On December 15, the KACC reported that there was corruption in a police recruitment program which operated December 5–13 throughout the country. On December 16, the government cancelled all of the appointments made during the recruitment process. The police commissioner suspended approximately 100 officers for taking bribes.

In 2003 the government enacted the Anti-Corruption and Economic Crimes Act, which sets rules for transparency and accountability, and the Public Officer Ethics Act, which requires high government officials and their spouses to declare their wealth (although not publicly). On October 28, the government also enacted the Public Procurement and Disposal Act.

Despite these laws and institutions, no ministers or assistant ministers were arrested or suspended from office by year's end. On May 23, the KNCHR published a report accusing the government of lacking the will to combat corruption.

Although the law does not provide for it, access to government information, particularly through the Internet, improved during the year.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to their queries. However, there were some reports that government officials intimidated and threatened to disrupt NGO activities, and that less-established NGOs (particularly those in rural areas) were subjected to interference from provincial administrators and security forces.

Approximately 15 domestic organizations actively advocated for human rights in the country; 14 were independent of the government. Several NGOs maintained comprehensive files on human rights abuses. A number of attorneys represented the indigent and human rights advocates without compensation, although they could handle only a small percentage of those who needed assistance and were concentrated chiefly in Nairobi and other large cities. The government allowed human rights organizations to witness autopsies of persons who died in police custody. Some local human rights NGOs complained that the Attorney General's Office and other government offices sometimes were not responsive to their inquiries.

The Institute for Education in Democracy and other NGOs monitored the referendum in cooperation with the Electoral Commission and diplomatic missions.

The Kenya Human Rights Commission (KHRC), a leading human rights NGO, produced the *Quarterly Human Rights Report* that cataloged the human rights situation in the country, as well as special reports on pressing human rights problems. In April and May, several peaceful assemblies organized by the KHRC were violently disrupted in spite of the KHRC having informed the police in advance as required by the Public Order Act. Several staff members were arrested and charged with participating in unlawful assemblies. The cases were pending at year's end.

The KNCHR has the status of an appeals court and can issue summons, order the release of prisoners, and require compensation for human rights abuses. The KNCHR was able to perform its duties without overt government interference, but complained in its 2004 annual report that it had not been provided adequate funding and had difficulty obtaining information from some government offices.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of a person's "race, tribe, place of origin or residence or other local connection, political opinions, color, or creed"; however, government authorities did not enforce effectively many of these provisions. There was also evidence that some government officials at least tolerated and, in some instances, instigated ethnic violence.

Women.—Although all forms of violence against women are prohibited, domestic violence against women was a serious and widespread problem. The penal code does not specify domestic violence, but treats domestic violence as an assault. Police generally would not investigate in cases of domestic violence. The August 2004 Kenya Demographic and Health Survey revealed that more than half of women had experienced domestic violence after the age of 15 years. Wife beating was prevalent and largely condoned by much of society.

The law carries penalties of up to life imprisonment for rape, although actual sentences usually were no more than 10 years. The rate of prosecution remained low because of cultural inhibitions against publicly discussing sex, fear of retribution, disinclination of police to intervene in domestic disputes, and unavailability of doctors who otherwise might provide the necessary evidence for conviction. Moreover,

traditional culture permitted a husband to discipline his wife by physical means. There was no law specifically prohibiting spousal rape.

According to December 29 police statistics, there were 2,853 rapes nationwide during the year, compared with 2,908 reported in 2004. Available statistics underreported the problem since social mores discouraged women from going outside their families or ethnic groups to report sexual abuse.

The law prohibits FGM; but it remained widespread, particularly in rural areas. According to the government's August 2004 Demographic and Health Survey, 32 percent of women had undergone FGM. In September 2004, an international conference on FGM in Nairobi reported that, of the country's 42 ethnic groups, only four (the Luo, Luhya, Teso, and Turkana) did not practice FGM. According to the NGO Maendeleo Ya Wanawake (Development of Women), the percentage of girls undergoing the procedure was 80 to 90 percent in some districts of Eastern, Nyanza, and Rift Valley Provinces.

FGM usually was performed at an early age. Some churches and NGOs provided shelter to girls fleeing their homes to avoid the practice, but community elders and some politicians frequently interfered with attempts to stop the practice.

In December there were a number of arrests of individuals accused of applying forced FGM. On December 23, four parents were arrested along with a man who performed the FGM. In mid-December a woman in Nyandarua District plead guilty in court for subjecting four girls to FGM. During the same month the Kuria district commissioner called for police to arrest parents who forced their daughters to undergo the procedure.

In April, 17 girls in Marakwet District fled to avoid FGM and were given shelter in Eldoret by the NGO Centre for Human Rights and Democracy. On April 20, police forcibly removed the girls from the shelter and returned them to their villages.

In July a district officer in West Pokot District attempted to stop the Pokot community from performing FGM on 70 girls, but a local politician used his influence to thwart the initiative.

On December 18, rescuers hid 140 girls in a school in Meru North District and planned to engage them in an alternative rite ceremony, while another 330 completed a "no cut" initiation rite in Marakwet District.

Various communities have instituted "no cut" initiation rites for girls as an alternative to FGM. According to The Family Planning Association of Kenya, its "no cut" program called Ntanira na Kithomo (initiate me through education) contributed to a 13 percent decline in the prevalence of FGM in Meru North District.

Prostitution is illegal but was a problem perpetuated by poverty. On May 18, Immigration Minister Linah Kilimo accompanied a police raid on a nightclub where illegal immigrants were allegedly forced to work as prostitutes. A number of the illegal immigrants were subsequently repatriated. Despite the high profile of the incident, it did not prompt specific government action against prostitution.

Sexual harassment is not prohibited by law. However, sexual harassment leading to assault may be prosecuted under the penal code. Sexual harassment in export processing zones (EPZs) was a problem (see section 6.e.).

The law provides equal rights to men and women and specifically prohibits discrimination on grounds of gender; however, women experienced a wide range of discriminatory practices, limiting their political and economic rights and relegating them to second-class citizenship. For example, the law allows only males to transmit citizenship automatically to their wives and children.

Women continued to face both legal and de facto discrimination in other areas. On March 15, the government reported that some men in the Maasai community were "hiring" wives to appear before the Land Control Board to sell family land without the knowledge of their actual wives. In July the Council of Elders in the Orma community ordered that the wives of 60 men be returned to their birth families because the husbands had defected from the political party favored by the elders.

The Law of Succession, which governs inheritance rights, provides for equal consideration of male and female children but terminates the inheritance rights of widows if they remarry. Moreover a widow cannot be the sole administrator of her husband's estate unless she has her children's consent. The law also allows the Ministry of Justice to exempt certain communities from the law in deference to tradition, which provides for equal distribution of a man's property only among his sons.

Wife inheritance, in which a man inherits the widow of his brother or other close relative, was commonly practiced in certain communities. In May the chairman of the Council of Elders in the Luo community rebuffed attempts by women's rights groups to stop the practice among the Luos, arguing that wife inheritance was a noble tradition that kept widows from falling into poverty. Although poor and uneducated women were more likely to be inherited or suffer from property and in-

heritance discrimination, prominent and educated women sometimes were victims. Following the death of Vice President Michael Wamalwa in 2003, male members of his family laid claim unsuccessfully both to his property and to his widow. Forced marriages were also common.

Women made up approximately 75 percent of the agricultural work force and were active in urban small businesses. Nonetheless the average monthly income of women was approximately two-thirds that of men, and women held only 6 percent of land titles. Under traditional law, in many ethnic groups women can not own land. Women had difficulty moving into nontraditional fields, were promoted more slowly than men, and were more likely to be laid off than men. Societal discrimination was most apparent in rural areas. Women constituted 70 percent of the country's illiterate population.

On February 17, the government created a gender office in the Ministry of Trade and Industry. There is a gender department in the Ministry of Gender, Sports, Culture, and Social Services.

Children.—The government was generally committed to the rights and welfare of children and there was legislation and developed policies to promote education and protect children's rights. The government lacked the resources to implement its policies fully.

According to the government's 2005 *Economic Survey* data, the government's Free Universal Primary Education Program, which began in 2003, raised primary school enrollment from 7.2 million in 2003 to 7.4 million in 2004. The 2003 figure constituted about 78 percent of the primary school age group. The 2004 figure represented 81.1 percent of the primary school age group. Some NGOs, however, claimed that there were still one million children not attending school. A December 21 newspaper article reported that the government fired 24 local officials for not ensuring that all children of the appropriate age were attending classes under the free primary education program.

Most citizens welcomed tuition-free education; however, the program also resulted in overcrowded classes due to insufficient teachers and an inadequate budget. To enhance access to free primary education, the government supported nonformal education schools to cater especially to children in urban slums. About 79 percent of enrolled children completed the 8-year primary school education cycle. The school drop-out rate declined from 5 percent in 1999 to 2 percent in 2004. The law mandates compulsory schooling for all children through grade 12, but fewer than half of primary school graduates went on to secondary school. During the year the gross enrollment rate for the secondary school age population was 22.2 percent. In 2004, 86 percent of secondary school students completed the four-year secondary cycle.

Although the number of boys and girls in school approximately was equal at the primary level, boys substantially outnumbered girls in higher education. Rural families were more reluctant to invest in educating girls than in educating boys, especially at the higher levels. According to FIDA, 8 thousand to 13 thousand girls drop out of school each year due to pregnancy.

Corporal punishment of students is banned but occasionally occurred in practice during the year. There was no further information on the March 2004 incident in which police in Naivasha arrested two teachers for caning several children, seriously injuring one of them.

Child rape and molestation continued to be serious problems. In March 2004 *The People Daily* reported that 38 percent of children under 18 were sexually abused. Newspapers contained frequent reports of molestation or rape of children by schoolteachers, police, clergy, and others. A July report entitled *The Defilement Index* prepared by the Chamber of Justice and the NGOs Care Kenya and Cradle indicated that incestuous defilement accounted for approximately 75 percent of abuse against young girls in urban areas. The report showed that 6 out of 10 persons working with abused children agreed that the most vulnerable girls were those in nursery to class 4 (1 to 10 years old).

Legally a man is not considered to have raped a girl under age 14 if he has sexual intercourse with her against her will; instead, he commits the lesser offense of defilement. The penalty for the felony of rape can be life imprisonment, while the penalty for defilement is usually far less. *The Defilement Index* criticized the courts for declaring inconsistent sentences to sex offenders. Since the abolition of the law on minimum sentences, sentencing is discretionary.

In September a magistrate in Tharaka District sentenced a man to 14 years for defiling a 4-year-old girl, calling the sentence a deterrent against such attacks. According to a September 14 media report, a man was sentenced to seven years for raping a seven-year-old girl and infecting her with HIV in April 2004.

On December 15, a man was sentenced to seven years with hard labor for raping a mentally handicapped young girl.

Certain ethnic groups commonly practiced FGM on young girls, particularly in rural areas (see section 5, Women).

Newspapers frequently highlighted the problem of child marriages. There were no reliable statistics on the extent of child marriage, but public perception indicated that it was very common and traditional practice among certain ethnic groups. The Marriage Act forbids marriage under the age of 16, but the Mohammedan Marriage and Divorce Act allows Muslim girls to marry at puberty.

On July 21, a man was sentenced to 18 months in prison for consenting to the marriage of his 9-year-old daughter to a 45-year-old man.

On December 21, the Trans Mara district commissioner (DC) disallowed the marriage of four minor girls, who were also saved from forced FGM. The girls told the DC that they were not ready for marriage. The DC reportedly stated that he would not condone early marriage.

Trafficking in children was a problem, as was child prostitution. Child prostitution has grown considerably due both to economic contraction and to the increase in the number of children orphaned because of the spread of HIV/AIDS (see Section 5, Trafficking). According to the International Labor Organization (ILO), approximately 30 thousand girls under the age of 19 years were engaged in prostitution in the country.

Approximately 1.9 million children were still engaged in child labor (see section 6.d.).

Economic displacement and the spread of HIV/AIDS continued to affect the problem of homeless street children. In 2002 the *East African Standard* reported an estimated 250 thousand children living on the streets in urban areas (primarily Nairobi, Mombasa, Kisumu, and Nakuru); this figure was a conservative estimate. These children often were involved in theft, drug trafficking, assault, trespassing, and property damage. Street children faced harassment as well as physical and sexual abuse from police and within the juvenile justice system.

The government provided programs to place street children in shelters and assisted NGOs in providing education, skills training, counseling, legal advice, and shelter for girls abused by their employers. In 2003 the government provided an employment program for orphans and abandoned youth that included training and subsidized employment, but its effectiveness was limited. By November 231 of 300 street children in the National Youth Service had graduated from vocational courses.

Trafficking in Persons.—The law does not explicitly prohibit trafficking in persons, and there were reports that persons were trafficked to, from, and within the country. Internal trafficking was also a problem. Various laws can be used to prosecute trafficking-related offenses. The penal code prohibits detaining females against their will for the purposes of prostitution as well as child labor, the transportation of children for sale, and the commercial sexual exploitation of children. Fines are limited and jail time was rarely enforced.

The Anti-Human Trafficking Unit of the Police Service (KPS) has primary responsibility for combating trafficking. The Criminal Intelligence Unit of the KPS, the Ministry of Labor, and the Ministry of Home Affairs are also involved in curbing human trafficking.

Victims were trafficked from South and East Asian countries and the Middle East and transited in the country to European destinations for sexual exploitation. Asian nationals, principally Indians, Bangladeshis, and Nepalese, were trafficked into the country and coerced into bonded labor in the construction and garment industries.

In August 2004 the police charged several persons with participating in an international child trafficking ring involving the abduction and foreign sale of infants and young children. In July the accused faced additional charges related to child theft and were awaiting trial at year's end.

Government assistance to NGOs to combat human trafficking was minimal due to resource constraints.

Persons with Disabilities.—The Persons With Disabilities Act prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced its provisions during the year. The government continued its efforts, begun in 2004, to equip public buildings with wheelchair ramps, lifts, and sanitary facilities.

National/Racial/Ethnic Minorities.—The country's population was divided into more than 40 ethnic groups, among which there were frequent allegations of discrimination and occasional violence. Unofficial results of the 1999 census indicated that the Kikuyu constituted 21 percent of the population, the Luhya 16 percent, the Kalenjin 12 percent, the Luo 11 percent, and the Kamba 10 percent of the popu-

lation. The Kikuyu and the closely related Kamba, Meru, and Embu groups made up more than one-third of the country's population; members of these groups dominated much of private commerce and industry.

In private business and in the public sector, members of virtually all ethnic groups commonly discriminated in favor of other members of the same group. Neighborhoods in large cities tended to be segregated ethnically, although interethnic marriage has become fairly common in urban areas. Political disputes tended to correlate with ethnic differences.

Clashes also broke out between various ethnic groups and clans. In January approximately 30 persons died in fighting between the Kikuyu and the Maasai in Maai Mahiu. The fighting was sparked when Maasai warriors destroyed a pipe diverting water from a river to a Kikuyu farm due to fear that this diversion would dry up their pastoral grazing grounds.

In January there were renewed clashes in Trans-Nzoia, Rift Valley Province, over land disputes between the Pokot and non-Pokots.

On July 12, a group of Borana men attacked a Gabra village near Marsabit and killed approximately 80 persons over accusations of cattle rustling. Over the next 48 hours revenge attacks and counter attacks raised the death toll to nearly 100 in the area. Four local MPs, one Gabra, and three Borana accused each other of inciting the violence.

Many factors contributed to interethnic conflicts, including the proliferation of guns, the commercialization of traditional cattle rustling, the development of a modern warrior/bandit culture (distinct from the traditional culture), irresponsible local political leadership, shrinking economic prospects for affected groups, a regional drought, and the inability or unwillingness of security forces to stem the violence.

Members of the Nubian community, most of whom were Muslim, claimed that the government discriminated against them by trying to eliminate their ethnic identity. They also claimed that despite living in the country for generations, they were frequently denied identity cards, work permits, passports, and the right to own land because they could not prove that their grandparents or great-grandparents were citizens. They claimed these measures hampered their access to education and employment opportunities, resulting in the impoverishment of their community, which numbered approximately 200 thousand. In June 2004 the Nubian Community petitioned the high court for redress of grievances related to their rights as citizens; the high court did not render judgment by year's end.

Other Societal Abuses and Discrimination.—There was societal discrimination against homosexuals and persons with HIV/AIDS. A lingering stigma toward persons with HIV/AIDS made it difficult for many families to admit that their members were HIV positive. The government worked in cooperation with international donors on programs of HIV/AIDS prevention and treatment.

Section 6. Worker Rights

a. The Right of Association.—The law provides that all workers, even those in the EPZs, are free to join unions of their choice, and workers exercised this right in practice. The Police Act prohibits members of the national police force from joining unions. Some unions complained that government labor officials hindered efforts to establish unions in factories where at least 80 percent of workers indicated a desire for union membership and representation. The unions alleged that the officials refused to approve applications by continually finding minor technicalities in the applications.

There were 42 unions representing approximately 600 thousand workers, approximately one-third of the country's formal-sector work force. All but 5 of these unions, representing approximately 300 thousand workers, were affiliated with the 1 approved national federation—the Central Organization of Trade Unions (COTU). The two largest non-COTU unions were the 240 thousand member Kenya National Union of Teachers and the Union of Kenya Civil Servants, with 70,588 registered members.

The law prohibits employers from intimidating workers; however, some antiunion discrimination still existed, specifically in the EPZs in Mombasa. Employees wrongfully dismissed for union activities were able to take their cases to the industrial court, a body of up to five judges appointed by the president, and many were awarded damages in the form of back pay. Reinstatement was not a common remedy; more often aggrieved workers found alternative employment in the lengthy period prior to the hearing of their cases. The government voiced its support for union freedom but did not protect it fully.

b. The Right to Organize and Bargain Collectively.—While not having the force of law, the Industrial Relations Charter, executed by the government, COTU, and the Federation of Kenya Employers, gives workers the right to engage in legitimate

trade union organizational activities, and the government protected these rights in practice. Both the Trade Disputes Act and the charter authorize collective bargaining between unions and employers, and wages and conditions of employment were established in negotiations between unions and management. The government permits wage increases of up to 100 percent and renegotiation of collective agreements; however, the law allows employers in ailing industries to dismiss workers regardless of the provisions of their collective bargaining agreements. Collective bargaining agreements must be registered with the industrial court to ensure adherence to these guidelines.

The law, with some restrictions, permits workers to strike, and workers exercised this right in practice. Workers must submit a letter to the Ministry of Labor and wait 21 days before a strike can occur. Members of the military services, police, prison guards, and the National Youth Service are prohibited from striking. Other civil servants can strike following the 21-day notice period (28 days for essential service workers, such as water, health, education, or air traffic control). During this interim period, the minister may mediate the dispute, nominate an arbitrator, or refer the matter to the industrial court for binding arbitration. Once a dispute is referred to mediation, fact-finding, or arbitration, any subsequent strike is illegal.

In reaction to a civil servants strike on June 2, the Directorate of Personnel Management and the Department of the Registrar-General exercised an option under the union's law and ordered it to hold a special election to replace the national chairman and three of his officials because they retired before completing their five-year terms. In addition the government refused to release union dues collected from members in May until after the special election. The union claimed the government did not follow regulations in firing many of the strikers. The union held the special election in November and the government, in the run-up to the November 21 referendum, announced it would reinstate all the fired civil servants. The reinstatements were made by year's end.

With the exception of the Factories Act, all labor laws apply in the EPZs (see section 6.e.); however, the EPZ Authority and the government granted many exemptions to applicable laws. For example the government waived a provision of the law that prevents women from working in industrial activities at night. There were reports that persons lost their jobs in EPZs because of their refusal to work on Saturdays. Union leaders claimed that a number of textile and garment firms in EPZs employing about three thousand workers have refused to sign collective bargaining agreements.

c. Prohibition of Forced or Compulsory Labor.—The law proscribes slavery, servitude, and forced and bonded labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.). Under the Chiefs' Authority Act a local authority can require persons to perform community services in an emergency; there was no attempt to use the law during the year.

d. Prohibition of Child Labor and Minimum Age for Employment.—The employment in industry of children under the age of 16 is illegal, but the law does not apply to the agricultural sector, where approximately 70 percent of the labor force was employed, or to children serving as apprentices under the terms of the Industrial Training Act. Child labor was a problem, particularly in the informal sector. The Children's Act of 2001 prohibits all forms of child labor that are exploitative, hazardous, or would prevent children under age 16 from attending school.

The Ministry of Labor and Human Resources Development officers nominally enforced the minimum age statute, and the government worked closely with COTU and the ILO's International Program for the Elimination of Child Labor to eliminate child labor. The government's Free Universal Primary Education Program resulted in the return to school in 2003 of approximately one million children who formerly were working; more than one million children were believed still to be working.

Children often worked as domestic servants in private homes, and during the year there were reports of abuse of children serving as domestic employees. Children worked primarily in the informal sector, mostly in family businesses and usually assisted parents on family plots. A significant number of children worked in family units on tea, coffee, sugar, and rice plantations. Deteriorating economic conditions and the effects of the HIV/AIDS pandemic gave rise to more child labor in the informal sector, which was difficult to monitor and control. In addition a large number of underage children were active in the sex industry (see section 5). In view of the high levels of adult unemployment and underemployment, the employment of children in the formal industrial wage sector in violation of the Employment Act was less common.

The law establishes definitions of child labor, and in June 2004 the government prepared a National Plan of Action to Eliminate the Worst Forms of Child Labor;

it was not implemented by year's end. A practical guide to labor inspection was developed, and the government trained labor inspectors and occupational health and safety officers to report on child labor.

Many NGOs also were active in child labor issues and assisted in the return to school of child laborers. Unlike in previous years there were no reports that children, especially in the rural areas, were loaned out as workers to pay off family debts.

For several years the government has implemented 73 action programs on the elimination of child labor with 25 partner agencies. These programs removed 50 thousand children, half of them girls, from child labor. The partners placed the children in schools, vocational training institutions and apprenticeships, and supported income generating activities for 10 thousand parents. Partners also provided support to schools to initiate income generating activities to help keep children from poor families in school. In 2003 The Federation of Kenyan Employers distributed an employers' code of conduct on child labor issues and guidelines on combating child labor in the agricultural sector.

e. Acceptable Conditions of Work.—The legal minimum wage for blue-collar workers in the wage sector has 12 separate scales, varying by location, age, and skill level; in many industries, the minimum wage equaled the maximum wage. On May 1, the government increased the minimum wage for workers in both urban and rural areas: the lowest minimum wage in large urban areas was approximately $60 (4,638 shillings) per month and approximately $55 (4,279 shillings) per month in rural areas. The minimum wage did not provide a decent standard of living for a worker and family. Most workers relied on second jobs, subsistence farming, informal sector opportunities, or the extended family for additional support.

Workers covered by a collective bargaining agreement generally received a better wage and benefit package than other workers. For instance the average covered worker received $100 (8,170 shillings) per month in addition to a housing and transport allowance, which often constituted 25 to 50 percent of a worker's compensation package.

The law limits the normal workweek to 52 hours, although nighttime employees may be employed for up to 60 hours per week. Some categories of workers had a shorter workweek. As is the case with respect to minimum wage limitations, the law specifically excludes agricultural workers. An employee in the nonagricultural sector is entitled to one rest day per week and there are provisions for 21 days of annual leave and sick leave. The law also provides that the total hours worked (regular time plus overtime) in any two-week period not exceed 120 hours (144 hours for night workers). The Ministry of Labor and Human Resources Development was responsible for enforcing these regulations; however, violations were reported during the year. Workers in some enterprises, especially in the EPZs, claimed that employers forced them to work extra hours without overtime pay to meet targets. In addition, the employers did not provide nighttime transport.

The law sets forth detailed environmental, health, and safety standards, but the law was not always followed in practice. Fines generally were too low to serve as a deterrent to unsafe practices. EPZs are excluded from these legal provisions (see section 6.b.). The Ministry of Labor's Directorate of Occupational Health and Safety Services (DOHSS) has the authority to inspect factories and work sites, but lacked statutory authority to inspect factories in the EPZs. Labor unions and NGOs continued to criticize health and safety conditions in the EPZs and around the country. The unions highlighted problems of sexual harassment in the EPZs. In March 2004 the Tailors and Textile Workers Union filed a complaint with the Ministry of Labor on behalf of 15 women from the EPZs who reportedly were fired because they were pregnant, but in July 2004 the factory closed down and no action was taken against the employers.

DOHSS health and safety inspectors may issue notices against employers for practices or activities that involved a risk of serious personal injury. Such notices can be appealed to the factories appeals court, a body of four members, one of whom must be a high court judge. The law stipulates that factories employing at least 20 persons have a health and safety committee with representation from workers; however, according to the government, fewer than half of the very largest factories had instituted health and safety committees. Workers can refuse to remain in hazardous conditions, but many were reluctant to risk losing their jobs because of the high unemployment level.

LESOTHO

Lesotho is a constitutional monarchy with a population of approximately two million. Under the constitution, the king is head of state, fills a ceremonial role, has no executive authority, and does not actively take part in political initiatives. In 2002 Prime Minister Pakalitha Mosisili, the leader of the Lesotho Congress for Democracy (LCD) party, won re-election, and the LCD won 79 of 80 constituency-based seats. The country held local government elections on April 30. Observers, including the Commonwealth, various resident diplomatic missions, and local NGOs judged the elections to be free, fair, and without violence. While civilian authorities generally maintained effective control of security forces, some members of the security forces committed human rights abuses.

The government generally respected the human rights of its citizens; however, the following human rights problems were reported:

- allegations of torture by security forces
- excessive force against detainees
- impunity
- poor prison conditions
- lengthy pretrial detention and long delays in trials
- regular occurrence of domestic violence
- severe restrictions on women's rights
- societal discrimination against persons with disabilities and HIV/AIDS
- child labor in the agriculture and informal sectors

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings. There were two deaths in custody reported during the year (see section 1.c.).

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law expressly prohibits such practices; however, there were allegations that security forces tortured persons and credible reports that the police at times used excessive force. According to the Human Rights Unit at the Ministry of Justice and Human Rights, there were 17 cases of human rights abuses by the police filed from January to December. Dates were set to hear the cases in 2006.

On July 13, the Lesotho News Agency (LENA) reported that farmers and residents killed a police officer in the Sehlabathebe district, while the officer was trying to protect a suspect accused of livestock theft. According to the LENA report, the police officers rounded up several suspects from the village and physically abused them. The Ministry of Home Affairs referred this case to the Police Complaints Authority (PCA), and in December the PCA submitted their report to the Minister of Home Affairs (who has authority over the police). No further action had been taken by year's end.

The July 22 edition of *Public Eye* reported police allegedly physically abused three men in the town of Roma after their arrest on suspicion of stealing property. Although the three men did not lodge a complaint, a relative reported the matter to the PCA. The Roma police denied the assault, and the PCA did not conduct an investigation since there was no complaint.

The Lesotho Mounted Police Service (LMPS) Complaints and Discipline Section revealed that it received 11 complaints of physical abuse and negligence of duty by the police from January to December. Two of the claims were later declared false; while the remaining nine cases were under investigation at year's end.

In 2003 Theko Lerotholi, a Lesotho Defense Force (LDF) member arrested for suspicion of armed robbery, lodged a torture claim against the LMPS with the High Court. The case remained pending in the High Court at year's end. There were a number of civil claims against the police for unlawful detention and assault stemming from the 2003 incident.

Prison and Detention Center Conditions.—Prison conditions were poor, and facilities were overcrowded and in disrepair. Women, men, and juveniles were housed separately. After inspecting 51 prisons, the Office of the Ombudsman, an independent statutory body, released an August report that criticized conditions of overcrowding, lack of bedding, poor sanitation, and poor nutrition. The report also in-

cluded recommendations for extensive physical improvements to facilities, more frequent inspections, and separate areas within prisons for ill inmates. There was no government action on these recommendations.

In December 2004 a 44-year-old man accused of the murder of an LDF senior officer died in police custody while awaiting judgment in his murder trial. Further investigation revealed the prisoner may have died due to illness related to prison conditions.

The Office of the Ombudsman prison report identified the death of two inmates in Mohale's Hoek prison in 2004. The prisoners were held in solitary confinement, stripped, soaked with cold water, and beaten. One prisoner died from swallowing nails, and the other reportedly suffocated himself with handcuffs. The authorities had not responded or taken any action by year's end.

Pretrial detainees were held with convicted prisoners. Security and military prisoners were held in a separate facility. The law states pretrial detainees and convicted prisoners should be held in separate prisons; however, due to overcrowding this did not occur in practice.

Prison regulations provide for visiting committees made up of principal chiefs, church ministers, representatives of the business community, advocates of the High Court, and other citizens. These committees may visit any prison without the prior knowledge of the prison director and generally were allowed to do so. The committees report their findings to the prison director.

International human rights groups were permitted to monitor prison conditions. During the year International Committee of the Red Cross representatives inspected prisons in Maseru on a number of occasions. Their report criticized the conditions; however, there was no government response or action by year's end. The British Department for International Development program, Justice Development Sector, worked in prisons and conducted regular inspections.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The security forces consist of the LDF, the LMPS, and the National Security Service (NSS). The prime minister is the Minister of Defense and National Security, with direct authority over the LDF and the NSS. The police force is under the authority of the Minister of Home Affairs and Public Safety.

The LMPS is nationally managed, with the country divided into three regional police districts. An assistant commissioner of police heads each region and senior superintendents head the districts. The LMPS suffered from a significant shortage of resources, which sometimes limited the effectiveness of the police.

Corruption was a problem; however, the government continued its reform efforts. Police authorities confirmed allegations that some police officers solicited bribes to turn a blind eye to traffic and other offenses. Police authorities and media reported that police and army personnel may have been involved in a spate of armed robberies during the year. A police officer was arrested, charged, and bail was set, but due to the absence of legal representation, the date of trial was postponed to January 2006.

The PCA, established in 2003, became fully operational. The PCA is an independent oversight body that monitors questionable behavior of police officers and addresses grievances of the public against the police. The PCA is composed of 4 commissioners and 36 staff members. The PCA commissioners expressed concern that the Police Act limited the PCA, since it did not accord the body powers of search and seizure or the power to summon police officers. They requested the Ministry of Home Affairs and Public Safety to pursue amendments to the act; no amendments occurred by year's end.

During the year the PCA received 48 complaints. In December the PCA submitted its report containing recommendations of disciplinary action to the Minister of Home Affairs and Public Safety (which has authority over the police). No further action had been taken by year's end.

Arrest and Detention.—The law requires police to obtain a warrant prior to making an arrest. Suspects must be informed of charges within 48 hours, and their families must be notified of the imprisonment. The law also allows family members to visit inmates. However, in practice, the police sometimes did not comply with these provisions. There were no reports of police misconduct in arrests or pretrial detention. Persons detained or arrested in criminal cases and defendants in civil cases had the right to legal counsel; however, there was no system to provide public defenders. The Legal Aid Division, under the Ministry of Justice and Human Rights, offered free legal assistance, but a severe lack of resources hampered the division's ability to be effective. Some nongovernmental organizations (NGOs) maintained a

few legal aid clinics. The law provides for granting bail, which the authorities granted regularly and generally fairly.

There were no reports of political detainees.

Due to serious backlogs of court caseloads, pretrial detainees constituted approximately 17 percent of the prison population, and pretrial detention could last months or even years. The backlogs were due to lack of resources, delay tactics by defense counsel, and unavailability of legal counsels. On November 1, *The Mirror* newspaper reported that judges granted postponement of cases without good cause and attorneys failed to appear without explanation. The article also reported that six thousand cases were pending in the magistrates' courts.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the judiciary was independent in practice.

The judiciary consists of the Court of Appeal (which meets semi-annually), the High Court, magistrates' courts, and traditional courts, which exist largely in rural areas to administer customary law. The High Court also provides procedural and substantive guidance on matters of law and procedure to military tribunals; however, it does not participate in judgments. A single high court judge normally adjudicates criminal trials with two assessors who serve in an advisory capacity. The authorities generally respected court decisions and rulings.

Trial Procedures.—There is no trial by jury. Trials are public, but in civil cases, judges normally hear cases alone. There was a large case backlog, which led to lengthy delays in trials (see section 1.d.). Defendants have the right to legal counsel; however, government sources stated that in the magistrates' courts, some accused persons were not advised of their right to legal representation, and some cases proceeded without legal representation for the accused. Free legal counsel is available, either by the state or by a legal NGO. The defendant can be held or released on bail until a sentence is passed.

In civil and criminal courts women and men are accorded equal rights. However, in traditional and customary courts, certain rights and privileges were denied to women. This system greatly disadvantaged women (see section 5). When traditional law and custom were invoked in a court case, a male plaintiff could opt for customary judgments by a principal chief rather than a civil court, and the judgment was legally binding.

Military tribunals have jurisdiction over military cases only. Decisions by military tribunals can be appealed only to a special court-martial appeal court, which is composed of two judges from the High Court—one retired military officer with a legal background and the registrar of the High Court.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law does not fully protect citizens' privacy rights; however, there were no reports that authorities infringed on citizens' privacy rights during the year. Although search warrants were required under normal circumstances, the law provides police with wide powers to stop and search persons and vehicles and to enter homes and other places without a warrant.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice.

Several independent newspapers routinely criticized the government. There were seven private radio stations, and there were no private television stations. The media was free to criticize the government, but risked being sued for slander or libel. The official state-owned or state-controlled media consisted of one radio station, a two and one-half hour daily newscast on a television channel, and two weekly newspapers. All reflected official positions of the ruling party. South African, global satellite television, and radio broadcasts were widely available.

Government ministers and other officials initiated a number of libel and defamation suits against members of the independent media, some of which led to out-of-court settlements. In June lawyers representing the prime minister met with representatives of *Mopheme* newspaper to discuss a possible libel case. An agreement was presumably reached as no further reports were made. On November 8, the *Spectator* newspaper reported that retired Major General Thibeli filed a defamation suit against the Catholic newspaper *Moeletsi oa Basotho*. The plaintiff and defendants met in court, but due to the absence of legal representation, the case was postponed to 2006.

On November 10, Mr. Thotanyane, a private businessman, received an award of $240 thousand (1.5 million maloti) from his libel case against the *Public Eye* newspaper.

The 2004 case in which a member of parliament sued the *Mololi* newspaper for libel was still pending at year's end.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Unlike in previous years, there were no reports that police killed demonstrators.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination against members of religious groups. There was a very small Jewish community and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system to provide protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government continued to cooperate with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The government has designated a commissioner for refugees.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In the 2002 elections, the LCD party won 79 of the 80 constituency-based seats; the opposition Lesotho People's Congress (LPC) party won the remaining constituency seat; and the 40 proportionally elected seats were divided among 9 opposition parties. Prime Minister Mosisili, the leader of the LCD party, won re-election. Domestic and international observers concluded that the elections were free, fair, and peaceful.

There were 15 women in the 120-member National Assembly and 12 women in the 33-member Senate. The speaker of the National Assembly, five government ministers, one assistant minister, four judges of the High Court, and the commissioner of police were women. In April female candidates captured 53 percent of seats in the first post-independence local government elections.

Approximately 98.5 percent of the population was Basotho. There were no minorities in the 120-member National Assembly, the Senate, or the cabinet.

A provision in the constitution requires that members of parliament be able to speak; however, to date, this provision has not been enforced.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year; however, according to Transparency International, corruption was a serious problem.

In January two officials, who arranged travel for the LDF, were charged with accepting bribes from Millennium Travel and Tours. The first official was fined $780 (5 thousand maloti) with an alternative of a two-year jail term. The trial of the second official began in November and was pending at year's end.

In a February case brought before the High Court, the Impregilo Company was charged with bribery of a former chief executive of the Lesotho Highlands Water Project (LHWP). The chief executive was already serving a 16-year sentence for another LHWP-connected bribe.

Although there are no laws providing for access to government information, and access to government information was incomplete, websites of government ministries, parastatals, and private organizations provided significant information. On October 31, media reported that the Media Institute of Southern Africa pressured the government to release information on an upcoming Commonwealth of Nations conference. The government said it was holding the information for initial release to government-controlled media.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

An independent Office of the Ombudsman exists to protect citizens against infringement of their rights by public and private sector agencies. The ombudsman was constrained by a shortage of staff, finances, and equipment. The ombudsman intervened on issues such as the release of unlawfully held salaries of employees; reinstatement of employees illegally suspended from work; compensation for persons relocated to new areas in connection with the LHWP; and compensation and repair of houses for communities living close to large-scale development projects. Some of the ombudsman's reports were successful at bringing attention to various issues. In the case of the LHWP, action was taken to correct infringements highlighted by the reports. The government was slow to implement recommendations addressing inadequacies in government infrastructure due to a lack of resources.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, color, sex, language, political or other opinion, national or social origin, birth, or other status; however, the constitution also recognizes customary law as a parallel legal system, and women's inheritance and property rights were severely restricted under this system.

Women.—Although dependable statistics were not available, domestic violence against women occurred frequently and was believed to be widespread. Traditionally, a wife may return to her "maiden home" if physically abused by her husband. Under common law, wife beating is a criminal offense and defined as assault; however, few domestic violence cases were brought to trial. Punishment ranges from fines to incarceration. Judges have a wide degree of discretion in sentencing. Such behavior was increasingly considered socially unacceptable due to advocacy and awareness programs of the Gender and Child Protection Unit (GCPU) of the LMPS, the Federation of Women Lawyers, NGOs, the Lesotho Child Counseling Unit, and both broadcast and print media campaigns.

The law prohibits rape, including spousal rape, which is punishable by a minimum sentence of five years' imprisonment, with no option for a fine. The rape of young children, older girls, and women was common. The organizations involved in combating the problem included the GCPU, the Lesotho Child Counseling Unit, and other NGOs.

The law does not address prostitution, and it was a problem. In August police conducted a large raid in Maseru, but were unable to prosecute those apprehended based on existing law.

The law does not specifically prohibit sexual harassment, and there is a strong perception of widespread sexual harassment.

Both traditional law and custom severely limited the rights of women in areas such as property rights, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce; however, under customary law, a married woman is considered a minor during the lifetime of her husband, and she cannot enter into legally binding contracts without her husband's consent. A woman married under customary law has no standing in civil court. Government officials have publicly criticized this customary practice. The tradition of paying a bride price (*lobola*) was common. There is no evidence that *lobola* contributed to abuses against women's rights. Lobola, if not paid to the bride's family, allows the family the right to end a marriage and the right to challenge custody of any offspring. Polygny was practiced by a very small percentage of the population.

Women's rights organizations took a leading role in educating women about their rights under customary and common law, highlighting the importance of women participating in the democratic process. The Ministry of Gender, Youth, Sports, and Recreation funded efforts by women's groups to sensitize society to the status and rights of women.

Children.—The Child Protection Act (CPA) and the Sexual Offences Act provide for the protection of children; however, limited resources hampered the government's ability to fully enforce these laws.

The government devoted substantial resources to primary and secondary education. Primary education was tuition-free through the sixth year of school, with the seventh year to be included in 2006. Education was not compulsory even at the primary levels. A substantial number of children did not attend school, particularly in rural areas where there were few schools, where children were involved in subsist-

ence activities in support of their family's welfare, or where families could not afford fees for the purchase of uniforms, books, and materials. The UN Children's Fund (UNICEF) estimated in 2002 that 62 percent of boys and 68 percent of girls attended primary school. School nonattendance affected boys disproportionately more than girls, due to the tradition of livestock herding by young boys (see section 6.d.).

Boys and girls had equal access to government-provided health care.

Child abuse was a common problem, especially for children made vulnerable by HIV/AIDS. There were few official reports or statistics. During the year the Ministry of Youth, Gender, and Sports stated on a number of occasions that there was a need to curtail and stop child abuse.

Child prostitution was a problem. According to media reports, young girls and boys, many of whom were orphans, moved to urban areas to work as prostitutes. A 2001 UNICEF assessment concluded that child prostitution in the country was a poverty-driven phenomenon rather than a commercial enterprise and that the financial arrangements were casual and not the product of organized criminal syndicates. However, UNICEF and the government agreed that while the numbers remained small, the trend toward commercial prostitution by children under age 18 was a growing problem in the country. It was believed that the incidence of prostitution was growing, and the average age of commercial sex workers was dropping; however, there was no evidence of third party participation. Child sex workers (including child prostitutes) worked by themselves for economic reasons. There is little capability within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

Familial stress, poverty, the spread of HIV/AIDS, and divorce led to a rise in child homelessness and abandonment, creating a growing number of street children and families headed by children. Street children were constrained due to their relative lack of finances from access to government services, such as medical care and school. Street children were not informed about their rights or access to government services. There were no reports of abuse of street children by security forces.

The GCPU within the LMPS had branches in all 10 districts, but lack of resources restricted its ability to be effective. The GCPU dealt with sexual and physical abuse, neglected and abandoned children, and protection of property rights for orphaned children.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons. During the year the minister of Gender and the assistant minister of Education publicly stated their concern about six cases of child trafficking and the possible increase of trafficking-related activities. There were no official statistics available on the issue of trafficking. The police can charge persons suspected of trafficking under the Labor code, the CPA, and kidnapping statutes enshrined in the constitution. The Ministry of Home Affairs and the GCPU are responsible for monitoring trafficking.

Persons with Disabilities.—Discrimination against persons with physical disabilities in employment, education, or provision of other government services is unlawful, and the government enforced these laws within its limited means. Although societal discrimination was common, the tradition of hiding disabled children from the public was no longer commonly acceptable. The association of the disabled actively promoted the rights and needs of the disabled. However, during the year the association was hampered by accusations of misallocation of finances.

Laws and regulations stipulate that persons with disabilities have access to public buildings, and buildings completed after 1995 generally complied with the law. The election law provides assisted voting for persons with disabilities. The minister of justice, human rights, rehabilitation, law, and constitutional affairs was blind.

National/Racial/Ethnic Minorities.—Minorities constituted less than 2 percent of the population. There were small groups of Indo-Basotho, European, and Sino-Basotho. Economic and racial tension between the Chinese business community and the Basotho remained a problem.

Other Societal Abuses and Discrimination.—There continued to be reports that children orphaned by AIDS, persons with AIDS, and their immediate families were ostracized. In March 2004 the prime minister took an HIV/AIDS test and started an HIV/AIDS awareness campaign. The government provided subsidized medicine and food to persons with HIV/AIDS.

The November 28 edition of *Mopheme* reported a claim of discrimination by the LDF policy to disallow enlistment of HIV positive persons. The LDF policy also states that a soldier found to be HIV positive after induction is not retired or separated. The soldier is provided counseling and testing; duties are adapted as appropriate.

Section 6. Worker Rights

a. The Right of Association.—Under the law, workers have the right to join and form trade unions without prior government authorization, and workers exercised this right in practice; however, some employers in the textile sector do not observe trade union freedoms. The labor code prohibits civil servants from joining or forming unions, but allows them to form staff associations. The government regarded all civil servants as essential employees; therefore, essential employees did not have many of the normal labor rights, such as the right to strike or the right to negotiate. In May 2004 civil servants established a professional association.

The Mounted Police Service Act prevents members of the police service from belonging to trade unions; however, it allows them to establish a staff association charged with promoting the professional efficiency and interest of members of the service.

Under the labor code, prepared with the assistance of the International Labor Organization, all trade union federations must register with the government. The government routinely granted registration. During the year, the Department of Labor stated there were 38 functional trade unions with a membership of 20,706, excluding 3 unions, which did not have proper records of membership.

A majority of Basotho mineworkers were members of the South African National Union of Mineworkers (NUM). While the NUM, as a foreign organization, was not allowed to engage in union activities in the country, it provided training, constructed agricultural projects, and performed other social services for retrenched mine workers and families of deceased miners.

The law prohibits antiunion discrimination, and the government generally enforced this in practice. There were reports that some employers harassed union organizers, intimidated members, and fired union activists, particularly in domestic industries. During the year unions referred 28 cases of unfair labor practice to the independent Directorate of Dispute Prevention and Resolution (DDPR). 13 cases were brought to agreement, 2 of which were referred to the labor court for settlement. 1 was withdrawn and 16 were ongoing at year's end. The commissioner of labor, who operated as part of the Ministry of Employment and Labor, was charged with investigating allegations of labor law violations. During the year, there were no reports of employers preventing workers from becoming members of unions, gaining access to factories, or threatening workers with loss of employment.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government generally protected them in practice; however, some private sector employers tried to restrict these rights (see section 6.a.). Collective bargaining was protected by law and freely practiced.

The law provides for a limited right to strike; however, civil servants were not allowed to strike, and, by definition, all public sector industrial actions were unauthorized. In the private sector, the labor code requires an escalating series of procedures to be followed by workers and employers before strike action is authorized. During the year there were no legal or illegal strikes. The labor code establishes the DDPR within the Ministry of Employment and Labor to provide dispute prevention and resolution mechanisms; the DDPR was independent of government, and maintained a record of handling cases promptly. The DDPR resolved 1,365 out of 1,422 cases by year's end. The Commissioner of Labor was authorized to order the reinstatement of wrongfully dismissed employees and the payment of back wages, but she did not have the authority to impose criminal fines.

c. Prohibition of Forced or Compulsory Labor.—The government prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—There are statutory prohibitions against the employment of minors in commercial, industrial, or nonfamily enterprises involving hazardous or dangerous working conditions; however, child labor was a problem in the informal sector. The government had no mechanism for inspection of the informal sector.

The legal minimum age for employment in commercial or industrial enterprises is 15 years, and the legal minimum age for hazardous employment is 18 years; however, children under 14 years of age reportedly were employed in family-owned businesses. Children under 18 years of age may not be recruited for employment outside of the country. Child labor laws covered all sectors except the agricultural sector.

Many urban street children worked in the informal sector. Most jobs performed by children were gender-specific: boys as young as ages four and five were livestock herders, carried packages for shoppers, washed cars, and collected fares for minibus

taxis; girls were domestic servants; teenage girls (and a few boys) were involved in prostitution (see section 5); and both boys and girls worked as street vendors.

In traditional society, rigorous and occasionally dangerous working conditions for young livestock herdboys were considered a prerequisite to manhood, essential to the livelihood of families, and a fundamental feature of local culture beyond the reach of labor laws. Reportedly the age of initiation into herding continues to drop. The emphasis on traditional socialization methods to the exclusion of formal education continued the cycle of poverty for most youth.

The Ministry of Employment and Labor is responsible for investigating child labor allegations. During the year, the (Ministry of Employment and Labor's Inspectorate) conducted quarterly inspections in the formal sector.

e. Acceptable Conditions of Work.—A national minimum wage is determined annually by the Wage Advisory Board, a tripartite entity consisting of the government, trade unions, and employees. In 2004 the government introduced a schedule of basic minimum wages for different sectors, such as manufacturing, construction, retail, service and mortuary services. The general minimum wage was $103 (650 maloti). The national minimum wage for workers in lower-skilled jobs did not provide a decent standard of living for a worker and family. There was no evidence to suggest foreign employers were paid below the minimum wage. Most wage earners supplemented their income through subsistence agriculture or remittances from relatives in South Africa.

The labor code provides for basic worker rights, including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, 12 days of paid leave per year, and paid sick and public holidays; however, employers did not always respect these rights in practice. Required overtime was legal as long as overtime wages were paid for work in excess of the legally mandated 45-hour workweek. Workers in the garment industry were paid the proper overtime rate for overtime hours worked. According to the commissioner of labor, employers in the security sector were the worst violators of the labor code. They regularly worked employees beyond the recommended hours, did not insure their workers against injury or death, and paid them below the minimum wage.

The labor code requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner to minimize the risk of injury; employers generally followed these regulations. The labor code also empowers the Ministry of Employment and Labor to make regulations pertaining to work safety in specific areas, and the ministry has exercised this right. The labor code does not protect explicitly the right of workers to remove themselves from hazardous situations without prejudice to employment; however, sections on safety in the workplace and dismissal implied that such a dismissal would be illegal.

The law also provides for a compensation system for industrial injuries and diseases related to employment. The commissioner of labor, who operates as part of the Ministry of Employment and Labor, was charged with investigating allegations of labor law violations. Labor inspectors generally conducted unannounced inspections in factories four times a year.

LIBERIA

Liberia is a constitutional republic with a population of approximately 3.5 million. After 14 years of civil war and 2 years of an interim government, Ellen Johnson-Sirleaf was declared the winner of multiparty presidential elections on November 23, marking a significant milestone in the country's transition to democracy. Domestic and international observers considered the elections generally free and fair. President Johnson-Sirleaf replaced Chairman Charles Gyude Bryant, who led the interim National Transitional Government of Liberia (NTGL) since October 2003. In August 2003 the former government and the country's two rebel groups—Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL)—signed the Comprehensive Peace Agreement (CPA), which ended the 1999–2003 civil war. Approximately 15 thousand peacekeepers deployed by the UN Mission in Liberia (UNMIL) and 1,100 international police (CIVPOL) had primary responsibility for maintaining security, while the Liberian National Police (LNP) and Armed Forces of Liberia (AFL) were being retired and retrained. Unlike in the previous year, former rebel combatants no longer retained control of some rural areas. Civilian authorities generally maintained effective control over security forces.

The NTGL generally respected the human rights of its citizens, and the government passed legislation during the year to strengthen human rights; however, problems persisted in some areas. Poverty, unemployment, and illiteracy were widespread, and the country's infrastructure was severely damaged as a result of the war. The educational system barely functioned, and the country had no public electricity, potable water, sewer system, or postal service. The following human rights problems were reported:

- ritualistic killings and deaths from mob violence
- police abuse, harassment, and intimidation
- harsh prison conditions
- arbitrary arrest and detention
- lengthy pretrial detention
- denial of due process and fair public trial
- incidents of trial-by-ordeal
- official corruption and impunity
- violence and discrimination against women, especially rape
- female genital mutilation (FGM)
- neglect and abuse of children
- trafficking in persons
- societal ethnic discrimination
- child labor

During the year the NTGL established an Independent National Commission on Human Rights (INCHR) and a Truth and Reconciliation Commission (TRC) to investigate human rights violations and war crimes committed during the civil war.

By year's end more than 25 thousand disarmed and demobilized former combatants were required to enroll in reintegration programs, including vocational training, psychosocial counseling, or school; approximately 15 thousand former combatants were employed. Some former combatants were responsible for human rights abuses during the year; however, there were considerably fewer reports of such incidents than in previous years.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

In 2003 as the war escalated, former government and rebel combatants killed an undetermined number of civilians by shooting them, burning them alive, or cutting their throats. Numerous internally displaced persons (IDPs) were killed during repeated raids on their camps. In late 2003 UNMIL and the interim government imposed order, but no action was taken against perpetrators of the summary executions, killings, or other crimes committed during the war. The newly established TRC was not operational at year's end.

Unlike in the previous year, CIVPOL investigators and human rights organizations did not uncover evidence of executions and massacres. In 2004 the Catholic Justice and Peace Commission (JPC) uncovered evidence of a 2002 massacre by former government forces of hundreds of civilians near Tubmanburg. No further investigation was made into these cases.

General Benjamin Yeaten, who was believed to have executed or supervised the 2003 execution of former deputy national security minister John Yormie and former deputy public works minister Isaac Vaye, remained in self-imposed exile at year's end.

There were no developments in any of the reported 2003 killings by the security forces of former president Taylor.

Unlike in the previous year, there were no reports that former government and rebel combatants killed civilians, but former combatants were responsible for civilian injuries (see section 1.c.).

No action was taken against the former MODEL fighter who killed a civilian in March 2004 for refusing to hand over his food. There were no developments in the May 2004 killing of a civilian by former soldiers during a demonstration to demand immediate payment of their resettlement grants.

Ritual killings, in which body parts used in traditional indigenous rituals were removed from the victim, reportedly occurred during the year.

There were sporadic instances of mob violence, which were exacerbated by ethnic conflict, religious differences, political divisions, vigilantism, high unemployment, and poverty. On September 30, an employee of a nongovernmental organization (NGO) witnessed a mob kill a man suspected of theft.

Unlike in the previous year, there were no reports of deaths resulting from land disputes. An independent investigation into the October 2004 dispute between Muslim Mandingos and Christian non-Mandingos found no government complicity in the ethnically based violence that resulted in 19 deaths. The 250 persons arrested in connection with the incident were released, and no trials had been conducted by year's end.

b. Disappearance.—There were no reports of politically motivated disappearances. During the civil war, government security forces and rebels were responsible for numerous disappearances.

The welfare and whereabouts of former Chief of Intelligence Peterson Marbiah, who disappeared when John Yormie and Isaac Vaye were arrested in 2003, remained unknown at year's end (see section 1.a.).

The 15 persons abducted in 2003 from Todee by former government militia remained missing at year's end.

Most of the ethnic Mandingo youths abducted between September 2002 and March 2003 by former government security forces for suspected involvement with the LURD rebel group remained unaccounted for at year's end.

The UNMIL investigation into the 2003 disappearance of foreign citizen Nabil Hage, who was believed to have been abducted by LURD, was ongoing at year's end. There were no developments in other 2003 abductions by LURD.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, prior to August 2003, police and security forces frequently tortured, beat, raped, and otherwise humiliated persons, particularly during interrogations of LURD detainees at the Gbatala security training base. According to Amnesty International, 73 percent of women over 18 who registered for the 2003–04 Disarmament, Demobilization, Rehabilitation, and Reintegration (DDRR) program reported sexual abuse.

During the year LNP officers sometimes abused, harassed, intimidated, and extorted bribes from persons, particularly at checkpoints.

For example, on September 30, LNP officers at a joint LNP and UNMIL–CIVPOL checkpoint beat and kicked the driver of a foreign embassy vehicle and arrested him; the driver had followed standard practice in refusing to allow the search of a diplomatic vehicle. One LNP officer was fired in connection with the incident, and two others were suspended for three months.

Political party members harassed and, in some cases, beat foreign and domestic journalists for allegedly supporting the opposition party (see section 2.a.).

During the year demonstrations by former combatants protesting disarmament or the government's failure to complete resettlement grants resulted in civilian injuries and extensive property damage. For example, on May 11, former combatants attacked NGO offices involved in demobilization activities; several persons were injured. The attackers were disgruntled because they had not been paid, and their training had been delayed.

During a May 27 graduation from a skills training program, more than one thousand former combatants began rioting and smashing vehicles when they learned they would not receive the tools and training benefits that they had been promised upon graduation; two persons were injured. Police arrested and briefly detained several of the former combatants.

In November an UNMIL peacekeeper was arrested for raping a nine-year-old girl. The peacekeeper was being detained at year's end, and UNMIL was conducting an investigation.

The law prohibits trial-by-ordeal, which involves the placement of a heated metal object on a suspect's body or the insertion of an extremity into hot oil to determine whether the defendant is telling the truth; however, the practice reportedly continued in rural areas.

Lack of confidence in the police and judicial system resulted in mob violence and vigilantism (see section 1.a.).

Prison and Detention Center Conditions.—Prison conditions were harsh and in some cases life threatening. The government did not provide detainees or prisoners with adequate food or medical care; however, an NGO continued its 2004 program to provide food to the prisons. During the year an NGO refurbished prison cells at Monrovia Central Prison, but the prison still held twice its maximum capacity, primarily due to the large number of pretrial detainees. In some counties the structure

that served as a jail was a container with bars at one end. There also were reports that local officials forced prisoners to work for them.

There were no separate facilities for juvenile offenders. Convicted prisoners and detainees awaiting trial were not held in separate facilities. During the year a prison in Voinjama placed the accuser and the accused in the same cell for more than a month, even after the accuser admitted that he had accused the wrong person. Women and particularly juveniles were subject to abuse by guards or other inmates.

The government permitted the independent monitoring of prison conditions by local human rights groups, the media, and the International Committee of the Red Cross (ICRC). Some human rights groups, including the ICRC, made regular visits to detainees held in police headquarters and prisoners in Monrovia Central Prison.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, security forces continued to arrest and detain persons arbitrarily, although less frequently than in previous years.

Role of Police and Security Apparatus.—The Ministry of Justice has responsibility for enforcing law and maintaining order within the country and oversees the LNP and the National Bureau of Investigation (NBI). Approximately 15 thousand UNMIL peacekeepers and 1,100 CIVPOL officers had primary responsibility for maintaining security while the LNP and the AFL, which was under the Defense Ministry, were being retired and retrained during the year. Approximately 600 CIVPOL officers assisted with restructuring, recruitment, training, and equipping the LNP, which was comprised of new recruits and those who served under the former Taylor administration. During the year CIVPOL recruited, trained, and deployed more than 1,100 LNP officers to Monrovia and 7 surrounding counties; an additional 300 recruits were sent to Nigeria for further training. In September the LNP opened a Women's and Children's Protection Section, and 50 officers had completed training to staff the unit by year's end. The LNP operated independently and retained arrest authority; however, CIVPOL accompanied LNP officers in joint patrols around Monrovia.

LNP officers, who were not equipped with firearms, were slow to respond and often ineffective, which resulted in an increase in armed robberies during the year. Corruption and impunity were problems. Unlike in the previous year, police handling of mob violence did not result in deaths; however, there were reports of police brutality, particularly during demonstrations. Police had limited logistics and forensic capabilities and did not adequately investigate many crimes, including murders. The LNP, with the assistance of CIVPOL's non-compliance unit, investigated reports of police misconduct, and CIVPOL issued several notices of noncompliance to LNP officers during the year. However, dismissals or other strong disciplinary measures were taken only in the most severe cases, such as rape or serious assault.

Public confidence in the police remained low, and vigilante groups formed during the year to protect persons and property. For example, on October 21, a vigilante group defended a Monrovia community against armed robbers because the LNP were unarmed and slow to respond.

Arrest and Detention.—The law requires warrants to make arrests and provides that detainees either be charged or released within 48 hours; however, warrants were not always based on sufficient evidence, and detainees, particularly those without the means to hire a lawyer, often were held for more than 48 hours without charge. The law also provides for bail, but few suspects could afford it. Detainees have the right to prompt access to counsel and, if indigent, to have an attorney provided by the state, but the government did not ensure such access for all detainees.

On January 10, LNP officers arrested approximately 90 villagers who threatened to burn the Liberian Agriculture Company (LAC) rubber plantation, which planned to expand its operation into neighboring villages. The villagers did not want to relocate and were dissatisfied with LAC's financial settlement. The LNP detained the villagers in a jail cell designed for 12 persons and held them for more than 24 hours without food, water, or adequate toilet facilities. CIVPOL subsequently discovered the villagers and characterized their detention as "inhumane and illegal," noting that the LNP had prepared no arrest report or list of those detained. On January 11, the Ministry of Justice ordered the immediate release of the detainees, and the LAC expansion was stalled at year's end.

On September 30, LNP officers at a joint LNP and UNMIL–CIVPOL checkpoint beat and arrested the driver of a foreign embassy vehicle (see section 1.c.).

Unlike in the previous year, there were no reports that former rebel combatants arbitrarily arrested civilians and IDPs during the year.

No action was taken against former LURD combatants for arbitrarily arresting persons in June and August of 2004.

There were no reports of political detainees.

Although the law provides for the right of a person who is charged to receive an expeditious trial, lengthy pretrial and pre-arraignment detention remained serious problems. Trial delays were caused by judicial inefficiency, lack of court facilities and qualified judges, and corruption. In some cases the length of pretrial detention equaled or exceeded the length of sentence that could be imposed for the crime. Approximately 97 percent of the prisoners housed at Monrovia Central Prison were pretrial detainees. On September 30, the JPC reported that there were an estimated 40 inmates who had been jailed for more than 500 days without trial.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, judges were subject to political, social, familial, and financial pressures, and the judiciary was corrupt. Courts regularly received bribes or other illegal gifts from damages that they awarded in civil cases. Defense attorneys often suggested that their clients pay a gratuity to appease or secure favorable rulings from judges, prosecutors, jurors, and police officers. By statute members of the bar must be graduates of a law school and pass the bar examination; however, some judges and magistrates were not lawyers. On September 16, the Supreme Court ordered the closure of all noncommissioned justice of the peace courts; however, some courts were still operating at year's end. No replacement courts were in place at year's end. There were reports of executive branch influence over the judiciary.

The judiciary is divided into four levels, with the Supreme Court at the apex. All levels of the court system in Monrovia, including the Supreme Court, barely functioned. The Supreme Court appointed judges to counties outside of Montserrado but four counties still did not have a court house at year's end, and others were in disrepair. Although judges were assigned throughout the country, in some cases they were unable to hold court due to lack of security, supplies, or equipment. There were five qualified prosecutors and nine public defenders in the country.

Trial Procedures.—Trials are public and juries are used in circuit court trials but not at the magistrate level. Under the law, defendants have the right to be present, to consult with an attorney in a timely manner, and to have access to government-held evidence relevant to their case; however, in practice these rights were not always observed. Defendants in criminal trials enjoy a presumption of innocence and have the right to an attorney, to confront witnesses in a public trial, and to appeal adverse decisions, but many of these protections were not available to defendants who could not pay bribes. There was no effective system to provide public defenders, especially in rural areas. Some local NGOs provided legal services to indigents and others who had no representation. There continued to be long delays in deciding cases.

Traditional forms of justice administered by clan chieftains remained prevalent in some localities (see section 1.c.).

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for the right of privacy and the sanctity of the home and requires that police obtain a warrant or have a reasonable belief that a crime is in progress, or is about to be committed, before entering a private dwelling. The government generally respected these rights, and unlike in the previous year, there were no reports that police officers entered private homes, churches, and newspaper offices without warrants.

Police occasionally extorted money and goods from citizens, particularly at checkpoints.

Unlike in the previous year, there were no reports that former rebel combatants compelled communities to provide for them.

During the year the government ordered members of the Gio and Mano ethnic groups to leave the homes they occupied in Nimba and Lofa counties and return them to their Mandingo owners, who had fled the country during the civil war. The Gios and Manos refused to leave the homes, and the government did not forcibly restitute the properties to their Mandingo owners. A court case was ongoing at year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and unlike in the previous year, the government generally respected these rights in practice.

In 2004 there were reports that the NTLA threatened to arrest persons who criticized the legislative body or refused to appear before it, but there were no such reports during the year.

In Monrovia there were more than 30 newspapers that published during the year with varying degrees of regularity. Three were independent dailies, and nine ap-

peared at least twice a week. Most newspapers were printed by one printing facility, but other facilities opened during the year.

Due to the price of newspapers and transportation, the estimated 75 percent illiteracy rate, and road conditions elsewhere in the country, newspaper distribution generally was limited to the Monrovia region. As a result radio was the primary means of mass communication. There were 12 independent radio stations that regularly broadcast in Monrovia, 25 local stations, and 1 government-operated station. Radio stations operated without government restrictions.

There were three local television stations; however, television was limited to those who could purchase sets, generators, and fuel to provide electricity. For those persons and businesses with satellite capability, CNN, BBC, Skynews, and SABC Africa generally were available.

During the year political party members attacked journalists at political rallies. The attackers claimed that the journalists were members of the opposition. Some persons sustained minor injuries.

No action was taken during the year against Anti Terrorist Unit forces responsible for the January 2003 torture of Throble Suah, a reporter for the *Liberian Inquirer* newspaper.

Journalists reportedly extorted money from citizens by threatening to publish negative articles about them and accepted bribes from politicians to publish negative articles about their opponents. After the Press Union of Liberia changed management during the year, the union encouraged citizens to file complaints against newspapers that published false information.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for the right of peaceful assembly, and the government generally respected this right.

LNP, CIVPOL, and UNMIL troops used tear gas to disperse demonstrations during the year, and there were reports of police brutality. Unlike in the previous year, there were no reports that UNMIL troops beat demonstrators.

In January LNP officers used tear gas to disperse a demonstration at the Liberia Telecom Corporation; some demonstrators received minor injuries. At a political rally in September, police with batons beat persons after party supporters began fighting for t-shirts. In the beginning of October LNP officers used tear gas against their own superiors to protest their lack of regular pay. On November 11, following the release of the preliminary November 8 election results, UNMIL troops used tear gas to disperse a demonstration in support of presidential contestant George Weah.

No action was taken against former government security forces who forcibly dispersed and beat demonstrators in 2003, and none was considered likely.

Freedom of Association.—The law provides for the right of association, and the government generally respected this right in practice. There were 30 registered political parties. Dozens of civil society organizations, organized around themes such as human rights, women's issues, development objectives, poverty alleviation, health concerns, and worker's associations, were active.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. During the year respect for religious freedom continued to improve. Since taking office, the NTGL at all levels worked to protect this right in full and did not tolerate its abuse, either by governmental or private actors. Unlike in the previous year, differences between major religious groups did not result in mob violence.

All organizations, including religious groups, must register with the government; however, traditional indigenous religious groups were not required to register, and generally did not do so. Registration was routine.

Although the law prohibits religious discrimination, Islamic leaders complained of some discrimination against Muslims. During the voter registration process, Muslim Mandingos were sometimes asked to provide extra documentation to prove citizenship; election officials claimed the additional documentation was in response to attempts by some noncitizen Mandingos to register. Although Muslims held senior government positions, including four ministerial posts, many Muslims believed they were bypassed for lower level civil service positions. Some Muslims complained that only Christian holidays were officially observed.

Societal Abuses and Discrimination.—Some tensions existed between the major religious communities. The private sector in urban areas, particularly in the capital, gave preference to Christianity in civic ceremonies and observances, and discrimination against followers of other organized religions affected areas of individual opportunity and employment. Unlike in the previous year, ethnic, religious, and other differences between Muslim Mandingos and Christian non-Mandingos in Monrovia did

not result in mob violence. However, ethnic tensions—often resulting from unresolved property issues—continued in Lofa County between the Mandingo and Lorma ethnic groups. Throughout the year the Inter-Religious Council promoted dialogue between religious groups.

Incidents of ritualistic killings were reported during the year. Little reliable information was readily available about traditions associated with the practice in which body parts used in indigenous rituals were removed from the victim. The number of such killings was difficult to ascertain, since police often described deaths as accidents or suicides even when body parts were removed. It was believed that practitioners of traditional indigenous religions among the Grebo and Krahn ethnic groups concentrated in the southeastern counties most commonly engaged in ritual killings. The victims were usually members of the religious group performing the ritual, and often included women and children. Body parts removed from a member whom the group believed to be powerful were considered to be the most effective ritually.

On June 2, in Grand Gedeh County, ritualistic killings were reported, and in July residents of Zwedru demonstrated against an increase in ritualistic killings. During the year NTGL Chairman Bryant stated that he would personally sign the death warrant of anyone found legally guilty of a ritualistic killing; however, no one was prosecuted for ritualistic killings during the year.

There was no notable Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and unlike in the previous year, the government respected them in practice. As of year's end, government and UNMIL security forces effectively controlled all of the country, including all major border crossings. LNP officers reportedly subjected travelers to arbitrary searches and petty extortion at checkpoints in and around Monrovia; however, unlike in the previous year, ethnic Mandingos were not singled out for such harassment.

Unlike in the previous year, the government did not impose curfews.

The law prohibits forced exile, and the government did not use it.

Internally Displaced Persons (IDPs).—Relief agencies estimated that as of December, approximately 272 thousand IDPs had returned home since the end of the war, and approximately 54 thousand were awaiting repatriation in camps, settlements, and communities throughout the country. Conditions at most IDP camps were fair, but food, sanitation, and security were sometimes inadequate. During the year the government worked with international organizations to return IDPs to their homes and planned to resettle 15 thousand to 20 thousand IDPs per month. However, road conditions, elections, and intermittent funding gaps temporarily halted the return process and angered thousands of IDPs who planned to return home before the elections. Some IDPs chose to stay in camps because conditions were better than in the communities from which they came, while others remained to see whether peace would be sustained after the elections. Unlike in the previous year, there were no reports that former government and rebel combatants subjected IDP populations to rape, battery, arbitrary arrest, extortion, and theft. However, there were reports of rape in IDP camps, primarily committed by other IDPs or members of the surrounding community.

Approximately 190 thousand refugees from the country remained in neighboring countries, primarily in Sierra Leone, Guinea, Cote d'Ivoire, and Ghana. During the year UNHCR assisted the repatriation of approximately 35 thousand refugees, and another 30 thousand refugees returned to the country without assistance.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government generally cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and 1967 protocol.

Unlike in previous years, there were no reports that refugees also were subjected to abuse, primarily by former government and rebel combatants who had reorganized as gangs.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right during the year in presidential and parliamentary elections deemed generally free and fair by domestic and international observers.

Elections and Political Participation.—On November 23, the National Electoral Commission (NEC) declared Ellen Johnson-Sirleaf, who won 59.4 percent of the vote, the winner of the November 8 run-off presidential election; none of the 22 presidential candidates received the required 50 percent plus one vote to win in the October 11 election. October election voters selected 30 senators and 63 representatives. Congress for Democratic Change (CDC) candidate and runner-up George Weah received 40.6 percent of the vote in the November 8 run-off election.

Despite the international community's assessment that the elections were free and fair, Weah mounted a legal challenge and charged the NEC with electoral fraud. On December 16, the NEC concluded that the CDC had presented no convincing evidence of fraud, and that errors committed during the electoral process had a "negligible effect" on the outcome of the run-off election. The CDC did not appeal the decision. There were a few reports of violence and intimidation during the elections and many irregularities. Members of the Mandingo community complained of discrimination and harassment during the voter registration process, the NEC Chairwoman publicly criticized one of the presidential candidates, and presiding officers assisted illiterate voters after they had reached the voting booths.

The NEC registered 30 political parties, 22 of which ran presidential candidates in the election. Individuals and parties freely declared their candidacies, and membership in the dominant parties did not confer any formal advantage.

The state is highly centralized. The law provides that the head of state appoint county superintendents. Local governments had no independent revenue base and relied entirely on the central government for funds. As a result there was limited government functioning outside of Monrovia, and civil servants often waited for months to receive salaries. NGOs provided many basic services, including education, health, and public works. Local officials served mainly to lobby the central government.

Along with the election of the country's first female president, there were 3 female ministers in the NTGL, 4 women in the 26-seat NTLA, and 1 female supreme court judge. The head of the NEC, also a former supreme court justice, was a woman.

Government Corruption and Transparency.—Corruption was endemic throughout the government, and financial mismanagement and lack of accountability were serious problems. There was a widespread public perception of corruption in all branches and levels of government.

On September 9, the NTGL signed an agreement to implement the Governance and Economic Management Assistance Program (GEMAP), which calls for the provision of international financial controllers in key ministries and state-owned enterprises and requires full disclosure of governmental financial transactions. Such measures would be directed at purchasing and contracting practices, which lacked transparency and frequently did not include competitive bids.

The government dismissed or suspended a number of high-level officials for corruption. On March 14, the NTLA suspended its speaker, George Dweh, for allegedly embezzling $90 thousand (5.86 million ld). On April 12, the government suspended Orishall Gould, managing director of the National Social Security and Welfare Corporation, for the alleged embezzlement of more than $600 thousand (32.4 million ld). On August 3, the government charged J.D. Slanger, head of the Bureau of Maritime Affairs, with embezzling $3.5 million (189 million ld). After a few days of evading arrest, Slanger surrendered but was released on bail and believed to have left the country. On August 13, security forces arrested Alphonso Gaye, managing director of the Port Authority, and charged him with embezzling $600 thousand (32.4 million ld). Gaye was released on bail, and the case was pending trial at year's end.

On November 17, in a decision that generated widespread press criticism, the NTLA passed a law allowing legislators to take government vehicles for private use when they left office. In December legislators leaving office stripped the capitol building of desks, computers, chairs, and carpeting.

In 2004 the government suspended Police Director Massaquoi and Customs and Excise Commissioner Bennie on charges of corruption; however, neither case was prosecuted during the year.

The law provides for "no limitation on the public right to be informed about the government and its functionaries"; however, little government information was available, and there were few procedures for obtaining it. Since government officials

frequently circumvented established procedures, there also were few methods to track financial transactions.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

There were three coalitions of human rights groups: the National Human Rights Center of Liberia had nine member organizations; eight other groups comprised the Network of Human Rights Chapters; and four belonged to the Federation of Human Rights Organizations. The Human Rights and Protection Forum, an umbrella organization of 70 to 80 groups, also participated. These organizations sought to increase public discussion of human rights problems.

During the year the government worked to facilitate the free and safe passage of relief supplies by international NGOs and permitted visits by the UN Panel of Experts, the ICRC, and various UN agencies (see section 1.c.). Unlike in the previous year, there were no reports that former rebel combatants blocked the delivery of humanitarian supplies.

There were no developments in the 2003 case in which unidentified assailants assaulted and sexually abused three nieces of Ishmael P. Campbell, a human rights advocate and vice president of the Liberia Bar Association.

In 2004 the government established the INCHR to monitor compliance with human rights as provided for in the CPA and to promote human rights education in the schools, media, police, and military; however, the INCHR was largely ineffective due to insufficient funding.

In October Chairman Bryant announced the four female and five male members of the TRC, which was established to investigate human rights violations between January 1979 and October 2003 and to make recommendations about reparations, institutional reform, and prosecution of individuals. The TRC was scheduled to begin operation within three months of the induction of its nine members.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on ethnic background, race, sex, creed, place of origin, or political opinion; however, the government did not effectively enforce these provisions. There were no laws against gender discrimination, ethnic discrimination, or FGM. Differences involving ethnic groups, notably the Krahn, Mano, Gio, Lorma and Mandingo ethnic groups, continued to contribute to social and political tensions.

Women.—The law prohibits domestic violence; however, it was widespread and not seriously addressed by the government, the courts, or the media. Several NGOs continued programs to treat abused women and girls and to increase awareness of their rights. LNP officers received training on sexual offenses as part of their initial training. During the year UNMIL, CIVPOL, UNICEF, and the Sierra Leone police facilitated a 3-week training program for approximately 50 LNP investigators assigned to the Women's and Children's Protection Section that deals with sexual offenses.

On December 22, the NTLA passed legislation to strengthen existing rape laws. The new law provides sentences for rapists from seven years' to life imprisonment; accused rapists are ineligible for bail. Rape was common during the country's 14-year civil war, including in IDP camps. Few perpetrators were prosecuted due to a weak legal system, poor evidence, or social taboos against reporting sexual offenses. In December security forces reportedly arrested a traditional leader in Lower Margibi County for allegedly raping a nine-year-old girl and a Monrovian man for allegedly raping his step-daughter.

FGM traditionally was performed on young girls in northern, western, and central ethnic groups, particularly in rural areas. Because social structures and traditional institutions, such as the secret societies that often performed FGM as an initiation rite, were undermined by the war, many experts believed that the incidence of FGM had dropped to as low as 10 percent. However, since the end of the civil war, traditional societies were reestablishing themselves throughout the country, and the practice of FGM was believed to be increasing. The most extreme form of FGM, infibulation, was not practiced. The government took no action against FGM during the year.

Although prostitution is illegal, it was widespread.

The law does not prohibit sexual harassment, and it was a problem.

Women have not recovered from the setbacks caused by the war, when many schools were closed, and they were prevented from maintaining their traditional roles in the production, allocation, and sale of food. Thousands of women remained displaced, preventing them from pursuing livelihoods or education.

Women can inherit land and property, received equal pay for equal work, and were allowed to own and manage businesses. The government prohibits polygyny; however, traditional laws permit men to have more than one wife.

During the year professional women's groups—including lawyers, market women, and businesswomen—vocally expressed concern regarding government corruption, the economy, security abuses, rape, domestic violence, and children's rights.

Children.—The government generally was unable to provide for the education and health of children. Due to the poor condition of government schools, many children who attended school, particularly in Monrovia, went to private institutions. Education was compulsory until students reached 16 years of age. Many private schools still needed to be refurbished due to wartime damage. School fees remained relatively high, thereby making education unattainable for many school-age children. In both public and private schools, families of children often were asked to provide their own uniforms, books, pencils, paper, and even desks. According to a 2003 UN Children's Fund (UNICEF) report, more than half of school-age children did not attend school.

Throughout the year local and international NGOs reported widespread child abuse, particularly by parents. Traditional punishments were often physical and included beatings with sticks and straps. Sexual violence against children was a problem in some areas, according to a 2004–05 study by the National Child Rights Observatory Group.

FGM was performed primarily on young girls (see section 5, Women).

Child prostitution and trafficking were serious problems (see section 5, Trafficking).

More than 15 thousand children were disarmed and demobilized during UNMIL's 2003–04 DDRR program. During the year ICRC efforts to reunite children who had been separated from their families during the war, including child soldiers, continued. Since 2003 approximately 700 children were reunited with their families, and an estimated 400 children awaiting reunification remained scattered within the country and in refugee camps outside of the country, according to the ICRC. Former child soldiers who turned over their weapons were entitled to a three-month stay in an Interim Care Center (ICC), which offered medical aid, counseling, reading lessons, and help tracing families. Initially many children refused to leave the ICCs due to concerns for their personal safety and lack of schools or other support in their communities; however, during the year many more children were successfully repatriated to their home communities.

Unlike in the previous year, there were no reports that former rebel combatants forcibly conscripted persons, including children, to serve as porters, laborers, and sex slaves.

Child labor was a problem (see section 6.d.).

There were thousands of children living on the streets of Monrovia, but it was difficult to tell who were street children, former combatants, or IDPs. Nearly all youths witnessed atrocities, and some committed atrocities. There were 40 registered orphanages and many unofficial orphanages that served as transit points or informal group homes. Orphanages were underfunded and had difficulty providing basic sanitation, adequate medical care, and appropriate diet. Many orphans lived outside these institutions, which received erratic government funding and relied primarily on private donations. In September a special government task force, composed of 17 organizations including the UN and NGOs, promised to close 35 orphanages that were exploiting orphans.

Trafficking in Persons.—In June NTGL Chairman Bryant signed into law the country's first antitrafficking bill, which provides for criminal penalties ranging from one year to life in prison for traffickers; however, there were reports that persons were trafficked to, from, and within the country. Enforcement efforts were weak, but unlike in the previous year, the government did not obstruct the prosecution of suspected traffickers. One suspected trafficker was tried and acquitted during the year.

On September 7, the court acquitted a nightclub proprietress arrested in May 2004 on charges of trafficking three Moroccan women. The ministries of justice and labor have primary responsibility for combating trafficking.

NGO estimates of the number of persons trafficked to the country during the year ranged between 20 and several hundred. Victims were trafficked within the country and from neighboring countries for prostitution and labor. Young children were at

a particularly high risk for trafficking, especially orphans or children from extremely poor families. Trafficking victims were often subjected to harsh living and working conditions.

There were reports of forced labor; however, none had been confirmed. There also were reports of the recruitment of child soldiers, but the reports had not been confirmed, and the matter was under investigation at year's end.

Traffickers enticed their victims with promises of a better life. Parents of trafficking victims were persuaded that their children would have better food and educational opportunities in another country and that they would eventually return home.

The international NGO AG Charities worked with the government, local NGOs, and churches to provide assistance to a limited number of trafficking victims, and the LNP opened the Women's and Children's Protection Section, in part to address trafficking issues.

AG Charities raised awareness about trafficking during the year through rallies, marches, and education campaigns. An antitrafficking task force composed of NTGL representatives, international organizations, foreign governments, and local NGOs began work during the year to develop a national antitrafficking action plan.

Persons with Disabilities.—Although it is illegal to discriminate against persons with disabilities, in practice they did not enjoy equal access to public buildings or government services. No laws mandate access to public buildings, and streets, schools, public buildings, and other facilities were generally in poor condition and inaccessible to persons with disabilities. As a result of the civil wars, a large number of persons had permanent disabilities, in addition to those disabled by accident or illness. Persons with disabilities faced discrimination, particularly in rural areas. Babies with deformities often were abandoned. Some NGOs provided services to persons with disabilities. During the year special ballots were created to assist visually impaired voters.

National/Racial/Ethnic Minorities.—Although the law prohibits ethnic discrimination, it also provides that only "persons who are Negroes or of Negro descent" may be citizens or own land. Many persons of Lebanese and Asian descent who were born or have lived most of their lives in the country were denied full rights as a result of this racial basis for citizenship.

The country has 16 indigenous ethnic groups; each spoke a distinct primary language and was concentrated regionally. No ethnic group constituted a majority of the population.

During the year ethnic, religious, and other differences between Mandingos and non-Mandingos continued but did not result in mob violence, as in previous years. During the Taylor administration, many Mandingo citizens fled their homes as a result of discrimination, arbitrary arrests, and violence; however, during the year Mandingos continued to return to Lofa, Bong, and Nimba counties.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers, except members of the military and police, the right to associate in trade unions, and workers exercised this right in practice. The law also prohibits unions from engaging in partisan political activity. Unlike in previous years, there were no reports of government interference in union activities.

Union power was extremely limited. Since the country's workforce largely was illiterate, economic activities beyond the subsistence level were very limited, and labor laws tended to favor management. However, during the year more employees, particularly civil servants, were willing to challenge management, reportedly because they felt safer doing so than previously.

The law does not prohibit antiunion discrimination, but there were no reports of such discrimination during the year.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. With the exception of civil servants, workers have the right to organize and bargain collectively; these rights largely were untested during the year because of the lack of economic activity. There are no export processing zones.

A 1984 People's Redemption Council decree nullified labor laws that provided for the right to strike, but that decree has not been enforced for years. Due to the destruction of the economy and the estimated 80 percent unemployment rate, strikes were infrequent.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, there were reports that such practices occurred (see sections 5 and 6.d.). There also were reports of forced child labor, but none of these reports

were confirmed. There also were reports that local officials forced convicts to work for them.

Unlike in the previous year, there were no reports that former LURD and MODEL combatants used forced labor to serve as porters, sex slaves, and to dig gold and diamonds in territories they controlled.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under the age of 16 during school hours in the wage sector; however, due to extreme poverty and lax enforcement, child labor was a serious and widespread problem. The minimum age for employment was consistent with the mandatory age for education. The Ministry of Labor lacked the resources to carry out its mandate to monitor child labor. Throughout rural areas, particularly where there were no schools, small children continued to take care of younger brothers and sisters and to work on family subsistence farms. In urban areas children assisted their parents as vendors in markets or they hawked goods on the streets.

During the year there were media reports that a foreign rubber company employed child labor. The company, which had a minimum age requirement for employment of 18 years, claimed that some employees had sent their children to tap rubber in their place. A legal case against the company was filed in a foreign court.

Unlike in the previous year, there were no reports that former government and rebel combatants forced children to work in the alluvial mining industry. There also were no reports that rebel combatants forcibly conscripted persons, including children, to serve as porters, forced laborers, and sex slaves.

e. Acceptable Conditions of Work.—The law requires a minimum wage of approximately $0.20 (10 ld) per hour not exceeding 8 hours per day, excluding benefits, for unskilled laborers. The law also requires that agricultural workers be paid $1.20 (60 ld) for an 8-hour day, excluding benefits. Skilled labor has no minimum fixed wage. The highly competitive minimum wage jobs did not provide a decent standard of living for a worker and family. Families dependent on minimum wage incomes also engaged in subsistence farming, small-scale marketing, and begging. Unlike in previous years, the government generally paid civil servant salaries, but payment arrears grew in the second half of the year.

The law provides for a 48-hour, 6-day regular workweek with a 30-minute rest period per 5 hours of work. The 6-day workweek may extend to 56 hours for service occupations and to 72 hours for miners, with overtime pay beyond 48 hours.

The law provides for paid leave, severance benefits, and safety standards, but enforcement was targeted solely at foreign-owned firms that generally observed these standards. There were government-established health and safety standards that the Ministry of Labor was responsible for enforcing; however, the ministry rarely enforced them. The law does not give workers the right to remove themselves from dangerous situations without risking loss of employment.

Due to the country's continued economic problems, most citizens were forced to accept any work they could find regardless of wages or working conditions. The Ministry of Labor lacked the resources to monitor compliance with labor laws.

MADAGASCAR

The country is a multiparty democracy with a population of approximately 18 million. President Marc Ravalomanana, who was elected in 2001 amid widespread allegations of fraud, and his party, Tiako-I-Madagasikara (TIM), dominated political life. The 2002 legislative elections, which international observers judged as generally free and fair, resulted in an overwhelming victory for TIM and its alliance partners. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens and continued its efforts to combat trafficking and to curb widespread official corruption; however, serious human rights problems—some of which were exacerbated by widespread poverty—continued, including:

- security force use of excessive force, which resulted in deaths and injuries
- harsh prison conditions, which resulted in deaths
- arbitrary arrest of demonstrators and opposition politicians
- lengthy pretrial detention
- restrictions on freedom of speech and of the press
- forcible dispersion of demonstrators, which resulted in injuries

- restrictions on freedom of religion
- official corruption
- societal discrimination and violence against women
- trafficking in women and girls
- child labor, including forced labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces killed criminal suspects and other persons.

In March security forces used grenades and machine guns during the apprehension of three alleged kidnappers, all of whom were killed. One minor was killed and another injured in this operation. A government investigation claimed that security forces had used appropriate force. Also in March prison guards at Tsiafahy prison killed three inmates during an escape attempt.

On May 7, Jone Yvon Hajaniaina Rafanomezantsoa died in police custody after killing two persons in a traffic accident. Police officials charged that Rafanomezantsoa committed suicide by banging his head against his cell wall; however, family members subsequently released autopsy photos that were inconsistent with suicide. No investigation had been conducted by year's end.

In August a gendarme in Ikelihorombe killed 10 persons accused of cattle theft although local judicial authorities had cleared the 10 of all charges. An investigation was being conducted at year's end.

On October 21, National Assembly Deputy Herihajaina Randrianirina was convicted of the March 2004 murder of a gendarme officer and sentenced to seven years of forced labor.

b. Disappearance.—There were no reports of politically motivated disappearances.

Several members of the Indo-Pakistani community were kidnapped; the motives appeared to be criminal, and the victims generally were released after payment of ransom.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution provides for the inviolability of the person; however, security forces subjected prisoners to physical abuse.

Police forcibly dispersed demonstrators, which resulted in injuries (see section 2.b.).

In February four grenades exploded outside judicial offices in Antananarivo. Press reports claimed the perpetrators intended to intimidate striking members of the Magistrates' Union (see section 6.b.).

The remaining detainees held in connection with the June 2004 grenade attacks in Antananarivo, Tamatave, and Fianaranstsoa were released without charge. The perpetrators in the 2004 Mahajunga grenade attack were sentenced and released. The trial of the suspects in the Tulear grenade attack was completed; the perpetrators, who were released on bail, were awaiting judgment at year's end.

Prison and Detention Center Conditions.—Prison conditions were harsh and life threatening. The country's 99 facilities, which were built for approximately 13 thousand prisoners, held 20,294 at year's end, according to the Ministry of Justice. The prison in Ambositra had a capacity of 80 inmates but held 400. Once tried, prisoners were required to pay a court fee before receiving their judgment. Prisoners unable to pay the fee were returned to jail, which contributed to overcrowding. Prison cells averaged less than 1 square yard of space per inmate, and a prisoner's diet consisted of 100 grams of cassava or rice per day. Families and nongovernmental organizations (NGOs), including the Catholic Prison Chaplains, supplemented the daily rations of some prisoners. Church leaders and NGOs reported that rape was commonplace in the prisons and often used by prison guards and other inmates to humiliate prisoners. Prisoners could be used as forced labor (see section 6.c.).

Medical care was inadequate. The International Committee of the Red Cross (ICRC) and the Ministry for Health and Family Planning provided disinfection services to prevent the outbreak of epidemics; however, 144 prisoners died from malnutrition, disease, and neglect between January 1 and September 30.

Juveniles were not always held separately from the adult prison population, and some preschool-age children shared cells with their incarcerated mothers. Approximately 480 of the country's 20,294 prisoners were under 18. Pretrial detainees were not always kept separate from the general prison population.

The government generally permitted independent monitoring of prison conditions by the ICRC and some NGOs, and such visits occurred during the year.

d. Arbitrary Arrest or Detention.—The law provides for due process for persons accused of crimes and prohibits arbitrary arrest and detention; however, the government did not always respect these provisions in practice.

Role of the Police and Security Apparatus.—The minister for public security heads the national police and is responsible for law and order in urban areas. The Gendarmerie Nationale, overseen by the Ministry of National Defense, is responsible for security in all other areas of the island.

The national police and gendarmerie were ineffective, in part due to lack of training and equipment, low salaries, and rampant corruption. During the year the government prosecuted security force members for corruption. In January the Independent Anticorruption Bureau (BIANCO) ordered the arrest of a police officer for soliciting bribes. In February three army officers were charged with trafficking in contraband; two of the three were fined and sentenced to six months' imprisonment.

Arrest and Detention.—Although the law provides that arrest warrants be obtained in all cases except those involving hot pursuit, often persons were detained and jailed on no more than an accusation by another. Defendants have a general right to counsel and the right to be informed of the charges against them, but the government was only required to provide counsel in cases in which indigent defendants faced charges carrying sentences greater than five years. A system of bail exists, but was not available to many defendants in practice. Magistrates often resorted to an instrument known as a retaining writ ("mandat de depot") by which defendants were held in detention for the entire pretrial period.

During the year security forces arrested student demonstrators, religious leaders, and opposition politicians (see sections 2.b., 2.c., and 3).

On September 23, Victor Hong, president of the Families of Persons Arrested During the 2002 Political Crisis Association, was released for lack of evidence. Hong had been arrested in 2004 for organizing a demonstration without a permit and for "threatening state security" by loaning a vehicle to an opposition colonel who used it during the 2002 political crisis. The trial court sentenced him to 5 months' imprisonment, which he served, for organizing the demonstration and 42 months' imprisonment, which was reduced during the June 26 amnesty, for loaning the vehicle. In September the appeals court released him for lack of evidence on the vehicle charge.

There were no reports of political detainees.

Long pretrial detention was a serious problem. The law mandates that a criminal suspect be charged or released within 48 hours of arrest; however, during the year the government detained individuals for significantly longer periods of time before charging or releasing them. In April the press highlighted the case of a woman who had been in pretrial investigative detention for over five years.

In December the Ministry of Justice reported that 14,185 persons, or approximately 70 percent of the entire prison population, were in pretrial detention. Poor record keeping, lack of resources, and the difficulty of access to remote parts of the island hindered the monitoring of pretrial detainees. Despite legal protections, investigative detentions often exceeded one year. Many detainees spent a longer period in investigative detention than they would have spent incarcerated following a maximum sentence on the charges faced.

Amnesty.—The government granted 3,742 pardons during the year. In January the Ministry of Justice reported that 835 inmates were eligible for pardon and 1,698 inmates would receive sentence reductions. On June 26, President Ravalomanana announced additional pardons and sentence reductions for 4,395 prisoners. Most pardons were reserved for those who had been incarcerated for nonviolent crimes and had served at least 15 years or who were over 70 years of age.

e. Denial of Fair Public Trial.—Although the constitution provides for an independent judiciary, the judiciary was susceptible to executive influence at all levels and at times was corrupt. During the year the government withheld judicial salaries in response to a magistrates' strike (see section 6.b.).

In September a judge was suspended for one year for having solicited a $8 (17 thousand ariary) bribe from the family of a detained prisoner.

The judiciary is under the Ministry of Justice and has four levels. Courts of first instance hear civil cases and criminal cases carrying limited fines and sentences. The court of appeals includes a criminal court of first instance for cases carrying sentences greater than five years. The supreme court of appeals hears appeals of cases from the court of appeals. The High Constitutional Court reviews the constitutionality of laws, decrees, ordinances, and electoral disputes. The judiciary also includes specialized courts designed to handle matters such as cattle theft.

Trial Procedures.—The law provides defendants with the right to a full defense at every stage of the proceedings, and trials are public. Defendants have the right to be present at their trials, to be informed of the charges against them, to confront witnesses, and to present evidence. The law provides for a presumption of innocence; however, the presumption of innocence was often overlooked. Juries were used only in labor dispute cases. A 2003 Catholic Relief Services (CRS) report stated that the human rights of a person charged with a crime were often violated, and that there was a "large gap between the laws that served to protect the rights of the accused and the implementation of these laws in fact."

Military courts are reserved for the trial of military personnel and generally follow the procedures of the civil judicial system, except that military officers are included on jury panels. Defendants in military cases have access to an appeals process. A civilian magistrate, usually joined by a panel of military officers, presides over military trials.

The law provides traditional village institutions with the right to protect property and public order. An informal, community-organized judicial system called *"dina"* was used in some rural areas to resolve civil disputes between villagers over such issues as cattle rustling. The law limits *dina* remedies to monetary damages. The *dina* process does not ensure internationally recognized standards of due process; however, there were no reports that *dina* resorted to sentences involving physical force or loss of liberty. *Dina* decisions may be appealed through formal judicial channels to a court of general jurisdiction or to the Office of the Mediator, which investigated and sought redress through formal judicial authorities.

Political Prisoners.—Of the 347 persons originally detained for their role in the 2002 crisis, 234 were released, 75 were pardoned, and 6 died during detention; 32 remained in prison at year's end. On March 24, General Boba, a former senior gendarmerie official imprisoned for "undermining national security," died.

On December 22, opposition leader and National Assembly deputy Jean Eugene Voninahitsy was sentenced to two years' imprisonment and a three thousand dollar (6 million ariary) fine for "trafficking influence". Observers suspected the conviction was politically motivated, noting that such a charge should have involved BIANCO, which played no role in the case. Voninahitsy, who was in prison at year's end, announced his intention to appeal.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and while the government generally respected these provisions, security forces sometimes searched the homes and offices of opposition leaders.

On March 22, police searched the Antananarivo residence and office of Renée Rajaonarivelo, wife of Pierrot Rajaonarivelo, leader of the opposition Alliance for the Rebirth of Madagascar (AREMA), who was living in self-imposed exile abroad. Rajaonarivelo said she did not file a complaint to avoid further harassment.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Although the constitution provides for freedom of speech and of the press, the government limited these rights in practice. There were reports that some government officials pressured the media to curb its critical coverage of alleged government malfeasance and intimidated journalists. Journalists practiced self-censorship.

There were 12 privately-owned major daily newspapers and many other privately-owned national and local news publications that published less frequently. The government owned the only nationwide television and radio networks. There were approximately 229 radio stations, 120 of which were privately owned, and 29 television stations, 12 of which were privately owned. Widespread illiteracy and a poorly developed system for distributing publications printed in the capital limited the effect of print media.

During the year several media associations criticized the government for the 2004 closure of radio stations and for intimidating journalists through lawsuits, imprisonment, fines, and death threats.

In March the court convicted *Gazette de la Grande* Ile publisher Lola Rasoamaharo of libel and sentenced him to two months' imprisonment and a $1,550 (3 million ariary) fine. Rasoamaharo had referred to the National Assembly vice president as a "real cretin" in one of his articles. *Gazette* editor James Ramarosaona was sentenced to one month in jail after the magazine published a story accusing a state-owned real estate agency of embezzlement. Rasoamaharo and Ramarosaona were granted amnesty on June 26.

In May the government refused to renew the resident visa of Radio France International correspondent Olivier Peguy, who criticized the Ravalomanana government's actions during the 2002 political crisis. In June the international NGO Com-

mittee to Protect Journalists wrote an open letter to President Ravalomanana urging the government to reissue Peguy's visa.

Radio Say in Toliara, which the government closed in June 2004 for demonstrating a "lack of respect for the president of the National Assembly" and for "inciting tribal hatred," remained closed at year's end.

On October 13, Tamatave radio stations Radio Feon'i Toamasina, Radio Sky FM, and Radio ny Antsika, all of which the government closed in 2004 after the stations broadcast opposition criticism of the president, were permitted to reopen. The two journalists who were detained after appearing on the radio broadcasts were convicted as accomplices in threatening state security, but were released by the judge presiding over the case.

Many journalists privately admitted practicing self-censorship, particularly at the local level, and there were reports that journalists were threatened with imprisonment, libel suits, or harm to their families if they criticized government or opposition officials.

Government agencies, private companies, and political parties sometimes bribed journalists, who generally received minimum or below minimum wages, to ensure positive coverage of certain events.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of assembly, but the government at times limited this right. Police forcibly dispersed several student demonstrations during the year.

On April 20, at the University of Antananarivo, police launched tear gas canisters and smoke grenades into a crowd of approximately 300 students protesting proposed educational reforms. Eighteen students were injured, and 16 were arrested. On May 9, student leader John Dorien, who organized the demonstration, was given a three-month suspended sentence and released.

On May 16, eight students at the University of Majunga were arrested as they marched to the administration building to collect their scholarships. On July 12, police launched tear gas canisters into a crowd of students protesting the May 16 arrests.

On May 18, police launched tear gas canisters into a crowd of approximately 100 students protesting the University of Tamatave's failure to disburse scholarship funds. No injuries were reported, but 8 students were arrested for vandalizing vehicles and disturbing public order: 6 were released; and 2 were sentenced to 2 months' imprisonment and a $4.00 (10 thousand ariary) fine. On September 7, the two were released.

No investigation was conducted into the June 2004 forcible dispersion of reservists or any of the 2003 forcible dispersions of demonstrators. On June 28, the five reservist demonstrators arrested in 2004 were released upon completion of their one-year sentences.

In December the Mayor of Antananarivo announced that all public street demonstrations would be prohibited. Defying the ban, opposition leaders gathered on December 17 to demonstrate. Gangs wielding rocks beat and chased the demonstrators, four of whom were injured.

Freedom of Association.—The constitution provides for the right of association and permits citizens to organize political parties and associations; however, the constitution also explicitly forbids associations that "call into question the unity of the nation, and those that advocate totalitarianism or ethnic, tribal, or religious segregation." There were numerous political parties.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice; however, the government banned the New Protestant Church in Madagascar (FVPM) during the year.

The law mandates that religious organizations register with the Ministry of Interior. Religious organizations that fail to meet the ministry's registration requirements are free to register as simple associations, which do not have the right to receive gifts or hold religious services. Ministry of Interior officials estimate there are more than one thousand religious organizations in the country operating without official state recognition, including both associations and unregistered organizations.

On September 16, the government banned the FVPM, led by Pastor Randrianatoandro, for illegally occupying churches assigned to the mainstream Reformed Protestant Church of Jesus Christ in Madagascar (FJKM); the ban was implemented in November. The FVPM broke away from the FJKM church in 2002 and took approximately 300 thousand worshippers with it. The FPVM claimed the owners offered the buildings, most of which were wood and thatch huts, to the church. The FPVM challenged the ban in court, which refused to rule on the ban, charging

that only President Ravalomanana could overturn the decision to ban a church. President Ravalomanana was a lay vice president in the FJKM, and some observers charged that the closure of the church was politically motivated.

In 2002 the government had denied the Universal Church of the Kingdom of God (EURD's) application for recognition as a religious association because its leadership consisted entirely of foreign nationals. The government counseled the EURD to elect a local board and reapply, but it never filed a new application. On January 28, the Ministry of Justice issued an order banning all EURD churches nationwide and the expulsion of all foreign pastors; all EURD pastors had left the country by year's end. In August 2004 the Fianarantsoa Prefecture suspended the EURD for inciting public disorder by allegedly burning a copy of the Bible during a ceremony in which "Satan's materials" were burned.

In April the mayor of Antananarivo dispatched police units to break up an EURD service being held in a private residence. The group protested, since the judicial order only called for the closure of EURD churches, not the interdiction of private practice of one's faith. Many EURD followers continued to worship secretly in their homes.

Societal Abuses and Discrimination.—The country has a very small Jewish population; there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides for these rights, and the government generally respected them in practice. The fear of crime restricted travel in some areas, especially at night.

The constitution does not specifically prohibit forced exile; however, the government did not use it. Former President Ratsiraka and other members of his administration remained in self-imposed exile at year's end.

Certain members of the minority Karana community have been denied Malagasy citizenship, are effectively stateless, and can not obtain travel documents (see section 5).

Protection of Refugees.—The law does not include provisions for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, but the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum and cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting the small number of refugees in the country.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully; however, some degree of turmoil accompanied the 3 changes of government that occurred over the last 14 years.

Elections and Political Participation.—The 2002 legislative elections and four follow-up contests held in 2003 resulted in a substantial majority (106 of 160) of deputies elected from the president's TIM party and its alliance partner, the pro-Ravalomanana National Alliance; only 6 of the country's 160 political parties were represented in the National Assembly. International observer teams found the 2002 election process to be transparent and the results credible, despite some organizational problems.

President Marc Ravalomanana was elected in 2001 amid widespread allegations of fraud. Until May 2002, when President Ravalomanana was declared president, former president Didier Ratsiraka and the AREMA party disputed the election results, which led to widespread violence and numerous deaths. President Ravalomanana regained control over the country in July 2002 and Ratsiraka went into exile.

Political and business leaders disproportionately influenced the administration of the country. Political parties coalesced around a single powerful person, usually the president. *Pensee Unique*, a national belief in which dissent was viewed as an attack on societal harmony, made an effective opposition difficult in practice.

On May 20, security forces arrested five opposition members for organizing actions to "destabilize state safety." The members were printing flyers and preparing for an opposition rally, but weapons were found on the premises.

In July a person claiming to be an assistant to Senator Arsene Velo made a death threat against National Assembly Deputy Boniface Zakahely for allegedly slandering the prime minister.

A series of grenade attacks during the year may have been politically motivated (see section 1.c.).

There were 8 women in the 160-member National Assembly. One of the 22 appointed regional administrators was a woman.

There were six Muslims, one Hindu, and two Chinese-Malagasy members in the National Assembly. Chinese Malagasy and Muslims also held civil service positions. Residents of Indo-Pakistani origin were not represented in the government because few had citizenship (see section 5).

Government Corruption and Transparency.—The government continued its efforts to curb official corruption, which remained a serious problem throughout the government. In July 2004 the president announced a national anticorruption strategy that included the establishment of BIANCO, an anticorruption tribunal, and a network of drop boxes for public complaints in each of the country's 111 districts. During the year BIANCO officials visited at least one region of the country every 15 days to publicize BIANCO's mission and to conduct investigations. From January through November, BIANCO received 7,573 complaints. BIANCO investigated 479 cases, which led to the arrest of 197 persons, including a ministry director general, government inspectors, mayors, and members of boards of directors of public enterprises. Seven postal administrators were charged with embezzlement, a former fiscal advisor was charged with corrupt practices, and the city manager of Tulear was charged with mismanagement of city funds. Of the 197 arrested, 71 were placed in preventive detention and 123 were released on bail.

There are no laws that provide for public access to government information. Persons requesting public documents endured a lengthy bureaucratic process, in part due to a lack of standardized record system.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The government permitted visits during the year by the ICRC and NGOs.

The constitution requires the government to create apolitical organizations that promote and protect human rights. However, the governmental National Commission for Human Rights has been inactive since 2002, when its members' terms expired. The government has offered no explanation for the delay in naming replacements.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits all forms of discrimination; however, no specific government institutions were designated to enforce these provisions.

Women.—The law prohibits domestic violence, but domestic violence against women was a problem. Police and legal authorities generally intervened when physical abuse was reported. As many as 50 percent of women experienced domestic abuse, according to media reports.

The law prohibits rape, and penalties for rape ranged from 5 to 10 year's imprisonment. Rapes committed against children and pregnant women were punishable by hard labor. An additional two to five years' imprisonment could be added in the case of assault and battery.

Prostitution was not a crime, but related activities, such as pandering and incitement of minors to debauchery, are criminal. In September President Ravalomanana warned foreigners not to visit for sexual tourism.

There were reports of trafficking in women (see section 5, Trafficking).

Sexual harassment is against the law, but the practice was widespread, particularly in export processing zone (EPZ) factories.

On December 14, an employee of a local automotive company was sentenced to 12 months' imprisonment and a $1 thousand (2 million ariary) fine for sexual harassment.

Under the law wives have an equal voice in selecting the location of the couple's residence and generally received half the couple's assets if the marriage was dissolved. Widows with children inherit half of joint marital property. In practice these requirements were not always observed. A tradition known as "the customary third," which provided the wife with the right to only one-third of a couple's joint holdings, was occasionally observed.

There was relatively little societal discrimination against women in urban areas, where many women owned or managed businesses and held management positions in private businesses and state-owned companies. In 2003 the Ministry of Labor reported that women owned 30 percent of formal sector companies and 53 percent of informal sector companies. However, women may not work in positions that might endanger their health, safety, and morals.

A number of NGOs focused on the civic education of women and girls and publicized and explained their specific legal protections; however, due to illiteracy, cultural traditions, and a lack of knowledge about their rights, few women lodged official complaints or sought redress when their legal rights were compromised.

Children.—The ministries of health, education, and population are responsible for various aspects of child welfare, but a lack of funding resulted in inadequate services and precluded the compilation of reliable statistics.

The constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory; however, according to a 2004 World Bank study, only 68 percent of primary school-age children were enrolled (see section 6.d.). In September and October, the government distributed one million sets of school supplies to primary school children nationwide as part of the Education for All program.

In June 2004 the UN Children's Fund (UNICEF) and the government launched a three-year campaign to improve birth registration rates. The country has no uniform birth registration system, and unregistered children were not eligible to attend school or obtain health care services. A 2000 UNICEF study found that approximately 2.5 million children under 17 were not registered.

The legal age for marriage without the requirement of parental authorization is 18 for both boys and girls. The law allows the marriage of girls at 14 and boys at 17 with parental authorization. Courts may approve marriages at even earlier ages with parental authorization for "serious reasons" such as pregnancy.

In rural areas, most marriages were not legal civil unions, at least at the outset. Many couples were united in traditional local ceremonies, often at an early age. Some of these unions were subsequently formalized in civil ceremonies when the couple had sufficient money or needed evidence of marriage for other purposes. In rural areas young girls were pressured to move out and marry soon after puberty to test their ability to become pregnant, a virtual prerequisite for marriage. Parents built one-room "homes" for their daughters to begin "courting," and the daughters entered into informal traditional unions soon thereafter.

In major cities, underage marriage existed but was far less prevalent. Urban girls tended to stay in school longer than their rural counterparts. There were anecdotal reports that parents arranged marriages for their underage daughters with more affluent older men in exchange for money.

Child prostitution was a problem. According to a continuing study conducted by the International Labor Organization's International Program for the Elimination of Child Labor (IPEC), there were approximately 700 to 800 child prostitutes in the city of Nosy Be and more than 2 thousand in Toamasina. Some child prostitutes reported earning several times the average per capita monthly income. Acute poverty and lack of family support were the primary reasons that children engaged in prostitution.

There were reports of child trafficking (see section 5, Trafficking).

Child labor, including forced labor, was a problem (see section 6.d.).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and there were reports of trafficking in women and girls for prostitution between the country and the neighboring islands of Mauritius and Reunion. Children also were trafficked from rural areas to work as prostitutes in urban centers. Traffickers may be prosecuted under provisions of the penal and labor codes that prohibit pedophilia and sexual tourism; however, there were no reports during the year of arrests for trafficking. The Ministry of Justice is responsible for enforcement.

There were several cases of kidnapping, and politicians from the south claimed that children were being sold for up to $3,200 (16 million ariary) for overseas adoption or forced labor.

During the year the government took several steps to combat trafficking. In May the government passed a new adoption law, in part to protect children from being trafficked under the guise of adoption. The government also continued to construct welcome centers for the victims of trafficking and forced labor (see section 6.d.). The government listed the fight against trafficking as one of its key objectives and created a strategy during the year to address child labor and trafficking in each part of the country.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities, and there was no official discrimination against persons with disabilities in employment, education, or in access to state services. The law broadly defines the rights of persons with disabilities and provides for a national commission and regional subcommissions to promote the rights of persons with disabilities; however, neither a national commission nor the regional sub-commissions had been established by year's end. International NGOs and numerous local associations, including the Collective of Organizations Advocating for Persons with Disabilities, advocated for legislation mandating equal access for persons with disabilities and the establishment of the national commission.

There were 24 educational facilities in the country for persons with disabilities. Unlike in the previous year, there were no reports that students were denied the opportunity to take entrance exams because of their disabilities.

In 2004 the government launched an effort to employ persons with disabilities at national and regional levels of government and ordered that persons with disabilities be provided with medical treatment in public and private medical centers; employment without discrimination; eligibility for civil service vacancies; and education at public schools and vocational training centers, which were responsible for ensuring accessibility. Budget cutbacks resulted in little support for these initiatives during the year. A study conducted during the year by Handicap International found that persons with disabilities seldom had access to health care or received professional training and were often the victims of physical violence, particularly women and girls.

National/Racial/Ethnic Minorities.—The Malagasy, of mixed Malay-Polynesian, African, and Arab descent, were divided into 18 tribes, a term without pejorative overtones in the country. The vast majority of Malagasy spoke a single Malagasy language. None of the 18 tribes constituted a majority. There were also minorities of Indo-Pakistani, Comorian, and Chinese heritage in the country.

A long history of military conquest has resulted in the political dominance of highland ethnic groups of Asian origin, particularly the Merina, over coastal groups of African ancestry. This imbalance has fueled an undercurrent of tension between citizens of highland and coastal descents. Ethnicity, caste, and regional solidarity often were factors in hiring practices.

An economically significant Indo-Pakistani community, commonly referred to as Karana, has been present for over a century. Traditionally engaged in commerce, the Karana number approximately twenty thousand persons. Few hold citizenship, which must be acquired through a native-born Malagasy mother, and many believed they were denied full participation in society and subject to discrimination. In June the president accused certain members of the Karana community of being involved in money laundering and political destabilization. Observers noted that there was no evidence to support the president's charge.

Section 6. Workers Rights

a. The Right of Association.—The law provides that public and private sector workers may establish and join labor unions of their choosing without prior authorization, and workers did so in practice. Essential service workers, including police and military personnel, may not form unions. Unions were required to register with the government, and registration was granted routinely. Ministry of labor statistics indicate that 14 percent of workers in EPZ companies and less than 10 percent of all workers were unionized. Between 70 and 80 percent of the workforce was engaged in agriculture. Despite the existence of several public employees' unions, few public employees were union members.

The law prohibits discrimination by employers against labor organizers, union members, and unions; however, a December 2004 CRS report on working conditions in the EPZs indicated that some employees did not join unions due to fear of reprisal. In the event of antiunion activity, unions or their members may file suit against the employer in civil court.

b. The Right to Organize and Bargain Collectively.—The law provides for unions to conduct their activities without interference, and the government generally respected this right in practice. The law also provides for the right of workers to bargain collectively, but collective bargaining agreements remained rare. The government set civil servant wages and endorsed minimum wages proposed by the private sector (see section 6.e.).

The law provides for the right to strike, including in EPZs, and workers exercised this right during the year. The law calls for workers to exhaust all options including conciliation, mediation, and arbitration before resorting to strikes.

Workers in essential services have a recognized but restricted right to strike. During the year the government withheld judicial salaries in response to a magistrates'

strike that began in February and had not been resolved by year's end; however, the salaries were reinstated. The magistrates were demanding better salaries and retirement benefits. The Ministry of Justice claimed that the magistrates could not strike legally because they were responsible for ensuring public security. Some magistrates had returned to work even though their demands had not been met by year's end.

c. Prohibition of Forced or Compulsory Labor.—The labor code prohibits forced or compulsory labor, including by children, but at times the government did not respect this prohibition, specifically with respect to prison labor. Prisoners and pretrial detainees were hired out to private firms and government officials who provided basic amenities such as food and clothing in return for the prisoners' labor. A 2004 interior ministry study highlighted cases of forced labor among *pousse-pousse* (rickshaw) drivers, petty merchants, and apprentices.

Forced labor by children occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits persons under age 18 from working at night and at sites where there is an imminent danger to health, safety, or morals; however, child labor was a problem. The minimum age for employment was 15 years of age.

Nearly 13 percent of urban children and 36 percent of rural children between the ages of 10 and 14 were intermittently employed, the vast majority on family farms. Children in rural areas generally dropped out of school to help on family farms, and urban children often worked as domestic laborers and servants. In the agricultural sector, children on family subsistence farms may begin work at an even younger age. In cities, many children worked in occupations such as transport of goods by rickshaw, petty trading, and begging. Conditions were often harsh. In 2003 IPEC reported that children as young as eight years of age were being used in mines because they could maneuver in cramped spaces more easily than adults. During the year children as young as three years old were seen using hammers to break rocks in stone quarries, according to media reports.

The government enforced child labor laws in the formal economic sector by means of inspectors from the Ministry of Civil Services; however, enforcement in the much larger informal sector remained a serious problem.

During the year the government continued its efforts to combat forced child labor and trafficking (see section 5.). In February the government increased labor code fines and prison sentences for employers convicted of using child labor. In June 2004 the Ministry of Labor approved a 15-year national plan to combat the worst forms of child labor, citing child prostitution, stone quarry work, salt marsh work, domestic labor, gemstone mining, agriculture, and commercial fishing as areas of particular concern. A national committee made up of high-level government, donor, civil society, and religious group representatives met during the year to raise public awareness and coordinate the national campaign.

During the year the government opened welcome centers in Tamatave and Tulear centers for the victims of trafficking and forced labor. Since July 2004 the welcome centers have rescued more than 120 children employed in the worst forms of child labor, including prostitution, and reintroduced many victims into the educational or vocational training system.

e. Acceptable Conditions of Work.—The Labor Code and its implementing legislation prescribe working conditions and minimum wages, which were enforced by the Ministry of Civil Service, Labor, and Social Laws. The law has separate provisions for agricultural and nonagricultural work.

The monthly minimum wage was $25.30 (50,600 ariary) and did not provide a decent standard of living for a worker and family, particularly in urban areas. Although most employees knew what the legal minimum wages were, those rates were not always paid. High unemployment and widespread poverty led workers to accept lower wages.

The standard workweek was 40 hours in nonagricultural and service industries and 42½ hours in the agricultural sector. Legislation limited workers to 20 hours of overtime per week, but employees often were required to work until production targets were met. A 2004 CRS report on working conditions in the EPZs indicated that 86 percent of employees surveyed regularly worked more than 40 hours per week. In some cases this overtime was unrecorded and unpaid.

The law sets rules and standards for worker safety and worksite conditions. In December the Ministry of Labor hired 23 new labor inspectors, bringing the total number to 85, which was sufficient to cover only the capital effectively. If violators do not remedy cited violations within the time allowed, they may be sanctioned legally or assessed administrative penalties. CNAPS, the country's equivalent of the Social Security Administration, published reports on workplace conditions, occupa-

tional health hazards, and workplace accident trends. Workers did not have an explicit right to leave a dangerous workplace without jeopardizing their employment.

MALAWI

Malawi is a multiparty democracy with a population of approximately 11.5 million. In May 2004 citizens elected Bingu wa Mutharika of the ruling United Democratic Party (UDF) as president, and the UDF won a majority in the parliament. Constitutional power is shared between the president and the 193 National Assembly members, of whom 187 were elected in 2004. International observers noted substantial shortcomings in the elections, including inequitable access to the state-owned media, the ruling party's use of state resources to campaign, and poor planning and administration by the Malawi Electoral Commission (MEC). On February 5, President Mutharika resigned from the UDF and on April 14 formed the Democratic Progressive Party (DPP). On October 18, the National Assembly adopted impeachment procedures, which were under legal review by the court at year's end. On October 20, an impeachment motion was filed against the president for alleged legal violations, including election irregularities, the appointment of the head of the Malawi Police Service without National Assembly approval, and the use of state funds to establish the DPP. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were problems in some areas. HIV/AIDS and severe food shortages affecting as many as four million persons exacerbated these problems. The following human rights problems were reported:

- use of excessive force by police
- mob violence
- harsh and life-threatening prison conditions
- arbitrary arrest and detention
- lengthy pretrial detention
- limits on freedom of speech and press
- limits on freedom of assembly
- societal discrimination and violence against women
- child abuse
- trafficking in persons
- forced child labor
- limits on workers' rights

The government took significant steps to punish human rights abusers and investigate corruption. An inspection of a police station in Karonga by the inspector general of the police led to a one-year imprisonment of two policemen who abused detainees. The Mutharika administration continued an ambitious anticorruption campaign, arresting and indicting several high-ranking officials. Leaders increasingly spoke out against exploitative and hazardous child labor practices. Stiff penalties were issued to child traffickers.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports of politically motivated killings by the government or its agents; however, brutal and unlawful police treatment led to the death of two juveniles.

On June 6, a 12-year-old boy arrested on suspicion of stealing money from a fellow bus passenger died in police custody in Ngabu. The boy's mother claimed that he had been tortured and assaulted by police. The Malawi Human Rights Commission (MHRC) found a strong correlation between police treatment of the boy and the decline in the boy's health culminating in his sudden death. The Minister of Home Affairs and Internal Security stated the government condemned the alleged torture. The government promised to conduct an inquiry into the case. A police officer was charged with murder; he was denied bail and awaited trial at year's end. On June 7, police shot and killed a 16-year-old boy at a protest in Ngabu (see section 2.b.). The government promised to conduct an investigation of the incident. There was no further development in the case by year's end.

On August 22, police shot and killed a 28-year-old man in Machinga who was cutting trees for firewood. Deputy Police Public Relations Officer Kelvin Maigwa claimed that police officers fired into the air to disperse a crowd of illegal loggers who threw stones at police. An investigation was ongoing at year's end.

There were no developments in the mysterious 2003 death of Kalonga Stambuli, a former private business advisor to the previous president, who died of poisoning and strangulation. Prior to his death, newspaper reports indicated that Stambuli may have had potentially damaging information about the former president's business activities. A police investigation was ongoing at year's end.

There were no developments in the case of Peter Mussa Gama, who died in police custody in 2003. In 2004 the MHRC publicly called for compensation for Gama's family; however, the government had not compensated the family by year's end.

An investigation was conducted in the May 2004 case in which police reportedly killed a 10-year-old girl during a political demonstration (see section 2.b.). A settlement was reached with the family and no charges were filed.

Mobs sometimes resorted to vigilante justice in beating, stoning, or burning suspected criminals. Following the June death of the 12-year-old boy in police custody, protestors chased a group of policemen in Ngabu and severely beat one of the officers. No arrests were made during the year.

On July 4, a mob beat a mentally-ill man to death in Chitipa after he reportedly killed another man with a pounding stick. An investigation was ongoing at year's end.

On November 16, a man was beaten to death in Kasungu by villagers protesting the appointment of a village headman. Eleven people were arrested, but a trial date had not been set by year's end.

There were no developments in the August 2004 case in which a crowd beat a man to death for reportedly burglarizing a home near Blantyre.

A suspect awaited trial at year's end for the August 2004 beating death of a man caught stealing sugar cane near Kasungu.

Police took no action in any of the 2003 cases of mob killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

There were no developments in the 2004 disappearance of Peter Mulamba, a key witness in a high-level corruption case; some reports indicated he committed suicide, while others stated he was out of the country.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were instances of police beating and abusing detainees, and using excessive force in handling criminal suspects. On June 7, the mother of a 12-year-old boy who died in police custody that month (see section 1.a.) alleged that police officers brutally beat her and two of her children during interrogation. She also claimed that police removed her clothing prior to beating her and refused to allow her to go to the hospital for treatment after the assault.

On June 10, two policemen in Karonga were sentenced to one-year imprisonment with hard labor for assaulting and wounding two detainees. The inspector general of the police ordered the police officers' arrests after discovering an injured inmate during a police station inspection. Police violently dispersed demonstrations during the year, which resulted in numerous injuries and at least one death (see section 2.b.).

While higher-ranking officials demonstrated familiarity with standards for the humane treatment of prisoners and publicly condemned prisoner mistreatment, their subordinates continued to employ unacceptable techniques. Police sometimes mistreated suspects due to a mistaken belief that the law required them to present a case (not just charges) to the court within 48 hours of arrest, and police sometimes resorted to beatings to obtain information within the time limit. Lack of financial resources for appropriate equipment, facilities, and training contributed to mistreatment. The MHRC called for the introduction of a compensation fund to assist victims of police abuse and relatives of persons who died in police custody; however, no such fund had been established by year's end.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. Overcrowding, inadequate nutrition, substandard sanitation, and poor health facilities remained serious problems. The prison system, which was meant to accommodate approximately 7 thousand inmates, held 10,389 prisoners, including approximately 350 juveniles. Inmates complained that they did not receive enough food. Prison inmates were encouraged to grow vegetables and raise livestock. Community service programs were available as alternatives to prison terms. In 2004 an average of 20 inmates died in prison each month, mostly due to HIV/AIDS. There were no available statistics on prison deaths at year's end.

In April 2004 the government began a program with international donors to renovate the country's four major prisons. A new prison was under construction, scheduled to open in early 2006 to replace Mzuzu prison and alleviate prison congestion in the north. Some prisons were upgraded to include improved toilet and shower facilities and plumbing.

Although women were not kept in separate facilities, they were segregated within the prison compound and monitored by female guards. In the four maximum-security prisons, there were separate facilities for juveniles; however, the separation was inadequate in practice, and there were reports of sexual and physical abuse of juvenile prisoners. In the other prisons, juveniles were routinely incarcerated with adults. The law requires pretrial detainees to be held separately from convicted prisoners; however, many prisons could not comply with this law due to lack of space and inadequate facilities.

The Inspectorate of Prisons, domestic nongovernmental organizations (NGOs), and international NGOs were permitted to make visits to monitor prison conditions and to donate basic supplies. The Prison Reform Committee worked in collaboration with the Ministry of Home Affairs and the Inspectorate of Prisons to visit prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, although there were problems in practice.

Role of the Police and Security Apparatus.—The National Police, controlled by the Ministry of Home Affairs and Internal Security, has responsibility in law and in practice for law enforcement and maintenance of order within the country. The police occasionally called on the army for support. The country's police force was inefficient and poorly trained due to inadequate funding.

Corruption was widespread and impunity was a problem. Police continued efforts to improve investigative skills and to introduce the concept of victims' rights through workshops and other training exercises, particularly in the areas of sexual abuse and domestic violence (see section 5). The government continued to seek community involvement in its comprehensive reform of the police. Civil society groups conducted workshops for the police on crowd control measures and management of demonstrations. The country also received foreign assistance to train officials and procure equipment.

Arrest and Detention.—The law provides the accused the right to challenge the legality of detention, have access to legal counsel, and be released on bail or informed of charges by a court of law within 48 hours; however, these rights seldom were respected in practice.

The use of temporary remand warrants to circumvent the 48-hour rule was widespread (see section 1.c.). The government provided legal services to indigent detainees; however, access was often delayed since there were only seven public defenders. Detainees were allowed access to relatives. Bail frequently was granted to reduce prison overcrowding rather than on the merits of an individual's situation. The MHRC received 663 complaints of arbitrary detention; most related to overstay of remand, denial of bail, and unheard appeals.

Police were routinely criticized for failing to act impartially with regard to political demonstrations.

Police arrested some journalists and demonstrators during the year (see sections 2.a and 2.b.). On March 15 President Mutharika ordered the arrest and detention of two journalists and an assistant to the vice president in connection with stories the journalists published about the president (see sections 2.a. and 2.b.). On September 16, police arrested former DPP Vice President Gwanda Chakuamba for criticizing the president (see section 2.a.).

A total of 10,389 persons were incarcerated in the country's prisons, including approximately 350 juveniles and 68 women. Twenty-three percent of the prison population was pretrial detainees.

There were no political detainees during the year.

The Centre for Legal Assistance (CELA) offered free legal assistance to expedite the trials of 200 detainees, with priority given to the sick and young and those subjected to trial delays.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. However, the judicial system was inefficient and handicapped by serious weaknesses, including poor record keeping, a shortage of attorneys and trained personnel, heavy caseloads, and lack of resources.

The law provides for a High Court, a Supreme Court of Appeal, and subordinate magistrate courts. The chief justice is appointed by the president and confirmed by the National Assembly. The president appoints other justices, following a recommendation by the Judicial Service Commission. All justices are appointed to

serve until the age of 65 and may be removed only for reasons of incompetence or misbehavior, as determined by the president and a majority of the National Assembly.

Trial Procedures.—By law, defendants have the right to a public trial but not to a trial by jury; however, in murder cases, the High Court uses a jury of 12 persons from the defendant's home district. Defendants also are entitled to an attorney, the right to present and challenge evidence and witnesses, the right of appeal, and the presumption of innocence.

The judiciary's budgetary and administrative problems effectively denied expeditious trials for most defendants. The Department of Public Prosecutions had eight prosecuting attorneys and four paralegals. The paralegals served as lay prosecutors and prosecuted minor cases in the magistrate courts. Lack of funding and a shortage of attorneys created a backlog, mainly in murder cases.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, at times the government limited this right. There were several cases of intimidation of journalists and government critics through arrests. While none of these cases went to trial, the arrests prompted self-censorship on the part of journalists. Despite tactics used to intimidate journalists, private individuals were generally free to criticize the government without fear of reprisal.

On October 23, the press reported that a man was arrested for making derogatory comments about the president at a gas station in Blantyre. On September 16, police arrested former DPP Vice President Gwanda Chakuamba for statements he made at a political rally after leaving government, in which he allegedly referred to the president as a "brute" and a "drunkard." Chakuamba was charged under the Protected Emblems and Names Act with insulting the president. Capital Radio, which conducted live coverage of the rally, challenged the legality of the act; the case was still pending at year's end.

The independent media was active and expressed a wide variety of views. A broad spectrum of political and ideological opinion was available in the country's newspapers. Ten independent newspapers were available, including two independent dailies, four biweeklies, and four independent weekly papers.

On March 15, journalists Raphael Tenthani and Mabvuto Banda of the independent newspaper *The Nation* were arrested for allegedly violating the Protected Emblems and Names Act. The journalists had written articles alleging that the president had moved out of his residence for fear that ghosts haunted the building. They were charged with publishing information likely to cause public alarm and were released after 24 hours. The charge was later changed to publishing information likely to insult the president. Although Tenthani and Banda were not prosecuted, the president demanded an apology and a retraction of the story. Neither journalist complied with the demand; there was no court action by year's end.

The government enforced several restriction notices on *The Nation*, preventing it from publishing antigovernment stories. In October 2004 the police went to *The Nation* at midnight and ordered it to stop printing an article that included references to a presidential cabinet meeting. The article was published, and *The Nation* was accused of publishing minutes of a secret cabinet meeting.

There were 15 private radio stations with limited coverage and broadcasting only in urban areas. The state-owned Malawi Broadcasting Corporation (MBC) dominated the radio market with its two stations, transmitting in major population centers throughout the country. Government-owned Television Malawi (TVM) was the sole television broadcaster. News coverage and editorial content of MBC and TVM clearly favored the president and his party, while coverage of other political parties was more critical and received less airtime.

In March 2004 the Public Affairs Committee, a civil society group composed of influential religious leaders, initiated legal action against MBC and TVM, challenging their bias toward the ruling party. These challenges generated renewed public interest in the issue of media freedom. The legal action was not pursued after a change in government two months later.

There were no developments in the 2003 assault of several journalists by police at a roadblock.

On October 20, parliament refused the request of an independent radio station to carry a live broadcast of the National Assembly session, stating that the station was not "adequately professional."

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, there were instances in which police limited this right. Authorities at times interfered with opposition party political functions or used violence to disperse crowds.

On March 27, police arrested five UDF politicians for organizing an antigovernment demonstration. They were charged with unlawful assembly, unlawful procession, and conduct likely to cause the breach of peace. The men were released on bail two days later, and the government subsequently dropped the case.

On June 7, police in Ngabu shot and killed a 16-year-old boy while firing live ammunition at unarmed villagers who were protesting the death in police custody of another boy (see section 1.a.). Another person was shot in the leg. A police officer was arrested, and the Minister of Home Affairs and Internal Security, Uladi Mussa, presented a report to the National Assembly on the incident. Opposition leaders described the report as shallow and biased and called for an independent inquiry into the killing. The police officers who were reportedly involved in the incident were transferred to other stations. A trial date had not been set and no independent investigation was conducted at year's end.

On September 16, police arrested former DPP Vice President Gwanda Chakuamba for criticizing the president during a rally in Blantyre (see section 2.a.).

On December 5, a 13-year-old boy and a 20-year-old man were injured at a government food distribution center in Nsanje when a guard opened fire on a crowd to prevent them from forcibly entering the premises. The Centre for Human Rights and Rehabilitation (CHRR) condemned the incident and called for further investigation; a police investigation was ongoing at year's end.

On December 13, police shot and injured three men in Bvumbwe, Thoyo while attempting to disperse a mob armed with knives that attacked a man on suspicion that he had kidnapped a child. Police arrested four officers; no further action was taken by year's end.

There were no developments in the February 2004 case in which two persons were shot when police used live ammunition and tear gas to break up an opposition rally. According to police, the gathering, which coincided with a ruling party rally nearby, was illegal because it lacked proper permits. Opposition leaders maintained they had a court injunction allowing the event to take place. The MHRC urged the inspector general of police to launch an investigation into the violence, but no action was taken by year's end.

There were no developments in the May 2004 case in which police allegedly shot 2 protestors and arrested at least 96 others for rioting over the results of the presidential election. Police reportedly used live ammunition and tear gas to stop looting and vandalism immediately following the announcement of the election results. One man was reportedly beaten to death by a group of worshippers when he sought refuge from the tear gas in a nearby mosque (see section 1.a.). The suspects arrested by police were released on bail within 48 hours of arrest and were awaiting trial at year's end.

There were no developments in the May 2004 case in which a police officer attempting to break up a political demonstration reportedly shot 10-year-old Epiphania Bonjesi. Bonjesi, a bystander, bled to death after being shot in the leg. Eyewitness accounts indicated the bullet was fired by police. In an October 2004 settlement, the government paid compensation to the family.

No action was taken against police who used excessive force to disperse demonstrations in 2003.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. The government required organizations, including political parties, to register with the registrar general in the Ministry of Justice, and registration was routinely granted.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

There are no separate requirements for the recognition of religions, but religious groups must register with the government. There were no reports that the government refused to register any religious group during the year.

Foreign Christian missionaries experienced occasional delays in renewing employment permits; however, this appeared to be the result of bureaucratic inefficiency rather than a deliberate government policy. Missionaries and charitable workers paid lower fees for employment permits than did other professionals.

Societal Abuses and Discrimination.—Churches continued to be a significant source of political influence, particularly in rural areas. There were generally amicable relations among the various religious communities. There were no reports of societal violence, harassment, or discrimination against members of religious groups. The Jewish community was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits the use of forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum; however, there were long delays in the process. By law, the government does not accept refugees for permanent resettlement. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) in assisting refugees and asylum seekers.

Although largely peaceful, there were some reports of ethnic clashes among asylum seekers. In 2003 the government signed an agreement with the government of Rwanda and UNHCR to voluntarily repatriate approximately 5,500 refugees who fled following the 1994 genocide in Rwanda. At year's end, only a small number of refugees had participated in the voluntary repatriation.

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

In August 2004 the government cooperated with UNHCR in conducting a verification exercise to assess the population of refugees and asylum seekers in the country. UNHCR reported that the country hosted approximately 9,100 refugees (primarily from the Democratic Republic of the Congo, Rwanda, and Burundi) at a refugee center in Dowa; though UNHCR and the government made efforts to relocate refugees to a second camp in Luwani. While no legal framework existed, the government routinely allowed refugees to seek both employment and educational opportunities. UNHCR, NGOs, and the government collaborated to provide education to children in refugee camps.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for citizens 18 years of age and older.

Elections and Political Participation.—International election observers found the May 2004 presidential and parliamentary elections to have substantial shortcomings, including inequitable access to the state-owned media and poor planning by the MEC. The ruling party frequently monopolized resources and used public funds for campaign purposes. Voter turnout was low compared with the two previous presidential elections. With approximately 36 percent of the popular vote, President Bingu wa Mutharika, chosen by former President Muluzi as the UDF candidate, was elected to serve a 5-year term. Election discrepancies prevented parliamentary candidates from taking seats in six constituencies. By-elections for these vacancies took place on January 11. Observers declared them free and fair and better organized than the national elections. The president and vice president hold parliamentary seats but are constitutionally barred from holding other public office.

President Mutharika, Vice President Cassim Chilumpha, and a 30-member cabinet exercised executive authority. The executive exerted considerable influence over the National Assembly which followed a hybrid parliamentary system; a number of cabinet ministers also were members of the National Assembly.

Although the government did not prevent the activities of opposition political parties, the parties alleged that the government used bribery, other inducements, and violence to encourage opposition party divisions. Sporadic minor violence was common between supporters of rival political parties.

There were 27 women in the 193-seat National Assembly, and 5 women in the 30-member cabinet. Women comprised approximately 25 percent of the civil service. There were 2 female justices among the 23 Supreme and High Court justices, and

a woman was appointed as inspector general of police, the highest-level position in law enforcement.

There were three members of minorities in the National Assembly. There was one cabinet member who was a person with disabilities; however, he resigned in October.

Government Corruption and Transparency.—There was widespread public perception of corruption in the executive and legislative branches. President Mutharika continued his reform program, which included an ambitious anticorruption campaign. These activities contributed to waning support for the president and growing political tension. On October 18, the National Assembly adopted impeachment procedures. On October 20, an impeachment motion was adopted charging the president with alleged violations of the law, including election irregularities, the unlawful appointment of the head of the Malawi Police Service, and the use of state funds to establish the DPP. On October 26, the High Court issued an injunction against the procedures until the High Court could determine their constitutionality or until the injunction itself was overturned. There were no further developments at year's end.

The Anti-Corruption Bureau (ACB) launched several investigations and made several indictments of former high-level government officials, including former President Bakili Muluzi. On October 17, the ACB arrested the secretary of the treasury and on October 18, the chief immigration officer on corruption charges. Their trials were pending at year's end.

On April 20, the mayor of Blantyre, John Chikakwiya, was sentenced to three years in prison for theft by a public servant and abuse of public funds. On December 12, the Supreme Court overturned his theft charge, and Chikakwiya was released early for good behavior.

On May 11, former Education Minister Yusuf Mwawa was charged with theft by a public servant and forgery. He was released on bail the same day, and on May 17, the president dismissed Mwawa from the cabinet. Mwawa's trial was pending at year's end.

On November 2, MP Lucius Banda was arrested for forgery. On November 3, MP Maxwell Milanzi was arrested for covering up a previous arrest that would have made him ineligible for parliament. On November 14, former Education Minister Sam Mpasu was arrested on corruption charges. The three men were released on bail November 14; no trial dates were set by year's end.

The law provides for public access to government information, and the government respected this right in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups operated without government restriction, training civic educators, advocating changes to existing laws and cultural practices, and investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

Ombudsman Enock Chibwana was mandated by the law to investigate and take legal action against government officials responsible for human rights violations and other abuses. The ombudsman's freedom of action was circumscribed by legislation that requires a warrant and a three-day waiting period to gain access to certain government records. The activities of the ombudsman are subject to judicial review.

The constitutionally mandated MHRC was charged with monitoring, auditing, and promoting human rights provided for under the law and to carry out investigations regarding violations of human rights. The MHRC handled 1,136 complaints of human rights violations in 2004 compared to 587 complaints in 2003.

Nearly half of the complaints related to the rights of prisoners and detainees and included allegations of overstay on remand, denial of bail, and unheard appeals. Other common complaints cited in the MHRC's 2004 report related to unfair labor practices and inadequate access to justice and legal remedies.

The MHRC complained of severe financial and human resource constraints which led to a backlog of cases, delayed production of reports, and failure to expand human rights monitoring.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law specifically provides for equal rights for women, forbids discrimination based on language or culture, and provides for equality and recognition before the law for every citizen. However, in practice the capacity of government institutions to assure equal rights for all citizens was limited.

Women.—Domestic violence, especially wife beating, was common, and women seldom discussed the problem openly. The law does not specifically prohibit domestic violence. The press published frequent accounts of rape and abuse, and the judiciary continued to impose heavier penalties on those convicted of rape, including up to 14-year prison sentences for child rapists. Police regularly investigated cases of rape and sexual assault but did not normally intervene in domestic disputes.

The law does not specifically prohibit female genital mutilation (FGM), and there were anecdotal reports that a few small ethnic groups practiced it.

While prostitution is not illegal per se, living off the wages earned through prostitution, owning a brothel, or forcing another person into prostitution are illegal. In July bar and hotel owners, participating in a 4-day workshop to brainstorm on commercial sex activities and the spread of HIV/AIDS, called on the government to criminalize prostitution. There was no government action during the year.

Under the law, women have the right to full and equal protection by law and may not be discriminated against on the basis of gender or marital status; however, in practice discrimination against women was pervasive, and women did not have opportunities equal to those available to men. Women had significantly lower levels of literacy, education, formal and nontraditional employment opportunities, and access to resources to increase agricultural productivity. The literacy rate among women between the ages of 15 and 45 was 46 percent; male literacy in the same age group was approximately 79 percent.

Women often had less access to legal and financial assistance, and wives often were victims of discriminatory and illegal inheritance practices in which the majority of the estate was taken by the deceased husband's family. Women usually were at a disadvantage in marriage, family, and property rights; however, awareness of women's legal rights continued to increase, and women began to speak out against abuse and discrimination. Households headed by women were represented disproportionately in the lowest quarter of income distribution; 52 percent of the country's full-time farmers were women. Women also had limited access to agricultural extension services, training, and credit. Gender training for agricultural extension workers and the gradual introduction of rural credit programs for women have increased; however, few women participated in the limited formal labor market, where they constituted less than 5 percent of managerial and administrative staff. The National Association of Businesswomen supported working women by making small loans to 300 women who successfully completed business management training.

The law provides for a minimum level of child support, widows' rights, and the rights to maternity leave; however, only individuals who utilized the formal legal system benefited from these legal protections. In some areas of the country, a widow's home and possessions were customarily taken by her in-laws. In a few isolated areas, a widow was sometimes forced to have sex with in-laws as part of a culturally-mandated "sexual cleansing" ritual following the death of her husband. In some cases, she was "inherited" by a brother-in-law or other male relative. Although there were no laws specifically prohibiting these practices, the government and civil society made efforts to abolish them by raising awareness concerning the inherent dangers of such behavior, including the risk of HIV/AIDS transmission.

The government addressed women's concerns through the Ministry of Gender, Child Welfare, and Community Services.

Children.—The law provides for equal treatment of children, and the government continued a high level of spending on children's health and welfare.

The government provided free primary education for all children, although education was not compulsory. Families were responsible for book fees and purchasing uniforms. Students from very poor families had access to a public book fund. Girls, especially in rural areas, have historically been unable to complete even a primary education and therefore were at a serious disadvantage in finding employment.

In January 2004 the University of Malawi released a report on the status of free primary education since its inception in 1994. The report noted that over the past decade, the government increased its education budget annually, but the increases were not proportional to increasing student enrollment. Student dropout rates marginally decreased each year since free education was introduced, but the study concluded that rates remained high. The 2002 Malawi Demographic Household and Education Data Survey's report indicated that gender gaps in primary school attendance were small but that boys were much more likely to attend secondary school than girls. There also were large gaps in achievement levels between girls and boys.

The government took steps to respond to a March 2004 UN Children's Fund (UNICEF) study that showed a number of girls entered into sexual relationships with teachers for money, became pregnant, and subsequently left school. The study also found that many girls left school because of violent behavior by some teachers.

In response, the government expanded legal protection of students subjected to exploitation and inappropriate relationships at school. On November 11, the Lilongwe magistrate court sentenced a male teacher to 6 years imprisonment for defiling a 10-year-old girl in a classroom.

More than half of the country's children lived in poverty, mostly in rural areas. Children in rural households headed by women were among the poorest. Only one-third of children had ready access to safe drinking water, infant mortality was high, and child malnutrition was a serious problem. On June 21, the government launched a National Plan of Action for Orphans and Vulnerable Children to mitigate the impact of poverty and HIV/AIDS on the country's estimated one million orphans.

A few charitable organizations attempted to reduce the number of child beggars in urban areas; however, the problem of street children worsened as the number of orphans whose parents died from HIV/AIDS increased. Extended family members normally cared for such children and other orphans.

The president urged parents and guardians to protect orphans and vulnerable children from abuse. There were societal patterns of child abuse. On April 15, a boy's private parts were cut off in Chinsapo; and on April 21, another boy's ears were cut off in Mchinji. The Ministry of Gender, Child Welfare, and Community Services provided access to medical care and rehabilitation in these cases. Investigations were ongoing at year's end.

The press reported several cases of sexual abuse of children, including arrests for rape and incest. On July 4, a 44-year-old man in Rumphi was sentenced to 14 years' imprisonment for raping his 17-year-old daughter. On October 17, a 46-year-old man in Dedza was sentenced to 8 years' imprisonment for raping his 11-year-old granddaughter.

Abusive practices, including the secret initiation of girls into their future adult roles, were widespread. There was a re-emergence of the Kupimbira practice that allows a poor family to receive a loan in exchange for daughters of any age. FGM was performed in some cases (see section 5, Women).

A local NGO reported an increase in fathers marrying their own daughters in Mangochi District, and the organization urged women to report husbands who sleep with their daughters. The MHRC expressed concern over reports of parents forcing their daughters into marriages for food.

The Ministry of Gender, Child Welfare, and Community Services undertook various activities to enhance protection and support of victims. In March a workshop was held in Mangochi to enable stakeholders to develop strategies to combat child abuse. On November 3, the ministry announced a plan to introduce a child abuse hot line in early 2006. The ministry was in the process of converting its former regional offices into rehabilitation centers.

The Ministry of Gender, Child Welfare, and Community Services was attempting to change a law which allows 15-year-old girls to marry with parental consent.

In 2004 the government worked with UNICEF, international donors, and various NGOs to create and implement a Child Justice Act to ensure juveniles suitable access to the justice system. During the year some components of the act were implemented, including the July establishment of a child justice court and recruitment of juvenile justice officers.

The trafficking of children for sexual purposes was a problem (see section 5, Trafficking), and child prostitution also occurred. The belief that children were unlikely to be HIV positive and the widespread belief that sexual intercourse with virgins can cleanse an individual of sexually transmitted diseases, including HIV/AIDS, contributed to the sexual exploitation of minors.

Child labor, including instances of forced child labor, was a problem (see section 6.d.). The MHRC conducted awareness-raising activities December 5–10 focused on the rights of children.

Trafficking in Persons.—The law does not prohibit trafficking in persons specifically, and trafficking was a problem. Although the extent of human trafficking was undocumented, the government made efforts to combat trafficking and used existing laws to prosecute cases of child trafficking for agricultural labor exploitation. The penal code contains several provisions relating to prostitution and indecency that could be used to prosecute traffickers. Since 2001, seven cases involving trafficking in persons have been prosecuted. On September 24, two citizens and a foreigner were sentenced to seven years' imprisonment with hard labor for kidnapping. The three men were arrested in September while attempting to smuggle five young boys across the border into Zambia to work on tobacco estates. Other convicted child traffickers were required to pay fines.

Although the age of sexual consent is 14, there was no age specified for the protection of minors from sexual exploitation, child prostitution, or child pornography. The

government worked with UNICEF and NGOs to refine child protection laws (see section 5, Children).

The country is a source and transit point for women and children trafficked for sexual purposes locally and to brothels abroad, particularly in South Africa. Victims trafficked to South Africa were typically between 14 and 24 years old, and were recruited with offers of marriage, study, or employment. According to the International Organization for Migration, sex tourists, primarily from Germany, the Netherlands, and the United Kingdom, lured children into sexual relationships with them while in the country. Poverty and low educational levels contributed to such exploitation. Traffickers involved in land border trafficking to South Africa were typically long-distance truck drivers and local businesswomen.

Police and the Ministry of Gender, Child Welfare, and Community Services handled cases brought to the attention of authorities, and provided services, including counseling and reintegration assistance for victims.

Persons with Disabilities.—The law provides for the support of persons with disabilities through greater access to public places, fair opportunities in employment, and full participation in all spheres of society; however, extremely limited resources prevented the government from guaranteeing these rights in practice. Reported violations were taken seriously, and the president publicly declared that students with disabilities should have equal access to education and other government services. The government has not mandated accessibility to buildings and services for persons with disabilities.

There were both public and privately supported schools and training centers that assisted persons with disabilities. There also were several self-supporting businesses run by and for persons with disabilities. A cabinet member with disabilities led the Ministry for Social Development and Persons with Disabilities until his October 9 resignation. During the 2004 elections, some accommodations were made for voters with disabilities. Voters requiring assistance were permitted to bring an assistant into the voting booth with them.

Other Societal Abuses and Discrimination.—Homosexuality is illegal, although there were no prosecutions for homosexuality during the year.

Societal discrimination against persons living with HIV/AIDS was widespread and inhibited access to treatment; many individuals preferred to keep silent about their health rather than seek help and risk being ostracized. On June 1, the industrial relations court in Lilongwe ruled that an employer had discriminated against an HIV positive worker whom he fired after learning of her illness. The employer complied with the court decision to award 8 months' compensation to the worker. The Ministry of Labor and Vocational Training (MOLVT) conducted a public relations program to reduce the stigma associated with having HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join trade unions and workers exercised this right in practice; however, union membership was low due to the small percentage of the workforce in the formal sector, the lack of awareness of worker rights and benefits, and a resistance on the part of many employees to join unions. Army personnel and police could not belong to trade unions, but other civil servants were allowed to form unions. Union leaders estimated that 12 percent of the formal sector workforce belonged to unions; however, accurate statistics on the numbers of union members were not available. Employers, labor unions, and the government lacked sufficient knowledge of their legitimate roles in labor relations and disputes, which limited their effectiveness in the implementation and enforcement of the law.

Unions must register with the Registrar of Trade Unions and Employers' Organizations in the MOLVT, and registration was routinely granted. At year's end, 24 unions were registered.

The law prohibits antiunion discrimination by employers and requires that employers reinstate workers dismissed because of union activities. There were no reports of persons who were fired for their membership in unions.

b. The Right to Organize and Bargain Collectively.—Unions have the right to organize and bargain collectively, and the government protected this right in practice. The law requires that at least 20 percent of employees (excluding senior managerial staff) belong to a union before such a union can engage in collective bargaining at the enterprise level, and at least 15 percent union membership for collective bargaining at the sector level. The law provides for the establishment of industrial councils in the absence of collective agreements for sector-level bargaining. Industrial council functions included wage negotiation, dispute resolution, and industry-

specific labor policy development. In practice the law was not effectively implemented due to lack of human and financial resources.

The law allows members of a registered union to strike or go through a formal mediation process overseen by the MOLVT, and workers exercised this right in practice. A strike can only occur after all settlement procedures established in a collective agreement (an understanding, not necessarily signed, reached by both parties to attempt mediation) and conciliation efforts have failed. Laws do not specifically prohibit retaliation against strikers. There was no prohibition on actions against unions that were not registered legally. Members of a registered union in "essential services" have a limited right to strike. Essential services were specified as services whose interruption would endanger the life, health, or personal safety of the whole or part of the population, as determined by the Industrial Relations Court (IRC).

Arbitration rulings were legally enforceable; however, in practice, due to the lack of funding and two-year case backlog, the IRC could not monitor cases and adequately enforce the laws.

At year's end, 15 firms held licenses to operate under export processing zone (EPZ) status, and 14 were operational. The full range of labor regulations applied to the EPZs; however, union organizers stated they had little access to workers in the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, such labor occurred (see sections 5 and 6.d.). According to the ICFTU, bonded labor involving entire families was widespread on tobacco plantations. Tobacco tenants have exclusive arrangements, often unwritten, with the estate owners to sell their crop and to buy inputs such as fertilizer, seed, and often food. These costs, in addition to rent charges, often were greater than the artificially low price received for the tobacco crop, leading to a situation of debt and bonded labor to repay the input and other costs.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law defines children as persons under 16 years of age, and the law prohibits the employment of persons under 14; however, child labor was a problem. The law also prohibits the employment of children under 18 in work that was hazardous, harmful, or interferes with their education. In November 2004 the government published a National Code of Conduct on Child Labor, which defines guiding principles for combatting all forms of child labor.

There was significant child labor on tobacco and tea farms, subsistence farms, and in domestic service, largely as a result of extreme poverty and longstanding cultural traditions. Three child traffickers attempting to smuggle children to Zambia for agricultural labor exploitation were successfully prosecuted and convicted (see section 5, Trafficking).

A local NGO reported that in urban areas, it was common to find young girls working outside of their family as domestic servants, receiving little or no wages. School-age children often worked as vendors. The results of a 2002 MOLVT study on child labor released in 2004 indicated that 72 percent of children were in school and 80 percent of children were working either in or outside of their homes. In addition, approximately 38 percent of children 5 to 14 years of age worked over 7 hours per week.

To strengthen the fight against child labor, the MOLVT, in collaboration with workers and employers, completed its work on a "hazardous work schedule" that was awaiting final review at year's end. The schedule details all work that is considered hazardous and not suitable for persons below the age of 18.

The MOLVT conducted three refresher courses for its 150 child labor inspectors and its district and community labor committees. In addition, 77 child labor youth activists received training on child labor using the new child labor code of conduct. With support from UNICEF, the Ministry of Gender, Child Welfare and Community Services also trained 240 child protection workers throughout the country. Budgetary constraints hindered minimum work age and child labor law enforcement by police and MOLVT inspectors. The MOLVT youth committees in rural areas monitored and reported on child labor.

e. Acceptable Conditions of Work.—The MOLVT sets separate urban and rural minimum wage rates based on recommendations of the Tripartite Wage Advisory Board (TWAB) composed of representatives of labor, government, and the private sector. However, the TWAB encountered problems due to inefficient organizational structure and inadequate funding, which hindered timely and accurate revision of the wage rate recommendations. The urban minimum wage amounted to approximately $0.80 (MK 97) per day; in all other areas, it was approximately $0.60 (MK 74) per day. Minimum wage rates did not provide a decent standard of living for a worker and family. Wage earners often supplemented their incomes through farm-

ing activities. The MOLVT lacked the resources to effectively enforce the minimum wage. However, the minimum wage largely was irrelevant for the great majority of citizens, who earned their livelihood outside the formal wage sector.

The maximum legal workweek was 48 hours, with a mandatory weekly 24-hour rest period. The laws require payment for overtime work and prohibit compulsory overtime. In practice employers frequently violated statutory time restrictions.

The law includes extensive occupational health and safety standards; however, MOLVT enforcement of these standards was erratic. Workers—particularly in industrial jobs—often worked without basic safety clothing and equipment. Workers dismissed for filing complaints about workplace conditions have the right to file a complaint at the labor office or sue the employer for wrongful dismissal. Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment; however, given the low level of education of most workers and the high level of unemployment, workers were unlikely to exercise this right.

Mechanisms for protecting internationally recognized worker rights were weak. There were serious manpower shortages at the MOLVT; as a result, there were almost no labor standards inspections. The law protects foreign workers in correct legal status. Illegal foreign workers were subject to deportation.

MALI

Mali, with a population of approximately 12 million, is a constitutional democracy that continued to implement a decentralized form of government. The 2002 presidential and legislative elections were judged generally free and fair by international and domestic observers; however, there were some administrative irregularities. While civilian authorities generally maintained effective control of the security forces, there were isolated instances in which elements of the security forces acted independently of government authority.

The government generally respected its citizens' human rights; however, there were problems in some areas. The following human rights problems were reported:

- poor prison conditions
- occasional arbitrary arrest and detention
- lengthy pretrial detention and prolonged trial delays
- domestic violence and discrimination against women
- female genital mutilation (FGM)
- trafficking in children
- hereditary servitude relationships between different ethnic groups
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

In June a criminal court found two students, involved in a November 2004 confrontation between different student groups which led to three deaths, guilty of inciting violence, and a police officer guilty of using excessive force. Each received a one-year suspended sentence.

There were reports of mob killings during the year. On July 17 and July 26 a mob attacked and killed two thieves for stealing a TV antenna and a motorbike.

b. Disappearance.—There were no reports of politically motivated disappearances On July 5, unidentified assailants kidnapped a private radio presenter and released him a few hours later (see section 2.a.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however there were occasional reports that police abused civilians. On April 5, a court sentenced a police officer to one month in jail for physically abusing a civilian during questioning.

Prison and Detention Center Conditions.—Overall prison conditions remained poor. Prisons continued to be overcrowded, medical facilities and access were inadequate, and food supplies were insufficient. During the year prison conditions somewhat improved and efforts to conform to UN norms were observable. For example,

the country's largest prison, located in Bamako, the capital, now has a clinic, a library, an adult literacy center, and an artisan workshop.

Men and women were separated in Bamako prisons; however, outside the capital, men and women were held in the same building but in separate cells. In Bamako, juvenile offenders usually were held in the same prison as adult offenders, but they were kept in separate cells. Pretrial detainees were held with convicted prisoners.

The government permitted prison visits by human rights monitors, provided that administrative procedures were followed. Nongovernmental organizations (NGOs) and other monitors were required to submit a request to the prison director who then forwarded it to the Ministry of Justice. Approvals were routinely granted and took up to one week. Several NGOs, including the Malian Association of Human Rights, the Malian Association of Women Lawyers, visited prisoners and worked with women and juvenile prisoners to improve their conditions. According to an NGO, the administrative process hindered the ability of monitors to ascertain if there were human rights violations.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, on occasion, police arrested and detained persons arbitrarily.

Role of the Police and Security Apparatus.—Security forces are composed of the army, air force, gendarmerie, national guard, and police. The army and air force are under the control of the civilian minister of defense. The national guard is administratively under the minister of defense; however, it is effectively under the command and control of the minister of internal security and civil protection. The police and gendarmerie are under the ministry of internal security and civil protection. The police and gendarmes shared responsibility for law enforcement and maintenance of order; the police were in charge of urban areas only. The national police force is organized into various divisions. Each district has a commissioner who reported to the regional director at national headquarters.

The police force was moderately effective but had problems caused by lack of resources and training. Corruption existed within the police force. Some police and gendarmes extorted bribes (see section 2.d.). Impunity was not a problem, and individual police were charged and convicted of abuses. The government provided regular training to police forces. Police, within the limits of their resources, prevented and responded to societal violence.

Arrest and Detention.—Judicial warrants are required for arrest. Normally the complainant delivered the warrant, which stipulated when the person was to appear at the police station. In some cases the police served the warrant, based on a request from an influential relative of the complainant or if they received a bribe. Frequently, in cases where a monetary debt was owed, the arrested person resolved the case at the police precinct, and the police received a portion of the recovered money. The law provides that suspects must be charged or released within 48 hours and that they are entitled to counsel; however, in practice, detainees were not always charged within the 48-hour period. Limited rights of bail or the granting of conditional liberty existed, particularly for minor crimes and civil matters. On occasion, the authorities released defendants on their own recognizance. Detainees had the right to a lawyer of their choice, or a lawyer provided by the state, but administrative backlogs and an insufficient number of lawyers often prevented prompt access. Detainees were allowed prompt access to family members.

There were no political detainees.

Pretrial detention was a problem. Administrative backlogs and an insufficient number of lawyers, judges, and courts often caused lengthy delays in bringing persons to trial. In extreme cases, individuals remained in prison for several years before coming to trial. The Ministry of Justice reported that in 2004, 3,907 out of 4,407 imprisoned persons were awaiting trial.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the executive branch continued to exert influence over the judicial system. The minister of justice appointed and had the power to suspend judges. This ministry also supervised both law enforcement and judicial functions. The president headed the council of magistrates, which oversaw judicial activity. Domestic human rights groups alleged that there were instances of bribery and influence peddling in the courts. On March 18, the minister of justice admonished the Justice Administration, public prosecutors' offices, and judges for ethics violations.

During the year the Council of Magistrates, an institution chaired by the president and including the minister of justice, called before it a deputy public prosecutor, a senior magistrate, and a judge on charges of abuses and mismanagement. All have been temporarily suspended from their duties. These disciplinary actions

were part of the government's continuing campaign against corruption (see section 3).

The Supreme Court has both judicial and administrative powers. The constitution provides for a separate constitutional court that oversees issues of constitutionality and acts as an election arbiter. The constitution also provides for the convening of a High Court of Justice with the power to try senior government officials in cases of treason.

Trial Procedures.—The law provides for the right to a fair trial, but corruption and resource restraints the fairness of some trials. Except in the case of minors, trials are public, and defendants have the right to be present and have an attorney of their choice. Defendants have the right to consult with their attorney, but administrative backlogs and an insufficient number of lawyers often prevented prompt access. Defendants and attorneys have access to government evidence relevant to their cases. Defendants are presumed innocent and have the right to confront witnesses and to appeal decisions to the Supreme Court. Court-appointed attorneys were provided for the indigent without charge. These rights extended to all citizens and all groups.

Village chiefs, in consultation with the elders, decided the majority of disputes in rural areas. If these decisions were challenged in court, only those found to have legal merit were upheld.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. Police searches were infrequent and required judicial warrants.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

Individuals criticized the government publicly and privately, generally without reprisal, and the government did not attempt to impede this criticism.

The independent media were active and expressed a wide variety of views without restriction.

In July unidentified persons kidnapped a private radio talk show host as he left the radio station. He was released a few hours later, after being severely beaten. The government was still investigating, and no charges had been filed in the case at year's end.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice; however, the law prohibits association deemed immoral. Citing this law, on June 17, the governor of the District of Bamako refused to officially recognize a homosexual association.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The government required that all public associations, including religious associations, register with the government. The registration process was routine and not burdensome. Traditional indigenous religious groups were not required to register.

Societal Abuses and Discrimination.—In August 2003 a dispute between Tidiani and Wahabbi, two Sunni Muslim communities, over the building of a mosque in the village of Yerere, located in western Mali, resulted in the deaths of ten Wahabbi. There were 96 persons, including 30 women, arrested and charged with assassination, torture, assault and battery, incitement and illegal possession of arms, illegal entry and desecration of bodies. On April 11, the Criminal Court sentenced 5 of the defendants to death, including 1 woman; 10 persons received life sentences; 10 others received sentences of between 2 and 10 years' imprisonment; and 18 women received sentences of between 18 months' and 2 years' imprisonment for complicity. Of the remaining defendants, 41 were given suspended sentences and 12 were released without charge.

There were no reports of anti-Semitic acts. The Jewish population in Mali is unknown but is likely fewer than 50.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally re-

spected them in practice. Police routinely stopped and checked both citizens and foreigners to restrict the movement of contraband and to verify vehicle registrations. Some police and gendarmes extorted bribes.

The law specifically prohibits forced exile; the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. A national committee in charge of refugees operated with institutional assistance from the office of the UN High Commissioner for Refugees.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 500 persons during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In 2002, General Amadou Toumani Toure won the presidential election with more than 60 percent of the vote even without the support of a political party. Independent international and domestic observers judged the elections to be generally free and fair and without evident fraud; however, there were administrative irregularities.

Observers also considered the 2002 legislative elections to be generally free and without evident fraud but noted administrative irregularities. Shifting alliances impacted the composition of the National Assembly.

By year's end no charges had been filed against 20 persons under investigation for possession of stolen voter cards during the 2004 communal elections at year's end.

A total of 15 women held seats in the 147-member National Assembly. There were 5 female cabinet members in the 28-seat cabinet. A total of 5 women served on the 33-member Supreme Court, and 3 women served on the 9-member Constitutional Court.

The National Assembly had 14 members of historically marginalized pastoralist and nomadic ethnic minorities representing the northern and eastern regions of Gao, Timbuktu, and Kidal. The cabinet also had two representatives of the northern regions, the minister of health and the minister of state reforms and institutional relations.

Government Corruption and Transparency.—Corruption continued to hamper the government's development efforts and efforts to improve human rights protection.

On February 21, the criminal court sentenced the former minister of sports to a one-year suspended sentence for forgery and the use of forgery on official government documents. This was the first time the judicial system convicted a former minister.

In February senior officials of the textile company, Compagnie Malienne pour le Development des Textiles, including its former president, were charged with illegally importing cotton from Burkina Faso and Cote d'Ivoire, displacing local cotton, and causing financial losses to the Malian parastatal. No verdict had been reached by year's end.

The Auditor General's Office, an independent agency of the government, monitors the management of public resources and has the power to investigate mismanagement.

The law provides for public access to government information and administrative documents for the press and any citizen, and it was granted in practice. If an information request is refused, the person inquiring can appeal to an administrative court, which must handle the appeal within three months.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Some of these groups included the Malian Association for Human Rights, a smaller Malian League of Human Rights, and a local chapter of Amnesty

International. The International Committee for the Red Cross had offices in Bamako, Timbuktu, and Gao.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on social origin, color, language, sex, or race, and the government generally enforced these provisions effectively. Violence and discrimination against women, FGM, and trafficking in children were problems.

Women.—Domestic violence against women, including spousal abuse, was tolerated and common. Assault in marriage was a crime, but police were reluctant to enforce laws against or intervene in cases of domestic violence. Assault was punishable by prison terms of 1 to 5 years and fines of up to $1 thousand (500 thousand francs CFA), or if premeditated, up to 10 years' imprisonment. Many women were reluctant to file complaints against their husbands because they were unable to support themselves financially. The Ministry for the Promotion of Women, Children, and the Family produced a guide on violence against women for use by health care providers, police, lawyers and judges. The guide provides definitions of the types of violence and guidelines on how each should be handled. The ministry has also begun surveys to assess the frequency of violence. No results were available at year's end. Action for the Defense and Promotion of Women Rights and Action for the Promotion of Household Maids operate shelters.

The law criminalizes rape, but spousal rape is not illegal. Reports of rape are rare, but most cases go unreported. The law is not effectively enforced due to the rarity of the crime being reported.

FGM was common, especially in rural areas and was performed on girls between the ages of six months to six years. According to domestic NGOs, approximately 95 percent of adult women had undergone FGM. The practice was widespread in most regions and among most ethnic groups, was not subject to class boundaries, and was not religiously based. There were no laws against FGM, but a government decree prohibits FGM in government-funded health centers.

The government continued its two-phased plan aiming at eliminating all forms of FGM by 2008. According to the local human rights organizations fighting FGM, the educational phase (through workshops, videos, and theater) made some impact in cities. The practice of FGM reportedly decreased substantially among children of educated parents. In many instances FGM practitioners agreed to stop the practice in exchange for an other income-generating activity. The National Committee Against Violence Towards Women linked all the NGOs active in FGM.

Prostitution is legal and common in cities. Sex tourism was not known to be a problem. There were no confirmed reports of prostitutes targeted for abuse by local authorities.

The law does not specifically address sexual harassment.

Family law favored men, and women were particularly vulnerable in cases of divorce, child custody, and inheritance rights, as well as in the general protection of civil rights. Women had very limited access to legal services due to their lack of education and information, as well as the prohibitive cost. For example, if a woman wanted a divorce, she had to pay approximately $60 (30 thousand CFA francs) to start the process, a prohibitive amount for most.

Despite legislation giving women equal property rights, traditional practice and ignorance of the law prevented women, even educated women, from taking full advantage of the law. A community property marriage had to be specified in the marriage contract. In addition if the type of marriage was not specified on the marriage certificate, judges presumed the marriage was polygynous. Traditional practice discriminated against women in inheritance matters. For example, men inherited most of the family wealth.

Women's access to employment and to economic and educational opportunities was limited. Women constituted approximately 15 percent of the labor force. The government, the country's major employer, paid women the same as men for similar work. Women often lived under harsh conditions, especially in rural areas, where they performed difficult farm work and did most of the childrearing. The Ministry of the Promotion of Women, Children and Families was charged with ensuring the legal rights of women.

A second four-year (2004–2008) national plan of action for the promotion of women continued to try to reduce inequalities between men and women and create links between women within the Economic Community of West African States and throughout Africa. Although the government launched the second four-year plan, no analysis or evaluation of the results of the first four-year plan was conducted.

Several women's rights groups, such as the Association of Malian Women Lawyers and the Association of Women in Law and Development, worked during the year to highlight problem areas in the law, mainly the family code, through activities

such as debates, conferences, and women's rights training. Training was targeted to reach magistrates, police officers, and religious and traditional leaders, while providing legal assistance to women.

Children.—The government was committed to providing for children's welfare and rights. Several laws protect children and provide for their welfare, including an ordinance that provides for government positions of "child delegates," in each region whose role is to safeguard the rights and interests of children

Education was tuition free and, in principle, is open to all, although the majority of students left school by age 12. Students had to provide their own uniforms and supplies to attend public schools. While primary school was compulsory up to the age of 12, only 53.4 percent of children in the 7–12 age group (45.7 percent of girls and 61.4 percent of boys) received a basic education owing to a lack of primary schools, especially in rural areas where 80 percent of the population lived According to the Ministry of Education, net enrollment of children in junior high school was 18.6 percent, of which 13.8 percent were girls. Girls' enrollment in school is lower than boys' at all levels, partially due to early marriage. Shortages of teachers and materials, poverty, and cultural tendencies to place less emphasis on education of girls also affected the rate of girl's enrollment. Literacy rates among girls remained significantly lower than for boys. A 1998 government estimated report a 12 percent literacy rate for women.

The country had Koranic schools, which taught the Koran, reading, writing, and mathematics. There were 852 registered *Medersas* teaching at the primary school level with 140,194 students, 10 percent of all students attending primary school during the year. While Medersas were by statute private, the government supported them by providing textbooks and some teacher training and teaching materials. The Ministry of Education was charged with monitoring and supporting Medersas.

The Koranic schools were independent institutions that depended on parents' donations and money the children (known as garibouts) received from begging on the streets. They received no government funding and were not part of the government's educational system. There were reports that children who attended Koranic schools spent more time begging on the streets than learning in the classroom. The government believed it was the Islamic leaders' responsibility to modernize and monitor Koranic schools. Koranic schools and teachers have made occasional requests for governmental assistance, but they have not receive such assistance.

Subsidized medical care was provided for children, as well as adults, but was limited in quality and availability. Boys and girls had equal access to medical care.

The Social Services department investigated and intervened in cases of child abuse or neglect. According to local human rights organizations, reported cases were rare; however, statistics were unreliable.

FGM was commonly performed on young girls (see section 5, Women).

Women may legally marry at age 18 and men at age 21. The marriage code allows girls under age 15 to marry with parental consent or special permission from a judge. Women's rights organizations opposed this provision as contradicting international conventions that protect children through the age of 18. Underage marriage was known to be a problem in the regions of Kayes, Sikasso, Timbuktu, and Mopti. Parents contracted marriage for girls as young as age 11 in the Fulani, Minianka, and Soninke ethnic groups even though the practice is illegal.

Local women's rights NGOs such as Action for the Promotion and Development of Women, the Committee for the Defense of Women's Rights, and the Women's and Children's Rights Watch educated local populations about the negative consequences of underage marriage. As a result of these campaigns, girls' school enrollment increased progressively since 2000. The government promoted girls' education and its efforts helped lower the occurrence of underage marriage.

Trafficking in children (see sections 5, Trafficking) and child labor (see section 6.d.) were problems.

Trafficking in Persons.—The law does not prohibit trafficking in persons in general but specifically prohibits trafficking in children; however, there were reports of such trafficking during the year. Child trafficking is punishable by 5 to 20 years' imprisonment. There also are laws that prohibit the contractual use of persons without their consent. Penalties increased if a minor was involved; however, these penalties were not imposed during the year.

On June 9, a criminal court dropped the case against three women arrested in 2004 in the Segou region after determining that their suspected victims were adult prostitutes not protected by the child trafficking law. The case of a Guinean national arrested in 2004 at the Guinean border for trafficking young girls was still pending at year's end. The Criminal Court also handed down a two-year suspended sentence

against a Congolese national and a Malian accomplice involved in the trafficking of six Congolese children.

Though legal protections and measures were in place, parents were reluctant to follow through with charges and cases often languished unresolved within the justice system.

Both the Ministry for the Promotion of Women, Children, and the Family and the Ministry of Labor and Civil Service handled the problem of trafficking. Both ministries, in cooperation with the Ministry of Foreign Affairs and the Ministry of Territorial Administration, developed a program to identify and rehabilitate victims, educate the population, and strengthen the legal system with regard to the movement and trafficking of minors. In 2004 the Ministry for the Promotion of Women, Children, and the Family launched a survey on the sexual exploitation of minors and participated in the creation of community surveillance in the most vulnerable areas of the country. There were no results by year's end.

The country was a source, transit, and destination for trafficking. Most of the trafficking occurred within the country's borders during the year. Children were trafficked to rice fields in the central regions; boys were trafficked to mines in the south; and girls were trafficked for involuntary domestic servitude in Bamako. Victims are generally trafficked into agricultural work, domestic servitude and to a lesser extent into begging, gold mining, and prostitution. The victims were usually from the central regions of the country and not from a specific ethnic group. Women and girls were trafficked from Nigeria for sexual exploitation. Traffickers were mainly from the country.

The government assists with international trafficking investigations and extradition of citizens who are accused of trafficking in other countries, but there were no such cases this year.

The government worked closely with international organizations and NGOs to coordinate the repatriation and reintegration of trafficking victims. Six children were repatriated during the year.

Welcome centers in Mopti, Segou, Sikasso, and Bamako assisted in returning trafficked children to their families. The government provides temporary shelter and protection victims at these centers.

Parents were required to carry travel passes for children, a measure intended to curb child trafficking. There were no reports that these documents hindered legitimate travel during the year.

Persons with Disabilities.—There was no specific law protecting the rights of persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, the government did not discriminate against persons with disabilities.

There is no law mandating accessibility to public buildings. There were no reports of societal discrimination against persons with disabilities. The Ministry of Social Affairs is charged with the protection of the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—Unlike in the previous year, there were no incidents of violence between Arabs and Kountas in the north. Mediation between the two groups was successful and hostilities have decreased. An investigation into the August 2004 clash between Arabs and Kountas in the Gao region was ongoing at year's end.

The 2004 case concerning the killing of a customs officer during a confrontation between two Tuareg communities in Kidal was still pending at year's end.

Other Social Abuses and Discrimination.—In June the governor of Bamako refused to grant official recognition to a gay association (see section 2.b.).

Section 6. Worker Rights

a. The Right of Association.—The law provides for the freedom of workers to form or join unions and protects freedom of association, and workers exercised these rights in practice. Only the military, the gendarmerie, and the national guard were excluded from forming unions. An estimated 95 percent of salaried employees were organized, including teachers, magistrates, health workers, and senior civil servants.

The law does not prohibit antiunion discrimination, but there were no reports of antiunion behavior or activities during the year.

b. The Right to Organize and Bargain Collectively.—The law allows workers to form and join unions of their choice without excessive requirements, and the government respected these rights in practice. Unions other than those representing civil servants and workers in essential services have the right to strike. Workers exercised this right by conducting legal strikes. The law provides for the right to collective bargaining and workers exercised this right freely. Approximately 60 percent

of workers were under such agreements. The growth of independent unions led to more direct bargaining between unions and their employers. Wages and salaries for workers belonging to the National Union of Malian Workers (UNTM) Federation and the Syndicated Confederation of Malian Workers were set by tripartite negotiations between the Ministry of Labor, labor unions, and representatives of the National Council of Employers of the sector to which the wages applied. These negotiations usually set the pattern for unions outside the UNTM. Civil service salary levels were pegged nationally to an index established by the government.

The law provides for the right to strike; however, there were restrictions in some areas. For example, civil servants and workers in state-owned enterprises were required to give two weeks' notice of a planned strike and enter into mediation and negotiations with the employer and a third party, usually the Ministry of Labor and State Reforms. The labor code prohibits retribution against strikers, and the government generally effectively enforced these laws.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

The law prohibits the contractual use of persons without their consent; penalties include a fine and hard labor. The penalties increase significantly if a minor, defined as someone less than 15 years of age, was involved.

There were some reports that de facto slavery, long reported to have existed in northern salt mining communities, evolved to wage labor in recent years; however, reliable evidence regarding labor conditions in those remote facilities remained unavailable. Hereditary servitude relationships continued to informally link different ethnic groups, particularly in the north.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Labor Code has specific policies that pertain to child labor; however, these regulations often were ignored in practice and child labor was a problem. The Labor Code permits children between the ages of 12 and 14 to work up to two hours per day during school vacations with parental approval. Children 14 to 16 may work up to 4½ hours per day with the permission of a labor inspector, but not during nights, on Sundays, or on holidays. Children 16 to 18 could work in jobs that were not physically demanding; boys could work up to 8 hours per day and girls up to 6 hours per day.

Child labor predominated in the agricultural, mining, and domestic help sectors and, to a lesser degree, in craft and trade apprenticeships, and cottage industries. Apprenticeship, often in a family member's or a parent's vocation, began at an early age, especially for children unable to attend school.

Laws against unjust compensation, excessive hours, or capricious discharge did not apply to the vast number of children who worked in rural areas, helping with family farms and herds, and those who worked in the informal sector, such as street vendors.

Trafficking in children was a problem (see section 5).

The authorities enforced labor code provisions through inspectors from the Ministry of Labor and State Reforms, who conducted surprise inspections and complaint-based inspections; however, resource limitations restricted the frequency and effectiveness of oversight by the Labor Inspection Service, and the service operated only in the formal sector.

The National Campaign Against Child Labor, led by the International Program for the Elimination of Child Labor (IPEC)-Mali, was responsible for investigating abusive forms of child labor. IPEC relied on labor inspectors appointed by the government in Bamako and in regional labor offices throughout the country. IPEC investigated cases when NGOs or the media provided information that there was abusive child labor. There were no such reports during the year.

e. Acceptable Conditions of Work.—The national minimum wage rate, set during the year, was approximately $53 (28 thousand CFA francs) per month, which did not provide a decent standard of living for a worker and family. The minimum wage was supplemented by a required package of benefits, including social security and health care. While this total package could provide a minimum standard of living for one person, in practice most wage earners supported large extended families and supplemented their income by subsistence farming or employment in the informal sector. The labor code specifies conditions of employment, including hours, wages, and social security; however, in practice, many employers either ignored or did not comply completely with the regulations.

The legal workweek was 40 hours (45 hours for agricultural employees), with a requirement for a 24-hour rest period. Workers had to be paid overtime for additional hours.

The social security code provides a broad range of legal protections against hazards in the workplace, and workers' groups brought pressure on employers to respect parts of the regulations, particularly those affecting personal hygiene. With high unemployment, however, workers often were reluctant to report violations of occupational safety regulations. The Labor Inspection Service of the Ministry of Labor oversaw these standards but limited enforcement to the modern, formal sector. It was not effective in investigating and enforcing workers' safety and was insufficiently funded for its responsibilities. Workers had the right to remove themselves from dangerous work situations and request an investigation by the Social Security Department, which was responsible for recommending remedial action where deemed necessary; it was not known if any worker had done so.

MAURITANIA

Mauritania is a highly centralized Islamic republic dominated by a strong presidency, with an estimated population of three million. The constitution provides for a civilian government composed of a dominant executive branch, a Senate, and a National Assembly. Former president Maaouiya Ould Sid'Ahmed Taya headed the ruling Republican Social Democrat Party (PRDS) and governed since 1984. Taya was reelected president in 2003. Opposition candidates alleged widespread fraud but chose not to contest the election's results via available legal channels. On August 3, president Taya was deposed in a bloodless coup. Military commanders led by Colonel Ely Ould Mohammed Fal seized power while Taya was abroad. Colonel Fal established the ruling Military Council for Justice and Democracy (MCJD) to run the country. The council dissolved the parliament and appointed a transitional government. Following national consultations with political parties and civil society in October, the junta and transitional government released an election timeline culminating in presidential elections in March 2007, and the junta has announced that it will relinquish power by May 2007. Both the former and transitional governments refused to officially recognize several political parties. Civilian authorities generally maintained control of the security forces until the August 3 military coup, when the military leadership seized control of the security apparatus.

Both the former and transitional government's human rights records remained poor; although there were some improvements in a few areas, serious problems remained. Human rights were negatively impacted by the many problems facing the country, including persistent drought, widespread desertification, flooding, and the effects of the massive locust invasion in 2004. The country suffered from rapid urbanization, extensive unemployment, pervasive poverty, and a burdensome foreign debt. The concentration of much of the country's wealth in the hands of a small elite, as well as a lack of transparency and accountability in certain areas of governance, impeded economic growth and created a permissive environment for human rights abuses. The following human rights problems were reported:

- citizens' inability to change their government
- impunity
- harsh prison conditions
- arbitrary arrest and detention and prolonged pretrial detention
- illegal searches
- executive influence in the judiciary
- restrictions on freedom of speech, the press, and assembly
- limits on freedoms of association and religion
- widespread public perception of governmental corruption and lack of access to government information
- government refusal to officially recognize some nongovernmental organizations (NGOs) and human rights organizations
- discrimination against women and female genital mutilation (FGM)
- trafficking in persons
- ethnic and racial tensions continued and the under representation of largely southern based ethnic groups in political life
- slavery in the form of involuntary servitude persisted, particularly in remote regions of the country
- child labor in the informal sector

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—During the year, neither the former nor the transitional government or its agents committed politically motivated killings; however, security forces killed persons during the year.

On June 21, Mamadou Salui Diallo, a 58-year-old Guinean fisherman, died from injuries he sustained while in police custody. His family reported that police beat him to death; however, police claimed he committed suicide by throwing himself into a wall at a Nouakchott police station. Both local and foreign NGOs condemned the incident as an example of a police killing. The former government's internal investigation allegedly supported the police version of the incident.

During the year, police forcibly dispersed demonstrations during the year, which resulted in a death (see section 2.b.).

The trial of the two policemen charged with the 2003 killing of Amadou Kane began in 2004. The trial continued at year's end.

There were no developments in the 2003 drowning of Taleb Boubacar on the Nouakchott beach or in the official investigation into the killing of a teenager in Kaedi.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices there were credible reports that police routinely beat and tortured suspects in custody, which resulted in at least one death (see section 1.a). There were instances of torture in prisons. Alleged police torture techniques included beating, hanging, burning with cigarettes, electric shock, and cutting. According to reports, those who lacked money or influential family or tribal ties were the most likely to be tortured.

Prisoners released under a May amnesty reported repeated beatings, in particular at the Ouad Naga and police school prisons (see section 1.d.). Prisoners cited a March 15 beating when forces, under the command of gendarmerie lieutenant H'Moudy Ould Taya, attacked the group, beat them and stole their possessions and clothing.

On September 29, the *Nouakchott Info*, a local daily newspaper, reported the torture of several Islamists including Ismael Issa, arrested by the former government during the yea; Issa remained in prison. The article included a graphic photo of Issa's legs, which bore severe wounds reportedly inflicted by police during various interrogations (see section 1.d.).

Prison and Detention Center Conditions.—Prison conditions remained harsh, although prison administration continued to show improvement. In some prisons, serious overcrowding persisted, and sanitation facilities remained inadequate, reportedly contributing to diseases such as tuberculosis, diarrhea, and dermatological ailments. Medical supplies, mainly provided by an international NGO, remained insufficient in all prisons. Budget allocations to improve prison conditions remained insufficient in all prisons. Physical conditions in Nouakchott's Central Prison improved because of construction projects that began during the year and were ongoing at year's end. Prisoners with high-level connections and with families to bring them food, medicines, and reading material fared better than the less privileged or citizens from other countries.

Guard force management generally enforced regulations against beatings and torture; however, there continued to be credible reports of beatings and torture of detainees at several prisons throughout the country.

The nationwide prison capacity was 800, and, as of December the prison population was an estimated 815. The prison population in Nouakchott was approximately 435 persons, with 394 men, 6 women, and 35 minors; women and minors were held in two separate facilities. During the year the transitional government began construction of a new central prison north of Nouakchott to hold sentenced male prisoners.

The women's prison employed both male and female guards. Children of female prisoners remained with their mothers, or the Ministry of Justice gave temporary custody of the children to another family member. The Noura Foundation, an NGO working in the prisons, provided education and domestic training to the female prisoners. UN Children's Fund, in collaboration with the Catholic NGO CARITAS and the Noura Foundation, provided services such as job training, gardening instruction, and sport activities in the juvenile detention center. Pretrial detainees in all detention facilities were frequently held with convicted prisoners as a result of overcrowding.

The former and transitional governments permitted prison visits by NGOs, diplomats, and international human rights observers. During the year foreign diplomats visited some prisons during the year. The International Committee of the Red Cross (ICRC) had access to prisons and conducted multiple prison visits during the year. The ICRC visited prisoners both before and after the August 3 coup. By year's end their findings were not reported.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, there were frequent reports that the police arbitrarily arrested and detained citizens.

Role of the Police and Security Apparatus.—The National Guard performs police functions throughout the country in areas in which city police are not present. The gendarmerie is a specialized paramilitary group responsible for maintenance of civil order in and outside metropolitan areas.

The police, who are under the control of the Ministry of the Interior, lacked equipment and training, which often weakened attempts to enforce the law. Corruption was believed to be endemic at all levels of the police. Police generally acted with impunity. The former and transitional governments often did not hold security officials accountable or prosecute security officials for abuses.

On August 3, former chief of the national police, Colonel Ely Ould Mohammed Fal, overthrew former president Maaouiya Ould Sid'Ahmed Taya in a bloodless coup (see section 3).

Arrest and Detention.—The application of constitutional safeguards continued to vary widely from case to case. The law requires duly authorized arrest warrants, but they were not commonly used. The law requires that courts review the legality of a person's detention within 48 hours of arrest. The police may extend the period for another 48 hours, and a prosecutor or court can detain persons for up to 30 days in national security cases. Only after the prosecutor submits charges does a suspect have the right to contact an attorney. While one article of the law provides detainees with the right to prompt judicial determination of the charges against them, an older law allows the government to detain persons for up to 30 days without a judicial determination. The former and transitional governments frequently adhered to the older law, the former government particularly during politically turbulent periods. A provision for granting bail exists but was rarely used.

The former government arrested journalists during the year (see section 2.a.).

There were reports of political detainees. From March to July, the former government detained approximately 80 Islamists, including Islamist leaders Cheikh Mohamed El Hacen Ould Dedew and Moctar Ould Mohamed Moussa, who it claimed were tied to terrorism. On May 28, the former government charged 37 with membership in unrecognized groups or for inciting violence and making harmful political statements at mosques. The former government released 14 others, leaving 66 in prison (37 of whom had been charged). A majority of the arrests appeared to be based on alleged political activities rather than religious beliefs. The transitional government released 21 of the 66 Islamists soon after assuming power, and on September 2 released an additional 24 for lack of evidence, leaving 21 in prison. The transitional government stated that it had sufficient evidence to hold the remaining 21, and was making its case against them at year's end. The ICRC visited them numerous times during the year.

According to some neutral observers, police in some regions arrested former criminals and demanded bribes for their release. Pretrial detention was a common practice. Some indicted detainees were released before trial without explanation. There were credible reports of persons remaining in pretrial detention months or in some cases years.

Amnesty.—All prisoners tried in January for attempts to overthrow the Taya government, including 129 connected to the June 2003 coup attempt, were released from prison. The former government released all but 32 after their cases were dismissed or their time was served. In September the transitional government released through a general amnesty the remaining 32 who were convicted of coup plotting and related crimes (see section 1. c.).

e. Denial of Fair Public Trial.—Although the law provides for the independence of the judiciary in practice the executive branch exercised significant influence over the judiciary through its ability to appoint and pressure judges. In addition, poorly educated and poorly trained judges who were susceptible to social, financial, and tribal pressures limited the judicial system's fairness.

Prior to the coup, the former government worked on judicial system reform, which included creating specialized appeals courts and training judges, prosecutors, and police on procedures for applying the country's laws, particularly those laws concerning human rights and trafficking in persons. The transitional government con-

tinued with these reforms. In August the transitional government formed an interministerial committee to propose judicial reforms with an emphasis on establishing magisterial independence. The committee's report, released in November, listed several themes for judicial reform, including ensuring the independence of the judiciary, improving human resources and training for legal officials, and modernizing the justice system. The transitional government made minor staff changes to the judicial structure, including appointing a new minister of justice, Ould Bettah.

There is a single system of courts consistent with modified principles of Shari'a (Islamic law). Departmental, regional, and labor tribunals are the courts of first instance at the lower level. The 53 departmental tribunals, composed of a president and magistrates with traditional Islamic legal training, heard civil cases involving sums less than $39 (10 thousand ouguiya) and family issues, such as domestic, divorce, and inheritance cases. A total of 13 regional tribunals accepted appeals in commercial and civil matters from the departmental tribunals and heard misdemeanors cases. At the middle level, three courts of appeal, each with seven chambers (civil, commercial, administrative, and penal chambers, as well as criminal, minors, and labor courts) heard appeals from the regional courts and have original jurisdiction for felonies.

The Supreme Court was nominally independent and was headed by a representative appointed to a five-year term by the president. The Supreme Court reviewed decisions and rulings made by the courts of appeal to determine their compliance with the law and procedure. Constitutional review was within the purview of a six-member constitutional council, composed of three members named by the president, two by the national assembly president, and one by the senate president. The Supreme Council of Magistrates, over which the president presided, undertook annual review of judicial decisions; the president and senior vice president of the Supreme Court, the minister of justice, three magistrates, and representatives from the Senate and National Assembly were members of this council. The annual review was intended to determine whether courts applied the law correctly and followed proper procedures. Reviews also served as a basis for evaluating the reform process and reassigning judges based on their qualifications.

Trial Procedures.—The law provides for due process. Defendants have a right to a public trial, but juries are not used. All defendants, regardless of the court or their ability to pay, have the legal right to representation by counsel during the proceedings. If defendants lacked the ability to pay for counsel, the court appointed an attorney from a list prepared by the National Order of Lawyers, which provided a defense free of charge. There is a presumption of innocence and the right to appeal. The foregoing rights generally were observed in practice.

Shari'a provides the legal principles upon which the law and legal procedure are based, and courts did not treat women as the equals of men in all cases (see section 5).

The minimum age for children to be tried was 12. Those between the ages of 12 and 18 were tried and, if convicted, sentenced to the juvenile detention center. There was a special court to hear the cases of children under the age of 18. Children who appeared before the court received more lenient sentences than adults, and extenuating circumstances received greater consideration in juvenile cases.

In January the trial of the 181 men who were charged with either participating in the 2003 coup attempt or with plotting other coups, although reportedly politically influenced and with many irregularities, ended with lighter than expected sentences and no death penalties

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law requires judicial warrants to execute home searches; however, the former government authorities reportedly often ignored this requirement. There were no reports regarding the transitional authorities' adherence to this requirement by year's end.

Former government surveillance of dissidents and the political opposition was believed to continue; however, the extent to which they used informants was unknown. Although there were no reports, the transitional government likely continued this practice.

There were no reports that former or transitional government officials misappropriated land under the land reform system. The transitional government has taken no steps to cure past misappropriations, asserting that this is an issue best dealt with by an elected government. There were no reports of misappropriations during the year.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, but the former and transitional governments continued to restrict these rights through prepublication press censorship by the Ministry of the Interior and domination of broadcast media. In a few cases, media groups were refused access to public forums or censored for criticizing the former government.

All newspapers must register with the Ministry of the Interior; registration was routine. Two daily newspapers, *Horizons* and *Chaab*, were government owned. There were approximately 25 privately owned newspapers that published on a regular basis, in both French and Arabic. NGOs and the privately owned press openly criticized the former government and its leaders, while little criticism was directed at the transitional government. Former antigovernment tracts, newsletters, and petitions circulated widely in Nouakchott and other towns. Newspapers, journals, and privately published books were exempt from all taxes on materials used to produce them.

Radio was the most important medium for reaching the public, and the official media strongly supported the former and transitional governments' policies. Except for the radio broadcast of Radio France International, all broadcast media (radio and television) were government owned and operated. The former government continued to deny, or simply not respond to, private applications to establish domestic radio stations. In December the transitional government allowed RFI to resume radio broadcasts. At year's end the transitional government's position on establishing domestic radio stations was not known.

Using satellite receivers and dish antennas, citizens could receive worldwide television broadcasts.

During the year several journalists were arrested by the former government. On May 19, Mohamed Mahmoud Abou Al Maaly, director of the regular weekly Arabic newspaper, *Akhbar Nouakchott*, was arrested and released two days later. Prior to his arrest, Maaly wrote articles against the former government's crackdown on Islamists, including one article which included an interview with the Islamic leader Jemil Mansour, who at the time was in hiding from the government.

On July 12, police arrested and reportedly abused Mohamed Fadel OULD Ahmed Vall. Prior to his arrest, he had been filming the Thieb Thieb market, a well known black market in Nouakchott. Police released Vall the same day but confiscated his tape.

Two newspaper employees were arrested during the year by the transitional government. On October 19, police arrested journalist Adil Ould Sijad and director Moulay Najem of the regular weekly French-language newspaper, *Points Chauds*, after the paper ran a story on a pornographic film reportedly made in Nouakchott's central prison. Najem was released the following day, but Sijad remained in prison until late November.

The Press Law requires publishers to submit copies of newspapers to the ministries of interior and justice before distributing them. The Ministry of the Interior reviewed all newspaper copy prior to publication and usually authorized sales and distribution within two to three days. The Press Law; however, provides that the minister of the interior can stop publication of material that discredits Islam or threatens national security.

The former Ministry of the Interior censored two editions of independent newspapers during the year. On March 15, the 46th edition of the Arabic-language newspaper, *Al Marsad*, was suspended for no reported reason. On April 6, the 482nd edition of the French-language newspaper *Le Calame* was suspended reportedly for attempting to publish a story regarding a disagreement among high-level military officers.

During the year transitional government censored one newspaper. The August 16 edition of the French-language newspaper *Le Mehariste* was censored, reportedly for attempting to publish a story on slavery. The Ministry of the Interior on two occasions delayed papers for several days but later allowed their publication. The moves appeared less an attempt at censorship than an internal bureaucratic mistake.

The Arab-language private newspaper, *Ar-Raya* closed by the former government in 2003 as a result of its links with Islamist political leader Jemil Mansour, remained closed during the year.

The Arab-language private newspaper, *Al Jawahir*, closed by the former government in 2004 as a result of its alleged financial links to Libya, remained closed during the year.

Opposition parties' access to government radio and television broadcast facilities was extremely limited prior to the August 3 coup. These groups received greater access after the coup but were still subjected to occasional censorship. On October 3, a televised program in which political parties discussed sensitive issues of repa-

triating displaced Afro-Mauritanians was censored from broadcast on a public television station.

The former and transitional governments did not restrict access to the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and, while the former government sometimes restricted this right in practice, the transitional government has largely respected it; however, police dispersed at least two pro-Taya demonstrations, a human-rights demonstration, and a sit-in protesting the return of refugees on the pretext they did not have permits.

The law requires that all recognized political parties and NGOs apply to the local prefect for permission to hold large meetings or assemblies, and permission was generally approved. During the months of May through August, police regularly used force, and in some instances tear gas, to disperse demonstrators or crowds that formed in Nouakchott. These crowds often gathered in front of the Central Prison, either to protest the former government's treatment of Islamists, or to request the release of friends and relatives. There were credible reports that persons were injured during these police actions. Zeinabou Mint Youssef, a seven-months' pregnant woman, died on June 2 from injuries received when police forcibly dispersed a crowd of protesters on May 28. Zeinabou and others protested in front of the Central Prison against the arrest of several Islamists opposed to former president Taya. Police and former government officials denied any involvement in her death.

Freedom of Association.—The law provides for freedom of association; however, the former and transitional governments limited this right in practice and circumscribed the efforts of some groups by denying them official recognition. The former government recognized three human rights NGOs but refused to recognize the major political party, The Party of Democratic Convergence (PDC) (see section 4). In October the transitional government also refused recognition to the PDC. In December the transitional government recognized the political party, Democratic Renewal.

All political parties must register with the Ministry of the Interior. Organized political parties (29 under the former government and 30 under the transitional government) and a wide array of NGOs, many of them highly critical of the former government, functioned openly, issued public statements, and chose their own leadership. The former and transitional governments did not grant certain NGOs official standing but did not prevent them from functioning (see section 4). Groups were often refused recognition under laws which prohibited the formation of racially or religious-based organizations. These laws were used by the former and transitional governments to ban Islamist political parties.

The former and transitional governments continued to ban the political parties Action for Change, Union of Democratic Forces-New Era, An-Nouhoud, and Taliaa (Vanguard).

c. Freedom of Religion.—The constitution establishes the country as an Islamic republic and decrees that Islam is the religion of its citizens and the state; the former and transitional governments limited freedom of religion. Christians in the foreign community and the few Christian citizens were usually permitted to practice their religion openly and freely. In April police told four small West African Protestant groups, which held prayer sessions in members' homes, to stop meeting and encouraged them to relocate their activities to the compound of the Catholic Church, where the Catholic Church and the Evangelical Church held regular meetings.

The former and transitional governments did not register religious groups, although NGOs had to register with the Ministry of the Interior (see section 2.b.). There included humanitarian and development NGOs affiliated with religious groups.

The government arrested numerous suspected Islamists during the year (see section 1.d.).

Although there is no specific legal prohibition against proselytizing by non-Muslims, in practice; the former and transitional governments prohibited proselytizing by non-Muslims through use of the press act, which bans the publication of any material that is against Islam or contradicts or otherwise threatens Islam. There were no reports that the former governments punished persons for violating this provision during the year. In December transitional government authorities arrested a British subject and held him for several days for reportedly distributing a cassette tape with Christian content. The former and transitional governments viewed any attempts by Christians to convert Muslims as undermining society; however, the former and transitional governments also restricted suspected Islamic extremists. There were no known non-Muslim groups engaging in proselytizing, and foreign

Christian NGOs limited their activities to humanitarian and development assistance.

Under the press act, the government may restrict the importation, printing, or public distribution of Bibles or other non-Islamic religious literature, and in practice Bibles were neither printed nor publicly sold in the country. The possession of Bibles and other Christian religious materials in private homes, however, was not illegal, and Bibles and other religious publications were available among the small Christian community.

Societal Abuses and Discrimination.—A very small number of expatriates practiced Judaism. In May citizens conducted several public protests against the former government's continued recognition of Israel, and during the protests made derogatory statements against Jewish persons.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and while the former and transitional governments generally respected them, in some regions, persons lacking identity cards could not travel freely. The former and transitional governments set up roadblocks where gendarmerie, police, or customs officials checked the papers of travelers and often demanded bribes. During the year the former and transitional governments generally maintained fewer roadblocks and reduced the time taken in questioning and conducting vehicle searches. In the weeks following the coup, there was an increased security posture. There were fewer reports of more stringent searches in the southern border areas.

The law does not prohibit forced exile, and the former government used it during the 1989–91 crisis; however, there were no reports that the transitional government used it.

The office of the UN High Commissioner for Refugees (UNHCR) estimated that there were between 15 thousand and 20 thousand refugees from the 1989–91 crisis remaining in Senegal, although refugees have continued to return independently in small numbers and have benefited from small-scale agro-forestry, health, and sanitation projects continued by NGOs and humanitarian workers. Cooperation by local authorities in addressing restitution and citizenship matters varied greatly, depending on individual officials and the returnee's region. Many returnees received their original homes, some property, and all or a portion of their land. Throughout the Chemama or the Senegal River Valley region, returnee communities were reestablishing their agricultural production; however, recovery of land titles remained the primary issue. Timely restoration of identity papers varied, and some of those who returned in 1995 have not yet received identification cards.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, or the 1967 African Union Convention on the Status of Refugees, but the former government has established a system for providing such protection. In practice the former and transitional governments provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum.

The former and transitional governments continued to provide temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and during the year provided it to approximately 400 persons.

The former and transitional governments cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees or asylum seekers. The former and transitional governments also accepted the UNHCR's registration of approximately 600 asylum seekers, mostly from Sierra Leone and Liberia.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government; however, this right was abridged during the year due to the overthrow of former president Taya in a bloodless coup. The former government circumscribed citizens' rights to change their government in practice. The transitional government, following "National Consultations" with over 500 political parties, NGO's, and public figures, released a timeline for a transition to democracy calling for presidential and parliamentary elections no later than March 2007. The timeline was agreed to by the European Union (EU) during formal talks in Brussels in November. At the end of these talks the EU also declared that it was "prepared to give its support to the implementation of" 24 commitments made by the transitional government, including

guaranteeing all Mauritanian citizens the full exercise of their basic rights and freedoms, including the freedoms of speech, movement, and assembly. The transitional government also requested and received assurances for UN elections preparation assistance. In December the UN dispatched an advance elections team to the country. The UN imposed two requirements for electoral assistance: having an independent electoral commission and revised voter' lists. The transitional government complied with both demands. The UN advance team was providing technical advice on budget, organizing the new registration of voters, and assisting on other matters at year's end.

Elections and Political Participation.—In the former government, although civilians occupied all ministerial-level positions, some members of the Military Council that ruled from 1984 to 1992, in addition to former President Taya, remained in positions of power within the executive branch, the National Assembly, the armed forces, and government-owned enterprises.

Former President Taya won the 2003 elections with 67 percent of the vote amid reports of fraud, particularly in the south. The former government did not invite international and local diplomatic observers to observe the voting process, although it did permit one international organization to visit the country during the elections. The leading opposition candidate, Mohamed Haidallah, was arrested the day before the election, released, and rearrested the day after the election. Opposition candidates alleged that the former government conducted a fraudulent election but chose not to contest the election's results via available legal channels, reportedly because the leading opposition candidate's imprisonment immediately following the elections prevented him from taking any legal action.

In 2004 and while in power during 2005, the former government arrested and tried 181 persons, mostly military officers, including Major Saleh Ould Hanenna, the leader of the "Knights of Change," for their involvement in three separate attempts to stage a coup to overthrow former president Taya. The trial resulted in lighter than expected sentences, with no persons sentenced to death. Many of the 181 were released by the former government during the year, after having their cases dismissed or having completed their sentences, and the final 32 were released by the transitional government following the declaration of a general amnesty in September.

The former government reportedly harassed the sons of former president and opposition leader Mohamed Khouna Ould Haidallah on several occasions during the year, allegedly in connection with criminal activity

On August 3, President Taya, who had ruled the country for 21 years, was deposed in a bloodless coup. Military and other security officers, led by the chief of the national police, Colonel Ely Ould Mohammed Fal, seized power while Taya was aboard. Colonel Fal established the ruling MCJD to run the country, and assumed the position of president of the MCJD. The MCJD dissolved the parliament, suspended parts of the constitution, adopted a constitutional charter allowing it to rule by decree, and appointed a transitional government to replace the Taya government.

In October this transitional government (the MCJD and the council of ministers) held national consultations with over 500 political parties, NGO's, and public figures to debate the roadmap to democracy. Following the consultations, the transitional government released a timeline for a transition to democracy culminating in presidential elections in March 2007.

Until August, when parliament was dissolved, three women held positions in the 81-seat National Assembly and 6 women in the 56-seat Senate. Three of the 15 members of the Executive Bureau of the former ruling PRDS party were women, and a woman heads the Union for Democracy and Progress party, a part of the former ruling coalition. Women occupied some senior former and transitional government positions: three cabinet-level posts including the minister of labor, two secretaries of state, the deputy director of the president's cabinet, and the president's minister-counselor. Women were well represented in the Secretariat of Women's Affairs, including a number from minority ethnic groups. Three of the 26 transitional government ministers are women and 2 of the 15 members of the National Independent Electoral Commission are women.

Prior to the dissolution, the 56-member Senate had 3 Black Moors, 4 Halpulaars, 3 Soninkes, and the remaining 46 were of either White Moor or mixed White Moor/Black Moor heritage. The 81-member National Assembly had 9 Black Moors, 8 Halpulaars, 2 Soninkes, and 2 Wolof. Minorities such as the Black Moors, Halpulaars, Soninkes, and Wolofs were underrepresented in senior former and transitional government positions. Sghair Ould M'Bareck, however, was appointed as the country's first Black Moor prime minister in 2003, and the first Black Moor woman to occupy a ministerial level position was appointed minister of public records in 2003. Of the former government's 22 ministerial posts, 2 incumbents were

Black Moor, 2 were Halpulaar, and 1 was Soninke; the remaining 14 were of either White Moor or mixed White Moor/Black Moor ethnicity (see section 5). The full 26-member cabinet, including secretaries of state, had 2 Black Moors, 3 Halpulaars, and 1 Soninke. Of the transitional government's 26 ministerial posts, 2 incumbents were Haratines, 3 were Pular, and 1 was Soninke. Of the seventeen members of the MCJD, there was 1 Haratine, 1 Pular, and 1 Soninke.

Government Corruption and Transparency.—There was a widespread public perception of corruption in all levels of the former government, and a widespread belief that corruption and poor fiscal management contributed to the country's significant fiscal problems. The former government did not conduct any audits during the year. The transitional government continued to investigate corruption and fiscal mismanagement by the former government at year's end. The public perception of the transitional government's level of corruption could not be determined by year's end; however, it was widely believed that some corruption continued as the transitional government inherited from the former government a patronage system that fostered corruption.

There were no laws permitting public access to government information, by either citizens or noncitizens. Requests for such access were routinely refused, usually without a specific reason being given.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Former and transitional government officials were somewhat cooperative and responsive to their views. The former government officially recognized three NGOs but refused recognition of several others and denied them the ability to deal with government officials, as well as the opportunity to request government assistance.

There were four NGOs concerned with overall human rights issues. The oldest was the Mauritanian League for Human Rights, a government-recognized body with a strong track record of defending former government policies. In May the former government recognized the Mauritanian Association for Human Rights, the International Study and Research Group on Democracy and Economic and Social Development in Africa, and anti-slavery NGO SOS-Esclaves. SOS Esclaves' president, Boubacar Ould Messaoud, had been a longstanding and vocal critic of the former government, and the recognition of this and the other two NGOs was seen as a significant positive step by the former government.

In August 2004 the UN-based Committee for the Elimination of Racial Discrimination reported that slavery, FGM, and racial discrimination remained ongoing problems in the country.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for equality for all citizens regardless of race, national origin, sex, or social status, and prohibits racial or ethnic propaganda; however, the former and transitional governments often favored individuals on the basis of racial and tribal affiliation, social status, and political ties. Societal discrimination against women, trafficking in persons, and racial and ethnic discrimination were problems.

Women.—Human rights monitors and female lawyers reported that domestic violence was rare, particularly among the Moor population. Abuse and domestic violence are illegal; however, the government did not always enforce the law effectively. Penalties included imprisonment, but convictions were very rare. The police and judiciary occasionally intervened in domestic abuse cases, but women in traditional society rarely sought legal redress, relying instead upon family and ethnic group members to resolve domestic disputes.

According to NGO reporting, the incidence of unreported rape was high. Rape, including spousal rape, is illegal; however, the government did not enforce the law effectively. Penalties included imprisonment, but convictions were very rare, and there were no known convictions under this law during the year. A 2000 study by a credible local NGO's found approximately 330 cases of rape in Nouakchott. Of the 330 cases, 140 had been reported as rape to medical staff. The remaining 190 had not been reported as rape, but the NGO concluded that the cases fit the medical profile for violent sexual assault. The study added that 46 percent of these 330 assaults were group assaults.

There were also reports that female slaves were raped and abused during the year. For example, in April there were several international media reports that Sghaira Mint Tesh, a woman who claimed to have grown up as a slave in a rural area of the country, was frequently beaten, raped, and underfed by her master. Tesh

had three children as a result of being raped. Tesh, who left with her children, stated she intended to bring charges against her former master and to pursue the release of her enslaved mother and siblings but had not done so by year's end.

In November the SOS Esclaves reported the cases of Khadama (approximately 14-years old) and her older niece M'barka (approximately 17). According to SOS Esclaves' report, Khadama was given by her mother at a young age to a family that agreed to continue her education and pay her for cleaning work. The family reportedly did neither, instead forcing her to work as a house servant. M'barka was also forced into domestic servitude. Khadama subsequently escaped. M'barka claimed the head of household's nephew raped her, and she became pregnant. M'barka was charged with sexual misconduct for being pregnant and unwed; no action was taken against the nephew. The State Prosecutor's Office investigated the claim of slavery and determined that the girls were not slaves. The trial had not begun by year's end.

Although prostitution is illegal NGO reporting indicated that it was a growing problem in some urban areas, particularly among Afro-Mauritanian and Black Moor women.

Traditional forms of mistreatment of women continued, mostly in isolated rural communities, but these practices appeared to be declining. One form of such mistreatment was the forced feeding of adolescent girls (gavage) prior to marriage, which was practiced only among White Moor tribal groups. While there was no law prohibiting gavage, the former and transitional governments made it a policy to end the practice. Reports during the year indicated that very few women currently subjected to gavage.

FGM was practiced among all ethnic groups, most often on young girls, often on the seventh day after birth and almost always before the age of six months. According to the most recent internationally sponsored study in 2001, three-fourths of all women between the ages of 15 and 49 had been subjected to FGM. Local experts agreed that the least severe form of excision was practiced and not infibulation, the most severe form. The practice of FGM has decreased in the modern urban sector.

There is no law explicitly prohibiting FGM; however, there is a law protecting children, which "prohibits acts that could harm children," and some legal scholars believe this can be interpreted to outlaw FGM; however, it had not yet been so used by year's end. The former and transitional governments and international NGOs continued to coordinate anti-FGM efforts. These efforts focused on eradicating the practice in hospitals, discouraging midwives from practicing FGM, and educating populations. The High Islamic Council of Mauritania, the Islamic Scholar Association, and the National Forum for Women's Rights continued to emphasize the serious health risks of FGM and that FGM was not a religious requirement. The former government conducted intensive media and educational campaigns against FGM during the year. Government hospitals and licensed medical practitioners were barred from performing FGM, and several government agencies worked to prevent others from carrying on this practice. According to several women's rights experts, the campaign against FGM appeared to be changing attitudes towards the practice; however, there were reports during the year that midwives performed FGM in local hospitals in violation of the former government's ban.

Women have legal rights to property and child custody, and, among the more modern and urbanized population, these rights were recognized. By local tradition, a woman's first marriage requires parental consent. In accordance with Shari'a as applied in the country, marriage and divorce do not require the woman's consent, polygyny is allowed, and a woman does not have the right to refuse her husband's wish to marry additional wives. In practice, polygyny was very rare among Moors but was common among other ethnic groups. It was common in Moor society for a woman to obtain at the time of marriage a contractual agreement that stipulated that her husband must agree to end their marriage if he chose an additional wife. Arranged marriages also were increasingly rare, particularly among the Moor population. Women frequently initiated the termination of a marriage, which most often was done by repudiation of husband or wife rather than divorce. The reported rate of divorce among Moors remained 37 percent, with a remarriage rate of 72.5 percent. In July 2004 the National Assembly voted against a proposal to provide women the same rights for a divorce that are available to men.

Women still faced legal discrimination. The testimony of two women was necessary to equal that of one man. The courts grant only half the amount of an indemnity to the family of a woman who has been killed that they award for a man's death. Formulas applied to property distribution varied widely from case to case. In addition the validity of and right to establish prenuptial agreements was not always respected. The Personal Status Code provides a framework for the consistent appli-

cation of secular law and Shari'a-based family law, but the code has yet to be implemented.

Women did not face legal discrimination in areas not addressed specifically by Shari'a. The law provides that men and women should receive equal pay for equal work. While not applied universally in practice, the two largest employers, the civil service and the state mining company, observed this law. In the modern wage sector, women also received family benefits, including three months of maternity leave.

The former and transitional governments sought to open new employment opportunities for women in areas that were traditionally filled by men, such as health care, communications, police, and customs services. Women became more involved in the fishing industry and established several women's fishing cooperatives.

The Secretariat for Women's Affairs worked with many NGOs and cooperatives to improve the status of women. The former and transitional governments, women's groups, and national and international NGOs organized meetings, seminars, and workshops throughout the year to publicize women's rights.

Children.—The law makes special provision for the protection of children's welfare, and there were government programs to care for abandoned children; however, inadequate funding hampered these programs. Education continued to receive the largest share of the national budget at 19 percent. The former and transitional governments relied on foreign donors in such areas as child immunization.

Attendance was required at school for six years, but full implementation of universal primary education was not scheduled to be completed until at least 2007, primarily because of lack of financial resources needed to provide educational facilities and teachers throughout the country, especially in remote areas. The 2002–03 official attendance rate was steady at 92 percent. Education was free through university level. Classes were fully integrated, including boys and girls from all social and ethnic groups. Children of slave families were allowed to attend school. There were no legal restrictions on the education of girls. An estimated 90 percent of school-age girls attended elementary school in 1998 and 1999 compared with 88 percent of boys. At the secondary level, female students constituted 44 percent of those enrolled. Despite these increases, enrollment in the southern and eastern parts of the country remained at a lower level. During the 2002–03 academic year female students made up 21.5 percent of university enrollment, up slightly from 21.2 percent in 2001–02. Female technical student enrollment rose to 31.1 percent in 2002–03 from 30.5 percent in 2001–02. The official literacy rate for women remained at 32 percent, compared with 52 percent for men. Almost all children, regardless of sex or ethnic group, attended Koranic school between the ages of five and seven and gained at least rudimentary skills in reading and writing Arabic.

FGM was commonly performed on young girls (see section 5, Women).

Trafficking in children occurred (see section 5, Trafficking).

Child labor was a problem, particularly in the informal sector (see section 6.d.).

Local NGOs estimated that there were up to 400 street children, largely as a result of poverty and of the urbanization of formerly nomadic families. The former government implemented a program to assist families with street children and to encourage their school attendance.

Trafficking in Persons.—The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. The former and transitional governments did not prosecute or sentence anyone under this law during the year. The Ministry of Justice and the Commissariat for Human Rights, Poverty Alleviation, and Integration were responsible for dealing with trafficking

The country was a source and destination for men, women, and children trafficked for the purpose of forced labor. Multiple NGO reports suggested that forced labor took several forms (see section 6.c.). Slavery-related practices, and possibly slavery itself, persisted in isolated areas of the country where a barter economy still prevailed. Several reports suggested that young girls from remote regions, and possibly from western Mali, worked as unpaid housemaids in some wealthy urban homes. An unknown number of young boys (talibes), nearly all from Pulaar tribes, begged in the streets as part of a "work-study" arrangement with some "marabouts," or religious teachers, for receiving religious instruction. There were unconfirmed reports that a small number of marabouts forced their Talibes to beg for over 12 hours a day and provided them with insufficient food and shelter.

There were no reports that former or transitional governments officials participated in, facilitated, or condoned trafficking.

There was no government assistance or protection services for trafficking victims, but one NGO provided limited assistance to Talibes.

The former and transitional governments took measures to improve border security to combat trafficking in persons. Although no traffickers were apprehended, these measures resulted in arrests for alien smuggling.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in education, employment, or the provision of other state services, and there were no reports of former or transitional governments or societal discrimination against persons with disabilities. Neither government mandated preference in employment or education or public accessibility for persons with disabilities although they did provide some rehabilitation and other assistance for such persons. NGOs have become increasingly active in raising public awareness of issues affecting persons with disabilities. The school for the deaf and the blind in Nouakchott operated 10 classrooms and enrolled 127 students during the year, up from 67 students in 2004. The school lacked sufficient trained staff, having only two permanent and three part-time teachers.

National/Racial/Ethnic Minorities.—Racial and ethnic minorities faced societal discrimination. Racial and cultural tension and discrimination arose from the geographic and cultural divides between Moor and Black African. The Moors were divided among numerous ethno-linguistic tribal and clan groups and further distinguished racially as either White Moor or Black Moor, although it often was difficult to distinguish between the two by skin color. White Moor tribes and clans, many of whom were dark-skinned after centuries of intermarriage with Berbers and sub-Saharan African groups, dominated positions in government and business. The Black Moor subgroup remained politically and economically weaker than the White Moor subgroup. Concentrated in the south, the Halpulaar (the largest non-Moor group), the Wolof, and the Soninke ethnic groups were underrepresented in the military and security sectors.

The constitution designates Arabic as the official language and Arabic, Pulaar, Soninke, and Wolof as the country's national languages; however, successive governments—both civil and military—have pursued various policies of "Arabization" in the schools and in the workplace.

Ethnic rivalry significantly contributed to political divisions and tensions. Some political parties tended to have readily identifiable ethnic bases, although political coalitions among them were increasingly important. Black Moors and Afro-Mauritanians are also underrepresented in mid to high-level public and private sector jobs.

Other Societal Abuses and Discrimination.—There was no evidence of either societal violence or systematic former or transitional governments' discrimination directed at practicing homosexuals. Although Shari'a outlaws homosexuality under certain conditions, secular laws did not. The former and transitional governments did not arrest or prosecute any homosexuals during the year.

There was no evidence of systematic discrimination by either society or government against persons with HIV/AIDS; however, taboos and beliefs associated with the disease caused victims in some areas to face isolation or exclusion.

Section 6. Worker Rights

a. The Right of Association.—The law provides for freedom of association and the right of citizens to join any labor organization, and workers exercised this right in practice. All workers except members of the military and police were free to associate in and establish unions at the local and national levels. To be legally recognized, a union must have the authorization of the public prosecutor who can provisionally suspend a trade union at the request of the Ministry of the Interior if it believes that the union has not complied with the law. The government, however, has the power to decide whether to recognize a trade union (see section 6.b.).

The majority of the labor force was in the informal sector, with most workers engaged in subsistence agriculture and animal husbandry; only 25 percent were employed in regularly paid positions. Nearly 90 percent of industrial and commercial workers, however,were unionized.

Laws provide workers with protection against antiunion discrimination; however, the former government in particular did not generally enforce these laws. Employees or employers may bring labor disputes to three-person labor tribunals administered jointly by the ministries of justice and labor with the participation of union and employer representatives.

b. The Right to Organize and Bargain Collectively.—The law provides that unions may organize workers freely without government or employer interference, and workers exercised this right in practice. General or sector agreements on wages, working conditions, and social and medical benefits were negotiated in tripartite discussion and formalized by government decree. Wages and other benefits could

also be negotiated bilaterally between employer and union, and the results of such negotiations were filed with the Directorate of Labor. Although the directorate has the ability to change the negotiated settlement between labor and business, there were no known cases of such action during the year. There were no export processing zones.

The law provides workers with the right to strike, and workers occasionally exercised this right during the year. On December 12, members of the Mauritanian Doctors' Union, began a 24-hour strike to protest against the arrest of Brahim Ould Hamad, a doctor who was accused of refusing to perform an autopsy on a man who had been shot. Strikes in the private sector must be preceded by submission of a non-conciliation or negotiation-breakdown report. Once a referral is made to arbitrate a dispute, the tripartite arbitration committee may automatically terminate any strike. Some unions believed the new code rendered strikes ineffective by requiring advance notification. Some trade union representatives stated that there was little social dialogue except in response to worker actions in a dispute.

The government can dissolve a union for what it considered an "illegal" or "politically motivated" strike; however, no unions were disbanded during the year.

The former government ratified an updated labor code in 2004 that included significant improvements in health-care entitlements, including the introduction of maternity leave; an improved paced-arbitration system; and a series of laws prohibiting forced labor in any form.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but the law only applies to relations between employers and workers; there were credible reports such practices occurred (see section 5 and 6.d.). Slavery is illegal although there were still areas where the attitude of master and slave prevailed and slavery was practiced

The updated labor code, which came into effect in July 2004, includes criminal penalties for human trafficking in all of its recognized forms and includes increased criminal penalties for contracting to benefit from forced labor and for exploiting forced labor as part of an organized criminal network.

In May the International Labor Organization issued a report from their May 2004 country visit to investigate allegations of the persistence of forced labor. The report concluded that the country continued to face challenges in combating forced labor, particularly in the form of forced domestic servitude, but praised the former government's efforts to address the issue. The report cited laws passed in 2003 and 2004 that expanded the definition of forced labor and increased the penalties for those found guilty of profiting from it. The report also acknowledged the former government's efforts to raise public and judicial awareness concerning forced labor. The report made several recommendations, including allowing for an in-depth and independent investigation into forced labor, reinforcing the Ministry of Public Records and Labor, and giving labor inspectors greater resources and autonomy.

Citizens continued to suffer from the country's heritage of slavery. Slavery has been officially abolished. The practice of chattel slavery was once a tradition. Numerous reports suggested that some members of the long-dominant White Moor community continued to expect or desire the servitude of Black Moors. The nature of these reports also suggested that such attitudes impeded the goal of eliminating all remnants of slavery and related practices, a goal to which the former and transitional governments and major opposition parties were committed. Slavery-related practices, and reports of slavery, persisted most strongly in those remote regions of the east and southeast where a barter economy existed, where education levels were generally low, and where a greater need existed for manual labor in work such as herding livestock and tending fields.

A system of officially sanctioned slavery, in which government and society joined to force individuals to serve masters, did not exist. However, there continued to be reports that slavery in the form of forced and involuntary servitude persisted in some remote areas.

SOS-Esclaves publicized several accounts of newly escaped slaves during the year. These reports strongly suggested that slavery and related practices persisted mainly among a few nomadic groups and small villages in remote rural regions.

Voluntary servitude also persisted, with some former slaves and descendents of slaves continuing to work for former masters in exchange for some combination of money, lodging, food, or medical care. The reasons for the persistence of such practices varied widely among the different ethnic groups; however, a barter economy, poverty, and persistent drought provided few economic alternatives for many and left some former slaves and descendents of slaves vulnerable to exploitation by former masters. There were reports that some former slaves in some sedentary communities continued to work for their former masters or others without remuneration to retain access to land they traditionally farmed. Although the law provides for dis-

tribution of land to the landless, including to former slaves, this law has been enforced in only a few cases. Deeply embedded psychological and tribal bonds also made it difficult for many individuals who had generations of forebears who were slaves to break their bonds with former masters or their tribes. Some persons continued to link themselves to former masters because they believed their slave status had been religiously ordained and they feared religious sanction if that bond were broken.

Adult females with children faced greater difficulties and could be compelled to remain in a condition of servitude.

Unlike in the previous year, there were no reports of court cases relating slavery to issues of child custody and inheritance. Human rights NGOs stated that the absence of such cases was attributable to judges' strong preference for out-of-court arbitration to avoid entering slavery-based allegations in the official record.

The Commissariat for Human Rights, Poverty Alleviation, and Integration focused on addressing the consequences of slavery. The former and transitional governments focused on education, literacy, and agrarian reform to remedy the economic consequences of slavery-related practices. When persons who were held against their will filed complaints with the government, their complaints were addressed only after considerable pressure and time. In November the transitional government conducted an investigation involving two alleged slaves (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law provides that children cannot be employed before the age of 14 in the nonagricultural sector or under age 13 in the agricultural sector unless the minister of labor grants an exception due to local circumstances; however, child labor in some parts of the informal sector was common and a significant problem, particularly within poorer inner-city areas. The law states that employed children between the ages of 14 and 16 should receive 70 percent of the minimum wage and that those between the ages of 17 and 18 should receive 90 percent of the minimum wage.

Young children in the countryside were commonly employed in herding, cultivation, fishing, and other significant labor in support of their families' activities. Young children in urban areas often drove donkey carts and delivered water and building materials. In keeping with longstanding tradition, many children served apprenticeships in small industries and in the informal sector. Reporting by some human-rights NGOs, including SOS-Esclaves, strongly suggested that domestic employment, often unpaid, of girls as young as seven in wealthier homes was a growing problem. There was no child labor in the modern industrial sector.

There was a labor inspectorate with the authority to refer violations directly to the appropriate judicial authorities but the eight inspectors lacked the basic resources, such as transport and office equipment, needed to enforce existing child labor and other labor laws.

e. Acceptable Conditions of Work.—The nationally mandated minimum monthly wage for adults was $78 (21 thousand ouguiya) but was not enforced, and in any case it did not provide a decent standard of living for a worker and family.

The standard, legal, nonagricultural workweek could not exceed either 40 hours or 6 days without overtime compensation, which was paid at rates that were graduated according to the number of supplemental hours worked. Domestic workers and certain other categories could work 56 hours per week. Employees must be given at least one 24-hour period of rest per week. The Labor Directorate of the Ministry of Labor is responsible for enforcement of the labor laws, but in practice inadequate funding limited the effectiveness of the Directorate's enforcement.

The government set health and safety standards, and the Ministry of Labor was responsible for enforcing these standards, but did so inconsistently, due to inadequate funding. In principle workers could remove themselves from hazardous conditions without risking loss of employment, but in practice they could not.

MAURITIUS

The Republic of Mauritius is a constitutional, parliamentary democracy of approximately 1.2 million citizens governed by a prime minister, a council of ministers, and a national assembly. In the July national elections, the Social Alliance, led by Prime Minister Navin Ramgoolan, defeated the incumbent Mauritian Militant Movement (MMM)-Militant Socialist Movement (MSM) coalition in elections judged by all international and local observers to be free and fair. In October the Social Alliance also won municipal elections, reducing the strength of the opposition party. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- police abuse of suspects and detainees
- prison overcrowding
- violence and discrimination against women
- abuse of children
- child prostitution and child labor
- some restrictions on workers in the Export Processing Zone (EPZ)

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there continued to be reports of police abuses. In September the National Human Rights Commission (NHRC) found three policemen guilty of brutality after they assaulted a suspect after accusing him of being a drug addict. At year's end the Disciplined Forces Service Commission was determining disciplinary action against the police officers. The NHRC received 131 complaints of police abuse, of which 33 were alleged cases of police brutality and 10 related to verbal abuse by officers. The police department Complaints Investigation Bureau (CIB) received 383 complaints, of which 128 were allegations of police brutality or abuse.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, although there were reports of drug abuse, sex commerce, and overcrowding. The Central Prison, which has a capacity of 677, housed more than one thousand prisoners. Food, water, and medical care were available to all prisoners, and sanitation was adequate. In September authorities installed video cameras in the two Youth Rehabilitation Centers to monitor allegations of abuse. In November rioting damaged the cameras in the girl's Youth Rehabilitation Center.

In July according to press reports, rival gangs fought at Grande Riviere Prison, leading to the death of a prisoner and serious injury to two other prisoners. Paramilitary soldiers suppressed the conflict. According to the Commissioner of Prisons, 10 deaths in prison were from natural causes or HIV/AIDS-related complications. On September 11, authorities found a detainee, Ranjit Jeebodh, hanged by his vest; a police investigation continued at year's end.

Authorities separated prisoners deemed to be dangerous to the prison population and placed them in a high-security prison. Behavior of the prisoner rather than a conviction or a sentence determined prisoner placement.

The government permitted prison visits by independent observers including the press, the NHRC, diplomats, and the UN. At least one nongovernmental organization (NGO) was actively involved in rehabilitation of prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The Mauritius Police Force is a national force headed by a commissioner of police who has authority over all security and police forces, including the Special Mobile Forces, a paramilitary unit that shares responsibility with police for internal security. The NHRC, an independent organization, investigates allegations of police abuses and may report such cases to the Director of Public Prosecutions (DPP), an independent entity.

There were reports of police corruption in the forms of bribery and internal corruption within the force. Complaints could be filed either directly through the CIB or to the Independent Commission against Corruption (ICAC). The CIB received one complaint of bribery or corruption.

Arrest and Detention.—The law requires that all arrested persons must be charged under warrants, read their rights, including the right to remain silent and the right to an attorney, and brought before the local district magistrate within 48 hours; police generally respected these rights. However, in some cases police delayed suspects' access to defense counsels. Minors and those who did not know their rights were more likely not to be provided prompt access. A suspect can be detained for up to a week, after which the issue of bail is brought before a magistrate. Alternatively, with police approval, the accused may be released on bail the same day

as the arrest. Individuals charged with drug trafficking may be detained for up to 36 hours without access to legal counsel or bail.

Since 2003 authorities have detained popular seggae artist Ras Natty Baby (Joseph Nicolas Emilien) on allegations of drug trafficking. Baby was known for critical social commentary in his music. At year's end he had not been charged.

There were no reports of political detainees.

Due to a backlogged court system, authorities occasionally held prisoners in remand up to three or four years before they were tried. Time served in remand did not apply to subsequent sentences. Out of the total prison population of 2,437, 865 were being held on remand.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and it was independent in practice.

The country's judicial system consists of the Supreme Court, which has appellate powers, and a series of lower courts. The Supreme Court has a chief justice and six other judges who also serve on the Court of Criminal Appeal, the Court of Civil Appeal, the Intermediate Court, the Industrial Court, and 10 district courts. Final appeal may be made to the Privy Council in the United Kingdom.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The DPP determines which court hears particular cases based on the severity of the crime and anticipated punishment. All crimes carrying the death penalty or life imprisonment are sent to the Supreme Court, crimes of a medium level of severity are sent to the intermediate courts, and lesser crimes are heard before district courts. Juries are only used in murder trials.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The independent media were active and expressed a wide variety of views without restriction. There were four daily and six weekly newspapers and three private radio stations that offered diverse political viewpoints and expressed partisan views freely. The government owned and regulated the domestic television network, but international networks were available by subscription or via a cable box.

The government has the ability to counter press criticism by using strict libel laws but did not use these measures.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. During the year citizens submitted 593 applications for public gatherings; authorities denied 12 due to nonconformity with the Public Gatherings Act.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Religious organizations and faiths present in the country prior to independence, such as the Roman Catholic Church, the Church of England, the Presbyterian Church, the Seventh-day Adventists, Hindus, and Muslims, receive an annual lump-sum payment from the finance ministry based upon the number of adherents, as determined by a 10-year census. The Registrar of Associations registered newer religious organizations (which must have a minimum of seven members) and recognized them as legal entities with tax-free privileges. At least two individuals, missionaries from the Church of the Latter Day Saints, reported being refused work and residency permits.

Societal Abuses and Discrimination.—Underlying tensions between various ethnic and religious groups persisted, but there were no violent confrontations during the year. In October newspapers reported that an unknown person threw a rock through the window of a Muslim primary school.

There were approximately 50 resident Jewish persons, largely expatriates, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government had no need to provide protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum on the grounds that the country was small, had limited resources, and did not wish to become a haven for large numbers of refugees.

The government cooperated with the office of the UN High Commissioner for Refugees in assisting refugees and asylum seekers by donating money.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—According to international and local observers, the July national elections were free and fair, with the opposition Social Alliance defeating the ruling MMM–MSM party.

There were 12 women in the 70-seat National Assembly, and there were 2 female ministers in the 20-member cabinet.

Although historically the Hindu majority dominated politics, there were no groups excluded from the political system. Authorities required candidates for the National Assembly to identify themselves with one of four distinct ethnic groupings—Hindu, Muslim, Sino-Mauritian, or general population. For these purposes, "general population" described primarily the Creole and Franco-Mauritian communities. Based on these four categories, the 70-seat National Assembly had 42 Hindus, 19 members of the general population, 8 Muslims, and 1 Sino-Mauritian. Among the 20 members of the cabinet, there were 13 Hindus, 3 Muslims, 3 general population, and 1 Sino-Mauritian.

Government Corruption and Transparency.—The public perceived that corruption existed in the legislative and executive branches. The ICAC and the media were the primary outlets to report acts of corruption. The 2002 Prevention of Corruption Act regulated such complaints.

The law provided for access to government information, and the government generally complied with requests.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often cooperative and responsive to their views.

The NHRC is composed of a commissioner, who must be a former judge of the Supreme Court, and three other members. The NHRC is authorized to investigate abuses by any public servant, but it could not investigate complaints that were already the subject of an inquiry by the DPP, the Public Service Commission, or the Disciplined Forces Service Commission. The NHRC had the authority to visit detention centers or prisons and to assess and make recommendations on conditions. The NHRC tried to resolve complaints through conciliation, but if that was unsuccessful, it could forward cases to the DPP (if criminal in nature), to the service commissions, or to the responsible authority in question.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law specifically prohibits discrimination on the basis of race, caste, place of origin, political opinion, color, or sex, and the government generally enforced these provisions. Some societal discrimination occurred.

Women.—The law criminalizes domestic violence and provides the judicial system with power to combat this problem; however, in practice domestic violence against women, particularly spousal abuse, was a major problem. Many victims chose not to prosecute or report their attacker, presumably due to cultural pressures. The law also criminalizes the abandonment of one's family or pregnant spouse for more than two months, the nonpayment of court-ordered food support, and sexual harassment, although many women remained in abusive situations for fear of losing spousal financial support. A magistrate can order a spouse to pay child support, but there were reports that some spouses stopped working to avoid payment.

The Sex Discrimination Division of the National Human Rights Commission received 59 complaints, of which 12 related to sex discrimination and 18 related to sexual harassment.

The law prohibited rape, including spousal rape, and the police and judicial system enforced the laws.

Prostitution is illegal, but there were reports of prostitution. There were no reports of the country as a destination for sex tourism. However, there were instances of prostitutes targeting tourists in addition to wealthy citizens. In December police uncovered a pornography and prostitution ring in the tourist areas of Trou aux Biches and Grand Baie.

Women played subordinate roles in society, and societal discrimination continued. However, women had equal access to education, employment, and government services. The new government had triple the number of women in parliament and double the number of female ministers than had its predecessor.

The Sex and Discrimination Act affords women broadly defined wage protections, and authorities generally respected the law in practice.

In the agricultural sector, the law protects women from being forced to carry loads above certain weight limits; however, managers determined remuneration by the amount that one was able to carry during a period of time. As a result, women working in agriculture were often paid less than men because they carried loads that weighed less.

Children.—The government placed strong emphasis on the health and welfare of children and displayed a commitment to expand educational opportunities for children. The Ombudsman for Children's Issues ensured that the rights, needs, and interests of children were given full consideration by government, private authorities, individuals, and associations.

During the year the Education Act increased the age of free, universal, and compulsory education from age 12 to age 16. Authorities treated girls and boys equally at the primary, secondary, and post-secondary levels. The majority of children finished secondary education. More than 90 percent of primary students attended school.

The government provided full medical care for both boys and girls.

Under the law, certain acts compromising the health, security, or morality of a child are crimes, although the government was unable to enforce complete compliance with the law. Private voluntary organizations claimed that child abuse was more widespread than was acknowledged publicly. The state-funded National Children's Council and the Ministry of Women's Rights, Family Welfare, and Child Development administered most government programs. Both provided counseling, investigated reports of child abuse, and took remedial action to protect affected children.

Child prostitution was a problem, and the government targeted the practice as a law enforcement and prevention priority. There were reports that some schoolgirls, independent of third party involvement, engaged in prostitution for spending money (see section 5, Trafficking).

Child labor occurred (see section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in persons, and in December the legislature amended the Child Protection Act, increasing the maximum punishment for trafficking to 15 years and expanding the definition of trafficking. There were reports that children were trafficked within the country for child prostitution. There were reports that some schoolgirls worked in conjunction with prostitution rings or family members. The government continued a five-year action plan to combat child prostitution, and the Ministry of Women, Child Development, and Family Welfare ran a hotline for reporting cases of child prostitution. Government officials and agencies in the Ministry of Women's Rights, in the Attorney General's office, and in the police department sought ways to prevent and prosecute child prostitution. NGOs and the government drop-in center provided shelters, counseling, and education for victims of child prostitution.

Persons with Disabilities.—The law prohibits discrimination against people with disabilities, and the Training and Employment of Disabled Persons Board effectively enforced it. However, the law does not require that work sites be accessible to persons with disabilities, making it difficult for persons with disabilities to fill many jobs, and there is no law mandating access to buildings for persons with disabilities. However, the law requires organizations that employ more than 35 persons to set aside at least 3 percent of their positions for persons with disabilities. There were no reports of overt discrimination in employment, education, or in the provision of other state services against persons with disabilities, including mental disabilities.

Section 6. Worker Rights

a. The Right of Association.—The law explicitly protects the right of workers to associate in trade unions, and workers exercised this right in practice. With the exception of police, the Special Mobile Force, and persons in government services who were not public officers, workers were free to form and join unions and to organize in all sectors, including in the EPZ (see section 6.b.). Approximately 350 unions represented 115 thousand workers, and 10 major labor federations served as umbrella organizations for smaller unions.

b. The Right to Organize and Bargain Collectively.—According to the Mauritius Labor Congress (MLC), labor unions are free to conduct their activities without interference, and in practice the government protected this right. The law protects collective bargaining, and workers exercised this right. The National Remuneration Board (NRB), whose chairman was appointed by the minister of labor, set minimum wages for nonmanagerial workers, although most unions negotiated wages higher than those set by the NRB. There were no cases in which unions' activities were prohibited or limited by the government.

The law provides for the right to strike, but the Industrial Relations Act (IRA) requires a 21-day cooling-off period followed by binding arbitration; in practice, this made most strikes illegal. The government has 21 days to respond to any labor dispute and refer it to either the Permanent Arbitrary Tribunal or to the Industrial Relations Commission. If the government does not respond within 21 days, the proposed strike can be carried out. The IRA states that worker participation in an unlawful strike is sufficient grounds for dismissal, but workers may seek remedy in court if they believe that their dismissals are unjustified. The IRA grants the prime minister the prerogative to declare any strike illegal if he considers that it "imperils the economy."

Since foreign workers often did not speak English, French, or Creole, it was difficult for them to demand their rights, which were the same as those of citizen employees. Those who participated in strikes faced the possibility of deportation. Authorities deported illegal foreign workers when they could be identified.

National labor laws cover EPZ workers, although unions had organized only 10 percent of EPZ workers. There are some EPZ-specific labor laws, including the provision for 10 hours per week of mandatory paid overtime at a higher wage than for ordinary working hours. Some employers reportedly established employer-controlled work councils for EPZ workers, effectively blocking union efforts to organize at the enterprise level. Approximately 70 thousand persons worked in the EPZ.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under age 15 and limits employment by youth between ages 15 and 18. While the government generally respected this law in practice, child labor occurred. According to the law, the penalties for employing a child are a fine of no more than approximately $72 (2,200 rupees) and a term of imprisonment not to exceed one year.

The law makes education compulsory for children up to the age of 16, reducing instances of child labor. Child labor in homes, on farms, and in shops decreased on the island of Rodrigues, and, although the Child Development Unit actively investigated allegations of child labor there, the labor ministry received no cases.

The Ministry of Labor is responsible for the enforcement of child labor laws and in practice effectively conducted frequent inspections. The ministry employed 45 inspectors to investigate all reports of labor abuses, including those of child labor. There were 19 child labor cases reported within the year.

e. Acceptable Conditions of Work.—The government administratively established minimum wages, which varied according to the sector of employment, and mandated that the minimum wage rise each year based on the inflation rate. The minimum wage for an unskilled worker in the EPZ was approximately $17 (492 rupees) per week, while the minimum wage for an unskilled factory worker outside the EPZ was approximately $22 (644 rupees) per week. These wages did not provide a decent standard of living for a worker and family, but the actual market wage for most workers was much higher due to a labor shortage and collective bargaining. In July minimum wages for employees earning less than approximately $93 (2,700 rupees) increased by approximately $6 (170 rupees) per month.

The standard legal workweek in the industrial sector was 45 hours. According to the MLC, 10 hours of overtime a week is mandatory at certain textile factories in the EPZ (see section 6.b.) In accordance with the Labor Act, no worker is bound to work more than eight hours a day, six days a week. Those who work more than

their stipulated hours must be remunerated at one and a half times the normal salary. Those who work during their stipulated hours on public holidays are remunerated at double their normal salary. For industrial positions, workers are not permitted to work more than 10 hours a day. If the worker has worked up to or past 10 p.m., the employer cannot require work to resume until at least 11 hours has lapsed. These standards were generally enforced.

The government set health and safety standards, and ministry of labor officials inspected working conditions; however, the small number of inspectors limited the government's enforcement ability. Inspections were announced and unannounced. Voluntary employer compliance with safety regulations helped reduce the number of occupational accidents, with the ministry reporting a general trend downward in the number of industrial accidents over the past 10 years. In 2004 authorities reported 3,431 industrial accidents. From January to April, authorities reported 765 industrial accidents. Workers had the right to remove themselves from dangerous situations without jeopardizing their continued employment, and they did so in practice.

MOZAMBIQUE

The Republic of Mozambique is a constitutional democracy with an estimated population of 19.4 million. President Armando Guebuza was elected in December 2004 in what national and international observers judged to be generally free and fair elections, despite some irregularities. The Front for the Liberation of Mozambique (FRELIMO) has been the ruling political party since independence in 1975, heavily influencing both policymaking and implementation. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

Although the government took steps to discipline corrupt police, judges, and ministry officials, serious human rights problems remained. The following human rights abuses were reported:

- police use of excessive force resulting in some unlawful killings and injuries
- extremely harsh and life-threatening prison conditions, leading to several deaths
- arbitrary arrest and detention
- lengthy pretrial detention
- police harassment and arbitrary detention of journalists
- widespread domestic violence and discrimination against women
- abuse and criminal exploitation of children, including child prostitution
- trafficking in women and children
- discrimination against persons with disabilities and HIV/AIDS
- child labor in the informal sector and forced child labor
- poor enforcement of labor legislation

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Although the government or its agents did not commit any political killings during the year, there continued to be reports that security forces committed unlawful killings.

Police excessive use of force and abuse remained a problem. In many cases there was little indication that police considered alternative tactics before resorting to the use of force and firearms. Authorities often failed to take appropriate action to investigate police violence and bring the perpetrators to justice. However, authorities expelled and, in some cases, brought criminal charges against dozens of officers for disciplinary offences.

According to a March press report, members of the police force tortured Joaquim Magaia, the alleged leader of a Maputo carjacking ring, who subsequently died while in police custody. While both the police and the Central Hospital of Maputo stated that Magaia died of malaria, no evidence was presented to confirm the cause of death.

In April police fatally shot a suspected gang member, known only as Dercio, during a search operation in Maputo. In a separate incident in April, police shot and

killed six suspected gang members attempting to escape from the Matsinho administrative post in the central province of Manica. During a November interrogation related to the ongoing investigation, 1 of the 14 accused policemen drew a gun on the state attorney after ballistic evidence contradicted his testimony.

In June press reports accused police of torturing to death two alleged killers, Antonio Tamale and Pedro Chmabo, while in custody in police headquarters in Maputo.

In September police in Maputo reportedly shot a young man in the leg as he fled after refusing to submit to a search. The individual later died at Maputo's central hospital, and the case was under investigation at year's end.

Police authorities had not disclosed whether they were investigating the March 2004 incident in which police in Matola shot and killed two suspected car thieves.

No progress was reported on investigations by provincial authorities into the 2004 fatal shootings of four prisoners being held at the maximum-security jail in Beira, Sofala Province.

There were increased reports of abuse and violence by members of the Community Policing Councils, nonstatutory bodies set up by the Mozambican National Police (PRM) in many districts to prevent crime.

In July the League of Human Rights (LDH), a nongovernmental organization (NGO), reported that three alleged community police members beat a person to death in Quelimane, Zambezia Province. Authorities apprehended the community police members following the incident. LDH also reported incidences of rape and extortion by community police members in the same area. Provincial authorities claimed that the incidents were under investigation. In August community police shot and killed Jose Sungulane in Cheringoma, Sofala Province. Police indicated that Sungulane was shot while fleeing from police custody.

Extremely harsh prison conditions, often leading to serious illness, continued to result in the deaths of persons in custody (see section 1.c.).

The government continued to cooperate with international organizations and donors to clear suspected land mine areas. Between January and November the National De-mining Institute (IND) reported 18 accidents, resulting in 24 injuries and 21 deaths; 8 of the killed reportedly were children. On July 7, four children were killed and three others were injured while playing with unexploded ordnance.

The IND conducted civic education and public awareness campaigns to minimize land mine accidents. In late 2004 IND provided training for 45 teachers from schools in mine-affected areas in 2 districts of Gaza Province. IND reported that the training indirectly reached more than 180 thousand persons, 25 thousand of whom were school-age children.

In October unknown assailants shot and killed the director of the Maputo central prison in the Boane District. Public opinion pieces and media reports considered the shooting a reaction to the director's anticorruption efforts.

Clashes between political party supporters resulted in deaths during the year (see section 3).

Occasional mob violence occurred in both urban and rural areas. In July a mob of approximately 350 former Wackenhut security guards demonstrated outside company headquarters to protest a contract dispute. The crowd later dispersed into roving bands of 15 to 20 persons, physically attacking those who refused to join the walkout.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the law prohibits such practices, police continued to commit abuses. During the year human rights advocates and media outlets reported complaints of torture and other cruel treatment, including several instances involving the sexual abuse of women, beatings, prolonged detention, and death threats.

There were several reports of deaths resulting from police torture during the year (see section 1.a.).

LDH investigated an incident in Manica Province where members of the investigative police removed detainees from prison without authorization by prison officials. The prisoners allegedly were tortured and then returned. LDH reported that between January and May, police tortured 18 individuals, injuring some by gunshots. According to LDH, these cases were under investigation at year's end.

There were reports that police abused prostitutes and street children (see section 5).

Prison and Detention Center Conditions.—Prison conditions were extremely harsh and life threatening.

Two National Directorates of Prisons, one under the Ministry of Justice (MOJ) and the other under the Ministry of Interior (MOI), operated prisons in all 10 prov-

inces. As of December 2004 approximately 10 thousand prisoners reportedly were incarcerated in MOJ- and MOI-administered facilities combined. Overcrowding of MOJ prisons remained a serious problem. During the first half of the year, LDH visited 83 prisons, which held 7,660 inmates in facilities designed to hold 5,166 persons. LDH found that 366 detainees had been held beyond the 90-day preventive detention period. Of the facilities visited, 18 offered no medical care or assistance. LDH described 51 facilities as "physically inadequate." In detention facilities managed by MOI, overcrowding did not appear to be a serious problem. During the first half of the year, LDH visited 102 police station detention facilities around the country under MOI control. In all, 966 detainees were held in facilities designed for a maximum capacity of 1,312. However, 110 detainees were held beyond the maximum police station preventive detention period of 48 hours.

Reports continued that most prisoners received one meal per day, consisting of beans and flour. It was customary for families to bring food to prisoners; however, there continued to be occasional reports that guards demanded bribes in exchange for delivering food to the prisoners. LDH identified five facilities where prisoners relied entirely on outsiders for food: Ilha de Mocambique, Monapo, Macomia, Mocimboa da Praia, and Palma.

There continued to be many reported deaths in prison, the vast majority due to illness. At least one inmate reportedly died from failure to receive timely medical treatment for injuries sustained during a fight at a high-security prison in Maputo. LDH reported that at least two other prisoners died at a high-security prison in Maputo from severe beatings by prison wardens.

In a series of prison visits conducted during the first half of the year, LDH found numerous health problems, mostly due to overcrowding and poor to nonexistent medical care. Malaria, skin diseases, and sexually transmitted diseases were among the most prevalent health problems. Both healthy and sick prisoners regularly were kept in the same cells. The spread of HIV/AIDS was a serious problem for the prison population. The government enlisted the help of the Community of Santo Egidio, an Italian NGO, for a public awareness campaign directed at the prison population. The campaign also included a limited antiretroviral treatment program.

LDH reported a lower number of minors under the age of 16 held with adults from the general prison population than in 2004, the result of action by child rights NGOs.

In MOI facilities, detainees not charged continued to be held with prisoners sentenced for "maximum security" offenses. In MOJ facilities, detainees who had been charged but not tried continued to be held with prisoners sentenced for "moderate security" offenses.

International and domestic human rights groups had access to prisoners, although at the discretion of MOJ and MOI, and such visits took place during the year. LDH noted a significant improvement compared with the last two years in access to MOJ and MOI facilities.

d. Arbitrary Arrest or Detention.—While the law prohibits arbitrary arrest and detention, in actuality both practices continued to occur.

Role of the Police and Security Apparatus.—Forces under the MOI, including the Criminal Investigation Police (PIC), the PRM, and the Rapid Intervention Force are responsible for internal security. An additional security body, the State Information and Security Service, reported directly to the president. The armed forces (FADM) are responsible for external security, but in practice hold domestic security responsibilities as well.

The police continued to be poorly paid, despite an increase in pay during the year. Trainee-level officers reportedly received approximately $80 (2 million meticais) a month, while those at higher rank received approximately $100 (2.5 million meticais) a month. Corruption and extortion by police were widespread. Authorities often used violence and arbitrary detention as a means of intimidation to keep persons from reporting abuses. Police impunity remained a problem. The PIC was criticized for being ineffective, and according to press reports, at times PIC officers may have been transferred to prevent them from making real progress on some investigations.

Police regularly detained persons for spurious reasons and demanded identification documents solely to extort payments. Many crime victims reportedly avoided police assistance because of expected demands for bribes and a lack of confidence that the police would help. A government-sponsored survey released in August ranked the police force at the top of the list of dishonest public institutions.

During the year the MOI reported that approximately 750 police officers were disciplined, including 260 expulsions. Professional training for police officers continued during the year; police officers formally trained at the police academy took over com-

mand of several police stations in Maputo from less trained officers. In November President Guebuza addressed 1,185 police academy graduates, stressing accountability, good behavior, and respect for laws and citizens.

A strategic plan of action and modernization for the PRM covering the years 2003 to 2012 continued. Seven of its nine "guiding principles" reflected respect for human rights. While the plan acknowledged the problem of abuse of police powers, it made no specific provision for ensuring greater accountability for such abuses.

Arrest and Detention.—Although the law provides that persons must be arrested openly with warrants issued by a judge or prosecutor (except persons caught in the act of committing a crime), police continued arbitrarily to arrest and detain citizens. By law the maximum length of investigative detention without a warrant is 48 hours, during which time a detainee has the right to a judicial review of the case. The individual may be detained another 60 days while the PIC continues its investigation. When a person is accused of a crime carrying a sentence of more than 8 years, the individual may be detained up to 84 days without being charged formally. With court approval, such detainees may be held for 2 more periods of 84 days each without charge while the police complete the investigative process. The law provides that when the prescribed period for investigation has been completed and no charges have been brought, the detainee must be released. In many cases the authorities either were unaware of these regulations or ignored them, often also ignoring a detainee's constitutional right to counsel and to contact relatives or friends.

The law provides that citizens have access to the courts as well as the right to representation, regardless of ability to pay for such services. However, due to a shortage of legal professionals, indigent defendants frequently had no legal representation.

The bail system remained poorly defined. Prisoners, their families, and NGOs continued to complain that police and prison officials demanded bribes for releasing prisoners.

The government's Commission for Strengthening the Law continued to attempt to address the problem of overcrowding of jails and prisons by proposing a series of measures, including converting sentences to fines, creating open prisons, and suspending sentences for those sentenced to less than two years in prison. In December 2004 the Ministry of Justice inaugurated an open prison (minimum security) in the outskirts of Maputo. Neither the National Assembly nor the attorney general's office has considered the commission's recommendations during year, and none were implemented by year's end.

There were several reports that police harassed and arbitrarily detained journalists (see section 2.a.).

There were no reports of political detainees.

There continued to be reports of detainees who spent longer in pretrial detention than the period of the sentence they eventually received. By law a judge has 48 hours to validate a detention in any proceeding; however, this statute often was not enforced.

In June the Commission for the Strengthening of the Law ordered expedited trials for the estimated 755 prisoners in Sofala Province, many of whom had been detained past their preventive detention period.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the executive branch and the FRELIMO party heavily influenced an understaffed and inadequately trained judiciary. The judicial system continued to suffer from a lack of transparency and often did not comply with the principles of promotion and protection of human rights. Approximately 112 of the country's 128 judicial districts had functioning courts. A shortage of judges and qualified staff was a major problem. There were approximately 190 judges (or about 1 judge per 100 thousand inhabitants), 75 of whom held law degrees as required by law for all judges appointed after 2000. Of the 1,065 staff employed by the courts, 3 percent held university degrees and 53 percent did not have secondary school diplomas. Continuing problems included chronic absenteeism, unequal treatment, deliberate delays, and omissions in handling cases.

The press reported that 57 legal proceedings against judges and MOJ officials took place during the year, 26 of which were still pending investigation at year's end. Despite the statistics, observers believed the problem of unprofessional magistrate behavior was much worse.

The president appoints both the supreme court president and vice president. The Higher Judicial Magistrate's Council (CSMJ) prepares supreme court nominations and submits a list of qualified potential supreme court nominees to the president. Members of the CSMJ tended to be either FRELIMO members or FRELIMO-affiliated. The president makes all other judicial appointments.

There are two complementary formal justice systems: the civil justice system and the military justice system. The Supreme Court administers the civil system, and the Ministry of National Defense administers military courts. Under the Supreme Court there are province- and district-level courts, and each province has a court of appeal. Cases in military courts may be appealed to the Supreme Court. Civilians are not under the jurisdiction of, or tried in, the military courts.

There also are courts that exercise limited, specialized jurisdiction, such as the administrative court, the customs court, and the maritime court. The constitutional council is charged with determining the constitutionality of laws and decrees, supervising the electoral process, declaring and validating electoral results, and ruling on electoral disputes. A separate court system exists for minors of 16 years of age and younger. The government may send minors to correctional, educational, or other institutions.

In 2004 the number of candidates to enter the magistrate rolls increased significantly, and the Legal Training Center trained 20 new-entry magistrates. During the year 39 law students enrolled in the center's 10-month training course.

Trial Procedures.—Persons accused of crimes against the government are tried publicly in regular civilian courts under standard criminal judicial procedures. Members of the media may attend trials, although space limitations prevented the general public from attending. A judge may order a trial closed to the media in the interest of national security or to protect the privacy of the plaintiff in a sexual assault case. There is no trial by jury.

In regular courts all accused persons, in principle, are presumed innocent and have the right to legal counsel and appeal; however, authorities did not always respect these rights. Although the law specifically provides for public defenders for the accused, such assistance generally was not available in practice, particularly in rural areas. LDH reported that most citizens remained unaware of this right, and many had no access to legal counsel. Some NGOs continued to offer limited legal counsel at little or no cost to both defendants and prisoners. Only judges or lawyers may confront or question witnesses.

Outside the formal court system, local customary courts and traditional authority figures often adjudicated matters such as estate and divorce cases. Respected local arbiters with no formal training staffed customary courts.

Political Prisoners.—There were no confirmed reports of political prisoners; however the Mozambican National Resistance (RENAMO) continued to claim that all persons convicted and sentenced in connection with the 2000 nationwide demonstrations were political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. However, opposition party members alleged that government intelligence services and ruling party activists continued without warrants to monitor telephone calls, conduct surveillance of their offices, follow opposition members, use informants, and disrupt party activities in certain areas of the country, including in Cabo Delgado and Nampula provinces. By law police require a warrant to enter homes and businesses and also to monitor telephone calls.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Although the law provides for freedom of speech and of the press, in practice there were some restrictions on these rights. Police harassed and arbitrarily detained journalists. Journalists generally practiced self-censorship regarding politically sensitive issues. The NGO Reporters Without Borders noted significant improvements in press freedom compared with previous years.

The independent media were active and expressed a wide variety of views. The government maintained majority ownership in *Noticias*, the main newspaper and the only daily with nationwide distribution. *Noticias*, the daily *Diario de Mocambique*, and weekly *Domingo* largely reflected the views of the government but also demonstrated a willingness to critically examine government actions. Following a series of fuel price hikes in June, *Noticias* reported on a meeting with Transport Minister Antonio Mungwambe in which participants publicly complained about the rising cost of living.

There were numerous private radio stations that operated throughout the country. Radio Mozambique, which receives 60 percent of its operating budget from the government, was the most influential service and generally was considered unbiased and fair.

The Media Institute of Southern Africa (MISA) again noted that the process for obtaining a radio operating license was often long, convoluted, and politically biased.

According to MISA, the country required a new law clearly delineating the difference between commercial and public radio.

The government supplied 80 percent of the operating budget for Televisao de Mocambique (TVM), the most widely viewed television station. While TVM provided more balanced news coverage than in previous years, it retained a strong government and FRELIMO party bias. In April and May TVM provided little coverage to a controversial parliamentary debate on government accounts in which the administrative court, in an unprecedented move, ruled that state funds had been widely misused.

The international media were allowed to operate freely.

Police and other officials harassed and arbitrarily detained local journalists during the year. On January 22, police threatened and manhandled reporters to block them from covering the return to the country of Anibal dos Santos Junior, the man responsible for the 2000 murder of Carlos Cardoso, the country's foremost investigative journalist. Authorities insisted that police acted within the law.

On February 7, members of the riot police detained two journalists from the Beira daily paper *Diario de Mocambique* and seized their camera equipment after the journalists photographed a police search operation. Following the incident, the riot police commander reportedly acknowledged that police were in the wrong and ordered the equipment returned. The journalists reported that the camera's memory had been erased.

On April 12, private security guards assaulted two journalists from the private television company STV while they were setting up filming equipment on a public street. The guards seized and damaged their equipment during the altercation and returned the equipment only after police intervened. Government criminal proceedings against the security guards were ongoing at year's end.

On December 1, the Supreme Court-ordered retrial for Anibal dos Santos Junior began.

While defamation of the president is prohibited, it was not invoked during the year.

In March a Maputo City judge barred the media from covering a libel case brought by Attorney General Joaquim Madeira against Momad Asif Abdul Satar, one of six men sentenced to prison in 2003 for the 2000 murder of Carlos Cardoso.

By year's end seven suits for defamation and libel had been brought against newspapers, three against a single newspaper in Zambezia.

There were no government restrictions on the Internet.

While the government generally did not restrict academic freedom, there were reports that teachers at the university, secondary, and primary school level felt pressure to align themselves with FRELIMO, particularly in the central and northern provinces.

In February the state-run Eduardo Mondlane University (UEM) dismissed two RENAMO parliamentary deputies from their director positions at the university. Both remained at UEM as lecturers, although without the additional salary and benefits that go with a directorship at the institution. Under university regulations the vice chancellor may appoint or dismiss university directors, but observers suspected political harassment because both individuals were RENAMO deputies.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of assembly, there were reports during the year of authorities using force to disperse demonstrations. While the law regulates public demonstrations, it does not apply to private gatherings held indoors and by individual invitation, nor does it affect religious gatherings or election campaigning.

On February 9, riot police violently dispersed a peaceful student demonstration outside a public secondary school in the northern city of Nampula. According to reports, police beat students with batons and rifle butts. Although the Nampula police commander indicated that his command conducted internal investigations, no police officer was punished by year's end.

During the year relations improved between the government and the Madjermane, a group of more than 10 thousand citizens who worked in the former East Germany until the early 1990s and who protested their perceived lack of benefits for their past work by occupying the German Embassy in Maputo for several days in July 2004. After the government banned the Madjermanes in 2003 from participating in public events, it formally invited them to participate in the May 1 Worker's Day march and in the June 25 independence celebrations. On December 12, the Ministry of Labor announced that the government would pay the Madjermane group $48.2 million in reparations and would provide additional med-

ical benefits to 882 workers who sustained work-related injuries while in the former East Germany.

Freedom of Association.—The law generally provides for freedom of association, although the government imposed some limits on this right. According to the law a political party is required to demonstrate that it has no regional, racial, ethnic, or religious exclusiveness and must secure at least 2 thousand signatures to be recognized (see section 3). There were approximately 47 registered political parties.

A government decree regulates the registration and activities of foreign NGOs. Nonpolitical foreign NGOs and religious groups must register with the Ministry of Foreign Affairs and Cooperation (MFA) and are required to provide significant details on their organization's projects, staffing, and finances. Domestic NGOs must register with the MOJ. The registration process for foreign NGOs and religious groups reportedly involved significant discretion on the part of government officials and regularly took several months. Unlike in previous years, there were no reports during the year that NGOs had to make illegal payments to stay in operation.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The law requires local religious institutions and missionary organizations to register with the MOJ, reveal their principal source of funds, and provide the names of at least 500 followers in good standing. The MOJ routinely granted registration to applicants. The Christian Council of Mozambique, an umbrella organization for several Protestant churches, reported that not all religious groups registered but that unregistered groups worshipped unhindered by the government.

Unlike in previous years, there were no reports of Christian-Muslim tension or harassment of foreign missionaries by local authorities during the year. By year's end all foreign missionaries expelled in the past several years from the northern town of Montepuez by the local government on suspicion of being RENAMO spies had returned and resumed their activities.

The law governing political parties specifically forbids religious groups from organizing political parties and any political party from sponsoring religious propaganda.

The Catholic Church and some Muslim communities continued to request the return of certain properties nationalized by the government in the years immediately following independence, including schools, health centers, shops, and residences. According to the Office of the Archbishop of Maputo, the Catholic Church sought the return of approximately one hundred facilities throughout the country and awaited an agreement between the Vatican and the government intended to regulate the return of such properties.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts, reported during the year. There was a very small Jewish population.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—While the law provides for these rights, the government sometimes infringed upon them.

Traffic checkpoints are legal and under the jurisdiction of traffic police. The number of police traffic checkpoints in Maputo increased markedly as part of a broader crackdown on crime after President Guebuza came into office in February. Checkpoints occasionally affected freedom of movement, and according to press reports, authorities sometimes abused and bribed citizens at checkpoints. Although there were fewer reports compared with previous years, there were some instances in large cities where police stopped foreigners and ordered them to present original passports or resident papers, sometimes refused to accept notarized copies, and fined or detained those who failed to show proper documents. Police, including members of community police councils, also routinely harassed, detained, and extorted bribes from local citizens for failure to carry identity papers (see section 1.d.).

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protections to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum, although refugees faced persecution. The government cooperated with the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. UNHCR noted that coordination improved

under the Guebuza administration but acknowledged that problems remained, particularly concerning budget levels and refugee screening processes.

In December 2004 the government began issuing identification cards to refugees and asylum seekers that allow refugees to seek employment, enroll in school, open bank accounts, and rent accommodation. UNHCR reported that despite the issuance of identification cards, the government continued to limit refugee movement within the country. Refugees must request authorization to move outside the geographic region in which they have been registered. In addition refugees residing within the Marratane camp must request authorization to leave its boundaries, which has perpetuated the extracting of bribes by officials.

The number of refugees decreased significantly over the past year. As of September the refugee population was approximately 7,100, with the majority (6 thousand) located at Marratane refugee camp. Refugee camp conditions met minimal standards, although camp conditions improved in some areas during the year. UNHCR continued to report conflicts among rival Congolese groups and between Rwandans and Congolese. UNHCR also reported acts of physical violence, including rape and domestic disputes, within the camp. While the government provided police security in the camp, UNHCR recruited additional persons from within the camp to supplement the generally ineffective government police force.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In December 2004 citizens elected Armando Guebuza of the FRELIMO party as president in the country's third multiparty general elections. While domestic and international observers noted that voting day procedures generally followed international norms, they also documented irregularities in parts of the country during the campaign season and in the subsequent vote count. FRELIMO used significant state funds and resources for campaign purposes, in violation of election law. RENAMO issued complaints of election fraud to several agencies, including the Constitutional Council. On January 20, the Constitutional Council affirmed Guebuza as the winner.

The National Electoral Council issued a series of nonbinding recommendations for future elections, including the establishment of a single, consolidated voter registration list (there were three in the 2004 election). Other remedies tracked closely with advice given by national and international election observation groups, including the European Union and Carter Center.

On May 21, citizens of the small northern town of Mocimboa da Praia voted in a by-election to fill the vacancy caused by the death of the previous mayor. In the by-election the FRELIMO candidate defeated the RENAMO candidate. RENAMO alleged polling irregularities in the vote count, police intimidation, and police detention of several members and sympathizers.

On September 6, at least 8 persons were killed and 47 injured in a clash between FRELIMO and RENAMO supporters over the disputed mayoral election in Mocimboa da Praia. Authorities issued arrest warrants for three RENAMO officials believed responsible for inciting the violence. While some press reports suggested an ethnic or tribal dimension to the violence, the government stated that political differences fueled the clashes.

There were 87 women in the 250-seat National Assembly. Women held 6 of the 24 ministerial positions and 6 of the 18 vice ministerial positions. Luisa Diogo retained her role as prime minister. Women held more than 30 percent of the seats on FRELIMO's 2 governing bodies, the Political Commission and the Central Committee.

Members of many ethnic groups held key positions in both the legislative and executive branches. There was no evidence that specific ethnic groups were excluded.

Government Corruption and Transparency.—Corruption was widely perceived to be endemic. Low-level government officials use corrupt practices to supplement low incomes, while high-level elite were believed to employ corrupt practices to enhance their wealth, consolidate their positions, and prevent competition. Corruption largely resulted from a lack of checks and balances among the three branches of government, minimal accountability of elected officials, and a culture of impunity.

President Guebuza stated that fighting corruption was a priority of his administration, with a particular focus on judicial corruption and malfeasance among low- and middle-level government officials. In August the attorney general announced the establishment of the Central Office for the Combat of Corruption (GCCC), which replaced the attorney general's anticorruption unit (UAC). The GCCC functioned as

an autonomous unit under the attorney general's office, with its own state budget and authority to hire additional permanent full-time staff. Some observers continued to blame the judiciary for hampering efforts by the attorney general's office's to fight corruption, citing the low number of cases accepted by the court system.

According to the attorney general's annual report, between 2002 and June the UAC received 128 corruption cases: 70 remained under investigation, 30 cases were in court, 15 were dropped, 9 were sent to other institutions for consideration, and 4 were appended to other cases. Of those cases in court, none had resulted in convictions by year's end. There were several new cases of corruption reported during the year.

In May the PIC arrested the administrative manager of the main secondary school in the northern province of Nampula on suspicion of misappropriating funds earmarked for the improvement of the school's facilities. He was subsequently dismissed from his position, demoted, and transferred to the Provincial Directorate of Education.

In late December the minister of interior announced that an internal audit revealed nearly $9 million (220 billion meticais) in unaccounted-for funds. The auditors also discovered 55 "ghost workers" drawing wages from the ministry payroll. The minister identified 4 policemen who admitted to extorting money from a student and noted that during the year disciplinary proceedings for corruption were started against 135 policemen, 36 of whom were expelled from the police force.

In August the labor minister dismissed the director general of the National Social Security Institute (INSS) for alleged corruption and mismanagement. More than a dozen other senior INSS officials either were dismissed or reassigned within INSS.

During the year the UAC and GCCC investigated alleged siphoning of public funds by high-ranking officials in various ministries, including former minister of education, Alcido Nguenha.

During the year the NGO Etica Mozambique established corruption reporting centers in most major cities to provide citizens greater access to mechanisms to report corruption crimes. However, management and resource constraints severely limited their capacity to receive reports. The media continued to be one of the main forces fighting corruption, reporting and investigating numerous corruption cases.

There are no laws providing for the right of public access to information, and in practice the government restricted citizens' access to public information.

The law requires that all members of the government declare and deposit their assets to the Constitutional Council but does not require that such information be made available to the general public. During the year Minister of Finance Manuel Chang made public the list of assets he furnished to the Constitutional Council.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Although at times slow, government officials often were cooperative and responsive. Registration procedures for NGOs often were lengthy (see section 2.b.).

In March a number of constitutional amendments passed by the National Assembly in 2004 came into force, including the creation of an independent ombudsman to investigate allegations of abuses (such as human rights violations) by state officials. The ombudsman had not been named by year's end.

LDH criticized the Ministry of Justice's Human Rights Department, created in 2004, for having too little contact with civil society.

Section 5. Discrimination, Social Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, but in practice discrimination persisted against women, persons with disabilities, and persons with HIV/AIDS.

Women.—Although official statistics were not kept, reports indicated that domestic violence against women, particularly spousal rape and beatings, was widespread. In many circles women believed it was acceptable for their husbands to beat them. Cultural pressures discouraged women from taking legal action against abusive spouses. There is no law that defines domestic violence as a crime, but laws prohibiting rape, battery, and assault may be used to prosecute domestic violence.

The government and NGOs worked together to promote women's rights. The Women and Children's Police Unit was expressly concerned with the issue of domestic violence. Of the 18 police squadrons in Maputo, 16 had Women and Children's Centers, which provided assistance in cases of physical and sexual assault, including domestic abuse. Between March and November, the Nucleus of Feminist Associations of Zambezia (NAFEZA) conducted 33 campaigns and workshops in several

Zambezia districts to raise awareness of the harmful effects of domestic violence. NAFEZA also held a workshop with the PRM in Zambezia on domestic violence, which resulted in the creation of the first all-female police unit in the province.

The law prohibits rape but not spousal rape. Penalties ranged from 2 to 8 years if the victim is 12 years of age or older, and 8 to 12 years if the victim is under the age of 12. While there were no official estimates as to the extent of spousal rape, it commonly was regarded as a problem. The rape law was not effectively enforced, and trials rarely occurred. According to NGO reports, many families preferred to settle such matters privately through financial remuneration rather than through the formal judicial system.

Prostitution is legal, although several laws against indecency and immoral behavior govern prostitution and restrict it to certain areas. The practice was widespread and particularly prevalent along major transportation corridors and border towns where long-distance truckers stayed overnight. Young women without means of support were at the greatest risk for being drawn into prostitution. There continued to be reports that police officers sexually abused prostitutes and demanded bribes in exchange for allowing them to work. Such cases rarely were reported in the media.

Numerous development organizations and health-oriented NGOs emphasized programs to improve women's health and increasingly focused resources on combating the spread of HIV/AIDS and sexually transmitted diseases among sex workers.

Sexual harassment was illegal and considered pervasive in business, government, and the education sector. Although no formal data existed, the media reported numerous instances of harassment during the year. In August the press reported that authorities dismissed the district administrator of Muecate, in the northern province of Nampula, over accusations of sexual harassment.

Forced marriage (with girls and women) commonly was perceived as a problem. With the exception of some ethnic groups, the groom's family provided a dowry to the bride's family, usually in the form of livestock, money, or other goods. This exchange contributed to violence and other inequalities, due to the perception that the women subsequently were "owned" by the husband.

In February the Family Law went into effect, which raises the age of marriage to 18 for both sexes, eliminates husbands' de facto status as heads of families, and legalizes civil, religious, and common law unions. While the law does not recognize new cases of polygamy, women already in polygamous marriages are granted full marital and inheritance rights. The law defines more narrowly women's legal rights with regard to property, child custody, and other issues. Despite public awareness campaigns in some areas of the country, the majority of women remained uninformed about the law.

Customary law was still practiced in many parts of the country. In some regions, particularly the northern provinces, women had limited access to the formal judicial system for enforcement of rights provided under the civil code and instead relied on customary law to settle disputes. Under customary law, women have no rights to the disposition of land.

The law grants citizenship to the foreign-born wife of a male citizen but not to the foreign-born husband of a female citizen.

Women continued to experience economic discrimination, and women in the workplace often received lower pay than men for the same work.

Children.—The government's focus on children's rights and welfare increased during the year, but significant problems remained.

With the assistance of the NGO the Community Development Foundation (FDC) and the UN Children's Fund (UNICEF), the government formed the Child Protection Committee in 2004.

Education was compulsory through the age of 12, but enforcement of compulsory education laws was inconsistent due to the lack of resources and the need for additional schools. Public education was free, but most families must pay an enrollment fee for each child and purchase books and other school supplies. Children from families with especially low incomes are exempt from fees, but for most families, fees and associated costs remained a significant financial burden.

The number of primary schools in the country increased slightly during the year, although many remained overcrowded. The Ministry of Education made progress in increasing enrollments at all levels, but significant challenges remained. In 2004 approximately 73 percent of primary school-age girls and 78 percent of boys were enrolled in primary schools. Completion rates were much lower, especially for girls.

Newspapers continued to report that the parents of school children had to bribe teachers or officials to enroll their children in school. Parents often were willing to make payments since classroom space was insufficient for all children wishing to attend school, particularly from the eighth grade onward. Other reports indicated that girls exchanged, or were forced to exchange, sex with teachers for passing

grades. A June report by Save the Children stated that sexual abuse in schools was common. The report also noted that in instances where a desired outcome was achieved (awarding a passing grade), many girls and their families did not recognize the act as abuse. According to Save the Children, ministry officials denied the allegations noted in the report.

In an ongoing national campaign launched in June by the Ministry of Justice and UNICEF, officials registered approximately 40 thousand previously unregistered births.

In September the government, with support from UNICEF and the World Health Organization, launched a country-wide immunization campaign for children under the age of 15. More than 8 million children received vaccinations for measles and polio.

The government took steps to address the problems of the HIV/AIDS orphans in the country. It was estimated that 1 in every 5 households cared for at least 1 orphan, and estimates indicated that the number of children losing either 1 or both parents to AIDS would rise to 600 thousand by 2010. Several government agencies, including the Ministry of Health and the Ministry of Women and Social Action, developed programs to provide health assistance and vocational education for HIV/AIDS orphans.

There were reports of several cases of child abuse during the year. According to police, there were incidences of teachers hitting and threatening pupils with violence.

The Family Law sets the minimum age for civil marriage at 21 years, although persons between 18 and 20 may marry with parental consent. Despite the law, local customs, primarily in the northern provinces and in Muslim and South Asian communities, created a pattern of premature marriage. The NGO Mulheid and others worked to combat this custom through education campaigns on the dangers of the practice, including the spread of HIV/AIDS.

Exploitation of children below the age of 15 continued, and child prostitution remained a problem (see section 5, trafficking). The law prohibits pornography, child prostitution, and sexual abuse of children under 16. Persons engaged in child prostitution, use of children for illicit activities, child pornography, child trafficking, or forced or bonded child labor may be punished by prison sentences and fines. In practice perpetrators of these crimes rarely were identified and prosecuted, and punishment was not commensurate with that of a serious crime.

While the law prohibits the access of minors to bars and clubs, the government did not have adequate resources to enforce the law effectively. During the year the government trained police to aid child prostitutes and held a series of seminars to assist police in handling cases of child sexual abuse.

The trafficking of children for sexual exploitation and labor remained a problem (see section 5, Trafficking).

Child labor remained a problem, principally in the rural areas (see section 6.d.).

The country continued to have a problem with street children. There were no reliable figures on the number of street children nationwide. In 2004 the NGO Rede de Crianca, comprised of 33 community organizations that work with youth in Maputo, identified 3,419 street children in their programs.

The Maputo City Office of Women and Social Action continued its program of rescuing abandoned orphans and assisting single mothers who head families of three or more persons. They also offered special classes to children of broken homes in local schools. NGO groups sponsored food, shelter, and education programs in all major cities.

Trafficking in Persons.—The law does not prohibit trafficking in persons, and there were numerous reports that persons were trafficked to, from, or within the country. Traffickers can be prosecuted using existing laws on sexual assault, rape, abduction, and child abuse, but no such cases have been brought before a court. There were investigations of trafficking and arrests during the year.

In 2004 the Department of Migration signed an agreement with its counterpart in South Africa to share information on trafficking in persons and facilities. The Ministry of Interior provided training in women's and children's protection, including trafficking in persons, to police officers serving in Maputo, Beira, and Nampula. The MFA was charged with working with the United Nations to implement two international antitrafficking conventions.

The country is a point of origin for trafficked women and children. Poverty, a history of child migration, and weak border controls all contributed to trafficking. In a widely cited 2003 study, the International Office on Migration (IOM) reported that approximately one thousand Mozambican women and children were trafficked to South Africa every year. Reportedly, most traffickers brought their victims to South Africa through Swaziland, where border controls were particularly weak. Trafficking

victims came from both urban and rural backgrounds. The majority of victims were women and children, and they were trafficked for both sexual exploitation and forced labor. Many of the women trafficked were sold to brothels in Johannesburg or sold as concubines or "wives" to mineworkers in South Africa. Boys were trafficked as laborers on South African farms.

IOM conducted an inquiry in April that indicated women continued to be trafficked from the country and sold to mine workers at a mining district west of Johannesburg, known as the West Rand. Taxi drivers commuting between the two countries recruited young women from rural areas such as Macia and Chokwe in Gaza Province, as well as Maputo. The highway running through Maputo was another major recruiting ground for traffickers. In September South African police rescued three teenage Mozambican girls from traffickers and returned them to Mozambique.

In March police in Quelimane, Zambezia Province, arrested 2 men for attempting to sell an 11-year-old boy. The men were arrested, but it was not known whether charges were filed at year's end. In November police detained a minibus driver in the Manica Province for selling 35 children to farms and domiciles in the area. The man reportedly offered the children employment at his own residence, but instead sold them for the equivalent of $4 (100 thousand meticais). By year's end the man remained in detention pending formal charges by police.

Child prostitution appeared to be most prevalent in Maputo, Nampula, Beira, and at border towns and overnight stopping points along key transportation routes. Child prostitution reportedly was growing in the Maputo, Beira, and Nacala areas, which had highly mobile populations and a large number of transport workers. Child prostitution was reported in Sofala and Zambezia provinces. Some NGOs were working with child prostitutes by providing health care, counseling, and training in other vocations.

Traffickers were principally Mozambican or South African citizens, but involvement of Chinese and Nigerian syndicates also was reported. Trafficking groups of Mozambican origin included small networks of citizens based in Maputo and Nampula, and there were reports that organized crime groups were involved. Traffickers often lured victims from discos, bars, and markets promising better jobs in South Africa. Once there, they were threatened with exposure of their illegal status and forced to work for little or no pay. Often women were sexually assaulted en route to their destination or once they arrived in South Africa.

During the year the government attempted to provide basic protection for victims of trafficking. The Ministry of Women and Social Action provided counselors to help women and children victims of violence, including trafficking. Trained police officials continued to staff women's shelters at police stations to protect trafficking victims in Maputo, Beira, Nampula, and several large towns in Gaza Province.

The local NGOs Civic Education Forum and Terre d'Hommes opened an assistance center for repatriated trafficking victims in Moamba. The shelter served women and children and was located near the Ressano Garcia border post, a major thoroughfare for trafficked persons.

The Ministries of Interior and Women and Social Action actively participated in NGO and international organization-sponsored education campaigns for women in vulnerable communities by presenting information about trafficking-related laws and police services.

Persons with Disabilities.—Although the law stipulates that citizens with disabilities shall fully enjoy the same rights of all citizens, the government provided few resources to implement this provision. Discrimination was common against persons with disabilities in employment, education, access to healthcare, or in the provision of other state services. The law does not mandate access to buildings for person with disabilities.

Concerns of persons with disabilities included lack of access to socioeconomic opportunities and employment, limited accessibility to buildings and transportation, and a lack of wheelchairs. Special access facilities were rare. Electoral law provided for the needs of voters with disabilities in the polling booths. There were few job opportunities for persons with disabilities in the formal sector.

The Mozambican Association for the Blind and Vision Impaired (ACAMO) launched a year-long campaign to heighten public awareness of the discrimination in education, jobs, and housing faced by the approximately 700 thousand visually impaired citizens.

A school for the blind benefited 70 students. The government also provided several recreation centers for the blind and vision impaired, but according to ACAMO they were too few and badly placed to provide tangible benefit to the community. Although the government operated mental health facilities, conditions were extremely poor.

The Association of Disabled Mozambicans, the primary advocacy group in the country for persons with disabilities, reported that the government was beginning to exhibit a more positive attitude towards persons with disabilities. The group worked closely with the government to start a disabled sports federation, which was launched in May.

National/Racial/Ethnic Minorities.—There were reports of tension between newly arrived Chinese guest workers, often used in construction, and citizens in Beira, Sofala Province.

Other Societal Abuses and Discrimination.—NGO and press reports indicated persons with HIV/AIDS often faced discrimination in the workplace and rejection by their family. The law prohibits discrimination on the basis of HIV/AIDS, and the Ministry of Labor intervened in cases of perceived discrimination by employers.

Section 6. Worker Rights

a. The Right of Association.—The law provides that all workers are free to join or refrain from joining a trade union, and workers exercised these rights in practice. As of December 2004, 543,582 workers in the formal sector were registered with the National Social Security Institute, although not all registered workers were unionized. In October informal workers were declared official members of the Mozambican Workers' Association (OTM) during the launch event of the National Association of Workers and Operators in the Informal Sector. An estimated 6 percent of the population worked in the formal sector, and 10 percent of these workers were unionized. Some unions alleged that OTM was under the influence of FRELIMO.

b. The Right to Organize and Bargain Collectively.—Although the law protects the right of workers to organize and engage in collective bargaining, less than 2 percent of the work force was covered by collective bargaining contracts. The government did not set private sector salaries. Existing unions were responsible for negotiating wage increases.

The law explicitly provides for the right to strike, and workers exercised this right in practice; however, civil servants, police, military personnel, and workers in other essential services (including sanitation, fire fighting, and health care) did not have the right to strike. Repeated government promises to amend the law to provide full organizing and collective bargaining rights to public officials remained unfulfilled. The law specifies that strikers must notify police, the government, union, and employers 48 hours in advance of intended strikes. The law forbids retribution against strikers, the hiring of substitute workers, and lockouts by employers. There were reports that many companies continued to engage in antiunion discrimination: skirting regulations by replacing persons at the end of contracts, dismissing workers for going on strike, and not abiding by collective bargaining agreements.

Workers in the small number of export processing zones were subject to the same labor regulations as other workers, and worker rights generally were respected in practice.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children, and while there were few reports that such practices occurred in the formal economy, forced and bonded labor, particularly by children, were common in the rural areas (see sections 5, 6.d., and 6.e.).

d. Prohibition of Child Labor and Minimum Age for Employment.—While the law prohibits child labor, it remained a problem. In the formal economy, the minimum working age without restrictions is 18 years of age. The law permits children between 15 and 18 to work, but the employer is required to provide for their education and professional training and ensure conditions of work are not damaging to their physical and moral development. Children between 12 and 15 are permitted to work under special conditions authorized jointly by the ministries of labor, health, and education. For minors under 18, the maximum workweek is 38 hours, and the maximum workday is 7 hours. Minors under 18 are not permitted to work in unhealthy or dangerous occupations or those requiring significant physical effort. Children must undergo a medical examination before beginning work. By law children must be paid at least the minimum wage or a minimum of two-thirds of the adult salary, whichever is higher.

Although the law prohibits forced and bonded labor by children, children in rural areas were forced to work, particularly in commercial agriculture, as domestics, and in prostitution. The major factors contributing to the worst forms of child labor were chronic family poverty, lack of employment for adults, breakdown of family support mechanisms, changing economic environment, lack of education opportunities, gender inequality, and the impact of HIV/AIDS. Children, including those under the age of 15, commonly worked on family farms independently in seasonal harvests or commercial plantations, where they were paid on a piecework basis and picked cotton

or tea leaves. In the urban informal sector children performed such tasks as guarding cars, collecting scrap metal, working as vendors, and selling trinkets and food in the streets.

Unlike in previous years, there were no reports that children were used to settle financial and other disputes.

Children orphaned by HIV/AIDS often were forced to work because they were left without family support.

The Ministry of Labor regulates child labor in both the informal and formal sectors. Labor inspectors may obtain court orders and use police to enforce compliance with child labor provisions. Violations of child labor provisions are punishable with fines ranging from 1 to 40 monthly salaries at minimum wage. Enforcement mechanisms generally were adequate in the formal sector but remained poor in the informal child labor. The Labor Inspectorate and police forces lacked adequate staff, funds, and training to investigate child labor cases, especially in areas outside of the capital where a majority of the abuses occurred. Although the government provided training for police on child prostitution and abuse (including pornography), there was no specialized child labor training for the Labor Inspectorate. The government disseminated information and provided education about the dangers of child labor.

e. Acceptable Conditions of Work.—In June the government granted a 14 percent increase in the statutory minimum wage for all salaried workers. The new minimum wage was approximately $53 (1.3 million meticais) per month for workers in industrial and service sectors and $39 (935 thousand meticais) per month for those in the agricultural sector. Despite the increase, which was above the inflation rate reported for 2004, neither minimum wage provided a decent standard of living for a worker and family. Although the industrial sector frequently paid above minimum wage, there was little industry outside of the Maputo area. In addition less than 10 percent of workers held salaried positions, and the majority of the labor force worked in subsistence farming. Many workers used a variety of strategies to survive, including finding a second job, maintaining their own gardens, or depending on the income of other family members.

The Ministry of Labor is responsible for enforcing the minimum wage rates in the private sector and the Ministry of Planning and Finance in the public sector. Violations of minimum wage rates usually were investigated only after workers registered a complaint. Workers generally received benefits, such as transportation and food, in addition to wages.

The standard legal workweek is 40 hours but can be extended to 48 hours. After 48 hours, overtime must be paid at 50 percent over the base hourly salary. Overtime is limited by law to 2 hours per day and 100 hours per year. Foreign workers are protected under the law.

Worker complaints continued during the year concerning employers deducting social security contributions from wages but failing to pay them into accounts and lack of access to the social security system. In August the director of the National Social Security Institute was dismissed for alleged corruption and mismanagement.

In May authorities in the northern province of Nampula launched an investigation into worker complaints of beatings, arbitrary firings, forced labor while sick or injured, and extremely low wages in several private companies, particularly the Ramiane Sisal Company.

In the small formal sector, health and environmental laws were enacted to protect workers; however, the Ministry of Labor did not effectively enforce these laws, and the government only occasionally closed firms for noncompliance. There continued to be significant violations of labor legislation in many companies and services. Workers have the right to remove themselves from work situations that endanger their health or safety without jeopardy to their continued employment; in practice threats of dismissal and peer pressure restricted this right.

The minister of labor reported 107 labor accidents between January and November, 5 of which resulted in deaths. While the law imposes fines for recurring accidents, no fines were imposed during the year. The law also requires that companies insure workers, but ministry of labor estimates indicated that only between 50 and 60 percent of companies actually provide coverage.

NAMIBIA

Namibia is a multiparty, multiracial democracy with a population of 2,030,000. On March 21, Hifikepunye Pohamba became the country's second democratically elected president; Pohamba was elected in November 2004 and replaced Sam

Nujoma, the country's first president and leader of the ruling South West Africa People's Organization (SWAPO). International and domestic observers agreed the 2004 general elections, in which SWAPO won three-quarters of national assembly seats, were generally free and reflected the will of the electorate despite some irregularities. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in several areas. An extreme disparity in income levels of black citizens and white citizens and high unemployment in the black majority continued to pose serious challenges. The following human rights problems were reported:

- security force use of excessive force during arrests and detentions, which resulted in deaths and injuries
- arbitrary arrest, lengthy pretrial detention, and lengthy delays during trials
- government attempts to curb media and nongovernmental (NGO) criticism
- violence against women and children, including rape and child abuse
- discrimination against women, ethnic minorities, and indigenous people
- child labor

During the year local human rights groups noted fewer restrictions on the media and a decrease in abuses committed by security forces. The government also took steps to curb corruption.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces killed persons during the year.

On February 20, Police Constable "Kalisto" Mukeve reportedly raped and murdered Hilda Tjitana and her grandmother, Albertina Tjitana. Police subsequently arrested Mukeve, who was in detention awaiting trial at year's end.

On May 15, Detective Ferdinand Jacobs reportedly shot and killed Mervin Tseib, who allegedly attacked Jacobs with a knife during a separate arrest attempt in Keetmanshoop.

There were no developments in the 2004 killings by police of Francis Sikwai Musanza in July and Jeffrey Shalulu in December or the 2003 police beating of Alilo Ndungula, who subsequently died.

Unexploded ordnance resulted in one death and several injuries. Demining operations were completed during the year, and the country was declared "mine safe."

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution prohibits such practices, security forces sometimes beat or otherwise abused persons, including persons held in custody. Despite a police directive that prohibited the use of *sjamboks* (heavy leather whips), security forces continued to use them.

On January 26, Elihana Nghimwena claimed that police officers tortured him during a January 12 interrogation session; Nghimwena was arrested for theft on December 29 and released on January 21. No action had been taken against the police officers by year's end. Nghimwena subsequently filed a civil complaint against the police; his court case was scheduled for 2006.

Also on January 26, in the Nkarapamwe Township in Rundu, police officers Sheehama, Scott, and Mbekele reportedly detained and abused Pankratius Kawana for eight hours; Kawana was suspected of armed robbery. No action was taken against responsible police by year's end.

Unlike in previous years, there were no complaints of police harassment by members of the Mafwe ethnic group.

During the year the government took action against some security force members who abused persons in 2003. For example, a court martial was scheduled for March to try National Defense Force (NDF) members who harassed and beat Beau Pietersen and Hatani Mao Eichab for refusing to remove their earrings in 2003.

There were no developments in the 2003 case in which Special Field Forces (SFF) members allegedly assaulted George Petrus.

During the year media and human rights groups continued to report on ongoing civil court cases filed by individuals against the government as a result of alleged security force abuses during the 1999 secessionist attacks (see sections 1.d. and 1.e.). Approximately 120 of these civil cases were pending at year's end.

Unlike in previous years, there were no reports that paramilitary units abused persons. In February 2004 SFF members reportedly beat Theophillus Ambondo, allegedly for transporting maize meal in a government vehicle on the weekend.

There were reports of sexual misconduct by UN peacekeepers (see section 1.e.).

Mob violence occurred. On July 22, approximately 400 disgruntled employees attacked and injured two managers from the Aussenkehr Grape Farm. A wage dispute and problems with racism at the farm reportedly triggered the incident; no one was charged.

Prison and Detention Center Conditions.—Conditions in prisons and military detention facilities were Spartan but generally met international standards. There were incidents of overcrowding and poor maintenance. Victims of abuse were able to pursue legal remedies. The Ministry of Safety and Security administered the country's prisons and jails and continued to work to improve conditions.

The government made efforts to separate juvenile offenders from adult criminals, but in many rural areas juveniles continued to be held with adults. There were several pilot programs that provided alternatives to incarceration for juvenile offenders, such as placing youths in homes.

The government continued to grant NGOs regular access to prisons and prisoners. The International Committee for the Red Cross (ICRC) requested and received prison access.

d. Arbitrary Arrest or Detention.—The constitution prohibits arbitrary arrest or detention; however, at times security forces did not observe these prohibitions.

Role of the Police and Security Apparatus.—The police, including the paramilitary SFF, supervised by the Ministry of Safety and Security, and the NDF, supervised by the Ministry of Defense, shared responsibility for internal security. The country's 10 thousand-member national police force (NAMPOL) is highly centralized with regional commands responsible to the inspector general of police, who reports to the minister of safety and security. Approximately half of NAMPOL's overall complement is assigned to the SFF, a paramilitary unit made up primarily of combatants from the former People's Liberation Army of Namibia; SFF members were assigned to guard duty, checkpoints, and the maintenance of public order. NAMPOL lacked the resources, training, and personnel to consistently deter or investigate street crime.

The police continued to make use of a human rights training course and a human rights training manual designed by the Legal Assistance Center (LAC). At times security force members accused of committing abuses were arrested and tried in military courts or the civilian criminal justice system; however, in other cases, the government did not take any action against those responsible for abuses.

Arrest and Detention.—Persons arrested must be informed of the reason for their arrest and must be brought before a magistrate within 48 hours of their detention, but the government did not always respect these provisions in practice. Arrest warrants were not required in all cases, such as if a suspect was apprehended during the commission of a crime. Those accused are entitled to defense by legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel. In practice many accused persons in remote and rural areas were not represented by counsel, primarily due to the lack of resources. Prisoners generally had access to legal counsel and family during regular visiting hours. Detainees had access to their lawyers prior to trial. There is a functioning bail system, and the LAC reported that it generally was observed except in rural areas, where persons often were unaware of their legal rights.

On occasion authorities held detainees incommunicado. For example, on January 14, immigration officials at the Hosea Kutako International Airport arrested 14-year-old Nadine Coleman on charges of being an illegal immigrant; Coleman had both her Namibian passport and birth certificate in her possession. Coleman was held without access to counsel or her family for a week.

Under a state of emergency, the constitution permits detention without trial, although the names of detainees must be published in the government's gazette within 14 days, and an advisory board appointed by the president must review their cases.

During the 1999 state of emergency declared in response to Caprivi Liberation Army (CLA) attacks in Katima Mulilo, security forces detained several hundred suspected CLA members and sympathizers, most of whom were released after two weeks. Trial proceedings began in 2003 in Grootfontein and were moved during the year to Windhoek, where they resumed. At year's end there were 120 suspects who remained in detention in Windhoek, some of whom filed civil suits alleging abuses by security forces (see section 1.c.).

The 12 refugees who were arrested on related charges of high treason after being forcibly returned from Botswana and Zambia in 2002 and 2003 remained in detention at year's end. Their trial was again delayed due to lack of legal representation for all the accused, but it started on September 19 and was ongoing at year's end.

Citizens who were arrested arbitrarily used civil suits as legal recourse in many cases.

A trial must take place within "a reasonable time," or the accused must be released; however, lengthy pretrial detention was a problem. The lack of qualified magistrates and other court officials and the high cost of legal aid resulted in a serious backlog of criminal cases, which often translated into delays of up to one year or more between arrest and trial, contravening constitutional provisions for the right to a speedy trial. Some of those awaiting trial were incarcerated in the same conditions as those of convicted criminals. Human rights organizations have criticized lengthy pretrial detentions.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and while the government generally respected this provision, the court system at times was inefficient.

The formal court system has 3 levels: 30 magistrates' courts; the high court; and the Supreme Court. The latter also served as a court of appeals and as a constitutional review court.

Most rural citizens first encountered the legal system through the traditional courts, which dealt with minor criminal offenses such as petty theft and infractions of local customs among members of the same ethnic group. The law delineates which offenses may be dealt with under the traditional system. The law defines the role, duties, and powers of traditional leaders and provides that customary law is invalid if it is inconsistent with provisions of the constitution.

Trial Procedures.—The constitution provides for the right to a fair trial with a presumption of innocence until proven guilty, but this right was limited somewhat in practice by long delays in hearing cases in the regular courts and the uneven application of constitutional protections in the traditional system (see section 1.d.). The law provides for public trials, but not juries. Defendants are presumed innocent, can confront witnesses, and have the right of appeal.

During the year procedural issues continued to dominate the high treason trials of detainees arrested in connection with the 1999 attacks on government institutions at Katima Mulilo (see section 1.d.).

The Law Society withdrew a 2004 case of contempt of court against Deputy Minister of Environment and Tourism Ilonga and SWAPO Party Youth League Secretary Kapia, who had criticized a judge for ordering the release of 13 detainees.

In response to a UN investigation into sexual misconduct by peacekeeping troops in Liberia, the government recalled three Namibian peacekeepers and launched its own inquiry.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution provides all citizens with the right to privacy and requires arresting officers to secure a judicial warrant before conducting a search; government authorities generally respected these rights in practice. Violations were subject to legal action.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and while the government generally respected these rights, high-level government officials sometimes responded to criticism of the government and ruling party with verbal abuse. The government intimidated journalists into practicing self-censorship.

There were four daily national newspapers, three of which were independent, and two weekly newspapers, both of which were independent. The government contributed financially to the *New Era* newspaper and the *Namibia Press Agency*, both parastatals. The ruling SWAPO party owned one publication, *Namibia Today*. Reporters for independent newspapers continued to criticize the government openly and did not engage in self-censorship.

The government owned and operated the Namibian Broadcasting Corporation (NBC) Radio and Television. NBC television and nine radio services that broadcast in English and indigenous languages were the most widely heard and influential media in the country. During the year there were reports of government influence on NBC operations and editorial content as well as self-censorship by the staff. Two new independent radio stations were established during the year, bring the number of private radio stations to 11. There were two private television stations and a pri-

vate cable and satellite television service that broadcast international news and entertainment programs. The ruling SWAPO party owned 51 percent of this cable service.

Government departments continued to be precluded from using state funds to advertise in *The Namibian* newspaper because of the newspaper's critical coverage of the president and the government. Political parties, including the ruling SWAPO party, advertised in *The Namibian.*

During the year former Minister of Information Nangolo Mbumba reprimanded the media for publishing a letter that criticized former President Nujoma, and a former deputy minister called for a boycott of all local media that criticized the government. There were, however, fewer incidents of such criticism than in previous years.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There is a very small Jewish community; there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides for these rights, and the government generally enforced these rights in practice.

The constitution prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 convention/1967 protocol.

At year's end the population at the Osire Refugee Camp was approximately seven thousand. Approximately five thousand of this population was from Angola; the remaining refugees were from the Democratic Republic of the Congo, Burundi, Rwanda, and other African countries. The government generally did not permit refugees and asylum seekers to work or live outside the Osire refugee camp. Education through grade 10 was available to all refugees at the camp, and the government facilitated further secondary education for students with financial sponsorship at schools outside the camp. Some tension with local farmers persisted; farmers accused some refugees of stealing firewood, and refugees claimed they were not paid for informal labor.

The government continued to maintain strict control over civilian access to the Osire refugee camp; however, the ICRC, the UNHCR, and the UNHCR's NGO partners had regular and unrestricted access to the camp.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Presidential and parliamentary elections were held in November 2004. SWAPO candidate Hifikepunye Pohamba was elected president with 76.4 percent of the vote; SWAPO won 55 of 72 elected national assembly seats. International and domestic observers characterized both elections as free and reflecting the will of the electorate despite some irregularities. Observers criticized the inefficient vote tabulation system and the unequal access to media coverage and campaign financing. In the National Assembly, 6 opposition parties won a total of 17 seats. The inauguration of President-elect Pohamba and the National Assembly took place in March.

During the year opposition parties challenged the results of the 2004 parliamentary elections, which resulted in a court-ordered recount. The recount produced the same parliamentary seats for all parties but failed to allay some opposition concerns

regarding irregularities. The Republican Party subsequently launched another court challenge of the recount, which was pending before the high court at year's end.

Women held 20 seats in the 78-seat National Assembly. There was a women's caucus in parliament that reviewed legislation for gender sensitivity. There were 5 female ministers, including the attorney general, and 6 female deputy ministers among the 45 ministerial and deputy ministerial positions. The deputy prime minister was a woman.

Historic economic and educational disadvantages limited the participation of the indigenous San ethnic group in politics; however, a member of the San community represented the SWAPO party in the National Assembly. Virtually all of the country's other ethnic minorities were represented in parliament and in senior positions in the cabinet. Members of smaller ethnic groups held the offices of deputy prime minister and speaker of the National Assembly.

Government Corruption and Transparency.—The law prohibits corruption; however, it was a problem. Government institutions—including the Office of the Ombudsman and the Office of the Auditor-General—were in place to combat public corruption. In his March 21 inaugural address, President Pohamba said the government would address graft "with a sledgehammer," and on June 9, he urged the heads of all state-owned enterprises to take action against corruption or face the legal consequences. In October the government also established an anticorruption commission.

During the year the government took action against corrupt officials. In September former deputy minister Paulus Kapia resigned due to allegations of corruption; SWAPO subsequently forced him to relinquish his parliamentary seat. In December the government dismissed and brought charges of misappropriation against the director of the state-run NBC. Also in December several members of the Walvis Bay Town Council were suspended for alleged corruption.

There were notable cases of malfeasance in several of the country's parastatals. Reports of corruption in the Social Security Commission, the Offshore Development Company, the passport division of the Ministry of Home Affairs, and the Government Institute Pension Fund received widespread media coverage.

No laws provided for public access to government information, but the government generally provided such access in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials continued to publicly disapprove of NGO criticism of the ruling party and government policies. NGOs continued to criticize government policies freely.

During the year representatives of international human rights organizations visited the country.

There was an autonomous ombudsman, with whom the government cooperated; he was considered effective in addressing some corruption and human rights issues.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, creed, gender, or religion, and specifically prohibits "the practice and ideology of apartheid"; however, the government did not effectively enforce these prohibitions.

Women.—Domestic violence against women, including beating and rape, was widespread. Traditional attitudes regarding the subordination of women exacerbated problems of sexual and domestic violence. Domestic violence is against the law, and the law defines rape in broad terms and allows for the prosecution of spousal rape. The penalties for rape ranged from 5 years' to 45 years' imprisonment, and the government enforced the law. Numerous rapists were prosecuted during the year. In some magistrate's courts, there were special courtrooms to protect vulnerable witnesses from open testimony; the courtrooms featured a cubicle made of one-way glass and child-friendly waiting rooms.

There were 15 Women and child protection units staffed with police officers trained to assist victims of sexual assault. During the year the People's Education, Assistance, and Counseling for Empowerment Center and other NGOs continued to provide training to these units. The media continued to report on rape and domestic violence.

The law does not prohibit prostitution, and it occurred.

The law prohibits sexual harassment; however, it was a problem.

The law prohibits discrimination against women, including employment discrimination; however, men dominated positions in upper management. The Ministry of

Labor and Social Welfare and the Employment Equity Commission, which reports to the minister of labor, were responsible for problems involving discrimination in employment; however, neither was effective due to the backlog of cases. The law prohibits discriminatory practices against women married under civil law, but women who married under customary (traditional) law continued to face legal and cultural discrimination. Traditional practices that permitted family members to confiscate the property of deceased men from their widows and children still existed.

The Ministry of Gender Equality and Child Welfare was responsible for advocating for women's rights. The Ministry of Justice's Law Reform and Development Commission advocated for women's rights in legislation, such as the Maintenance Act.

Children.—The law enumerates children's rights, including those in the area of education and health, and the government dedicated approximately 23 percent of its budget for education and 11 percent for health care. However, resource constraints and untrained support staff resulted in inadequate attention to child welfare.

Although the constitution provides children with the right to primary and junior secondary education (grades 1 to 10), the numerous fees, which included fees for uniforms, books, boarding costs, and school improvement, placed a heavy burden on students' families and precluded some children from attending school. Education was compulsory until the age of 16. Approximately 95 percent of students attended school until the 7th grade; approximately 89 percent attended school until the 10th grade. In general, more girls than boys were enrolled in secondary schools. Many San children did not attend school.

Corporal punishment of children is illegal; however, the practice was common in rural areas and received widespread media coverage during the year. In October 2004 in Katutura Township, a sixth grade teacher beat two students with a metal pipe after a classmate accused them of stealing her cell phone. The mother of 13-year-old Kapurunje Uirab filed legal action. On August 31, the high court ruled in favor of Uirab and ordered the teacher and the Ministry of Education to pay $5,500 (NAD 35 thousand).

During the year the government took several steps to provide medical care and other assistance to the approximately 100 thousand HIV/AIDS orphans and other vulnerable children. For example, the government reduced or eliminated school fees and provided social grants.

Child abuse was a serious problem, and authorities vigorously prosecuted crimes against children, particularly rape and incest. During the year supreme court judge of appeal Pio Teek was charged with rape and forced to resign; the trial was ongoing at year's end. The law protects children under 18 years of age by criminalizing sexual exploitation, child pornography, and child prostitution. The age of sexual consent was 16 years. During the year the government continued to provide training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children worked actively to reduce the trauma suffered by abused children.

Child prostitution occurred, and parents as well as perpetrators were liable in such cases. The growing number of HIV/AIDS orphans increased the vulnerability of children to sexual abuse and exploitation.

Numerous children orphaned by HIV/AIDS engaged in prostitution.

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—The law specifically prohibits trafficking in persons, and there were no reports of persons being trafficked to, from, or within the country; however, child prostitution occurred. The law also prohibits slavery, kidnapping, and forced labor, including forced prostitution, child labor, and alien smuggling. Traffickers were subject to fines of up to $166 thousand (NAD 1 million) or up to 50 years' imprisonment.

Child prostitution occurred (see section 5, children).

Persons with Disabilities.—While discrimination on the basis of disability is not addressed in the constitution, the law prohibits discrimination against persons with disabilities in employment. Enforcement in this area was ineffective. Societal discrimination also persisted. The government does not legally require special access to public buildings for persons with disabilities, and some ministries remained inaccessible to them. Although some municipal governments have installed ramps and special curbing for persons with disabilities at street crossings, physical access for those with disabilities remained a problem. Disability issues continued to receive greater public attention than in previous years, with wider press coverage of the human rights problems that confront persons with disabilities.

National/Racial/Ethnic Minorities.—Despite constitutional prohibitions, societal, racial, and ethnic discrimination persisted. Many nonwhites continued to complain

that the government was not moving quickly enough to provide education, health, housing, employment, and access to land. Some citizens continued to accuse the government of providing more development assistance and professional opportunities to the majority Ovambo ethnic group. There also were reported cases of black farm workers suffering discrimination in remote areas at the hands of white farm owners.

Indigenous People.—The San, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. By law, all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources; however, the San and other indigenous citizens have been unable to exercise these rights fully as a result of minimal access to education, limited economic opportunities, and their relative isolation. The government took measures to end societal discrimination against the San, including seeking their advice about proposed legislation on communally held lands and increasing their access to education. Despite these measures, many San children did not attend school. In February 2004 the LAC filed charges on behalf of 18 members of the San community against more than 20 communal farmers who allegedly beat them after accusing the San of stock theft; the case was pending at year's end. NGOs reported a decrease in complaints that the San were unable to obtain proper identification documents; however, problems continued due to lack of birth records and lack of government officials with the necessary language skills.

The government has authority to confer recognition or withhold it from traditional leaders, even in opposition to local preference. This authority was controversial because of the local leaders' influence on local events, including local police powers. In some cases the government withheld recognition from genuine traditional leaders for political reasons. For example, the government recognized traditional leaders from the Mafwe community, reportedly because the leaders of were close to SWAPO; however, the government has not recognized leaders of the Khwe in West Caprivi.

Other Societal Abuses and Discrimination.—The unimplemented 2004 Labor Act did not specifically enumerate homosexuals as a group protected from employment discrimination, and such discrimination occurred. During the year senior government officials continued to make disparaging public remarks about homosexuals. For example, on September 27, Deputy Minister for Home Affairs and Immigration Mushelenga said that homosexuals were a "slap in the face of African culture." Her remarks sparked wide criticism in the media and by human rights groups.

Section 6. Worker Rights

a. The Right of Association.—The constitution provides for the freedom to form and join trade unions, and workers exercised this right in practice. Farm workers and domestic servants working on rural and remote farms often did not know their rights, and unions experienced obstacles in attempting to organize these workers. As a result, farm workers reportedly suffered abuse by employers. They also had poor access to health care. During the year the government continued efforts to train labor inspectors and educate workers on their rights.

The law provides a process for employer recognition of trade unions and protection for members and organizers. The law specifically protects both union organizers and striking workers from employer retaliation; however, the scarcity of judges and lack of expertise in labor law caused lengthy and unnecessary delays in such cases.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides employees with the right to bargain individually or collectively and to recognize the exclusive collective bargaining power of the union when a majority of the workers were members of that union; workers exercised these rights in practice. Collective bargaining was not practiced widely outside the mining and construction industries, which had centralized, industry-wide bargaining. Almost all collective bargaining was at the workplace and company level. The Ministry of Labor cited lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully.

Except for workers providing essential services such as jobs related to public health and safety, workers have the right to strike once conciliation procedures are exhausted and 48-hour notice has been given to the employer and labor commissioner. Legal strikes were conducted during the year. Under the law, strike action can be used only in disputes involving specific worker interests, such as pay raises. Disputes over worker rights, including dismissals, must be referred to a labor court for arbitration. The law protects workers engaged in legal strikes from unfair dismissal.

There are export processing zones (EPZs) at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZs outside of these parks. The law applies to EPZs, and unions have been active in the EPZs since their establishment.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, there continued to be media reports that farm workers (including some children on communal farms) and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers. Given the Ministry of Labor's resource constraints, labor inspectors sometimes encountered problems in gaining access to the country's large communal and family-owned commercial farms to investigate possible labor code violations.

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws to protect children from exploitation in the workplace; however, child labor continued to be a problem. Criminal penalties and court orders were available to the government to enforce child labor laws, but such action involved a complicated legal procedure. Under the law, the minimum age for employment is 14 years, with higher age requirements for night work and in certain sectors such as mining and construction. The minimum age was inconsistent with the age for completing education requirements (see section 5). Children below the age of 14 often worked on family-owned commercial farms and in the informal sector, and some also worked in communal areas.

Child prostitution occurred (see section 5).

The government took steps to end child labor abuses. On September 28, the government launched a National Initiative to Eliminate Exploitative Forms of Child Labor. The initiative is designed to determine the extent of child labor in the country and to eliminate the worst forms of child labor. During the year the Ministry of Labor continued to hire additional inspectors and to monitor abuses with International Labor Organization representatives, who visited the country during the year. The government also continued to work with NGOs to assist the victims of child labor.

e. Acceptable Conditions of Work.—There was no statutory minimum wage law, but the mining, construction, and agricultural sectors set basic levels of pay through collective bargaining. Average wages for unskilled workers did not provide a decent standard of living for a worker and family, especially since the average wage earner supported the extended family. Wage levels for the less educated majority remained very low.

The standard legal workweek is 45 hours and required at least one 36-hour rest period per week. An employer may require no more than 10 hours per week of overtime. The law mandates 24 workdays of annual leave per year, at least 30 workdays of sick leave over a three-year period, and 3 months of maternity leave paid in part by the Social Security Commission. The Ministry of Labor did not always enforce these provisions.

The government mandates occupational health and safety standards, and the Labor Act empowers the president to enforce these standards through inspections and criminal penalties. Labor laws generally were implemented efficiently, but the Ministry of Labor lacked an adequate number of trained inspectors to monitor adherence to such labor regulations as providing overtime pay and social security by some companies, especially small, family-owned operations. The law requires employers to ensure the health, safety, and welfare of their employees. It provides employees with the right to remove themselves from dangerous work situations; however, some workers did not have this right in practice.

The law accords the same rights to legal foreign workers as to citizens.

NIGER

Niger is a multiparty republic that returned to democracy in 1999 following coups in 1996 and 1999; it had a population of 11.3 million. In December 2004 Mamadou Tandja was elected to his second five-year presidential term in an election that international observers deemed generally free and fair. Four parties joined the ruling coalition of the National Movement for the Development of Society (MNSD) and the Democratic and Socialist Convention (CDS) to win a majority of national assembly seats. The civilian authorities generally maintained effective control of the security forces.

The government improved its human rights record during the year; however, there were problems in some areas. Severe food shortages and nationwide protests

over the January imposition of a higher value added tax (VAT) influenced the human rights situation. The following human rights problems were reported:

- poor prison conditions
- arbitrary arrest and detention
- prolonged pretrial detention
- executive interference in the judiciary
- restrictions on freedom of speech
- forcible dispersion of demonstrators
- societal discrimination and violence against women and persons with disabilities
- female genital mutilation (FGM)
- trafficking in persons
- child labor, including forced labor
- caste-based servitude

Government achievements during the year included aggressive efforts to curb official corruption, child labor, and child abuse. The government also joined a regional effort to eliminate child trafficking, culminating in the signing of a multilateral antitrafficking agreement with eight neighboring countries.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

On March 4, the Niamey regional court granted provisional release to former tourism minister Rhissa Ag Boula, who had been charged with complicity in the January 2004 killing of local MNSD political party leader Adam Amenge. The release reportedly followed a statement of forgiveness from the victim's family. Of the 23 persons arrested in connection with the killing, 4 remained in prison at year's end.

On April 4, the court issued a 6-month suspended sentence and a $57 (30 thousand CFA francs) fine to a police officer convicted of the 2003 killing of a customs officer. The court also ordered the government to pay $18 thousand (10 million CFA francs) in damages to the victim's family. The customs union was appealing the verdict as insufficient at year's end.

Bandits set up roadblocks along southern highways and attacked and robbed persons during the year (see section 2.d.). On December 2, armed bandits killed a French tourist; two of the three suspects were arrested.

Disputes between herders and farmers over land tenure and grazing areas resulted in deaths during the year. On May 6, in Western Dosso Region, such a dispute resulted in 11 deaths and 12 injuries. Police arrested the alleged instigator of the violence, and his case was pending at year's end.

On June 3, in a village in Tillaberi Region, riots erupted over the sale of subsidized food; one person was killed and eight others were injured. Police detained three persons, one of whom remained in custody awaiting trial at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

In January the three gendarmes who were kidnapped by armed men in a 2004 bus attack were released.

Violence between Malian and Nigerien herders along the border between the two countries resulted in kidnappings.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and unlike in previous years, there were no reports that security forces beat and abused persons during the year.

Police forcibly dispersed demonstrations, which resulted in injuries (see section 2.b.).

During the year the appeals court of Niamey upheld the 2003 convictions of three paramilitary policemen convicted of using excessive force during an investigation in 2002.

No action was taken against security forces who arrested and beat a health worker for refusing medical treatment to the child of a Republican Guard.

The investigation into the 2004 abuse by security forces of civilians in Tesker was ongoing at year's end.

Unlike in the previous year, there were no reports that armed persons claiming to reconstitute the Air and Azawak Liberation Front attacked vehicles and passengers in the northern region of Agadez.

Disputes between herders and farmers over land tenure and grazing areas in Western Dosso Region resulted in deaths and injuries during the year (see section 1.a.). In February and March, violence between Malian and Nigerien herders along the border between the two countries resulted in kidnappings, beatings, and loss of livestock and property. Citizens of the region continued to complain of a lack of border policing by the government.

Prison and Detention Center Conditions.—Conditions in all 35 of the country's prisons were poor and life threatening. Prisons were underfunded, understaffed, and overcrowded. For example, in Niamey's civil prison, there were approximately 650 prisoners in a facility built for 350; more than 455 of these were awaiting trial at year's end. Family visits were allowed, and prisoners could receive supplemental food, medicine, and other necessities from their families; however, nutrition and health conditions were poor, and deaths occurred from AIDS, tuberculosis, and malaria.

Corruption among prison staff was rampant. Prisoners could bribe officials to leave prison for the day and serve their sentences in the evenings. Some prisoners bribed officials to serve their sentences in the national hospital.

Pretrial detainees were held with convicted prisoners.

Human rights observers, including the International Committee of the Red Cross (ICRC), were granted unrestricted access to prisons and detention centers and conducted visits during the year. In September the local NGO Association Against Torture and Arbitrary Detention visited several prisons in the Niamey area to assess detention conditions.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the law prohibits detention without charge in excess of 48 hours; police at times violated these provisions.

Role of the Police and Security Apparatus.—The armed forces, under the Defense Ministry, were responsible for internal and external security; the gendarmerie, also under the Defense Ministry, had primary responsibility for rural security; the national forces for intervention and security, under the Interior Ministry, was responsible for domestic security and the protection of high-level officials and government buildings; and the national police, also under the Interior Ministry, were responsible for urban law enforcement.

The police were ineffective, primarily because of inadequate resources. Basic supplies such as vehicle fuel, radios, uniforms, handcuffs, batons, and badges were scarce. Patrols were sporadic, and emergency response time in Niamey could take 45 minutes. Police training was minimal, and only specialized police units had basic weapons-handling skills. In 2003 the National Assembly adopted legislation granting police more decision-making authority and increased compensation; however, corruption remained pervasive. Citizens complained that security forces did not adequately police border regions. The gendarmerie is responsible for investigation of police abuse; however, impunity was a problem.

Arrest and Detention.—The law requires a warrant for an arrest and provides for a 48-hour investigative detention period. If police fail to gather sufficient evidence within that period, the prosecutor can give the case to another officer, and a new 48-hour investigative detention period begins. Poor communications hindered accurate identification of detainees and could result in prolonging the 48-hour detention period. A defendant has the right to a lawyer immediately upon detention, and bail is available for crimes carrying a penalty of less than 10 years' imprisonment. Widespread ignorance of the law and lack of financial means prevented many of the accused from taking full advantage of these rights.

In March the government arrested five leaders of the Coalition Against the Rising cost of Living, which had organized popular protests against the January imposition of a higher VAT (see section 2.b.). The five were charged with conspiracy against state security, call to armed gathering, and unauthorized creation of an association. During the preliminary hearings, the judge reportedly offered to free the detainees in exchange for their commitment not to talk publicly or call for further protests; however, the five rejected the offer and were placed under preventive detention in separate prisons. On April 7, the men were released, but charges were still pending at year's end.

Security forces arrested journalists, a human rights activist, and numerous demonstrators during the year (see sections 2.a., 2.b., and 4).

There were no reports of political detainees.

Police occasionally conducted sweeps to detain suspected criminals.

There were serious backlogs in the judicial system. Despite legal limits to the pretrial confinement period of indicted persons, detention frequently lasted months or years; some persons have been waiting as long as six years to be charged.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the executive branch sometimes interfered with the judicial process. In civilian matters there were credible reports that family and business ties influenced lower court decisions. Judges sometimes feared reassignment or having their financial benefits reduced if they rendered a decision unfavorable to the government. In some instances judges granted provisional release pending trial to high-profile defendants. Persons in such status had complete freedom of movement and could leave the country, but the charges against them remained pending, and they were subject to recall by the courts at any point. Such persons were seldom called back to trial, and some observers charged that provisional release amounted to a denial of fair public trial.

The court of appeals reviewed questions of fact and law, while the Supreme Court reviewed only the application of the law and constitutional questions. There also were customary courts and a military court.

Trial Procedures.—Trials were public, and juries were used. Defendants have the right to counsel, to be present at trial, to confront witnesses, to examine the evidence against them, and to appeal verdicts, first to the court of appeals, then to the Supreme Court. The law affirms the presumption of innocence. The law provides for counsel at public expense for minors and indigent defendants charged with crimes carrying a sentence of 10 years or more. Although lawyers complied with government requests to provide counsel, the government generally did not remunerate them. Widespread ignorance of the law prevented many accused from taking full advantage of these rights. There were no defense attorneys located outside the capital, although lawyers traveled to other locations to provide legal assistance as requested.

The military court provides the same rights as civilian courts, but it cannot try civilians.

On July 21, the military court sentenced three of five army officers charged with high treason in 2002 to jail terms of one to five years for "arbitrary arrest and confinement." The other two army officers were released without charge. Thirteen other officers originally charged in the case but living in self-imposed exile abroad were sentenced in absentia to nine years' imprisonment.

Traditional chiefs could act as mediators and counselors and had authority in customary law cases as well as status under national law, where they were designated as auxiliaries to local officials. Chiefs received government stipends but had no police or judicial powers and could only mediate, not arbitrate, customary law disputes. Customary courts, located only in large towns and cities, try cases involving divorce or inheritance. They are headed by a legal practitioner with basic legal training who was advised by an assessor knowledgeable in the society's traditions. The judicial actions of chiefs and customary courts are not regulated by law, and defendants could appeal a verdict to the formal court system. Women did not have equal legal status with men in the traditional and customary courts and did not enjoy the same access to legal redress (see section 5).

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions. Under the State Security Law, police may conduct searches without warrants when they have strong suspicion that a house shelters criminals or stolen property. Unlike in previous years, there were no reports that police conducted routine searches without warrants.

On July 21, the military court sentenced 3 of the 5 army officers charged with treason after their homes were searched without warrant in 2002 (see section 1.e.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government restricted these rights during the year and intimidated journalists into practicing self-censorship.

The government published a French-language daily newspaper, *Le Sahel*, and its weekend edition. There were approximately 12 private French-language weekly or monthly newspapers, some of which were affiliated loosely with political parties. The private press criticized government actions.

Since literacy and personal incomes were both very low, radio was the most important medium of public communication. The government-owned radio station *La Voix du Sahel* provided news and other programs in French and several local languages. There were several private radio stations; five were owned locally and featured popular news programs in local languages. These private radio stations generally were less critical of the government than were the private newspapers. The government-operated multilingual national radio service generally provided equi-

table broadcasting time for all political parties; however, opposition political parties complained of unequal coverage of their activities by government-owned media.

Television was a far less important medium than radio. The government-owned *Tele-Sahel* and TAL–TV broadcast programming in French and other major national languages. A private television station, *TV Tenere*, also broadcast local and foreign programming. The director of a private radio station operated a wireless cable television service for the capital, offering access to international channels.

During the year the government seized cameras and film from journalists, closed a private radio station, and brought libel charges against journalists who criticized the government, particularly in its handling of the food crisis and the VAT increase.

On March 24, the government's spokesman and minister for institutional relations seized a journalist's camera during a press conference on the January VAT increase. Following anti-VAT protests in Zinder, the region's governor ordered the confiscation of a private television channel's video footage of the events.

The High Council for Communications (CSC) is the only government agency with the legal power to close radio stations, and it may do so only after receiving a complaint. However, on March 29, the government ordered the police to close a private radio station without informing the CSC, charging that the station's March 29 broadcast of civil society criticism against the VAT increase constituted a threat to public order. On April 5, the radio station reopened after the regional court of Niamey ruled the closure illegal. On May 7, the CSC ordered the station to refrain from broadcasting political news, sports coverage, or commercials. The minister of the interior subsequently threatened to "take action" against private radio stations and newspapers that carried calls for demonstrations against the VAT. Local independent press associations criticized the government's actions.

In May the editors of *Sahel Dimanche* ordered one of the newspaper's writers to take three weeks of leave following her April 29 coverage of the country's food crisis. Government officials angered by the coverage reportedly influenced the editors.

On July 15, the government charged Raliou Hamed Assalek, a private radio station director and correspondent for Radio France International (RFI), with defamation for alleging that the governor of the northern region of Agadez had diverted foreign food aid from its intended recipients. On July 25, Assalek was granted provisional release. On November 29, Assalek was tried, and on December 20, he was given a suspended sentence and fined $400 (200 thousand CFA francs) in damages. The case was under appeal at year's end.

In September Yahaya Yandaka, the governor of Agadez, filed a $19 thousand (10 million CFA francs) civil lawsuit against Abdoulaye Harouna, the publisher of a local newspaper who alleged corruption and malfeasance in the governor's handling of foreign food aid in his newspaper. The governor subsequently initiated libel proceedings. On September 27, Harouna was sentenced to four months' imprisonment but granted immediate provisional release. The case was under appeal at year's end.

On November 12, security forces arrested independent journalist Abdoulkarim Salifou on charges of criminal libel; Salifou had written an article accusing the country's treasurer of embezzling funds. On December 2, the court sentenced Salifou to two months' imprisonment (including time already served) and a symbolic fine of one CFA franc.

On January 9, Sanoussi Jackou, opposition leader and publisher of an opposition newspaper, was released; Jackou was arrested in December 2004 for "arousing ethnic hatred" during his appearance on a radio talk show.

There were no further developments in the 2004 arrest and provisional release of Moussa Kaka, who was charged with conspiracy after he broadcast reports on the alleged reactivation of the Tuareg rebellion in the north.

Defamation charges against Maman Abou, who was arrested and released in 2003, remained pending at year's end.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and while the government generally respected this right, police forcibly dispersed demonstrations during the year. The government retained the authority to prohibit gatherings either under tense social conditions or if advance notice (48 hours) was not provided.

The January 4 imposition of VAT increases on electricity, water, and foodstuffs resulted in general strike days and nationwide demonstrations, many of which became violent and were forcibly dispersed by police. For example, on March 15, the Coalition Against the Rising Cost of Living organized a large march that resulted in considerable property damage. Police arrested and briefly detained 47 demonstrators. By the end of April police had arrested 93 demonstrators, most of whom were charged with property destruction. All had been released by June.

On February 14, police reportedly beat student demonstrators with batons and whips in the town of Konni; several students were briefly detained.

On May 28, in the village of Tamaske, police fired shots to disperse a demonstration, which resulted in serious injury to two demonstrators. Several persons also were injured during a stampede that followed the police firing. Police arrested three demonstrators, one of whom remained in detention at year's end. The demonstrators were protesting alleged corruption and political favoritism in the distribution of food. An investigation was being conducted at year's end.

No action was taken against police who forcibly dispersed demonstrators in 2004 and 2003.

Freedom of Association.—The law provides for freedom of association; however, citizens may not form political parties based on ethnicity, religion, or region.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right, as long as persons respected public order, social peace, and national unity.

Islam was the dominant religion and the Islamic Association, which acted as an official advisory committee on religious matters to the government, broadcast biweekly on the government-controlled television station. On government-controlled media, Christian programs generally were broadcast only on special occasions, such as Christmas and Easter, although the independent media regularly broadcast such programs.

Religious organizations must register with the Interior Ministry. This registration was a formality, and there was no evidence that the government ever refused to register a religious organization.

Societal Abuses and Discrimination.—There was no significant Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for freedom of movement, and the government generally respected this right. Security forces at checkpoints monitored the travel of persons and the circulation of goods, particularly near major population centers, and sometimes demanded bribes. During the year transportation unions and civil society groups criticized such practices, and the Anticorruption Commission called for an investigation into checkpoint corruption; however, no investigation had been conducted by year's end.

There were reports that bandits set up roadblocks along southern highways and robbed persons during the year; one person was killed (see section 1.a.). On December 2, three armed bandits attacked persons returning from a regional market near the border with Mali and stole their camels, cash, and other valuables.

The law prohibits forced exile, and there were no reports that the government used it.

Protection of Refugees.—The law does not provide for granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, although the country is a signatory to the convention. The government has not established a system for providing protection to refugees, but in practice provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not routinely grant refugee or asylum status, although it did cooperate with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR's regional office in Benin was responsible for refugee assistance and protection in the country; the government's interministerial National Refugee Eligibility Committee performed refugee prescreening duties. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol and has offered asylum to several thousand persons, primarily from Mali and Chad. Approximately 500 refugees from Chad and other neighboring countries remained in the country.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In December 2004 Mamadou Tandja was elected to his second 5-year presidential term with 65 percent of the vote in an election that international observers described as generally free and fair, despite some

irregularities on election day. A coalition composed of the MNSD, CDS, the Rally for Social Democracy, the Rally for Democracy and Progress, the Nigerien Alliance for Democracy and Progress, and the Social-Democratic Party of Niger backed Tandja and won 88 of the 113 seats in the National Assembly. The opposition Nigerien Party for Democracy and Socialism won 25 seats. Tandja reappointed MNSD party president Hama Amadou as prime minister.

Women traditionally have played a subordinate role in politics. The societal practice of husbands' voting their wives' proxy ballots effectively disenfranchised many women in the 1999 elections; however, female voter turnout substantially increased during local, legislative, and presidential elections held in 2004. There were 14 women in the National Assembly and 6 female ministers in the cabinet; 6 of the country's 20 ambassadors were women. The law mandates that women receive 25 percent of senior government positions and fill 10 percent of elected seats; women held at least 10 percent of the 3,747 local council positions.

All major ethnic groups were represented at all levels of government. There were eight seats in the National Assembly designated for representatives of "special constituencies," specifically ethnic minorities and nomadic populations. President Tandja, who reportedly is half Peul and half Kanouri, is the country's first president who is not from either the Hausa or the Djerma ethnic groups, which make up approximately 56 percent and 22 percent, respectively, of the country's population.

Government Corruption and Transparency.—The government publicly acknowledged that corruption was a problem and prosecuted numerous officials for corruption during the year. There was a widespread public perception of corruption in the executive and legislative branches.

On April 15, the Niamey regional court sentenced Sanou Joseph, the prime minister's legal advisor, to 1 year in prison and a $92 (50 thousand CFA francs) fine for embezzling $93,922 (51 million CFA francs) from an NGO he ran in the 1990s. On June 28, the court of appeals dismissed the case due to insufficient evidence.

Following a July investigation, the Ministry of Finance indicted the deputy director of salaries for forging documents to collect $64,800 (35 million CFA francs) on behalf of fictitious civil servants. The case against him was pending at year's end. Also in July the minister of civil service and labor fired three senior officials for accepting bribes in exchange for providing passing grades to applicants taking the civil service exam.

On September 7, 15 civil servants in the city of Dosso were sentenced to 5 months' imprisonment for accepting bribes in exchange for providing answers and passing scores while administering the standardized junior high school test.

On September 24, the former director general of the country's Francophone Games Organization was arrested and indicted on charges of abuse of public property; he allegedly had embezzled funds and operated a private construction company that received contracts from the organization during his directorship. The case was pending at year's end.

The National Commission on Corruption set priorities to investigate corruption in justice, health care, education, and transportation; however, the commission still lacked office space and an adequate budget at year's end.

There were no laws that provided for public access to government information; however, many documents could be obtained from individual ministries and the National Archives.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. These findings were sometimes highly critical of the government. Government officials often were unresponsive to their views and denied allegations of human rights abuses. The ICRC was active in the country.

During the year a coalition of human rights NGOs sued the government to reverse a presidential decree that named new members to the Commission on Human Rights and Fundamental Liberties, which the government created to promote communication, advocacy, and investigation of human rights abuses. While acknowledging the president's legal right to name new members, the NGOs maintained that they should have been consulted in the selection process. On December 28, the Supreme Court annulled the presidential decree.

On July 4, security forces arrested Oumarou Souley, a local NGO representative, for issuing a statement that criticized the poor condition and management of Gaya hospital. On July 6, he was sentenced to 2 months' imprisonment and fined $46 (25 thousand CFA francs) on defamation charges. On September 5, he was released.

On October 26, civil society activist Houhou Arzika was attacked and severely beaten by the bodyguards of Moussa Dan Foulani, a wealthy businessman believed to have ties with high-level government officials. In a radio interview several weeks earlier, Arzika had accused Foulani of corruption and malfeasance in his management of government contracts. On October 27, after Arzika filed a complaint, the gendarmerie called Foulani to its Niamey headquarters for questioning. On December 21, Foulani was arrested, arraigned, and jailed; however, he was granted provisional release on December 28. The criminal case against him was pending at year's end.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination based on sex, social origin, race, ethnicity, or religion, there were instances of societal discrimination against women, children, ethnic minorities, and persons with disabilities, including limited economic and political opportunities.

Women.—Domestic violence against women was widespread, although reliable statistics were not available. Wife beating reportedly was common. The law does not prohibit domestic violence; however, a woman can sue her husband or lodge criminal charges for battery, penalties for which ranged from 2 months in prison and a $19 (10 thousand CFA francs) fine to 30 years' imprisonment. The government enforced these laws, but charges stemming from family disputes were often dropped in favor of traditional dispute resolution mechanisms. Families often intervened to prevent the worst abuses, and women may (and did) divorce because of physical abuse. While women have the right to seek redress for violence in the customary or modern courts, few did so due to ignorance of the legal system, fear of social stigma, or fear of repudiation. Some women's rights organizations reported that prostitution often was the only economic alternative for a woman who wanted to leave her husband.

Rape is a crime punishable by 10 to 30 years' imprisonment depending upon the circumstance and age of the victim; the law was enforced. Reliable statistics on its prevalence were not available. The law does not explicitly recognize spousal rape.

Certain ethnic groups practiced FGM, and approximately 20 percent of women in the country had undergone it, according to a 1999 World Health Organization global study. Clitoridectomy was the most common form. FGM is against the law, and those convicted of practicing it and their accomplices face prison sentences ranging from six months to three years. If the victim of FGM dies, the practitioner can be sentenced from 10 to 20 years' imprisonment. The government also took an active role in combating FGM and worked closely with local NGOs, community leaders, the UN Children's Fund (UNICEF), and other donors to develop and distribute educational materials at government clinics and maternal health centers and participated in information seminars and dissemination of publicity.

Prostitution was illegal, but remained prevalent in big cities and near major mining and military sites.

Sexual harassment is a crime punishable by prison sentences from 3 to 6 months and fines from $20 to $200 (10 thousand to 100 thousand CFA francs). If the violator is in a position of authority, the prison sentence is from 3 months to 1 year, and the fine is increased from $40 to $400 (20 thousand to 200 thousand CFA francs).

Despite the constitution's provisions for women's rights, deep-seated traditional and religious beliefs resulted in discrimination in education, employment, and property rights. Discrimination was worse in rural areas, where women helped with subsistence farming and did much of the childrearing, water- and wood-gathering, and other work. Despite constituting 47 percent of the formal sector work force, only 26 percent of civil service workers and 22 percent of professionals were female.

Legal rights as heads of household applied only to men; divorced or widowed women, even with children, were not considered to be heads of households. In the east there were reports that some women were cloistered and could leave their homes only if escorted by a male relative and usually only after dark.

National service, which lasted from 18 months to 2 years, was mandatory for all young men and women who completed university studies or professional training. Men were allowed to serve in the military as part of their national service obligation; however, even though women were allowed to serve in the military, they could meet their national service obligation only by serving as teachers, health service workers, or technical specialists.

Children.—Although the law provides that the government promote children's welfare, financial resources for this purpose were extremely limited. Education was compulsory and free for a minimum period of six years; however, according to the Ministry of Basic Education, only approximately 50 percent of children of primary school age attended school, and an estimated 60 percent of those who finished pri-

mary schools were boys. The majority of young girls were kept at home to work and were married at a young age, rarely attending school for more than a few years. This resulted in a female literacy rate of approximately 10 percent compared with approximately 30 percent for males, according to a 2004 UN Development Program report. Literacy rates, particularly for girls, were even lower in rural areas.

Unlike in previous years there were no reported incidents of child abuse, which was rare, according to UNICEF.

FGM was performed on young girls in certain ethnic groups (see section 5, Women).

Underage marriage was a problem, especially in rural areas and in traditional communities. Some families entered into marriage agreements under which young girls from rural areas were sent by the age of 10 or 12 and sometimes younger to join their husband's family under the tutelage of their mother-in-law.

Trafficking and commercial sexual exploitation of children was a problem (see section 5, Trafficking). Child labor also was a problem (see section 6.d.).

Infanticide occurred, and 80 percent of the female prison population was charged with the crime. According to the Ministry of Justice, infanticide resulted from severe economic conditions.

There were many displaced children, mostly boys, begging on the streets of the larger cities. Most of these boys came from rural areas and were indentured to Koranic schools by their parents due to economic hardship (see section 5, Trafficking).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked to, from, and within the country. Traffickers could be prosecuted under a 2004 revision of the penal code that criminalizes slavery and other forms of coerced labor; sentences for conviction ranged from 10 to 30 years' imprisonment.

During the year one man was convicted of kidnapping and sentenced to three years in prison for attempting to sell his nephew.

The ministries of justice, interior, and the promotion of women and protection of children shared responsibility for combating trafficking in persons. The National Commission for the Coordination of the Fight Against Trafficking in Persons existed on paper but had no budget.

On July 27, the government, along with eight neighboring countries, signed a multilateral cooperation agreement to combat child trafficking. Signatories agreed to prosecute and punish traffickers, develop antitrafficking legislation, share information on victims and traffickers with international authorities, and develop partnerships with civil society groups and NGOs to combat child trafficking.

There was evidence that the country was a transit point for persons trafficked between Nigeria, Benin, Togo, Ghana, Burkina Faso, and Mali; final destinations also included North African and European countries. The country was a destination for a small number of trafficked persons, and a source of persons trafficked to North Africa, Europe, and the Middle East for domestic servitude and sexual exploitation. Internal trafficking also occurred, and there was anecdotal evidence that clandestine networks victimized young girls who worked as household helpers.

A survey conducted by a local NGO during the year found that 5.8 percent of households interviewed claimed that at least one member of their household had been a victim of trafficking. Internal trafficking of young boys for labor and young girls for work as maids and in some cases for prostitution from rural to urban areas occurred. There were credible reports of underage girls being drawn into prostitution, sometimes with the complicity of the family. There also were reports that child prostitution was especially prevalent along the main East-West highway, particularly between the towns of Birni N'konni and Zinder. Child prostitution is not criminalized specifically, and there was no precise age of consent; however, the law prohibits "indecent" acts toward minors. It was left to a judge to determine what constituted an indecent act. Such activity and a corollary statute against "the incitement of minors to wrongdoing" were punishable by three to five years in prison.

There also were reports of internal trafficking that included the indenturing of boys to Koranic teachers. As a result of economic hardship, some rural parents sent their sons to learn the Koran in the cities where, in return for their education, the boys supported their teachers by begging on the streets or doing manual labor.

Trafficking in persons generally was conducted by small operators who promised well-paid employment in the country. Victims, primarily from neighboring countries, were escorted through the formalities of entering the country and found that their employment options were restricted to poorly paid domestic work or prostitution. Victims had to use a substantial portion of their income to reimburse the persons who brought them to the country for the cost of the trip. Compliance was enforced by "contracts," which were signed by illiterate victims before they departed their

countries of origin; alternatively, traffickers seized victim's travel documents. A local NGO also reported that some rural children were victims of domestic trafficking in which the victim (or his/her family) was promised a relatively decent job only to be placed in a home to work as a servant.

The government provided no services for trafficking victims, but supported the efforts of the ICRC and CARITAS in providing food, temporary shelter, and primary health care.

During the year the government undertook several initiatives to prevent trafficking. In September the government and the NGO Save the Children conducted a train-the-trainer exercise for police and border security officers to identify victims of trafficking. In December the government worked with UNICEF and two local NGOs to provide similar training for an additional 150 law enforcement officers. The government also sponsored public outreach sessions on trafficking and child abuse, targeting traditional chiefs, community leaders, and journalists. Media coverage of trafficking increased during the year.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, and access to health care and other state services, and the government generally enforced these provisions. The law mandates that the state provide for persons with disabilities, but the government had not implemented regulations to mandate accessibility to buildings, transportation, and education for those with special needs. Limited government health care benefits were available to persons with disabilities, and NGOs provided many services and programs. Societal discrimination existed against persons with disabilities, particularly mental disabilities and leprosy. The Ministry of Population and Social Welfare was responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The Hausa and Djerma ethnic groups made up approximately 56 percent and 22 percent, respectively, of the country's population. These two groups also dominated government and business, and many believed that nepotism existed along ethnic lines.

Unlike in the previous year, there were no reports of banditry in the north that may have involved former Tuareg rebels; however, land use conflicts between farmers and herders in the south resulted in deaths and injuries (see section 1.a.).

During the year six persons were released for lack of evidence, and five persons remained in prison in connection with the November 2004 violence between farmers and herders in the town of Fassi.

In November the government's High Commission for the Restoration of Peace hosted a reconciliation forum in Tesker for the Tuareg and Toubou communities, which resulted in a reconciliation agreement. The forum was in response to the 2003 violence between the two communities.

Other Societal Abuses and Discrimination.—Despite strong government efforts to discourage discrimination against persons with HIV/AIDS, societal discrimination against such persons continued.

Section 6. Worker Rights

a. The Right of Association.—The law recognizes workers' right to establish and join trade unions, and workers exercised this right. However, more than 85 percent of the workforce was employed in the nonunionized subsistence agricultural and small trading sectors.

In June the Labor Confederation of Niger referred the dispute of activist Diamyo Elhadji Yacouba to the International Labor Organization (ILO), where it was pending at year's end.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and unions exercised their right to bargain collectively for wages above the legal minimum and for more favorable work conditions. Collective bargaining also existed in the public sector. There are no export processing zones.

The law provides for the right to strike, except for security forces and police, and workers exercised this right.

c. Prohibition of Forced or Compulsory Labor.—The labor code prohibits forced or compulsory labor, except for legally convicted prisoners, and slavery is prohibited; however, there were reports that such practices occurred (see section 5). A traditional form of caste-based servitude was still practiced by the Tuareg, Djerma, and Arab ethnic minorities, particularly in remote northern regions and along the border with Nigeria.

Persons born into a traditionally subordinate caste were often expected to work without pay for those above them in the traditional social structure. Approximately 43 thousand persons worked under such conditions, according to a study conducted

in 2003 by the NGO Anti-Slavery International and the local NGO Timidria. Individuals could legally change their situations, but most did not and accepted their circumstances. Timidria's 2003 survey studied 11 thousand persons born into servitude; 80 percent reportedly indicated that the persons for whom they worked determined whom they married and whether their children attended school.

The labor code does not prohibit specifically forced or compulsory labor by children, and there were credible reports of underage girls being drawn into prostitution and of underage boys working as laborers in mines, slaughterhouses, and rice fields (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the law permits child labor in nonindustrialized enterprises under certain conditions, the law prohibits child labor in industrial work. However, child labor was a problem.

Children under the age of 14 must obtain special authorization to work, and those 14 to 18 years of age were limited to a maximum of 4½ hours per day and certain types of employment so schooling may continue. Children under 12 years of age are prohibited from working. The law requires employers to ensure minimum sanitary working conditions for children. Ministry of labor inspectors were responsible for enforcing child labor laws; however, resource constraints limited their ability to do so.

Children worked in the unregulated agricultural, commercial, and artisan sectors, and some—including foreign—youths were hired in homes as general helpers and baby sitters for very low pay. The majority of rural children regularly worked with their families from a very early age—helping in the fields, pounding grain, tending animals, getting firewood and water, and doing similar tasks. Some children were kept out of school to guide a blind relative on begging rounds. Others sometimes were employed by Koranic teachers to beg in the streets (see section 5).

Child labor also occurred in the largely unregulated gold mining sector. Children working in gold mines were particularly vulnerable to poor ventilation, collapse hazards, and insufficient lighting; they also were susceptible to alcohol and substance abuse.

Trafficking in children, child prostitution, forced child labor, and involvement of children in a traditional form of caste-based servitude occurred (see sections 5 and 6.c.).

The Ministry of Labor, which was responsible for implementing ILO Convention 182 on the Worst Forms of Child Labor, continued working with UNICEF and the International Program on the Elimination of Child Labor to determine the extent of child labor in the country. Preliminary findings revealed that 61 percent of children between the ages of 5 and 9, and 83 percent of children between the ages of 10 and 14 worked; 40 percent of child workers were not paid. The ministry collaborated with international NGOs to prevent and remove children from exploitive work situations, encourage school attendance, and to provide vocational training for 700 at-risk children and former child laborers. The government also worked with international partners to provide economically relevant education as an inducement to parents to keep their children in school. The Ministry of Basic Education conducted training sessions to help educators meet the special needs of child laborers. During the year the government also created a special child labor division within the Ministry of Labor to coordinate government initiatives in the area.

e. Acceptable Conditions of Work.—The labor code establishes a minimum wage for salaried workers of each class and category within the formal sector; however, minimum wages did not provide a decent standard of living for workers and their families. The lowest minimum wage was $40 (20 thousand CFA francs) per month. Additional salary was granted at $2 (one thousand CFA francs) per month per child. Most households had multiple earners (largely in informal commerce) and relied on the extended family for support.

The legal workweek was 40 hours with a minimum of one 24-hour rest period; however, for certain occupations, such as private security guards, the Ministry of Labor authorized longer workweeks of up to 72 hours. There were no reports of violations during the year.

The labor code also establishes occupational safety and health standards, although due to staff shortages, inspectors focused on safety violations only in the most dangerous industries: mining, building, and manufacturing. The gold mining industry was largely unregulated. Although generally satisfied with the safety equipment provided by employers, citing in particular adequate protection from radiation in the uranium mines, union workers in many cases were not well informed of the risks posed by their jobs. Workers have the right to remove themselves from hazardous conditions without fear of losing their jobs, but in most cases this did not occur.

NIGERIA

Nigeria is a federal republic composed of 36 states and a capital territory, with a population of 140 to 150 million. In April 2003, President Olusegun Obasanjo of the People's Democratic Party (PDP) was reelected to a four-year deemed after being declared the winner in elections that were marred by what international and domestic observers termed to be serious irregularities and fraud, including political violence. The elections also resulted in the ruling PDP claiming 70 percent of the seats in the national legislature and 75 percent of the state governorships. An extended legal challenge to the 2003 election verdict ended in July when the Supreme Court upheld the election result. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted outside the law.

The government's human rights record remained poor, and government officials at all levels continued to commit serious abuses. Inadequate infrastructure, endemic corruption, and general economic mismanagement hindered economic growth. Much of the country's wealth remained concentrated in the hands of a small elite. More than 70 percent of citizens live on less than one dollar per day. The following human rights problems were reported:

- abridgement of citizens' right to change their government
- politically motivated and extrajudicial killings by security forces and use of excessive force
- vigilante violence
- beatings of prisoners, detainees, and suspected criminals
- harsh punishments by Shari'a courts
- impunity
- harsh and life-threatening prison conditions
- arbitrary arrest and prolonged pretrial detention
- executive interference in the judiciary and judicial corruption
- infringement of privacy rights
- restrictions on freedom of speech, press, and assembly
- limited freedom of religion and movement
- domestic violence and discrimination against women
- female genital mutilation (FGM)
- child abuse and child prostitution
- communal violence and ethnic, regional, and religious discrimination
- trafficking in persons for purposes of prostitution and forced labor
- restrictions on workers' rights
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There was politically motivated killings by the government or its agents. National police, army, and other security forces committed extrajudicial killings or used excessive force to apprehend criminals and to disperse protesters during the year, when crowds were perceived by police as possibly likely to become violent.

Police and the armed forces were instructed to use lethal force against suspected criminals and suspected vandals near oil pipelines in the Niger Delta region. Multinational oil companies and domestic oil producing companies often hired private security forces and subsidized living expenses for police and soldiers from area units assigned to protect oil facilities in the volatile Niger Delta region. Freelance and former security forces accounted for a portion of the violent crime committed during the year.

In January following the firing of Inspector-General of Police Tafa Balogun for corruption, Acting Inspector-General Sunday Ehindero disbanded the Federal anticrime taskforce known as "Operation Fire for Fire," which was responsible for numerous human rights abuses in previous years. Unlike in the previous year, the organization did not announce its killing statistics; however, observers noted no difference in the number of extrajudicial killings committed by police and anticrime taskforce personnel during the year. In most cases police officers were not held accountable for excessive or deadly force or for the deaths of persons in custody. Police

generally operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects (see section 1.d.).

Abuses by poorly-trained, poorly-equipped, and poorly-managed police against civilians were common human rights violation, and the police were rarely held accountable. During the year police, military, and anticrime personnel continued to use lethal force against suspected criminals. For example on June 5, police officers killed 2 youths in Port Harcourt, Rivers State, and detained the driver of the youths' vehicle incommunicado for 17 days. Authorities initially claimed the two youths were known armed robbers; however, when investigation revealed that it was a case of mistaken identity, police attempted to cover the mistake by framing the youths for an actual armed robbery. The youths' father lodged an appeal with the inspector general's office.

On occasion police were reprimanded for the use of excessive force. For example on February 20, police in Makurdi, Benue State, shot and killed 19-year-old Suleiyol Hiikyaa, a passenger in an automobile driven by her boyfriend. The couple was allegedly having sex in the vehicle when police became suspicious that the two were armed robbers and opened fire. All four policemen involved were dismissed from the force, and the policeman who fired the shot that killed Hiikyaa was charged with manslaughter.

On March 2, a policeman in Makurdi, Benue State, shot and killed a commercial bus driver when the driver could not pay a $0.15 (20 naira) bribe. Angered by this killing and the February 20 killing of Suleiyol Hiikyaa, members of the community burned a police station, blocked roads, burned cars, severely beat an assistant inspector-general of police, and reportedly killed at least three policemen. The policeman who shot the bus driver confessed to the killing, claiming he was drunk at the time. He was dismissed from the force and charged with murder. His trial had not begun by year's end.

There were no developments in the 2004 cases of killings of suspected criminals by police in Bauchi or Zamfara states.

Criminal suspects died from unnatural causes while in official custody, usually as the result of neglect and harsh treatment (see section 1.c.). For example on May 1, in Kubwa, police beat bus driver Gabriel Agbane while arresting him. When Agbane's family went to the police station the next day, they found him unconscious. Police released him to the family, who took him to a hospital, where he died four days later. Police announced to journalists that Agbane had been drunk during the arrest, had not been healthy, and had fainted on his own.

In its July report *"Rest in Pieces—Police Torture and Deaths in Custody in Nigeria,"* Human Rights Watch described how in May six young men being held in police custody in connection with a bank robbery in Enugu were led before journalists at the state criminal investigation department, even though they had not been convicted of the crime. Their families were denied access to them despite repeated efforts. On May 9, the families were told the suspects had been transferred to state police headquarters in Enugu, but officers in Enugu denied they were there. Days later the bodies of the six young men were found at the University of Nigeria Teaching Hospital mortuary in Enugu. Officials did not respond to the families' inquiries for additional information.

In March an investigative panel released its report on the October 2004 incident in which police had secretly buried 12 bodies in a mass grave in Kaduna. The panel found that the victims had attempted a jailbreak, but that the police had acted improperly in killing them and attempting to hide the bodies. The panel forwarded its recommendations to the federal government, which had taken no action by year's end.

Violence and lethal force at police and military roadblocks and checkpoints continued during the year, despite the January announcement by the acting inspector-general of police that police roadblocks would be eliminated. Police generally ignored the order, and roadblocks continued nationwide. Security forces frequently killed persons while trying to extort money from them. For example on January 12, police in Uromi, Edo State, stopped a taxi to demand a $0.30 (40 naira) bribe. When the driver gave $0.15 (20 naira) and started to leave the scene, a police officer fired at the vehicle, striking and killing a student riding in the taxi. Youths in the town rioted in response, burning a police station, two police cars, and the divisional police officer's residence. There was no information on disciplinary action taken against the police officer.

On October 17, in Obiaruku, Delta State, a policeman on the Special Anti-Robber Squad shot and killed a commercial bus driver when the driver was unable to pay a bribe. The policeman was dismissed from the force two days later and charged with murder. The trial had not begun by year's end.

On June 7, police in Apo stopped six traders at a vehicle checkpoint. An argument ensued, and the police shot and killed two of the six, then detained the other four, who were subsequently killed in custody. The police attempted to bury the six bodies secretly, but Apo residents found and unearthed the bodies, then marched with the corpses to the police station. Police fled the resulting riot. The police claimed the six had been "armed robbers." Six police officers, including a deputy commissioner of police, were charged with murder. The trial continued at year's end.

On May 18, on a Zamfara state highway, taxi driver Malam Danjariri was shot and killed during a scuffle with three police officers who had demanded a $0.15 (20 naira) bribe from him. Following the incident, riots erupted in which three persons were killed. One policeman was charged with culpable homicide and dismissed from the police force, while the other two officers were demoted.

There were no developments in the 2004 case of the police shootings of Ramadan gift-seekers in Zamfara State.

There were no developments in the 2004 cases of bribe-related killings in Ekiti and Kwara states.

Security forces committed other unlawful killings during the year.

On July 25, in Lagos, a naval officer shot and killed a motorcycle taxi driver after what observers termed a "minor accident." Other motorcycle taxi drivers in the area reacted violently to the shooting, burning the naval officer's car and threatening his life. The disturbance was finally quelled by police intervention. The officer was still in naval custody and the investigation continued at year's end.

Police and military personnel used excessive force and sometimes deadly force in the suppression of civil unrest, property vandalism, and interethnic violence (see section 5). There were reports of summary executions, assaults, and other abuses carried out by military personnel and paramilitary mobile police across the Niger Delta.

The federal government sometimes deployed the army in troubled areas during the year. On February 19, soldiers raided the town of Odioma in Brass Local Council of Bayelsa State following the killing of 12 persons, including four local council chairmen, on February 13. Soldiers killed at least 15 civilians, and burnt many houses. An independent investigation into the incident found that the military acted appropriately in responding to a perceived threat.

In 2003 the government began "Operation Restore Hope," a joint task force consisted of approximately five thousand army, navy, air force, and mobile police personnel under the command of Army General Zamani, in response to violence in the Niger Delta region (see section 5). During the year task force personnel and militant youths had numerous skirmishes and encounters. Human rights organizations accused the military and police of harassment, extortion, and excessive use of force in the region.

There were several killings by unknown persons that may have been politically motivated. On July 16, unknown gunmen killed PDP politician Alhaji Lateef Olaniyan in Ibadan, Oyo State. Olani-yan was killed after a meeting with prominent Ibadan politician and PDP powerbroker Alhaji Lamidi Adedibu. On September 23, Chief Bola Alphonso, special adviser to Oyo State Governor on Security and Protocol, and four others were charged with Olani-yan's killing. The trial had not begun by year's end.

In February at a church crusade in Kogi State, a man confessed to the March 2004 killing of Bassa Local Government Area (LGA) chairman Luke Shigaba. The man was arrested and charged with murder.

There were no known developments in the other reported 2003–2004 cases of politically motivated killings by unknown assailants.

There were no developments in the 2004 cases of electoral violence in Niger, Taraba, or Delta states.

Killings carried out by organized gangs of armed robbers remained common during the year. On May 2, soldiers and street toughs, popularly known as "area boys," clashed in Lagos. The incident followed the killing of a soldier, allegedly by the area boys, near a military command in the Ikeja suburb of Lagos. Soldiers arrested 62 suspected area boys and remanded them to police for prosecution.

In most southeastern states, state governments supported vigilante groups, the most well-known of which was the "Bakassi Boys," officially known as the Anambra State Vigilante Service. Like most vigilante groups, the Bakassi Boys sometimes killed suspected criminals rather than turn them over to police. For example on August 6, 32 persons died while being held by the Bakassi Boys. The captors subsequently fled, abandoning 62 other detainees. The detainees had been incarcerated as "armed robbers" and kept in a windowless, poorly ventilated shop for days. Riots erupted when police discovered the dead bodies.

Other organized vigilante groups continued to detain and kill suspected criminals.

Police generally did not have a significant impact upon vigilante groups, and they infrequently detained members of these groups during the year.

There were numerous reports of street mobs apprehending and killing suspected criminals during the year. There were no arrests reported from these mob actions, and there were no developments in cases from previous years. The practice of "necklacing" suspected criminals (placing a gasoline-soaked tire around a victim's neck or torso and then igniting it to burn the victim to death) by street mobs continued.

Lethal communal (including interethnic, intraethnic, and interreligious) violence occurred at decreased levels from the previous year (see section 2.c.). Sporadic communal violence continued between Tivs, Jukuns, and other tribes in Sokoto, Benue, Taraba, Kogi, Jigawa, Adamawa, Bauchi, Edo, Delta, Plateau, and other states during the year, killing hundreds of persons.

Tensions between members of ethnic groups in the oil-producing areas and employees and contractors of oil companies remained high; however, unlike in the previous year, there were no reported killings.

During the year, fighting between and among rival student affinity groups, commonly known as cults, in institutions of higher learning resulted in killings, rape, personal injury, and destruction of property. In April, rival student cults clashed at the Federal University of Technology in Minna, Niger State, reportedly resulted in the deaths of two students. School authorities closed the university to quell the violence. Authorities reopened the university later in the year.

There was no resolution in the 2004 cases involving deaths in cult clashes.

b. Disappearance.—There were reports of politically motivated disappearances during the year. For example the government still had not responded to a court order to release a Kaduna central mosque imam detained since May 2003. It was not known whether the imam was still alive, and there were no updates oh his case during the year.

Hostage situations occurred during the year. On February 17, an Ijaw group captured and held a South Korean employee of Daewoo in Bayelsa State. South Korean embassy and Bayelsa State officials assisted Daewoo in securing the employee's release the next day.

On September 28, a gang of armed youths kidnapped two Pan Ocean Oil Corporation workers from a bar in the Delta State. Shortly afterwards, the bus transporting the hostages was spotted, and police quickly freed the hostages after a brief gun battle in which the bus driver was killed.

As in previous years, some kidnappings, particularly in the Delta, appear to have been part of longstanding ethnic disputes over resources. Due to limited manpower and resources, police and armed forces rarely were able to confront the perpetrators of these acts, especially in the volatile Delta region.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices and provides for punishment of such abuses, police, military, and security force officers regularly beat protesters, criminal suspects, detainees, and convicted prisoners. Police physically mistreated civilians regularly in attempts to extort money from them. The law prohibits the introduction into trials of evidence and confessions obtained through torture. In some cases, persons died from torture in custody (see section 1.a.).

Different formulations of Shari'a (Islamic law) were in place in 12 northern states (see section 2.c.). Shari'a courts delivered "*hudud*" sentences such as amputation for theft, caning for fornication and public drunkenness, and death by stoning for adultery, but no death sentence were carried out. Because no applicable case had been appealed to the federal level, federal appellate courts had yet to decide whether such punishments violate the constitution (see section 1.e.). Stoning and amputation sentences had been overturned on procedural or evidentiary grounds but had not been challenged on constitutional grounds. Caning is also a punishment under common law in the Northern Region Penal Code and had not been challenged in the courts as a violation of the law. In some cases, convicted persons are allowed to choose to pay a fine or go to jail in place of receiving strokes of the cane. These sentences were usually carried out immediately, while all sentences involving mutilation or death allow 30 days for appeal.

On May 26, a Shari'a appeals court in Kaduna overturned amputation sentences that had been passed in 2003 against six Zaria men who had been accused of stealing a cow and a motorcycle. The appeals court ruled that the lower court had erred in convicting the men solely on the basis of police testimony, without allowing the men to defend themselves. The men also had not had access to legal representation, as required by the Kaduna State Shari'a code.

On May 27, 25-year-old Awwalu Ibrahim received 80 lashes with a horsewhip after confessing to consumption of alcoholic beverages and smoking marijuana.

Several other stoning or amputation sentences were pending appeal or sentence implementation, but no such sentences were carried out during the year.

Security forces tortured persons and used excessive force during the year. For example on March 28 in Ilorin, Kwara State, a policeman attempting to extort a bribe from a truck driver opened fire, wounding an 18-year-old girl who was selling bread nearby.

On November 12, following a minor traffic accident in the parking lot of Abuja International Airport, members of the Kebbi State governor's entourage, which included bodyguards for the governor, beat and robbed a diplomatic driver when he attempted to mediate an argument between the entourage and a diplomat. Although complaints were filed with the Kebbi State government and the federal government, no action was taken against the perpetrators by year's end.

On November 29, police in Abuja attacked, beat, and arrested a diplomatic driver in front of a diplomatic residence, allegedly for driving his vehicle too soon after the vice president's motorcade had passed through the area. Police ordered the driver to appear at a police station the next day, where he was told no charges would be filed against him. No action was taken against the police who attacked him by year's end.

Security forces beat journalists during the year (see sections 2.a. and 2.b.).

There were no developments in the 2004 reported cases of abuses by police.

There were numerous ethnic or communal clashes during the year (see section 5). Police generally lacked the resources to control communal violence.

Vigilante groups such as the Bakassi Boys held detainees in informal detention centers, and detainees died during the year (see section 1.a.).

Prison and Detention Center Conditions.—Prison and detention conditions remained harsh and life threatening. Most prisons were built 70 to 80 years ago and lacked basic facilities. Lack of potable water, inadequate sewage facilities, and severe overcrowding resulted in unhealthy and dangerous sanitary conditions. Some prisons held 200 to 300 percent more persons than their designed capacity. The government acknowledged overcrowding as the main cause of the harsh conditions common in the prison system. Excessively long pretrial detention contributed to the overcrowding (see section 1.d.).

A working group assigned by the attorney general to investigate prison conditions in the country released its report in March. The group found that 64 percent of inmates were detainees awaiting trial, and only 25 percent of those detainees had legal representation. Nearly two-thirds of the country's prisons were over 50 years old. All of the prisons were built of mud brick, and their sewers, food, health care, education, and recreational facilities were well below standard.

Disease was pervasive in the cramped, poorly ventilated facilities, and chronic shortages of medical supplies were reported. Prison inmates were allowed outside their cells for recreation or exercise only irregularly, and many inmates had to provide their own food. Only those with money or whose relatives brought food regularly had sufficient food; petty corruption among prison officials made it difficult for money provided for food to reach prisoners. Poor inmates often relied on handouts from others to survive. Beds or mattresses were not provided to many inmates, forcing them to sleep on concrete floors, often without a blanket. Prison officials, police, and security forces often denied inmates food and medical treatment as a form of punishment or to extort money from them.

Harsh conditions and denial of proper medical treatment contributed to the deaths of numerous prisoners. According to the National Governmental Organizations (NGO) Prisoners Rehabilitation and Welfare Action (PRAWA), dead inmates were promptly buried on the prison compounds, usually without notifications to their families. A nationwide estimate of the number of inmates who died in the country's prisons was difficult to obtain because of poor record keeping by prison officials.

In practice women and juveniles were held with male prisoners, especially in rural areas. The extent of abuse in these conditions was unknown. In most cases, women accused of minor offenses were released on bail; however, women accused of serious offenses were detained. Although the law stipulates children shall not be imprisoned, juvenile offenders were routinely incarcerated along with adult criminals. The Prison Service officially required separation of detainees and convicted prisoners, but in practice the method of confinement depended solely on the capacity of the facility. As a result, detainees often were housed with convicted prisoners.

The government allowed international and domestic NGOs, including PRAWA and the International Committee of the Red Cross (ICRC), regular access to prisons. PRAWA and the ICRC published newsletters on their work. The government admit-

ted that there were problems with its incarceration and rehabilitation programs and worked with groups such as these to address those problems.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, police and security forces continued to employ these practices.

Role of the Police and Security Apparatus.—The National Police Force (NPF) is responsible for law enforcement. Internal security is the duty of the State Security Service (SSS), which reports to the president through the national security advisor. Police were unable to control societal violence on numerous occasions during the year, and the government continued its reliance on the army in some cases. Each NPF state unit was commanded by an assistant inspector general. The law prohibits local and state police forces. The NPF was responsible for human rights abuses and did not noticeably decrease the incidence of violent crime nationwide (see section 1.a.). Corruption was rampant, most often taking the form of bribes at highway checkpoints. Police generally operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects.

Arrest and Detention.—Police and security forces were empowered to arrest without warrant based on reasonable suspicion that a person had committed an offense; they often abused this power. Under the law, police may detain persons for 24 hours before charging them with an offense. The law requires an arresting officer to inform the accused of charges at the time of arrest and to take the accused to a police station for processing within a reasonable amount of time. By law police must provide suspects with the opportunity to engage counsel and post bail. However, suspects routinely were detained without being informed of the charges, denied access to counsel and family members, and denied the opportunity to post bail for bailable offenses. Detainees often were kept incommunicado for long periods. Provision of bail often was arbitrary or subject to extrajudicial influence. In many areas, there was no functioning bail system, so suspects were held in investigative detention for sustained periods. Numerous suspects alleged that police demanded payment before they were taken to court to have their cases heard. If family members attended court proceedings, police often demanded additional payment.

Persons who happened to be in the vicinity of a crime when it was committed were sometimes held for interrogation for periods ranging from a few hours to several months. After their release, those detained frequently were asked to repeatedly return for further questioning.

There were several politically motivated arrests during the year. For example on October 6, Mujaheed Asari Dokubo, leader of the Niger Delta People's Volunteer Force, was arraigned on charges of treason.

In the southeast over 600 people were arrested and detained during the year on suspicion of being members of the Movement for the Actualization of the Sovereign State of Biafra (MASSOB), a separatist group espousing Igbo unity and the secession of Igbo states as its prime tenets. Those arrested tended to be youths whose links to MASSOB were unproven, and by mid-year over 70 had been released without charge. Demonstrations in September, following Biafra Day on August 26, claimed a reported 6 lives, although other local reports indicated as many as 200 may have been killed by the police. Ralph Uwazurike, the leader of the group, was arrested in October along with six of his deputies on treason charges. This arrest incited a series of protests, during which the home of Nnamdi Azikiwe, the first post-independence president, was razed and three people died. Protests continued until year-end and caused business and road closures along with up to 20 deaths and an unknown number of other casualties. Human rights activists believed that the crackdown on MASSOB merely gave impoverished non-MASSOB-affiliated, Igbo youths reason to take to the streets and loot shops and homes.

Members of the Oodua People's Congress (OPC), a militant Yoruba group operating in the southwest that claims its objective is to protect the collective rights of the Yoruba within the federation, continued to be arrested. Following several fatal October altercations between OPC factions, rival OPC leaders Dr. Fredrick Fasheun and Chief Gani Adams were detained and charged with managing an illegal organization and abetting mayhem. On December 1, Fasheun, Adams, and four others were charged with treason, illegal weapons possession, and membership in an illegal organization. An Abuja high court denied them bail on December 21, and all six remained in custody at year's end.

The Economic and Financial Crimes Commission (EFCC) embarked on a strong anticorruption campaign during the year, arresting a number of federal, state, and local officials and seizing millions of dollars in assets. Some observers lauded the commission's actions as a centerpiece of the Obasanjo administration's war on corruption, but critics claimed that some EFCC investigations were politically moti-

vated, singling out political opponents of the administration, and that the EFCC did not always follow proper criminal procedure.

The persons charged in the 1996 attempted murder of Alex Ibru had not been tried by year's end (see section 2.d.). Hamza Al Mustapha, one of the defendants and security chief for former military dictator Sani Abacha, was charged in October 2004 with treason, along with two other people, but this case was not brought to trial during the year. Al Mustapha was not permitted to attend hearings on his attempted murder trial, and he and his co-defendants remained in a military prison in Lagos at year's end.

Security forces detained journalists during the year (see section 2.a.).

During the year police arrested demonstrators (see section 2.b.).

There were no updates in the reported 2004 cases of arbitrary arrest and detention.

Lengthy pretrial detention remained a serious problem. Serious backlogs, endemic corruption, and undue political influence continued to hamper the judicial system (see section 1.e.). In March a working group assigned by the attorney general to investigate prison conditions in the country found that 64 percent of inmates were detainees awaiting trial. Multiple adjournments in some cases led to serious delays. Police cited their inability to transport detainees to trial securely on their trial dates as one reason why so many were denied a trial. The National Human Rights Commission (NHRC) reported that some detainees were held because their case files had been lost. Some state governments released inmates detained for significant periods of time without trial.

Amnesty.—On March 22, the Ikeja high court ordered the unconditional release of 100 inmates from the Ikoyi Prison in Lagos. The inmates had been awaiting trial for 6 to 15 years. The Constitutional Rights Project (CRP) filed the motion for release of the prisoners and argued that the periods spent awaiting trial violated constitutional rights to be charged within 48 hours of arrest. CRP representatives confirmed the prisoners were released.

Early in the year the remainder of the 280 Kirikiri Prison inmates, who were ordered released by an Ikorodu high court decision in September 2004, were released.

In early November the Kwara State Chief Justice freed 12 Ilorin prison inmates due to lapses in their trials. In his statement he noted that although the Ilorin prison had a capacity of 121 inmates, the prison held 340 prisoners, 261 of whom were detainees awaiting trial.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judicial branch remained susceptible to executive and legislative branch pressure. Political leaders influenced the judiciary, particularly at the state and local levels. Understaffing, underfunding, inefficiency, and corruption continued to prevent the judiciary from functioning adequately. Citizens encountered long delays and frequent requests from judicial officials for small bribes to expedite cases.

The Ministry of Justice implemented strict requirements for levels of education and length of service for judges at the federal and state level; however, there were no requirements or monitoring body for judges at the local level, leading to corruption and miscarriages of justice.

The regular court system is composed of federal and state trial courts, state appeals courts, the federal court of appeal, and the Federal Supreme Court. There are Shari'a and customary (traditional) courts of appeal in states that use those bases for civil or criminal law, including in the Federal Capital Territory (Abuja). Courts of first instance include magistrate or district courts, customary or traditional courts, Shari'a courts, and for some specified cases, the state high courts. The law also provides that the government establish a Federal Shari'a Court of Appeal and Final Court of Appeal, but these courts had not been established by year's end.

The nature of the case usually determined which court had jurisdiction. In principle, customary or Shari'a courts had jurisdiction only if both plaintiff and defendant agreed on this; however, fear of legal costs, delays, distance to alternative venues, community pressure, and individual preference caused many litigants to choose the customary and Shari'a courts over other venues. In some states, cases involving only Muslims must be heard by a Shari'a court.

Other states with Shari'a law permitted Muslims to choose common law courts for criminal cases, but societal pressure forced most Muslims to use the Shari'a court system.

Trial Procedures.—According to the constitution, persons charged with offenses have the right to an expeditious trial. Criminal justice procedures call for trial within three months of arraignment for most categories of crimes; however, there were considerable delays, often stretching to several years, in bringing suspects to trial (see section 1.d.). Juries were not used in trials. Most detainees were poor and could

not afford to pay the costs associated with moving their trials forward, and as a result they remained in prison. Wealthier defendants employed numerous delay tactics and in many cases used bribes to persuade judges to grant numerous continuances. Such practices clogged the court calendar and prevented trials from starting or progressing.

Trials in the regular court system were public and generally respected constitutionally protected individual rights in criminal cases, including a presumption of innocence, and the right to be present, to confront witnesses, to present evidence, and to be represented by legal counsel. While an accused person is entitled to counsel of his choice, there is no law that prevents a trial from going forward without counsel, except for certain offenses such as homicide or other offenses for which the penalty is death. The legal aid act provides for the appointment of counsel in such cases, and trial will not go forward without counsel. However, there was a widespread perception that judges were easily bribed or "settled," and that litigants could not rely on the courts to render impartial judgments. Many courts were understaffed, and personnel were paid poorly. Judges frequently failed to appear for trials, often because they were pursuing other source of income, and sometimes because of threats against them. In addition, court officials often lacked the proper equipment, training, and motivation to perform their duties, primarily due to inadequate compensation.

In both common law and Shari'a courts, indigent persons without legal representation were more likely to have their sentences carried out immediately upon being sentenced, although all accused persons have the right to appeal. The government instituted a panel of legal scholars in 2003 to draft a uniform Shari'a criminal statute to replace divergent Shari'a statutes adopted by various northern states; however, the panel did not produce its report during the year, and states continued to apply their individual codes.

There were no legal provisions barring women or other groups from testifying in civil court or giving their testimony less weight, but the testimony of women and non-Muslims usually was accorded less weight in Shari'a courts. In violation of mainstream Shari'a jurisprudence, some *Kadis* (Muslim judges) subjected women to harsh sentences for fornication or adultery based solely upon the fact of pregnancy, while men were not convicted without eyewitnesses unless they confessed (see section 1.c.).

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, but authorities at times continued to infringe on these rights. Police raided homes without warrants during the year.

Throughout the year the Federal Capital Development Authority (FCDA) continued to demolish homes and businesses in the Federal Capital Territory (FCT). Thousands of homes in the suburbs of Karmo, Kado, and Lugbe were deemed illegal squatter settlements and bulldozed. In April the FCDA bulldozed some 400 houses, small hotels, and other businesses in the middle-class suburb of Kubwa. On April 27, the House of Representatives passed a resolution ordering an end to the demolitions, claiming that many houses had been approved by the FCDA or previous FCT ministers. The Abuja high court also issued an injunction on the FCT minister to stop further demolition, which he rejected on grounds that the high court only had jurisdiction if there had been a lower court decision. In September businesses in two high rent districts of Abuja were demolished, as was a police station in Lugbe. On November 28, the government announced that about 1,500 houses in Chika had been bulldozed, leaving an estimated 10 thousand people homeless; however, observers estimated that 2 square miles of dense one-story housing had been bulldozed, leaving some 95 percent of the estimated 500 thousand residents homeless. Although the FCT minister announced in November that the demolitions would finish by December, the demolitions continued at year's end.

On February 3, the FCDA demolished "illegal structures" at the large Wuse Market in Abuja. Hundreds of police officers used tear gas to clear crowds from the market before some 7,500 shops and stands were bulldozed. Vendors were not allowed to remove their inventories before the shops were demolished. No compensation was paid to vendors whose shops and inventories were destroyed.

In March and April the Rivers State government demolished a shanty town in Port Harcourt, leveling hundreds of dwellings and displacing thousands of persons.

Police and security forces continued the practice of placing relatives and friends of wanted suspects in detention without criminal charge to induce suspects to surrender to arrest.

Purdah, the practice of keeping girls and women in seclusion from men outside the family, continued in parts of the country, which restricted the freedom of movement of women.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government at times restricted these rights in practice. While there were numerous private presses that published freely, there were also numerous attacks carried out by security forces during the year. Some journalists practiced self-censorship.

At times persons critical of the government faced reprisals;, for example in early May seven university students were arrested and charged with sedition for distributing leaflets critical of Jigawa State Governor Saminu Turaki. The students, members of a group called the New Salvation Movement, accused the governor of "frivolous" foreign travel and failure to develop the state's educational sector. The students pled not guilty and were detained awaiting trial at year's end.

There was a large and vibrant private domestic press that was frequently critical of the government. Only one national, government-owned daily newspaper was published, the *New Nigerian*. Several states owned daily or weekly newspapers that also were published in English. These publications tended to be poorly produced, had limited circulation, and required large state subsidies to continue operating. By year's end there were more than 14 major daily newspapers, 6 weekly newsmagazines, and several sensational evening newspapers and tabloid publications.

Because newspapers and television were relatively expensive and literacy levels were low, radio remained the most important medium of mass communication and information. The government owned and controlled most of the electronic media. There was a government-owned national radio broadcaster, the Federal Radio Corporation of Nigeria, which broadcast in English, Hausa, Yoruba, Igbo, and other languages; and 51 state radio stations, which broadcast in English and local languages. The National Broadcasting Commission (NBC) was the body responsible for the deregulation and monitoring of the broadcast media. There were nearly a dozen private radio stations operating during the year. The government also operated the Voice of Nigeria that broadcasted internally, to neighboring West African countries, and to South Africa.

The National Television Station, NTA, was federally owned. Thirty states also operated television stations. There were nine privately owned television stations that broadcast domestic news and political commentary. There were seven private satellite television services. The law requires that local television stations limit programming from other countries to 40 percent and restricted the foreign content of satellite broadcasting to 20 percent; however, the government did not restrict access to, or reception of, international cable or satellite television.

International broadcasters, principally Voice of America and BBC, as well as Deutsche Welle and others, broadcast in English and Hausa and were an important source of news in the country.

In April 2004 the NBC banned live broadcast of foreign news and programs. The ban continued throughout the year, and the minister of information announced that the government had no intention of lifting the ban.

Security forces beat journalists on several occasions during the year. For example on January 4, at an emergency meeting of the National Executive Council of the ruling PDP, police beat 11 journalists and broke cameras while an assistant inspector general of police watched; a *Nigerian Tribune* journalist was hospitalized. Police claimed they were acting on orders of PDP officials not to allow journalists to cover the closed meeting.

On March 4, members of the Kick Against Indiscipline (KAI) paramilitary group detained and beat a reporter/photographer for *The Punch* newspaper in Lagos. The reporter was photographing KAI members stopping jaywalkers on a Lagos highway. A KAI spokesman acknowledged the incident but claimed the reporter was beaten by an individual who was not a KAI member. The Lagos State government had launched the KAI program in 2003 with the goal of cleaning up Lagos by punishing wrongdoers.

On December 1 in Lagos, police accompanying the Lagos State governor beat a reporter for the *New Age* newspaper and smashed her digital camera as she was taking photographs of police forcefully breaking up a demonstration at the Lagos State Secretariat. A deputy superintendent of police apologized for the beating, but suggested that the demonstrators, not the police, should buy the reporter a new camera.

Security forces also detained journalists during the year. In June following the publication of an article that reported a Kogi State police commissioner's humilia-

tion by armed bandits, Kogi State police occupied the headquarters of the Nigerian Union of Journalists (NUJ) in the state capital, Lokoja, and harassed, intimidated, and arrested journalists. The police left the NUJ headquarters after three days, following negotiations with the NUJ National Secretariat, and released all arrested journalists without charges.

On January 19, Rivers State police arrested the publisher of the Port Harcourt weekly magazine *National Network* for publishing negative reports regarding the Rivers State police commissioner. Police released the publisher a few days later without charges.

On January 20, SSS agents arrested the Enugu State chairman of the Newspapers Vendors' Association of Nigeria, along with two newspaper vendors, for selling copies of the tabloid newspaper *Eastern Pilot*, which carried reports of "the emergence of a new Biafra nation." The three were interrogated at SSS headquarters, then released the same day. An SSS spokesman defended the arrests, claiming that *Eastern Pilot* was a "subversive" publication.

In March police arrested two Australian journalists when they asked permission to film the demolition of a shanty town. After several hours of being held without charge, police released them.

On April 8, military authorities detained the chief correspondent of the *Associated Press* in the country for questioning. Authorities told the correspondent he was detained for entering a military zone without a permit. The authorities released the correspondent after several hours.

There were no further known developments in the reported 2004 cases.

The government suspended radio stations or confiscated newspapers during the year. For example on February 10, SSS agents in Onitsha, Anambra State, confiscated numerous copies of magazines and newspapers with articles regarding MASSOB. Members of the Newspapers Distributors and Agents Association held a rally in Onitsha to protest against SSS intimidation of the newspaper vendors.

The NBC suspended for one day the broadcast license of DAAR Communications, which operates African Independent Television and Ray Power Radio, for alleged "unauthorized and unprofessional" reporting following the crash of Bellview flight 210 on October 22. Most observers felt DAAR was being penalized for finding the crash site when authorities could not. After criticism from President Obasanjo and from the minister of information, the action was quickly rescinded.

Editors reported that government security officers sometimes visited or called to demand information regarding a story or source. Local NGOs suggested that newspaper editors and owners underreported actual human rights abuses and killings due in part to self-censorship. State broadcasters and journalists remained important tools for governors; these officials used the state-owned media to showcase the state's accomplishments and to promote their own political goals.

Libel is criminalized in the country and requires defendants to prove the truth of opinion or value judgment contained in news reports or commentaries. This limits the circumstances in which media defendants rely on the defense of "fair comment on matters of public interest", and restricts the right to freedom of expression. Criminal Code penalties ranged from one to seven years' imprisonment (seven years, if the libelous material was published to blackmail). The Criminal Code and other federal Laws critical provides the provisions of libel laws.

In October SSS agents in Port Harcourt detained Chief Owei Sikpi, publisher of the *Weekly Star* newspaper, for alleged libel against the federal government and the Rivers State government. The Rivers State prosecutor pleaded with a Port Harcourt high court to deny bail to Sikpi because of "the weight of the offense." Sikpi remained in custody at year's end.

On December 19, SSS agents arrested an editor and a presenter at privately-owned radio station Rhythm FM for falsely reporting that a bridge outside Port Harcourt had collapsed. They were charged with intent to cause public panic and fear, and remained in custody at year's end.

There were no government restrictions on the Internet. State governments continued to restrict academic freedom by controlling curriculum at all levels including mandating religious instruction. Student groups alleged that numerous strikes, inadequate facilities, and the rise of cultism (or gangs) on campuses, particularly in the south, continued to hamper educational progress.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right for progovernment rallies, while opposition gatherings continued to be restricted. In areas that experienced communal violence, police and security forces permitted public meetings and demonstrations on a case-by-case basis.

In June an Abuja high court struck down the 1990 Public Order Act that required a police permit to be issued for all public rallies and processions. Security forces had regularly suppressed opposition rallies, citing the failure to obtain police permits, although rallies in support of the ruling party were normally allowed. Although the acting inspector general of police immediately announced that the police would appeal the ruling, he also stated the police would respect the court's injunction prohibiting police from interfering with peaceful rallies. After the ruling, police generally did not interfere with rallies, but in December in Lagos police fired tear gas at a rally of women protesting December 11 plane crash that killed many children.

The government occasionally banned gatherings whose political, ethnic, or religious nature might lead to unrest. Open-air religious services held away from places of worship remained prohibited in many states due to fears that they might heighten inter-religious tensions. The Kaduna State government ban on processions, rallies, demonstrations, and meetings in public places still was enforced on a case-by-case basis. A security forces committee ban on all political, cultural, and religious meetings in Plateau State continued to be implemented on an ad hoc basis.

On May 14, a rally in Jos, Plateau State, to announce the presidential campaign of Zamfara State Governor Ahmed Sani was cancelled by police for "security reasons."

Security forces forcibly dispersed demonstrations during the year. In February soldiers from the joint task force used excessive force against protesters at the Escravos oil terminal in Delta State. According to witnesses, security personnel fired tear gas, then live ammunition to disperse a crowd of approximately 300 protesters. At least 30 persons were injured, and at least one demonstrator was killed. There was no government investigation or prosecution of those responsible by year's end.

On May 2, in Yauri town, Kebbi State, police fired into a crowd of protesters, killing four persons. Demonstrators had gathered at the local emir's palace to protest police involvement in armed robberies; residents had apprehended several armed robbers and turned them over to the police, only to find out that the robbers were themselves police officers. No action was taken against the police who fired into the crowd.

No action was taken against security forces who killed or injured persons while forcibly dispersing protesters in 2004 or 2003.

Freedom of Association.—The law provides for the right to associate freely with other persons in political parties, trade unions, or special interest associations and the government generally respected this right in practice. The law allows the free formation of political parties. There were 30 parties registered with the Independent National Electoral Commission during the year.

c. Freedom of Religion.—The law provides for freedom of religion, and while the federal government generally respected religious freedom; there were instances in which limits were placed on religious activity to address security and public safety concerns.

The law prohibits state and local governments from adopting an official religion. Some Christians alleged that Islam has been adopted as a de facto state religion in several northern states, citing criminal law aspects of Shari'a and the continued use of state resources to fund the construction of mosques, the teaching of Kadis, and pilgrimages to Mecca (*hajj*). However, several states, including northern states, used government revenues to fund Christian pilgrimages to Jerusalem. In general states, whether dominated by Christians or Muslims, favored the faith practiced by the majority of residents.

The law provides that states may elect to use Islamic (Shari'a) laws and courts. There were 12 northern states that have adopted at least parts of Shari'a—Sokoto, Kebbi, Niger, Kano, Katsina, Kaduna, Jigawa, Yobe, Bauchi, Borno, Zamfara, and Gombe. Adherence to Shari'a provisions is compulsory for Muslims in some states and optional in others. Non-Muslims are not required in any state to submit to Shari'a jurisdiction, although in some states they have the option, which may work to a defendant's advantage when the penalty under Shari'a is less severe than under civil law.

Although several northern state governments continued to ban public proselytizing to avoid ethno-religious violence, some proselytizing groups remained active despite these formal bans, which generally were enforced on a case-by-case basis.

The law does not require students to receive instruction in a religion other than their own; however, the Ministry of Education requires public school students throughout the country to undergo either Islamic or Christian religious instruction. State authorities claimed that students were permitted not to attend classes taught in a religion other than their own, and that students may request a teacher of their own religion to provide alternative instruction. However, there were often no teach-

ers of "Christian Religious Knowledge" in many northern schools or of Muslim Religious Knowledge" in some southern schools.

No further action was taken in the 2003 incident in which members of the Moslem Students of Nigeria organization were charged with public disturbance after they invaded primary and secondary schools in Oyo State.

Although distribution of religious publications was generally unrestricted, the government sporadically enforced a ban against broadcasting religious advertisements on state-owned radio and television stations.

Although the expanded Shari'a technically does not apply to non-Muslims, the non-Muslim minority has been affected by certain social provisions of Shari'a, such as the separation of the sexes in public schools, and health and transportation services. Many social provisions associated with Shari'a have roots in the country's pre-Islamic societies and were in practice before the states adopted Shari'a. Although most states have not criminalized alcohol consumption by non-Muslims, in May 2004 Kano State announced that non-Muslims would be fined approximately $380 (50,000 naira) or sentenced up to a year in prison for drinking or selling alcohol in certain public places. There were no reports of non-Muslims in Kano State being penalized under this restriction during the year. Some states continued to offer only gender-segregated transportation (see section 5).

A number of states with expanded Shari'a have long sanctioned private vigilante Shari'a enforcement groups (*hisbah*); in some cases these groups had authority to make arrests. The *hisbah* groups were not very active during the year, although they often served as traffic wardens, especially in Kano.

The Nigeria Legal Aid Council agreed to appeal 30 Shari'a convictions and death sentences in Bauchi State. In one case, an 18-year-old man, Saleh Dabo, alleged that police told him he could plead guilty to rape, and he would be released; instead, a court sentenced him to death by stoning for adultery, even though he is not married. The appeal had not yet been heard.

There are numerous Shari'a cases pending appeal or implementation of sentence, including pending amputation and stoning sentences in Jigawa, Bauchi, Niger, Kano, and Zamfara states. Many of these cases have been delayed continuously for various reasons.

The government continued to hold an imam from the Kaduna central Mosque detained in 2003, despite an order from the Kaduna State court ordering his release.

In December 2004 at a major university in Bauchi State, a group of Muslim students abducted and killed the head of a Christian campus organization in retaliation for what they considered to be insults to Islam by Christian students. As tensions grew and some property was vandalized, authorities responded by closing the university and a nearby polytechnic school and by establishing an interfaith dialogue. Both the university and the polytechnic school reopened during the year, and while tension remained between the campus Christian and Muslim communities, there was no further violence during the year. There were no arrests for the killing.

Societal Abuses and Discrimination.—The law prohibits religious discrimination in employment and other practices; however, private businesses frequently discriminated on the basis of religion or ethnicity in their hiring practices and purchasing patterns. In nearly all states, ethnic rivalries between "indigenous" and "settlers" led to some societal discrimination against minority ethnic and religious groups.

Religious differences often mirrored regional and ethnic differences. For example persons in the North and in parts of the Middle Belt were overwhelmingly Muslim and from the large Hausa and Fulani ethnic groups that tended to dominate these areas. Many southern ethnic groups were predominantly Christian. In many areas of the Middle Belt, Muslim Fulani tended to be pastoralists, while the Muslim Hausa and most Christian ethnic groups tended to be farmers or to work in urban areas. Consequently ethnic, regional, economic, and land use competition and confrontations often coincided with religious differences between the competing groups (see section 5). It was not unusual for two ethnic groups with a long history of conflict to have adopted different religions, with the effect of exacerbating existing tensions.

In early February in Numan, Adamawa State, the site of numerous previous violent clashes, police killed at least 2 persons and arrested at least 30 others who were protesting the appointment of the new Bachama ethic group traditional leader. The previous traditional leader had been removed by the state governor for his role in inciting violence in June 2004. When the governor appointed a new Bachama traditional leader, many Bachamas protested that the new ruler had no mandate to lead them.

There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and while the government generally respected them police occasionally restricted freedom of movement by enforcing curfews in areas experiencing ethno-religious violence.

Law enforcement agencies used roadblocks and checkpoints to search for criminals and to prevent persons traveling from areas of conflict to other parts of the country where their presence might instigate retaliatory violence. There were no reports that government officials restricted mass movements of individuals fleeing ethnic unrest. Security and law enforcement officials continued to use excessive force at checkpoints and roadblocks and engage in extortion and violence (see section 1.a.).

The law prohibits the expulsion of citizens, and the government did not use forced exile. Ismaila Gwarzo, national security advisor to former president Abacha, remained restricted to his hometown in Kano State at year's end.

Internally Displaced Persons (IDPs).—During periods of societal violence, numerous persons were displaced from their places of residence (see section 5). According to Amnesty International (AI), tens of thousands of persons remained displaced in the Niger Delta region during the year due to continued ethnic and communal conflict.

Protection of Refugees.—The law provides for the granting of asylum and refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. Although the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum, the government expelled three citizens of Equatorial Guinea, where they were then imprisoned. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers through the National Commission for Refugees (NCR), its federal commissioner, and the National Emergency Management Agency. The Eligibility Committee (on which the UNHCR had observer status), governed the granting of refugee status, asylum, and resettlement, and reviewed refugee and resettlement applications. Of the 1,476 asylum cases during the year, 803 cases were approved and granted refugee status, 512 cases were pending, and 161 were denied.

There were an estimated 8,737 recognized refugees living in the country. During the year, 239 refugees were voluntarily repatriated. Remaining refugees included persons from Sierra Leone, Liberia, Chad, Rwanda, Sudan, Cameroon, Cote d'Ivoire, and the Democratic Republic of the Congo. Refugee camps were generally overcrowded, and refugees' requests for police and judicial assistance generally little less attention. The NCR managed the camps and had 10 staff members based in the camps.

Although the government agreed in 2003 to provide resettlement opportunities, no formal programs had been initiated.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to 24 persons during the year.

The UNHCR estimated that 6 thousand refugees, mostly ethnic Fulani herders, remained in Cameroon at year's end. Following the April 14 signing of the Tripartite Agreement between the governments of Nigeria, Cameroon, and the UNHCR, 6,979 refugees returned to the country through June 2, bringing the total number of returnees to 7,290.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully through periodic, free, and fair elections held on the basis of universal suffrage; however, citizens' right to change their government was abridged during the most recent national elections in 2003. The political system remained in transition. The three branches of the government acted somewhat independently, although the executive branch dominated the other two branches.

Elections and Political Participation.—The 2003 legislative elections were marred by widespread fraud. The turnout was significantly low for the 2003 presidential and gubernatorial elections, which were also marred by widespread fraud. A total of 31 parties participated in the April 2003 national assembly elections, and 19 parties had candidates in the presidential election. The European Union observer mission categorized the quality of the presidential election as extremely poor, stating that in the worst six states, elections effectively were not held, and in the rest of the country the elections were seriously marred. All major independent observer

groups, international and domestic, issued negative statements about the fairness of elections and cited problems throughout the country. Problems included ballot stuffing, intentional miscounting, underage voting, multiple voting, intimidation, and violence, including political killings. Although all parties participated in the misconduct, observers cited violations by the ruling PDP significantly more often than those other parties.

In December 2004 an election tribunal voided part of the 2003 presidential election results, including the entire result of Ogun State, President Obasanjo's home state, and found that there was significant rigging, but by a 3 to 1 vote declined to overturn the election. The opposition appealed the verdict to the Supreme Court, and in July that court not only upheld the election results, finding that the 2003 election had been "substantially" in compliance with the election law, but the court also reinstated the results that had been voided by the tribunal. The justice delivering the dissenting opinion in the appeals court was dismissed from the judiciary and was living without retirement benefits in the east. On August 12, following a two-year court battle, the Anambra State Elections Tribunal overturned the 2003 gubernatorial election results and declared the All People's Grand Alliance candidate Peter Obi the winner. The previously-recognized winner, Chris Ngige, who had run as a member of the ruling PDP but was later expelled from the party, appealed the ruling and refused to leave office pending his appeal.

Members of the ruling PDP had limits imposed on their ability to choose their party's leadership. In January PDP Chairman Audu Ogbeh was forced to resign, reportedly at gunpoint, and President Obasanjo appointed a member of his inner circle as Ogbeh's successor. In October the PDP contravened its own constitution and an Abuja high court order by conducting a nonelective nomination process for party office holders starting at the local level. Some PDP members were selectively denied new party membership cards and were excluded from the nominating conventions. The conventions themselves were limited to affirming predetermined slates of individuals to leadership positions, rather than holding an open and elective nomination process.

Although there were more than 500 ministerial and national assembly positions, there were only 3 female ministers, 3 female senators, and 12 female representatives.

The law mandates that the composition of the federal, state, and local governments and their agencies, as well as the conduct of their affairs, reflect the diverse character of the country to promote national unity and loyalty. The government was an example of this diversity: President Obasanjo is a Yoruba from the southwest, the vice president is a Fulani from the northeast, and the senate president is an Igbo from the southeast. The government also attempted to balance other key positions among the different regions and ethnic groups. The Senate used its oversight role to reject many of President Obasanjo's ambassadorial appointments and insisted on at least three appointments from each state. The political parties also engaged in "zoning," a practice of rotating positions within the party among the different regions and ethnic groups to ensure that each region was given adequate representation. Despite this effort, with more than 250 ethnic groups, it was difficult to ensure representation of every group in the government (see section 5).

Government Corruption and Transparency.—Corruption was massive, widespread, and pervasive, at all levels of the government and society (see section 1.e.).

On February 17, Representative Haruna Yerima of Borno State claimed publicly that many of his national assembly colleagues engaged in corrupt practices. Yerima claimed that some members extorted money from government ministers and heads of parastatals to get their budgets passed, and accused all members of accepting free phone cards each month worth $56 (7,500 naira) from a prominent mobile phone provider. The House of Representatives suspended Yerima for one month for speaking out against his colleagues. The other representatives continued to receive free phone cards.

In February the Kwara State Assembly suspended two LGA council treasurers and disciplined two council chairmen for failing to account for state funds and for impeding an audit of council expenses. It also asked another LGA chairman to repay half of the $22,500 (3.08 million naira) spent on a ceremony to mark his first 100 days in office.

On May 31, the Senate approved a code of ethics but expunged a rule from the draft code stating that senators and their staff shall not accept money or any gift meant for inducement in the course of performance of their official duties. Several senators commented that the practice of gift-giving is "enshrined in Nigerian culture."

On May 31, assistant superintendent of police at Force Headquarters in Abuja, Marius Ameh, was arrested and charged with receiving a $75 (10 thousand naira)

bribe to release a detainee on bail. Ameh was also charged with pocketing the $38 (5 thousand naira) bail money.

During the year the EFCC arrested or detained numerous public servants at the state government level for embezzlement. For example on the weekend of June 4–5, the EFCC arrested 27 Bauchi State government employees for their role in embezzling $2.1 million (281 million naira) of state government funds. On June 7, seven more persons were arrested.

Also on the weekend of June 4–5, the EFCC arrested five Kebbi State government employees, including the state commissioner for agriculture, for embezzling up to $22 million (3 billion naira) of state government funds through schemes involving fake vouchers and the private sale of state bonds.

In September Bayelsa State Governor Diepreye Alamieyeseigha was arrested in the United Kingdom (UK) and charged with money laundering. Alamieyeseigha jumped bail and returned to the country on November 21. On November 8, the governor's wife, Margaret Alamieyeseigha, was also arrested in London on money laundering charges and was released on bail pending her court date in the United Kingdom. The Bayelsa State House of Assembly impeached Alamieyeseigha and removed him from office. Alamieyeseigha appeared in a Nigerian court on December 20–22 for pretrial motions. Neither his trial in Nigeria nor his wife's in the UK had begun by year's end.

The 2003 prosecution of the former labor minister and other senior government officials on corruption charges had not been completed by year's end.

There were no laws providing for access to information, and the government provided limited access in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Criticism of the government's human rights record was abundant in various media. Human rights activists reported that their interactions with the federal government had improved, but should be more frequent. The government selectively included some human rights groups in the National Political Reform Conference. However, the environment for interaction was still tense, and human rights groups were reluctant to form a close relationship with the government.

Numerous domestic and international NGOs were active in the country. Significant NGOs included AI Nigeria, the Campaign for Democracy, the Center for Law Enforcement Education (CLEEN), the Committee for the Defense of Human Rights (CDHR), Women Trafficking and Child Labor Eradication Foundation (WOTCLEF), and the Women's Consortium of Nigeria (WOCON). The NGOs were generally independent of the government, although some, such as WOTCLEF, which the vice president's wife chaired, had close government ties.

The government met with NGOs, and civil society organizations facilitated government/NGO communications.

CLEEN won its September 2004 lawsuit against the government over the 2002 seizure of its human rights reports and was awarded $69,230 (9 million naira). However, the Nigerian Customs Service neither paid the award nor returned the seized books. CLEEN announced that it would file an additional suit in 2006 seeking the court's permission to auction customs assets to pay the damages.

International NGOs actively addressed human rights issues in the country during the year. The ICRC in Abuja and Lagos under the direction of a regional delegate, focused on training prison officials on human rights, sanitation, and prisoner health (see section 1.c.). AI released reports on continuing human rights abuses in the Niger Delta and violence against women. Human Rights Watch also reported on Niger Delta violence and abuses, along with religious and communal violence in the north and abuses committed by police.

The NHRC, which the government tasked with monitoring and protecting human rights, strove to improve its credibility with the general public and NGO community as an independent monitoring body. The NHRC had zonal affiliates in each of the country's six political regions. Since its inception, the NHRC's operations have been limited by insufficient funding. The commission also lacked judicial authority and could only make nonbinding recommendations to the government.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on community, place of origin, ethnic group, sex, religion, or political opinion; however, customary and religious discrimination against women persisted, societal discrimination on the basis of both religion

and ethnicity remained widespread, and ethnic and regional tensions continued to contribute to serious violence both between citizens and the security forces and between groups of citizens.

Women.—Domestic violence was widespread and often considered socially acceptable. Reports of spousal abuse were common, especially those of wife beating. Police normally did not intervene in domestic disputes, which seldom were discussed publicly. The Penal Code permits husbands to use physical means to chastise their wives as long as it does not result in "grievous harm," which is defined as loss of sight, hearing, power of speech, facial disfigurement, or life-threatening injuries. In more traditional areas of the country, courts and police were reluctant to intervene to protect women who formally accused their husbands of abuse if the level of alleged abuse did not exceed customary norms in the areas. According to the 2003 Nigeria Demographic and Health Survey (NDHS), 64.5 percent of women and 61.3 percent of men agreed that a husband was justified in hitting or beating his wife for at least one of six specified reasons, including burning food and not cooking on time.

AI reported that an estimated two-thirds of the women in certain communities in Lagos State experienced physical, sexual, or psychological violence in the family, with husbands, partners, and fathers responsible for most of the violence. Discriminatory laws exacerbated the problem. For example the penalty for indecent assault on a man is more severe than the penalty for the same offense against a woman.

Rape was against the law and convictions carried substantial penalties, but societal pressures reduced both the percentage of rapes reported and the penalties imposed for conviction. Rape and sexual harassment continued to be problems. There were no statutes against sexual harassment, but violent forms were adjudicated under assault statutes. The practice of demanding sexual favors in exchange for employment or university grades continued to be common, and rape continued to be epidemic in universities.

The NDHS estimated the FGM rate at approximately 19 percent among the country's female population, and the incidence has declined steadily in the past 15 years. While practiced in all parts of the country, FGM was much more prevalent in the south. Women from northern states were less likely to undergo the severe type of FGM known as infibulation. The age at which women and girls were subjected to the practice varied from the first week of life until after a woman delivers her first child; however, three-quarters of the NDHS 2003 survey respondents who had undergone FGM had the procedure before their first birthday. According to the survey, the principal perceived "benefits" of FGM include maintaining chastity/virginity before marriage, giving the victim better marriage prospects, providing more sexual pleasure for men (primarily according to male respondents), and aiding safe childbirth.

The federal government publicly opposed FGM but took no legal action to curb the practice. Because of the considerable problems that anti-FGM groups faced at the federal level, most refocused their energies on combating the practice at the state and LGA levels. Bayelsa, Edo, Ogun, Cross River, Osun, and Rivers States banned FGM. However, once a state legislature criminalized FGM, NGOs found that they had to convince the LGA authorities that state laws were applicable in their districts. The Ministry of Health, women's groups, and many NGOs sponsored public awareness projects to educate communities about the health hazards of FGM. They worked to eradicate the practice, but they had limited contact with health care workers on the medical effects of FGM.

On March 21, Osun State enacted a law aimed at punishing those who encourage FGM. The law makes it a punishable offense to remove any part of a sexual organ from a woman or a girl, except for medical reasons approved by a doctor. According to the provisions of the law, an offender shall be any female who offers herself for FGM; any person who coerces, entices, or induces any female to undergo FGM; and any person who other than for medical reasons performs an operation removing part of a woman or girl's sexual organs. The law provides a $385 (50 thousand) fine or one year's imprisonment or both for a first offense, with doubled penalties for a second conviction.

Prostitution was a serious social problem, particularly in urban areas. There are statutes at both the federal and state levels criminalizing prostitution. All states that have adopted Shari'a have criminalized prostitution, and this ban was enforced with varying degrees of success. The police frequently use the anti-prostitution statutes as tools for harassment, arresting offenders and holding them until they pay a bribe, but rarely prosecuting the cases in court.

Trafficking in women was a problem (see section 5, Trafficking).

In some parts of the country, women continued to be harassed for social and religious reasons. Purdah continued in parts of the far north (see section 1.f.).

Women also experienced considerable discrimination. While there are no laws barring women from particular fields of employment, women often experienced discrimination under customary and religious practices. The Nigerian NGOs Coalition expressed concern regarding continued discrimination against women in the private sector, particularly in access to employment, promotion to higher professional positions, and salary equality. There were credible reports that several businesses operated with a "get pregnant, get fired" policy. Women remained underrepresented in the formal sector but played an active and vital role in the country's informal economy. While the number of women employed in the business sector increased every year, women did not receive equal pay for equal work and often found it extremely difficult to acquire commercial credit or to obtain tax deductions or rebates as heads of households. Unmarried women in particular endured many forms of discrimination.

The NDHS survey showed that women had significant control over the income they generate (73.4 percent made sole decisions on how such income is to be used), but that men largely controlled decisions regarding such problems as children's and women's own health care.

While some women made considerable individual progress both in the academic and business world, women overall remained underprivileged. Although women were not legally barred from owning land, under some customary land tenure systems only men could own land, and women could gain access to land only through marriage or family. In addition, many customary practices did not recognize a woman's right to inherit her husband's property, and many widows were rendered destitute when their in-laws took virtually all of the deceased husband's property. Widows were subjected to unfavorable conditions as a result of discriminatory traditional customs and economic deprivation. "Confinement" was the most common rite of deprivation to which widows were subjected, and it occurred predominately in the east. Confined widows were under restrictions for as long as one year and usually were required to shave their heads and dress in black. In other areas, a widow was considered a part of her husband's property, to be "inherited" by his family. Shari'a personal law protects widows' property rights, and an NGO reported that many women succeeded in protecting their rights in Shari'a courts.

Polygyny continued to be practiced widely among many ethnic and religious groups.

Women were affected to varying degrees by Shari'a in the 12 northern states. In Zamfara State, local governments enforced laws requiring the separation of Muslim men and women in transportation and health care. Kano State announced in May that commercial motorcycle taxis could no longer take women as passengers because, it claimed, the transport of women on motorcycles was contrary to Shari'a. The state government did not cite any specific Koranic references in announcing the ban. Both Muslim and non-Muslim women were affected by the ban.

The testimony of women was not given the same weight as that of men in many criminal courts (see section 1.e.).

Children.—The government seldom enforced even the inadequate laws designed to protect the rights of children. Public schools continued to be inadequate, and limited facilities precluded access to education for many children. The law calls for the government, "when practical," to provide free, compulsory, and universal primary education; however, compulsory primary education rarely was provided. A 2004 UN Children's Fund (UNICEF) survey showed primary school enrollment at 74 percent for males and 60 percent for females, with 97 percent of enrollees completing fifth grade. Secondary school enrollment was considerably lower, at 32 percent for males and 26 percent for females. In many parts of the country, girls were discriminated against in access to education for social and economic reasons. When economic hardship restricted families' ability to send girls to school, many girls were directed into activities such as domestic work, trading, and street vending. Many families favored boys over girls in deciding which children to enroll in secondary and elementary schools. The literacy rate for men was 58 percent but only 41 percent for women.

While most schools in the north traditionally separated children by gender, the law required it in Zamfara, Sokoto, and Kebbi state schools (see section 2.c.).

UNICEF collaborated with the government on a Strategy for Acceleration of Girls Education in the country to produce a smaller gap between boys' and girls' access to education.

Cases of child abuse, abandoned infants, child prostitution, and physically harmful child labor practices remained common throughout the country (see sections 5, Trafficking, and 6.d.). The government criticized child abuse and neglect but did not undertake any significant measures to stop customary practices harmful to children, such as the sale of young girls into marriage. There were credible reports that poor families sold their daughters into marriage as a means to supplement their incomes.

Young girls sometimes were forced into marriage as soon as they reached puberty, regardless of age, to prevent the "indecency" associated with premarital sex or for other cultural and religious reasons. Human rights groups reported an increase in sexual assaults and rapes of young girls, especially in the north, and attributed the increase to a fear of AIDS and a resulting desire for young virgins free of AIDS or other sexually transmitted disease.

Numerous children were homeless and lived on the streets. According to the Consortium for Street Children there were no known statistics on numbers of street children in the country. Major factors that caused children to turn to the streets included instability in the home, poverty, hunger, abuse and violence by parents, and displacement caused by clashes in the community. AIDS also had a tremendous impact on the numbers of orphaned street children.

FGM was commonly performed on girls in all parts of the country (see section 5, Women).

Trafficking in Persons.—Although the law prohibits trafficking in persons, persons were trafficked to, from, and within the country.

The law prohibits human trafficking and provides for penalties including monetary fines, imprisonment, deportation, forfeiture of assets and passport, and liability for compensation to victims in civil proceedings. Imprisonment terms range from 12 months to life, while fines range from $375 (50 thousand naira) to $1,500 (200 thousand naira).

The National Agency for Prohibition of Trafficking in Persons (NAPTIP) bears primary responsibility for combating trafficking. The NPF and the Nigerian Immigration Service (NIS) also have antitrafficking units. In addition, the president had a special assistant for human trafficking and child labor.

Enforcement efforts continued to improve during the year. The government took several steps during the year to correct the issue of inadequate resources and tripled its NAPTIP funding. The number of trafficking cases investigated and prosecuted during the year increased, and record keeping had improved as NAPTIP, NPF, and NIS roles were more clearly defined through a series of NAPTIP-sponsored meetings, conferences, training sessions, and networking events.

Preliminary data indicated that NAPTIP investigated 75 new cases during the year; many of the cases were pending at year's end. NAPTIP made arrests in 25 cases, 15 of which went to court, and 2 additional cases were pending at year's end. Four additional convictions under the antitrafficking law were delivered during the year from cases in Kano and Ogun States, and the verdict was pending in a case in Benin State. In the Ogun case, a Ghanaian and a Togolese were convicted on charges of pandering. The men were sentenced to a minimum of seven years' imprisonment.

In the most prominent case of the year, 40 trafficking victims, involving young girls between the ages of 7 and 19, were recovered. All of the victims were returned to their homes and to school, or were given training in various skills. The trafficker was charged and a trial was pending at year's end.

The NPF Antitrafficking Task Force was established and staffed 22 units in states with the worst trafficking problems.

The government increased collaboration on investigations with concerned law enforcement agencies in France, Spain, Italy, and Benin. In June the government signed a memorandum of understanding with Benin to improve coordination of law enforcement and victim treatment activities.

The country was a source, transit, and destination country for trafficked persons during the year. No government or NGO estimates on the extent of trafficking were available, but the magnitude of the problem was believed to be significant. This was based on several factors, including the number of deportees returned to the country and reports of Nigerians stranded along trafficking routes, particularly in North African countries. The International Labor Organization (ILO) estimated that 40 percent of child street peddlers were trafficking victims.

Nigerians were trafficked to Europe, the Middle East, and other countries in Africa for the purposes of forced labor, domestic servitude, and sexual exploitation. Girls and women were trafficked for forced prostitution to Italy, France, Spain, the Netherlands, Cote d'Ivoire, and Benin. Children were trafficked for involuntary domestic and agricultural labor and street peddling within the country and to countries in West and Central Africa. Both women and children were trafficked to Saudi Arabia. The country was a destination country for children trafficked for forced labor from other West African countries, primarily Benin.

Women and children were most at risk of being trafficked. Boys were trafficked primarily to work as forced bondage laborers, street peddlers, and beggars, while girls were trafficked for domestic service, street peddling, and commercial sexual exploitation. Trafficking in children, and to a lesser extent in women, occurred within

the country's borders. Children in rural areas were trafficked to urban centers to work as domestics, street peddlers, merchant traders, and beggars.

The United Nations Office of Drugs and Crime (UNODC) reported that individual criminals and organized criminal groups conducted trafficking, often involving relatives or other persons already known to the victims. Traffickers employed various methods during the year. Many were organized into specialties, such as document and passport forgery, recruitment, and transportation. To recruit young women, traffickers often made false promises of legitimate work outside the country. Traffickers also deceived child victims and their parents with promises of education, training, and salary payments. Once away from their families, children were subjected to harsh treatment and intimidation. Traffickers subjected victims to debt bondage, particularly victims forced into prostitution. In some cases, traffickers employed practitioners of traditional magic, or juju, to threaten victims with curses to procure their silence. NAPTIP estimated that 90 percent of the girls trafficked through Benin routes were threatened by juju practitioners. Victims were transported by air, land, and sea. Established land routes to Europe transited Benin, Togo, Ghana, Cote d'Ivoire, Guinea, Mali, Niger, and Morocco.

At the institutional level, government authorities did not facilitate or condone trafficking; however, reports continued to surface from informants and foreign officials that law enforcement officers and individuals in the immigration and airport authorities collaborated in trafficking across the country's borders. The majority of instances were attributed to ignorance of the trafficking law and difficulties overcoming traditional practices. The law provides punitive measures for officials who aid or abet trafficking; however, during the year NAPTIP and NPF found no evidence of official complicity, and no officials were prosecuted, tried, or convicted of trafficking-related charges. One police inspector was arrested in Abuja for releasing two trafficking suspects after being giving specific orders to hold them. The inspector was not suspected of collaborating with the traffickers and their activities.

The government provided limited funding for assistance to victims. NAPTIP served as the point of contact for immigration and police officials when victims were found. Seventy-three victims passed through the agency during the year. NAPTIP directly provided overnight shelter to victims, and agency officials connected victims to nongovernmental or international organizations for shelter, counseling, and reintegration assistance. NAPTIP established a hot line for victims and anyone seeking or wanting to provide information regarding trafficking. In some cases the government helped victims repatriate to the country and reunited trafficked children with their families.

The Ministry of Labor and Productivity, in collaboration with the ILO, NAPTIP, the police, and other federal agencies, provided food, transportation, and other logistical assistance to reunite internally and externally trafficked children with their families.

The government continued to operate the 120-bed shelter in Lagos, with involvement by the International Organization for Migration. NAPTIP also operated a second facility at a secure location in Benin City, Edo State, as a victim shelter. At the state level, the government of Akwa Ibom donated a shelter for trafficked children. The government of Kano State, in association with UNICEF, also donated a shelter for trafficked children.

The government provided some funding for protection activities. For victims serving as witnesses, divisional police officers were appointed to serve as witness protection officers. NAPTIP officials and the officer worked together to provide assistance. NAPTIP outreach efforts were based on a series of "town hall" meetings with community leaders, traditional leaders, teachers, school children, and other groups to raise awareness of the dangers of trafficking, legal protections, and available resources. Several state governments in the south continued strong efforts to protect victims. Victims were no longer charged with crimes or detained with criminals in cells as they were in previous years.

The government increased efforts and substantially increased funding to prevent trafficking in persons during the year. The stakeholder forum established by NAPTIP in 2003 continued. NAPTIP officials met with several major traditional leaders to raise their awareness regarding trafficking and the antitrafficking law. NAPTIP also worked with the media to raise awareness among the public, and officials appeared on national talk shows and state programs. The government continued implementing the ILO International Program on the Elimination of Child Labor (IPEC) West Africa Cocoa Agriculture Project to prevent the trafficking or employment of children in commercial agriculture, especially cocoa production.

NAPTIP led the establishment of state-level antitrafficking committees, consisting of immigration officials, civil society organizations, law enforcement agents, and fed-

eral ministries in 22 states. These groups were charged with coordinating action in trafficking cases among their respective organizations.

The government established economic and education programs that may help to prevent trafficking, such as the National Poverty Eradication Program and the Nigerian Agricultural and Rural Development Bank. Despite these and other programs, poverty, lack of access to education, and lack of economic opportunities remained pervasive problems in the country and fueled the trafficking problem.

Several state governments made significant prevention efforts during the year, including awareness campaigns among at-risk populations.

Nongovernmental and international organizations organized conferences and stakeholder meetings on trafficking and established prevention and awareness programs in schools. Groups also worked through the media. A faith-based foundation in Akwa Ibom State sponsored awareness programs on television and radio. The ILO continued a program in partnership with the News Agency of Nigeria to raise awareness and build media capacity to help eliminate child trafficking and child labor.

International organizations worked closely with the government and the community during the year to prevent child trafficking. UNICEF implemented a children's parliament program that discussed civil rights and the dangers of human trafficking.

The ILO continued to support information coordination and monitoring by providing internet connectivity to the national monitoring center. UNICEF also provided additional funding for NAPTIP zonal offices.

Persons with Disabilities.—There were no laws that prohibited discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services. There were no laws requiring physical accessibility for person with disabilities. Children and women with disabilities faced social stigma, exploitation, and discrimination, and were often regarded as a source of shame by their own families. Children with disabilities who could not contribute to family income were seen as a liability, and in some cases were severely neglected. Significant numbers of indigent persons with disabilities beg on the streets. Literacy rates among various categories of persons with disabilities were significantly lower than among the general population, for both men and women. The federal government ran vocational training centers in Abuja to provide training to indigent persons with disabilities. The individual states also provided facilities to assist blind and physically incapacitated individuals to become self-supporting, and persons with disabilities established a growing number of self-help NGOs.

National/Racial/Ethnic Minorities.—The country's population was ethnically diverse, and consisted of more than 250 groups, many of which spoke distinct primary languages and were concentrated geographically. There was no majority ethnic group. The four largest ethnic groups, which comprised two-thirds of the country's population, were the Hausa and Fulani of the north, the Yoruba of the southwest, and the Ibos of the southeast. The Ijaw of the South Delta were the fifth largest group, followed by Kanuri in the far northeast, and the Tiv in the Middle Belt. Societal discrimination on the basis of ethnicity was practiced widely by members of all ethnic groups and was evident in private sector hiring patterns, de facto ethnic segregation of urban neighborhoods, and a continuing paucity of marriages across major ethnic and regional lines. There was a long history of tension among some ethnic groups (see section 2.c.).

Many groups complained of insufficient representation.

The law prohibits ethnic discrimination by the government, but claims of marginalization, particularly by members of southern groups and Igbos, continued. In particular, the ethnic groups of the Niger Delta continued their calls for high-level representation on petroleum problems and within the security forces. Middle Belt and Christian officers dominated the military hierarchy, and some persons in the North believed that the northern Hausa were underrepresented in the military.

Northern Muslims accused the government of favoring Yorubas or Christians from the Middle Belt for those positions. Traditional linkages continued to impose considerable pressure on individual government officials to favor their own ethnic groups for important positions and patronage.

Ethnic groups claimed environmental degradation and government indifference to their status in the oil-producing Niger Delta region. Groups such as the Ijaw, Itsekiri, Urhobo, Isoko, and Ogoni continued to express unhappiness regarding their perceived economic exploitation and the environmental destruction of their homelands, and incidents of ethnic conflict and confrontation with government officials and forces continued in the Delta area (see sections 1.a. and 1.b.).

Interethnic fighting has long been a problem in Warri, Delta State, resulting in casualties and the displacement of tens of thousands of local inhabitants. The ceasefire in Warri, negotiated in 2004, remained largely in effect during the year, and there were fewer incidents of violence.

Interethnic fighting elsewhere in the Delta also displaced tens of thousands of local inhabitants. In 2004 militia groups operating in Port Harcourt and other areas around the Delta region carried out violent operations that ended when officials from the presidency negotiated directly with militant leaders and reached a cease-fire agreement. The agreement was implemented by the government of Rivers State and largely held until September, when violence was reignited by the arrests of Bayelsa State Governor Diepreye Alamieyeseigha and militia leader Asari Dokubo (see section 1.d) Following the October arrest of Dokubo, leader of the Niger Delta People's Volunteer Force (see section 1.d.), tensions remained high for several weeks with increased threats and instances of crime, particularly against foreign interests, that could have been politically motivated. However, these threats also may have been the result of groups taking advantage of the heightened tensions for monetary gain.

Competing economic aspirations among ethnic groups each seeking control of state and local governments, led to violent conflicts during the year.

On March 5–6, ongoing communal conflict along the border of Jigawa and Bauchi States flared up, injuring dozens and killing up to eight persons. The conflict occurred over the location of a 300-year-old public market that had been controversially relocated in 2004 from a village in Jigawa State to a neighboring village in Bauchi State. Fighting between the two groups was reportedly sparked by a Bauchi legislator's comment that the market would never be returned to Jigawa. In response to the violence the Jigawa State government set up an ad hoc committee, headed by the state commissioner of information, to identify the root causes of the conflict and recommend solutions. Although the committee submitted its report to the governor in March, the report was not made public.

On November 12, hundreds of youths rioted in eastern Plateau State over the formation of a new development area. The rioters claimed to be indigenous Pan, as opposed to Hausa/Fulani settlers (*Namu*). The new area, located around Namu town, was named Namu, while the rioting youths insisted it should be named Pan.

Conflict over land rights and ownership continued among members of the Tiv, Kwalla, Jukun, and Azara ethnic groups; each of these groups resided at or near the convergence of Nassarawa, Benue, and Taraba States. The Tiv, who were claimed by their opponents to have migrated to the country later than other inhabitants of the disputed area, were regarded as interlopers by the other groups, which consider themselves "indigenous". Tivs are the largest ethnic group in much of Benue and parts of other states.

In April in eastern Benue State, the site of numerous communal clashes in the past, an estimated 10 to 20 persons were killed in fighting between ethnic Tivs and Fulanis, reportedly sparked by the rape of a Tiv girl by a Fulani cattle herder. Many Fulanis fled into neighboring Taraba State. The state police command deployed additional mobile policemen to the area, preventing further violence.

Communal violence between members of the Ogori and Ekpedo ethnic groups in Kogi and Edo states continued over boundary and land disputes. Kogi and Edo state governors declared the disputed land a "buffer zone," and the matter was referred to the National Boundary Commission in 2003. No further action was taken during the year.

Clashes between herdsmen and indigenous farmers were common as they competed for diminishing land resources during the year. Farmers expanded their croplands onto traditional cattle migration routes, while nomadic herdsmen moved herds from overgrazed land onto farm areas. In February at least 10 persons were killed in clashes between farmers and herdsmen in Demsa, Adamawa State. Also, in Ringim LGA of Jigawa State, 4 to 10 persons were killed in clashes between farmers and herdsmen. About 20 persons were arrested but no charges were filed.

There were no developments in previous years' incidents of ethno-religious violence.

Other Societal Abuses and Discrimination.—Homosexuality is illegal under federal law; homosexual practices are punishable by prison sentences of up to 14 years. In the 12 northern states that have adopted Shari'a, adults convicted of having engaged in homosexual intercourse are subject to execution by stoning, although no such sentences were imposed.

There was widespread discrimination against persons living with HIV/AIDS, which the public considered a result of immoral behavior. Persons living with HIV/AIDS often lost their jobs or were denied health care services.

Section 6. Worker Rights

a. The Right of Association.—The law provides all citizens with the right to form or belong to any trade union or other association for the protection of their interests, and while workers exercised this right in practice, several statutory restrictions on the right of association and on trade unions restricted this right.

Workers, except members of the armed forces and employees designated as essential by the government, may join trade unions. Essential workers included government employees in the police, customs, immigration, prisons, the federal mint, and the Central Bank. Employees working in a designated Export Processing Zone (EPZ) may not join a union until 10 years after the start-up of the enterprise (see section 6.b.). The government's application of the "essential worker" designation was broad compared with the ILO definition.

According to figures provided by the three largest union federations, total union membership was approximately 5.1 million. Less than 10 percent of the total workforce was organized. With the exception of a small number of workers engaged in commercial food processing, the agricultural sector, which employed the majority of the work force, was not organized. The informal sector, and small and medium enterprises, remained largely unorganized.

The new Trade Union (Amendment) Act, passed on March 30, eliminated the previously mandated single-labor-federation structure for workers, organized under the Nigerian Labor Congress (NLC). Trade union federations, now called "central labor organizations," must be registered formally by the government. Each federation must consist of 12 or more trade unions, and trade union membership in a federation must be exclusive. A minimum of 50 workers per enterprise is required to form a trade union. All unions and federations officially recognized prior to the law's passage were allowed to retain their status. The government formally recognized 29 such unions under the NLC, 18 under the Trade Union Congress (TUC) and 8 under the Congress of Free Trade Unions (CFTU).

The TUC was recognized as a central labor organization under the new law, while the CFTU was not because it lacked the requisite number of affiliate unions. While lifting some restrictions on freedom of association by allowing more labor centers, the new law weakened the NLC, the country's largest labor organization. The International Confederation of Free Trade Unions released its annual report in October and named the country as one of several that suffered from increased abuses of workers' rights by of government during the year.

The law prohibits antiunion discrimination.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference; however, the law also closely defines what union activity is legal. The law provides for both the right to organize and bargain collectively between management and trade unions, and collective bargaining occurred throughout the public sector and the organized private sector. The law prohibits national strikes and strikes on many issues.

Workers outside the legally defined category of "essential" had the right to strike, although they were required to provide advance notice of a strike. During the year workers exercised this right sparingly and with very limited scope, encompassing only individual factories or other work places. According to the March labor law, the right to strike is limited to matters pertaining to breach of contract or wages and conditions of work, prohibiting strikes over matters of national economic policy. A worker under a collective bargaining agreement could not participate in a strike unless his union complied with the requirements of the law, which included provisions for mandatory mediation and for referral of the dispute to the government. Workers are specifically prohibited from forcing persons to join a strike or from closing airports or obstructing public by-ways. Stiff fines and/or prison sentences are imposed on law-breakers. While strikes continued to occur in localized areas after the law passed in March, no national strike was called. Instead a new strategy of organizing peaceful protest rallies was implemented.

Employers reported unions used threats against members and their families to force them to stay at home during planned strikes.

In March oil union members initiated a strike against Tidex, a maritime firm, and detained 45 to 50 expatriate workers the vessels, except for brief periods onshore. The dispute continued for five weeks, when government and the NLC negotiated a resolution and the workers were allowed to depart their vessels.

In April crewing agency workers embarked on an indefinite strike to protest a government decision to move them from their union, the National Union of Petroleum and Natural Gas, to another union.

During the year, there were no strike-related casualties reported, only deaths in vehicle accidents on the way to or from strikes. Also no arrests were reported for participating in a strike.

No action was taken against security forces who killed or injured strikers in 2004.

There were no laws prohibiting retribution against strikers and strike leaders, but strikers who believed they were victims of unfair retribution could submit their cases to IAP, with the approval of the labor ministry. The Industrial Arbitration Panel (IAP's) decisions were binding on parties but could be appealed to the National Industrial Court (NIC); in practice the decisions of these bodies infrequently carried the force of law. Union representatives described the arbitration process as cumbersome and time-consuming, and an ineffective deterrent to retribution against strikers.

EPZs in Calabar, Cross River State, and Onne Port, Rivers State operated during the year. Workers and employers in these zones were subject to national labor laws, which provided for a 10-year prohibition on trade unions, strikes, or lockouts following the commencement of operations within a zone. In addition the law allows the EPZ Authority to handle the resolution of disputes between employers and employees, instead of workers' organizations or unions.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, there were reports that it occurred (see sections 5 and 6.d.). Enforcement of the law was not effective.

d. Prohibition of Child Labor and Minimum Age for Employment.—In most sectors, the minimum work age is 15 years, which is consistent with the age for completing educational requirements; however, child labor remained a problem. The law prohibits employment of children less than 15 years of age in commerce and industry and restricts other child labor to home-based agricultural or domestic work. The law states that children may not be employed in agricultural or domestic work for more than eight hours per day. Apprenticeship of youths at the age of 13 is allowed under specific conditions.

Awareness was increasing throughout civil society, and the government showed its commitment to the issue of child labor. Despite these advances, forced child labor and trafficking in children continued during the year (see section 5).

Economic hardship resulted in high numbers of children working to enhance meager family income. Children frequently were employed as beggars, street peddlers, bus conductors, and domestic servants in urban areas. Little data was available to analyze the incidence of child labor. The National Modular Child Labour Survey Nigeria conducted the only survey available between 2000 and 2001. The survey reported approximately 15 million children working in the country. Of these, more than six million were not attending school and more than two million were working 15 or more hours per day.

The Ministry of Employment, Labor, and Productivity dealt specifically with child labor problems, and had an inspections department whose major responsibilities included enforcement of legal provisions relating to conditions of work and protection of workers. There were fewer than 50 factory inspectors for the entire country, although the inspectorate employed nearly 400 total inspectors for all business sectors. The ministry conducted inspections mostly in the formal business sector, in which the incidence of child labor was not a significant problem. NAPTIP bears some responsibility for enforcing child labor laws. The agency reportedly received no complaints of child labor, although it did pursue cases of trafficking in children (see section 5).

Private and government initiatives to stem the incidence of child employment continued but were ineffective. The government implemented the ILO/IPEC West Africa Cocoa Agriculture Project in the cocoa and other agricultural sub-sectors to combat hazardous child labor and to prevent child trafficking for labor exploitation. Several programs by NGOs and international organizations worked to address child labor in the country.

UNICEF conducted a program to remove young girls from the street peddling trade and relocate them to informal educational settings. ILO programs worked to involve communities and schools in withdrawing children from exploitative situations such as street peddling and prostitution. The programs aimed to reintegrate the children into school or otherwise provide vocational training.

e. Acceptable Conditions of Work.—The law sets a minimum wage, which was reviewed infrequently. Real private sector wages greatly exceeded the minimum wage. The minimum wage was $56.70 (7,500 naira) per month for private sector workers and $41.70 (5,500 naira) per month for public sector workers (with a 13-month year as the law mandates an extra month's pay for the Christmas holiday). The national minimum wage did not provide a decent standard of living for a worker and family.

The government directed each state administration to establish its own salary structure based on its ability to pay, with a floor of at least the national minimum wage.

In 2003 the NLC and government agreed to a 25 percent employee wage increase. In 2004 the government increased federal employees' wages 12.5 percent; however, state employees did not receive any increase by year's end.

The law mandates a 40-hour workweek, 2 to 4 weeks' annual leave, and overtime and holiday pay, except for agricultural and domestic workers. There is no law prohibiting excessive compulsory overtime. Labor leaders reported that the law can be interpreted as prohibiting some forms of excessive, compulsory overtime; however, workplace health and safety conditions were not properly patrolled, and enforcement was sporadic at best due to insufficient police and the small number of factory inspectors. The law also establishes general health and safety provisions, some of which were aimed specifically at young or female workers. It requires that the inspectorate division of the Ministry of Labor and Employment inspect factories for compliance with health and safety standards. However, this agency was greatly underfunded, lacked basic resources and training, and consequently neglected safety oversight at many enterprises, particularly construction sites and other nonfactory work locations. The law requires employers to compensate injured workers and dependent survivors of those killed in industrial accidents. The labor ministry, which was charged with enforcement of these laws, has been ineffective in identifying violators. The Labor Law did not provide workers with the right to remove themselves from dangerous work situations without loss of employment.

The labor laws apply to legal foreign workers, but not all companies respected these laws in practice.

RWANDA

Rwanda is a constitutional republic dominated by a strong presidency. The population was 8.4 million. The largely Tutsi Rwandan Patriotic Front (RPF), took power in 1994 and formed a government of National Unity that functioned during the transitional period following the civil war and genocide until 2003, when President Paul Kagame was elected to a seven-year term in largely peaceful but seriously marred elections.

The country was affected by continuing instability in the eastern Democratic Republic of the Congo (DRC), where armed rebel groups continued to operate with impunity despite the presence of a UN peacekeeping mission in the DRC. During the first two months of the year, there were unconfirmed reports from credible sources that Rwanda Defense Forces (RDF) troops were at times present in the eastern part of the DRC, particularly following public threats by the Rwandan president in December 2004, which indicated that the government might send RDF troops into the DRC to attack Hutu rebels deemed a threat to its security. However, the government publicly denied allegations that RDF troops were operating in the DRC. Unlike in the previous year, there were no reports that Rwandan rebels in the DRC, known as the Democratic Forces for the Liberation of Rwanda (FDLR), conducted attacks in the northwestern region of Rwanda. The FDLR, largely made up of Rwandan Hutus who fled to the DRC in 1994 after the genocide, continued to be led by many individuals responsible for leading the genocide, and it continued to actively oppose the Kagame government.

While generally there were few disciplinary problems in the police force during the year, there were instances where government authorities did not maintain effective control of the security forces, and where security forces acted independently of government authority.

The government's human rights record remained poor, and there were instances when the government committed serious abuses; however, there were some improvements during the year. There were slightly fewer reports of human rights violations committed by the government. Unlike in the previous year, there were no reports of politically motivated disappearances, and there were fewer reports that police abused suspects and that the government arbitrarily arrested members of civil society groups and opposition politicians. During the year prison conditions improved. Unlike in the previous year, there were no reports that the government hindered the UN International Criminal Tribunal for Rwanda (ICTR), or that security forces monitored homes or telephone calls. There were fewer reports of the government violating the rights of Jehovah's Witnesses. Women continued to be well represented in the legislative branch, and government anticorruption efforts resulted in a reduction in the level of corruption perceived by citizens. In addition unlike in the previous year, there were no reports of the Local Defense Forces (LDF) recruiting chil-

dren; fewer reports of women being trafficked internally or to Europe for prostitution; and no reports of local government officials inciting Tutsi citizens to make false accusations against or discriminate against Hutus. Widespread poverty and the destruction of the country's social fabric, human resource base, institutional capacity, and economic and social infrastructure during the 1994 genocide continued to have an adverse impact on the country's human rights situation. The following human rights problems were reported:

- abridgement of citizens' right to change their government
- reports of unlawful killings by security forces
- reports of the use of torture and excessive force by security forces
- harsh prison and detention center conditions
- impunity
- arbitrary arrest and detention and political detainees
- prolonged pretrial detention and denial of fair public trials
- political prisoners, including former President Pasteur Bizimungu
- arbitrary interference with family and home
- restrictions on freedoms of speech, press, assembly, and association
- restrictions on freedom of religion
- abridgement of protection rights for refugees or asylum seekers
- restrictions on civil society
- societal violence and discrimination against women
- trafficking in persons
- child labor
- lack of protections of some workers' rights

On January 25, the UN reported that the government continued to "maintain security arrangements" with and provide weapons to armed proxy groups, including ex-Congolese Rally for Democracy-Goma (RCD–G) combatants, who continued to operate and commit serious human rights abuses in the DRC, including killings and rape.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reported political killings by the government or its agents; however, there was one report of a soldier charged with committing three arbitrary killings, and a local NGO reported nine unlawful killings by the LDF between July and December.

On November 3 in Cyangugu Province, Gitambi Sector, the Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR) reported that the LDF killed a man accused of theft while he attempted to escape police custody. At year's end an investigation was ongoing.

According to a December 16 article in the Kigali-based newspaper *The New Times*, following an argument on December 2, Corporal Gapira Ndengeye shot and killed Athanasie Mukarubug, a prostitute, as well as her two daughters, 10-year-old Nadine Tuyisenge and 13-year-old Josiane Ndayishimiye, in Butare Province's Tumba Sector. A military court in Butare Province began Ndengeye's trial in December, and although a verdict was expected on December 28, no additional information was available by year's end.

There were no developments in the January 2004 beating to death of Protais Ntiruhunwa, a boy, by soldiers.

There were no developments in the April 2004 beating to death of a plantation worker by an LDF member in the Gisenyi Province district of Kanama.

During the year police arrested two LDF members and charged them with the killing of Jean Baptiste Nsekanabo in May 2004.

LDF officers who were arrested for committing abuses in 2003 remained in jail, and none of their cases reached conclusion during the year.

Although there was no indication that RDF forces were directly involved, there continued to be reports during the year of killings and other human rights abuses—including torture, rape, and looting—committed with impunity by armed groups and militias in the DRC. Verification of these reports was extremely difficult, particularly those originating from remote areas and those affected by active combat in the eastern part of the DRC. However, based on investigations conducted and information collected in late 2004 and January, a UN panel of experts reported that the

Rwandan government continued to maintain a "residual presence" in the DRC and cited evidence indicating that the Rwandan government continued to provide military support to insurgent proxy groups in the DRC; however, the Rwandan government maintained that it no longer had troops in eastern DRC. It also denied any responsibility for the numerous serious human rights abuses committed against civilians by armed groups in the DRC.

At year's end, the government had not opened any new inquiries into the abuses by its troops in previous years in the DRC. The appeals of RDF Sergeants Nkusi and Sebuhoro, both convicted of two 1998 murders by a military court in 2003, were pending at year's end.

According to reports, during the year unidentified individuals killed approximately 15 witnesses to the genocide throughout the country to prevent testimony and undermine the rural community-based justice system (*gacaca*), which the government established to address certain categories of crimes related to the 1994 genocide. Police investigated at least some of the killings, although it was not known if they had made any arrests by year's end. The government worked actively to stop the killing of witnesses to the genocide, and there were significantly fewer killings during the year than in 2004.

There was no information available on persons arrested in 2004 whom police suspected of killing witnesses to the genocide.

The ICTR, based in Tanzania, continued to prosecute genocide suspects during the year (see section 4).

Unlike in the previous year, there were no reports of killings committed in the country by insurgents who were allied with persons responsible for the 1994 genocide. There were no developments in the 2004 killings by FDLR members and other armed individuals.

In March the FDLR leadership, which included many individuals responsible for leading the 1994 genocide, said that it would disarm and return to the country but did not follow through after imposing conditions that numerous international observers called unreasonable, including that it receive special treatment in the political arena. During the year, according to its stated policy, the government welcomed and repatriated hundreds of former FDLR combatants, who had fled the tight control of the FDLR's leadership; however, the government reiterated its policy that the FDLR members would not receive special treatment and would be subject to genocide trials, like the general population, if they were over 14 years of age at the time of the 1994 genocide.

b. Disappearance.—Unlike the previous year, there were no reports of politically motivated disappearances within the country; however, during the year a government official reportedly threatened a staff member of an international NGO while it was investigating the disappearances of individuals (see section 4).

The government claimed to have no knowledge of the whereabouts of Jean Damascene Tuyizere, who disappeared after security forces arrested and questioned him for several days in April 2004 in Gisenyi Province.

Regarding the case of the October 2004 disappearances of Jean de Dieu Kwizera, David Habimana, Block Mugambira, and Jean Paul Kamondo—campaign workers of 2003 presidential candidate and former Prime Minister Faustin Twagiramungu—the government stated that authorities had released the four men on bail and that criminal proceedings were under way at year's end.

In March, April, and May, a court heard the case of Jean Leonard Kagabo, an RDF captain who disappeared for at least two months after police arrested him on charges of attempted desertion in November 2004, along with three of his alleged accomplices. At year's end Kagabo was still in detention, and his trial continued.

There were no developments in the 2003 disappearances of two prominent citizens and four high-level government officials, including parliamentarian Dr. Leonard Hitimana, a member of the Democratic Republican Movement (MDR), an opposition party. However, according to a resolution adopted on October 19 by the Inter-Parliamentary Union, an international organization composed of national parliaments, "harassment" of the family and friends who have been supporting the children of Hitimana continued during the year. In addition the resolution stated that during the year Theobald Rutihunza, a source of information in the Hitimana case and the former president of LIPRODHOR, was "the subject of reprisals, which affect in particular his 80-year-old mother." The resolution did not identify the perpetrators of the harassment or reprisals.

The government provided no proof of claims made in a June 2004 report on the status of several investigations of high-profile disappearances, all of which occurred in 2003, following the release of a 2003 government report criticizing the MDR and calling for its dissolution. According to a June 2004 government report, Lieutenant Colonel Cyiza, a former supreme court vice president who disappeared in 2003, was

residing in the DRC; and two other military officers previously reported missing were in Burundi.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture; however, during the year a local NGO reported that an official committed acts of torture in the Nyamirambo Sector of Kigali City's Nyamirambo District. In addition another local NGO reported that it received approximately 96 clients each month who requested assistance for torture victims; however, an undetermined number of these victims may have been tortured during the genocide. During the year there were fewer reports of police officers abusing suspects; however, police officers sometimes reportedly beat suspects at the time of arrest. In addition the National Human Rights Commission, created by the National Assembly in 1999, reported that the government operated secret, illegal detention centers (in Kibungo Province, for example); however, although the Senate was expected to investigate these reports, they had not been confirmed by year's end.

There were numerous reports that police arrested, detained, and beat members of Jehovah's Witnesses because they refused—on religious grounds—to participate in nighttime security patrols (see section 2.c.). During the year police reportedly beat at least 12 Jehovah's Witnesses while they were in police custody. However, according to the Jehovah's Witness National Executive Council, prison and detention center beatings of Jehovah's Witnesses were less numerous than in the previous year.

There continued to be reports that security forces at times beat, harassed, or threatened individuals they deemed to be civil dissidents, journalists, and members of NGOs (see sections 2.a., 2.b., 2.c., and 4).

No action had been taken by year's end against Corporal Mwitabangoma, who allegedly was responsible for beating Mathias Mugabo.

Unlike in 2004, there were no reports of unexploded ordnance killing or injuring persons during the year.

During the early part of the year, according to a UN panel of experts, combatants in the eastern region of the DRC—whom the Rwandan government provided with military supplies—committed numerous serious human rights abuses, including torture, beatings, and rape (see section 4).

Prison and Detention Center Conditions.—Prison and detention center conditions were well below international standards and were harsh.

Chronic overcrowding, a consequence of the genocide combined with a lack of government capacity, remained a serious problem, although the conditional release of approximately 22 thousand prisoners in August relieved some of the problems attributed to overcrowding. The government remained committed to improving prison and detention center conditions, and they improved during the year.

The International Committee of the Red Cross (ICRC) estimated that there were 67 thousand prisoners following the August release in the country's 16 central prisons, including approximately 53 thousand accused of genocide-related crimes and approximately 14 thousand detained on charges unrelated to the genocide. Sanitary conditions in prisons and detention centers were poor at the beginning of the year but improved as the year progressed. Despite continuing efforts, the government did not provide adequate medical treatment. The government provided food to prisoners, but it was not sufficient. Family members supplemented food provisions, and the ICRC assisted the government by providing 15 percent of the food in the 16 main prisons and also provided additional expertise and medical, logistical, and material support to improve conditions for inmates. Prison deaths largely were the result of preventable diseases and suspected cases of HIV/AIDS. There were an undetermined number of deaths in prison reported during the year. National prison policy prohibits the hiring of prisoners to perform work at private residences and businesses. However, community service was often part of a prison sentence for those who confessed to crimes, and prisoners may work (uncompensated) on community projects such as building roads, bridges, and private residences (see section 6.c.).

More than 500 minors were incarcerated with adults throughout the prison system. In August the government released all minors who had been detained for genocide-related crimes in a provisional prisoner release. The 800 minors who remained in prison were detained for crimes not related to the genocide. The government also made efforts to better ensure that minors were incarcerated separately from adults. However, due to the physical constraints of prison facilities, many minors were held with the general adult population, although at one prison (Cyangugu Prison), children between 14 and 18 years of age were housed in a separate block. In addition courts continued to give minors special treatment, taking into consideration their ages during sentencing. Pretrial detainees generally were separated from convicted prisoners; however, there were numerous exceptions as a result of the large number

of genocide detainees awaiting trial. Some high profile political prisoners, such as former president Bizimungu, were kept in special sections of regular prisons, while others, such as Father Guy Theunis, a Belgian priest accused of genocide-related crimes, were kept with the general population with no reported problems (see sections 1.d. and 1.e.).

Women were detained and imprisoned separately from men. In addition there was at least one prison (Miyove Prison in Byumba district) exclusively for women. At another prison (Cyangugu Prison), living conditions for women were better than those for men. Women prisoners were fewer in number and housed in their own block, with separate beds.

During the year Lawyers without Borders reported that an NGO undertook efforts at Gitarama central prison to facilitate the separation of women, juveniles, and pretrial detainees from convicted prisoners.

The government permitted independent monitoring of prison conditions, and the ICRC, human rights organizations, diplomats, and journalists had regular access to the prisons. The ICRC continued its visits to communal jails and military-supervised jails.

d. Arbitrary Arrest or Detention.—The constitution provided legal safeguards against arbitrary arrest and detention; however, in many instances, security forces arrested and detained persons arbitrarily.

Role of Police and Security Apparatus.—The RDF maintains external security. The National Police, under the minister of internal security, has responsibility for internal security and is headed by a commissioner general and two deputy commissioners, one for operations and another for administration. Five assistant commissioners oversee the various units, such as traffic, intelligence, criminal investigations, protection, and the provincial areas. The police lacked basic resources such as handcuffs, radios, and patrol cars. However, they participated in extensive training programs, and the police academy curriculum included training on human rights, nonlethal use of force, and professionalism. There was little problem with corruption or discipline within the police force due to strict training and close monitoring. During the year, although efforts were taken to professionalize the national police, there were some cases of beatings of suspects. The prosecutor general's office under the ministry of justice was responsible for investigating police abuse.

Members of local communities chose and selected community volunteers to serve in the LDF, a law enforcement organization under the Ministry of Interior that assisted police. The national police oversaw the LDF, which was not a constitutionally based institution. LDF members performed basic security guard duties throughout the country, including maintaining a presence at gacaca proceedings, were not paid, and received less training than the national police. LDF members did not have powers of arrest, but in practice they made arrests on orders from local administrative officers. Among its various duties, the LDF chased illegal street vendors, petty criminals, and prostitutes away from public areas. Unlike in the previous year, there were no reports that the LDF acted with impunity. During the year the government prosecuted individual LDF members who committed crimes; however, some human rights groups accused the government of not taking sufficiently strong action against some LDF members and considered the organization to be abusive.

Arrest and Detention.—The law requires that authorities investigate and obtain a judicial warrant before arresting a suspect. Police may detain persons for up to 72 hours without a warrant, and formal charges must be brought within 5 days of arrest; however, these provisions were often disregarded during the year. The law permits investigative detention if authorities believe that public safety is threatened or that the accused might flee. There is no bail, but the authorities may otherwise release a suspect pending trial if they are satisfied that there is no risk that the person may flee or become a threat to public safety and order. Police used incommunicado detention during the year. By law detainees are allowed access to lawyers. In practice, however, access to legal representation was problematic due to the scarcity of lawyers in the country (only 140 total, most of them in Kigali). Moreover, the government did not provide indigent persons with free access to lawyers, and the Kigali Bar Association lacked the resources to provide lawyers to every indigent. The law requires the government to provide minors with legal representation, which judicial observers cited as a factor in juvenile trial delays. Family members were promptly allowed to visit detained relatives. However, according to a local NGO, prison management sometimes limited access.

During the year security forces sometimes used arbitrary arrest and detention. Authorities detained numerous individuals either after they expressed viewpoints unacceptable to the government or because of their membership in religious organizations.

Several members of Jehovah's Witnesses were arbitrarily arrested during the year (see section 2.c.).

There were reports of political detainees throughout the year, although there were no available estimates of the number. Many were detained for short periods and then released. For example on April 30, security forces detained Colonel Patrick Karegeya, spokesperson for the RDF and former head of National Security Services, and held him incommunicado at a special facility until September 29. He was not charged with any offense. According to press reports, he was detained for "indiscipline."

In March the high court began the trial of former parliamentarian Leonard Kavutse (see section 1.e.).

There was no additional information regarding the 2003 arbitrary arrest and detention of Janvier Munyemana. In the 2003 arbitrary arrest and detention of Pierre Gakwandi, secretary general of the MDR, a court convicted and sentenced Gakwandi to four years in prison.

As part of the demobilization, repatriation, and re-integration process, the government continued to accept former Rwandan combatants who returned to the country from the DRC, and more than six thousand have been peacefully resettled (see section 2.d.).

At year's end approximately 53 thousand prisoners accused of genocide-related crimes continued to be imprisoned while awaiting trial. The majority of those detained for genocide-related crimes were men who had not confessed and were accused of "category I" crimes (the most severe), which include rape, murder, genocide instigation, or playing a leadership role in the genocide. The law permits the continued detention of genocide suspects long enough to allow them to face trial either in a conventional court or in the gacaca system (see section 1.e.). Lengthy pretrial detention was a serious problem and a consequence of the large number of persons suspected of committing genocide (*genocidaires*) in prisons and detention centers; and many suspects had been in jail since 1994. The government did not have the capacity to process cases within a reasonable time. During the year the lead government agency that coordinates the gacaca system, the National Service of Gacaca Jurisdictions, made a concerted effort to expedite genocide-related cases. At the end of the year, there was a total of 40 thousand cases, including genocide cases, pending in the courts.

Mobile groups, whose mandate was to establish or complete files that indicated the basis for charges for all genocide-related detainees, continued to operate during the year. Approximately 90 percent of detainees in custody during the year had files; however, the vast majority of those files were incomplete.

Amnesty.—In August, the government conditionally released 22 thousand prisoners, including the elderly, the sick, minors, and those charged with less severe crimes.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; however, in practice there were constraints on the judiciary's independence. The judiciary suffered from inefficiency stemming from a lack of resources, and the government had not given gacaca courts jurisdiction to address crimes allegedly committed by RPF soldiers during the genocide. The judiciary operated in most cases without government interference; however, according to an NGO, in a few cases viewed as politically sensitive, including those dealing with genocide ideology and persons accused of killing genocide survivors, indirect public pressure may have influenced the judiciary, although there were no reports of direct pressure on judges. The NGO reported that judges appeared to be more assertive as a result of the judicial reforms of 2004. While the judiciary made significant progress toward increased independence during the year, problems remained. For example while the constitution provides that the Judiciary is "independent and separate from the legislative and executive branches of government" and "enjoys financial and administrative autonomy," the ministers of justice and finance continued to play important roles in defining the judicial budget.

The justice system collapsed during the war and genocide of 1994. With help from the international community, it continued to undergo a slow rebuilding process and had made significant progress over the past decade. The government did not always have the capacity to enforce the law or to ensure that due process protections were observed. However, during the year there were several cases in which judges ruled against senior political figures. In addition the judiciary continued to implement reforms and make efforts to reduce the backlog of genocide-related and nongenocide cases.

An ombudsman was mandated to conduct investigations into judicial corruption; however, by year's end no such investigations had been conducted.

The constitution provides for the adoption of a system of ordinary and specialized courts. Ordinary courts included the Supreme Court, a high court, provincial courts, and district courts. Specialized courts included gacaca courts and military courts.

Trial Procedures.—The law provides for public trials with the right to a defense (but not at public expense), a presumption of innocence, and a right to appeal, and these provisions were generally respected in practice; however, presumption of innocence was occasionally not respected, and some appeals cases were subject to lengthy delays. Most trials were public, and in the regular court system, defendants could question witnesses used against them and present witnesses and evidence on their own behalf. By year's end there were approximately 140 lawyers and 250 judges in the country, and the poverty of most defendants made it difficult for many of them to obtain legal representation. An estimated 10 percent of defendants were able to afford a private lawyer. Lawyers Without Borders continued to train gacaca judges but lacked the resources to provide defense counsel to those in need. New court officers continued to be sworn in and assigned to courts across the country, but the government did not have a sufficient number of prosecutors, judges, or courtrooms to hold trials within a reasonable period of time. There also continued to be problems enforcing domestic court orders. For example security forces at times ignored court decisions and refused to release prisoners. In a well-publicized case in Kigali, authorities arrested eight police officials on charges of misappropriating police funds. When one of the accused, Chief Inspector Edward Higiro, escaped, the National Police kept the other seven detained despite a court order by the Kigali city court directing that they be allowed out on bail. In December the National Police recognized the court's authority and released the seven on bail.

During the year there were trials that, according to some local and international observers, did not meet internationally accepted standards. On April 21, the high court sentenced former parliamentarian and MDR party member Jean Leonard Kavutse to two years in prison after he pled guilty to sectarianism; according to Amnesty International (AI), he told the court he had confessed only after having been tortured. Kavutse, who had been in detention for 20 months, had one year of his sentence suspended and was placed on probation for two years. He was arrested in 2003 based in part on the contents of a letter he had written to a former 2003 presidential candidate, using terms considered very offensive during the 1994 genocide to describe the Tutsis. Kavutse was acquitted of the more serious charge of treason.

The RDF continued to dismiss soldiers for indiscipline and criminal offenses. The RDF routinely tried military offenders in military courts, which handed down sentences of fines, imprisonment, or both during the year. The law stipulates that civilians who were accomplices of soldiers accused of crimes be tried in military court. Civilians tried in military court had received stolen goods from soldiers, had acted as accomplices with soldiers to commit theft, or had participated in rape. Military courts tried fewer than 10 civilians during the year.

The judiciary continued efforts to resolve the enormous genocide caseload of more than 53 thousand detainees (see section 1.d.). Gacaca courts served as the government's primary judicial process for adjudicating thousands of genocide cases. The gacaca law provides for reduced sentences, including community service, for cooperation and credit for time served. Lawyers were not permitted to participate officially in gacaca but could testify as private citizens. There were 169,442 gacaca judges (7 per gacaca court), or "persons of integrity" elected by the community and provided with gacaca law training, serving in 12,103 gacaca courts across the country, including 1,545 appellate courts. Some criticized the gacaca system, alleging that it was being abused by those who bore personal grudges unrelated to the genocide. At year's end a domestic newspaper reported an increase in the number of gacaca judges implicated in the genocide (see section 3).

Defendants in gacaca courts had the right to present witnesses and evidence on their own behalf. There was a right of appeal in gacaca proceedings at sector-level courts in the 118 pilot project gacaca sectors. The registration procedure for observing gacaca trials made it difficult for human rights groups to monitor the trials, which were public.

Given the heavy volume of genocide-related cases, which the government estimated would take 100 years to resolve in the conventional court system, most observers agreed in principle with the need for gacaca courts, but there were concerns that in practice, the gacaca courts were unfair and did not accomplish the twin goals of justice and reconciliation. The gacaca process was generally considered to be more effective at providing justice than at fostering reconciliation, and it was not always perceived as fair. For example some gacaca judges denied defendants the right to present witnesses and ordered the imprisonment of those who questioned the impartiality of gacaca judges (see section 2.a.). In addition because the government had not given the gacaca courts the authority to consider human rights abuses allegedly

committed by the RPF during the 1994 genocide, some human rights groups have criticized the gacaca courts for representing a form of incomplete or one-sided justice, and for being biased against those who acted on behalf of the former government. Furthermore, poorly qualified or trained judges and ill-defined guidelines on evidence and hearsay were problems. Throughout the year there were occasional reports that local gacaca officials and citizens used the process to pursue personal matters, including making false accusations in order to acquire land.

Threats against genocide witnesses also hampered the gacaca process; persons accused of genocide-related crimes, including some individuals who had been released by the government from pretrial detention, reportedly made these threats. The government held local communities responsible for protecting witnesses, and relied on the LDF, local leaders, police, and community members to ensure the safety of witnesses. Despite these efforts, however, unidentified individuals killed approximately 15 genocide witnesses during the year (see section 1.a.). Although many fewer genocide witnesses were killed than in the previous year, many citizens still were too frightened to testify.

During the year the government investigated reports from 2004 that organized groups targeted and killed witnesses to the 1994 genocide in certain provinces.

Near the end of the year, a local pro-government newspaper and a local NGO reported that 69 persons accused of genocide-related crimes had committed suicide during the year out of fear of appearing before a gacaca court. In addition during the winter and spring more than 6,500 Rwandans left for Burundi or Uganda, reportedly due, in part, to fears of gacaca and to economic reasons.

In a one-day hearing on September 11, a gacaca court ruled that the case of Father Guy Theunis, a Belgian citizen charged with instigating genocide, should be referred to the conventional judicial system for trial. The hearing was reportedly marked by unsubstantiated accusations, hearsay, and guilt by association. It was not clear whether the government officials who testified against him were participating in an official capacity or as ordinary members of the community. Many of the charges made regarded actions allegedly taken by Theunis that occurred in 1997, which was outside of the gacaca system's constitutionally mandated period of jurisdiction. In November under an accord between Rwanda and Belgium, Theunis was transferred from the high court to the Belgian judiciary, which was handling the case at year's end.

In addition to gacaca courts, genocide-related cases were tried by the ICTR and by the government in conventional courts (see section 4). Between the creation of the ICTR in 1994 and the end of 2005, it rendered 20 judgments on 27 cases. As of the end of the year, the tribunal held a total of 60 detainees, including 28 on trial, 15 awaiting trial, 8 awaiting transfer, and 9 whose appeals were pending. A total of six were serving sentences in Mali. Less than 10 percent of individuals charged with genocide-related crimes have been tried in conventional courts; two categories of genocide suspects (categories II and III) are tried in gacaca courts, while the suspects accused of the most serious genocide crimes (category I) are tried in conventional courts.

A section of the Organic Genocide Law is designed to encourage confessions in exchange for reduced sentences for individuals accused of genocide-related crimes other than category I crimes (see section 1.d.). Following efforts by the government, international donors, and NGOs to advertise widely the confession provisions, as of the end of the year 95,066 individuals had confessed to genocide-related crimes since the law was implemented in 1996. Their testimony may implicate as many as up to a million additional persons in the genocide who have not yet been detained by police; in January the government estimated that gacaca may implicate a total of between 700 thousand and 1 million citizens, one-eighth of the country's total population.

A human rights NGO reported during the year that the government had implemented a new policy of incentives and disincentives to elicit more confessions from detained genocide suspects. Under the policy, if a genocide suspect does not confess to the genocide-related crime of which he is accused, then he could lose some of his privileges, including his right to see his family. Many detained genocide suspects reportedly told the NGO they had confessed just to avoid losing their privileges.

A gacaca law passed in June 2004 stipulates that anyone who is convicted of a Category I or II genocide-related crime is no longer eligible to vote. The gacaca law does not specifically prohibit convicted genocidaires from entering certain professions; however, the codes of ethics for certain professions, including that of teachers, doctors, lawyers, and civil servants, do not allow convicted criminals to enter those professions.

Political Prisoners.—During the year there were 10 political prisoners, including former President Pasteur Bizimungu and a local *Umuco* journalist Alexander

Rugambage. On October 25, the Supreme Court began to hear an appeal by Bizimungu, former transport minister Charles Ntakirutinka, and six other persons believed to be involved with Bizimungu's banned Party for Democratic Renewal. A court had convicted all eight individuals in June 2004 on charges of "threatening national security by forming a criminal association"; it sentenced Bizimungu to 15 years in prison, Ntakarutinka to 10 years in prison, and the remaining six to 5 years each. The defendants, including foreign embassy employee Valens Munyaneza, were detained for two years prior to their 2004 trial. Local and international observers considered the verdict of the lower court politically motivated due to insufficient material evidence to substantiate the charges and dubious witnesses.

The government permitted the ICRC access to Bizimungu.

Property Restitution.—Few people had success pursuing their property restitution cases through the court system.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution prohibits such practices, and authorities generally respected these prohibitions. Unlike in the previous year, there were no reports during the year that security forces monitored homes or telephone calls.

Between 1997 and the end of 2001, more than 600 thousand persons were relocated to government-designated resettlement sites in compliance with a "villagization" policy. While villigization remained government policy, the the government did not compel these persons to remain in the villages; however, some individuals continued to reside on the settlement sites because of restrictions on where houses could be built.

During the year a human rights NGO reported that residents in one province were refused land rights unless they provided a gacaca certificate attesting that they were not implicated in the genocide. There was no legal basis for this requirement.

Government policy requires citizens to participate in night watch patrols, and during the year the government sometimes arrested, detained, and allegedly beat individuals who refused (see section 2.c.).

Unlike in the previous year, there were no reports that armed men suspected of being RDF soldiers entered the DRC and attacked and burned villages.

During the year there were reports, including one by a UN panel of experts, that the government and uniformed men suspected of being from a DRC-based armed group were recruiting children in Rwandan refugee camps for use as child soldiers (see section 2.d.). However, the government denied that it had engaged in any such recruitment activities; it also said such practice was contrary to government policy, and that it had investigated these incidents by year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government restricted these rights in practice, and, in some cases the government harassed journalists who expressed views contrary to official views. Many journalists practiced self-censorship due to fear of government reprisals. According to international press freedom group Reporters without Borders (RSF), press freedom was "at risk" in the country.

The law prohibits labor unions from publicly expressing their political opinions (see section 6.a.).

Government authorities sometimes detained individuals after they expressed viewpoints unacceptable to the government. The law prohibits "any propaganda of ethnic, regional, racial, or divisive character or based on any other form of divisionism," and public incitement to "divisionism" is punishable by up to five years in prison, heavy fines, or both. During the year residents of a rural district complained that the government was using divisionism as a way to stifle criticism of government policies on taxation, insurance, and restrictions on animal grazing and tree cutting. According to the residents, many individuals in the area were accused of divisionism after criticizing the mayor or his policies. They said a local official accused of divisionism-related charges had been jailed because of a pre-1994 conflict with the mayor. One person said divisionism charges were so common in the region because the local population had refused to vote for the RPF in the 2003 legislative elections.

By year's end there was no additional information on Augustin Habimana, who was arrested in April 2004 and detained during the remainder of 2004 after he complained in a public meeting about the government's policy of forced night patrols.

During the year the government continued to exercise tight controls over the media, and newspapers were subject to government restrictions. There were both privately and government-owned newspapers, published weekly in English, French, or Kinyarwanda; however, there were no daily newspapers. There were four inde-

pendent newspapers, *Newsline, Kinyamateka* (Catholic Church-owned bimonthly), *Umuseso* and *Umuco*, the latter of which started publishing in May. Both *Umuseso* and *Umuco* regularly maintained positions contrary to or critical of the government. Unlike in the previous year, the government did not confiscate copies of *Umuseso*; however, on one occasion in September, it confiscated copies of *Umuco* that criticized the government. Unlike in the previous year, there were no reports of government agents attempting to covertly infiltrate *Umuseso*'s staff to influence the content of the newspaper.

The government largely controlled the broadcast media. The law authorizes private radio and TV broadcasting, subject to the approval of the government. There were eight independent FM radio stations broadcasting during the year, but they primarily focused on music, not news. According to Committee to Protect Journalists (CPJ), an international press freedom group, a climate of government intimidation affected the news programming of privately owned commercial, religious, and community radio stations. Radio Rwanda journalists were civil servants of the National Office of Information. Foreign media groups, including Voice of America (VOA), BBC, and Radio France International, broadcast in Kigali throughout the year and were among the few providers of independent news in the country. During the year the government denounced VOA for what it called VOA's unbalanced reporting of Rwandan politics and its "antigovernment propaganda." VOA had broadcast news of the formation of a new opposition political party in an undisclosed location. The government owned and operated the country's sole television station.

During the year the government continued to harass and threaten the independent media. On September 7, Gitarama province police arrested and detained Jean Leonard Rugambage, an *Umuco* journalist, for alleged involvement in the 1994 genocide, a charge sometimes used to silence critics of the RPF. CPJ and others said they believed he was being prosecuted in retaliation for his journalistic work. The arrest came just two weeks after his August 25 investigative article was published in *Umuco* alleging that gacaca court officials in the Gitarama region engaged in mismanagement and witness tampering. On November 23, the gacaca court in the Gitarama region found Rugambage in contempt and sentenced him to a year in prison after he accused the presiding judge of bias—for refusing to hear defense witnesses—and demanded that the judge step down, according to CPJ. Rugambage claimed that the presiding gacaca judge engineered his arrest on the same accusation in 1996, but a judicial court later acquitted him. The court adjourned Rugambage's trial for alleged participation in the 1994 murder of a local banker, saying that he must first serve his sentence for contempt. At year's end Rugambage remained in prison.

In September police officers detained and questioned for seven hours Bonaventure Bizumuremyi, chief editor of *Umuco*, an independent Kinyarwanda-language bimonthly newspaper, and confiscated all available copies of the latest *Umuco* edition, which authorities claimed contained "harmful stories based on rumors and sensationalism" and "undermined state security." The confiscated edition called for the release of Rugambage, Father Theunis, and former President Bizimungu. According to RSF, Bizumuremyi said he received numerous telephone calls threatening him for criticizing the government. In August police had twice detained and questioned Bizumuremyi following the publication of an article on police corruption and another calling for the release of former President Bizimungu.

By year's end no action had been taken against security force members responsible for the February 2004 harassment of and death threats against five journalists, including two *Umuseso* editors.

Regarding the December 2004 stabbing of two *Umuseso* journalists, who claimed that they were assaulted because they were journalists, the government and the High Council of the Press, a local media monitoring and advisory body to the government, countered that this incident was the result of a drunken brawl outside a bar.

According to international NGO Freedom House, the government used financial pressure to influence many publications that were dependent upon the government's purchasing of advertising space. There were at least two printing presses available, one of them government-controlled, and the other reserved for religious media. Print media often published abroad to avoid local publishing costs, which were more expensive than publishing abroad, and, according to Freedom House, to avoid direct government control of their content.

The government used criminalized libel laws to suppress criticism and limit press freedom. For example, on March 22, a Kigali appeals court upheld a lower court ruling but significantly increased the penalty by sentencing *Umuseso* editor Charles Kabonero to a one-year suspended prison sentence and ordering him to pay damages and court fees of approximately $1,900 (one million Rwandan francs) for "attacking

the dignity of a high authority." Kabonero was also accused of, but not found guilty of, divisionism. Prior to the appeal, Deputy Parliamentary Speaker Denis Polisi filed criminal charges following the publication of an August 2004 *Umuseso* issue that accused Polisi of nepotism. The newspaper's editorial board refused an August 2004 recommendation by the High Press Council to publish a correction and reveal sources.

The government cited national security as grounds to suppress views that were unrelated to security issues but politically embarrassing or objectionable.

Several journalists remained in self-imposed exile at year's end.

There were no government restrictions on the Internet.

The government did not restrict academic freedom. Unlike in the previous year, there were no reports that the head of the national university monitored the university, its staff, or students for evidence of genocide ideology.

During the year authorities suspended and detained students on two occasions on accusations of engaging in genocide ideology. In July authorities suspended eight high school students in Bicumbi district for two weeks. In September police arrested and detained for several weeks two high school students in Gitarama police station; they were released on October 18. Most of the more than 60 teachers and students whose names the Ministry of Education, Science, and Technology submitted in 2004 to authorities for prosecution on charges involving genocide ideology were released by the end of the year, and all of the students had resumed school. They were accused of engaging in genocide ideology, among other offenses.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice; however, there were some exceptions. Authorities legally may require advance notice for outdoor rallies, demonstrations, and meetings. Unlike in the previous year, there were no reports that authorities prohibited nighttime meetings, although some groups avoided nighttime meetings to avoid possible disruption.

During the year Landnet, an umbrella group of NGOs, said the government prevented it from meeting on one occasion. Landnet scheduled a meeting for September; however, the government said it objected to the meeting because it wanted a higher ranking official to attend. Landnet Director Annie Kairaba-Kyambadde interpreted the minster's comments as a threat to dissolve Landnet.

The government's effective dismantling of independent human rights organizations in 2004 discouraged some civil society organizations from meeting during the year (see section 4).

The government continued to limit the type of locations where religious groups could assemble, and it instituted for part of the year a national ban on the building of structures for the meetings and worship services of Jehovah's Witnesses (see section 2.c.).

Freedom of Association.—The constitution provides for freedom of association; however, the government limited this right in practice. Private organizations were required to register, and in practice the government generally granted licenses without undue delay; however, there were some exceptions. Organizations were required to obtain letters of support from every local official in areas in which the organizations intended to work. This requirement made registration extremely difficult for some organizations.

In October the government registered the Community of Indigenous Peoples of Rwanda (CAURWA), a Batwa advocacy organization, after having refused to do so in the previous year. However, consistent with its antidivisionism policy of not acknowledging individual ethnic groups, the government did not recognize the Batwa as an "indigenous group" (see section 5).

The constitution provides for a multiparty system of government and for the free operation of political organizations; however, the government often did not respect these provisions. During the year the MDR, the main opposition party, remained inactive as a result of the cabinet's May 2003 recommendation to ban it. Although the Supreme Court never acted upon the recommendation, the MDR was dissolved shortly thereafter when all existing political parties were required to re-register under a new political party law.

All political organizations were obliged to join the Forum for Political Organizations. Unlike in the previous year, there were no reports that authorities harassed members of the Party for Peace and Concord (PPC), or that PPC members were forced out of their jobs.

The government continued to harass former members of the MDR and other opposition figures.

c. Freedom of Religion.—The constitution provides for freedom of religion; however, while the government generally respected this right in practice, it failed to prevent local authorities from violating or restricting religious freedoms for Jehovah's Witnesses and Pentecostals.

The law requires that all nonprofit organizations, including churches and religious organizations, register with the Ministry of Local Government and with the Ministry of Justice to acquire the status of "legal entity." There were no problems with the registration of Christian denominations such as Jehovah's Witnesses or Seventh-day Adventists; however, some individual churches with foreign pastors reported registration difficulties.

During the year a religious group cited by the parliament in its 2004 report on genocide ideology reported that it was afraid to talk about any topic that could be construed as "sensitive." Because the 2004 report had labeled the group as an organization that fomented ethnic divisionism and called for a return to the tenets of genocide, the group said it found it difficult to approach local authorities about its economic concerns and had raised no concerns with local authorities during the year. The group was not politically active, and its main activity was small-scale fundraising.

There were reports that police beat and detained or arrested members of Jehovah's Witnesses because they refused—due to religious beliefs—to participate in nighttime security patrols. Between January 1 and June 30, police imprisoned or detained 93 Jehovah's Witnesses accused of civil disobedience; their detentions, during which police beat 12 individuals, usually lasted between 2 days and 3 months. During the year a few judges ruled that the charges against Jehovah's Witnesses were inappropriate; they held that there was no law requiring mandatory nighttime patrols and that the prosecutor's office had wrongly applied a law requiring some form of "community work." However, by year's end 10 Jehovah's Witnesses had been tried and sentenced, and one remained in prison (see section 1.c.).

In a March meeting between government officials and representatives of Jehovah's Witnesses, the government said that some Jehovah's Witnesses did not respect the country's laws and rules and had incited people to civil disobedience. Following the meeting, a collaborative mechanism between the government and Jehovah's Witnesses authorities was set up to address any further problems and misunderstandings.

On March 30, Pentecostal Pastor Joseph Majyambere, who was arrested in January 2004 for "preaching rebellion," was released.

Although the civil marriage ceremony does not require that a participant must put his or her hand on the national flag, this practice was enforced throughout the country. The Jehovah's Witnesses, who object to this patriotic ceremony on religious grounds, claimed that members of their faith had been beaten and imprisoned due to their refusal to place their hands on the flag; however, during the year the community identified officials who did not insist on this patriotic ceremony and community members went to them to be married.

During the year, following the citing of religious figures and groups in the 2004 parliamentary report on genocide ideology, there were at least a few reports that religious groups changed their location or tailored their activities to avoid confrontation with authorities.

Unlike in the previous year, according to church officials, there were no reports of children of Jehovah's Witnesses being expelled from school for refusing to salute the national flag or sing the national anthem.

According to church officials, a family of Jehovah's Witnesses was arrested and jailed in September for refusing to sing the national anthem during a gacaca proceeding. The mother and child were released after two days, the father after four days.

Unlike in the previous year, there were no reports that authorities closed a Jehovah's Witnesses Kingdom Hall and dispersed worshippers; however, on February 18, the minister of local government and social affairs issued a written directive to all provincial governors ordering them to halt the construction of Jehovah's Witnesses Kingdom Halls. At year's end, as a result of discussions between Jehovah's Witnesses and the government, the government told Jehovah's Witnesses that they could resume the construction of Kingdom Halls; however, during the year Kigali city administrative authorities did not grant any construction licenses to Jehovah's Witnesses.

The February directive stated that the church was prohibiting its members from participating in gacaca, compulsory night patrols, and compulsory community service days. According to national leaders of the Jehovah's Witnesses community, the government was using gacaca as another tool to control religious organizations, and church leaders expressed concern that the directive may have been linked to the

2004 parliamentary report on genocide ideology, which listed many churches and church leaders as promoters of genocide ideology (see section 4).

During the year security forces arrested a Belgian priest on genocide-related charges; he was tried before a gacaca court in a hearing marked by problems (see section 1.e.).

Societal Abuses and Discrimination.—Some religious leaders were perpetrators of violence and discrimination during the year, and several clergy members of various faiths faced charges of genocide in the country's courts and in the ICTR (see section 4).

There was a very small Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides for these rights, and while the government generally respected them in practice, the government sometimes did not provide refugee or asylum-seeker protections. Citizens must obtain a national identity card when making a permanent move to a new district; these cards were issued routinely. Unlike in the previous year, government officials did not force citizens to return to the districts listed on their identity cards.

Unlike the previous year, there were no reports that government officials delayed passport issuances for, or threatened to confiscate the passports of, political dissidents.

The law prohibits forced exile, and the government did not use forced exile; however, some individuals secretly left the country to live in self-imposed exile because they believed their lives were in danger.

During the first six months of the year, 6,021 refugees returned to the country; however, as of the end of the year, the Office of the UN High Commissioner for Refugees (UNHCR) estimated that a total of 56,404 Rwandans remained in exile in 20 African countries, including 7,392 in Burundi.

The government continued to accept ex-combatants who returned to the country from the DRC as part of the ongoing peace process between Rwanda and the DRC. A total of 24,255 former combatants had been demobilized and peacefully resettled in Rwanda since the beginning of the disarmament, demobilization, and reintegration program, including more than 6 thousand former combatants between January and December. With international support, the Demobilization and Reintegration Commission, the lead government agency for the reinsertion of returned ex-combatants, placed recently returned ex-combatants in a two-month re-education program at demobilization and reintegration centers in Ruhengeri Province. There was also a center solely for ex-child combatants (see section 5). After the two-month re-education period, each adult ex-combatant was given approximately $90 (50 thousand Rwandan francs) and allowed to return to his village. Returnees who were accused genocidaires and over 25 years of age (or 14 years old at the time of the genocide) were subject to gacaca trials, as were all citizens.

Protection of Refugees.—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing protection to refugees. The constitution recognizes the right to asylum "under conditions determined by law," and there was a law in place to recognize refugees. However, the government was slow to implement refugee registration procedures, and most persons seeking asylum or refugee status had to seek private assistance (finding housing, food, and other supplies) while awaiting formal recognition by the government.

In practice the government provided some protection against *refoulement*, the return of persons to a country where they fear persecution; however, in May the government applied pressure on the Burundian government to reach an agreement that, according to UN officials, resulted in the forceful repatriation of at least 6,500 Rwandan asylum seekers, whom the Burundian government designated "illegal immigrants." They had left for Burundi between February and May, reportedly due to economic conditions and concerns about gacaca trials; however, Rwanda's minister for local government said they were fugitives fleeing justice. Both governments denied the UNHCR access to the asylum seekers during the repatriation in June. Rwandan government officials said the Rwandans returned voluntarily, that their rights were respected, and that the government was going to help them resettle. In December the local government allowed UNHCR access to the recent returnees. By the end of December, a total of more than six thousand Rwandan asylum seekers

were in B urundi; and by year's end, the Burundian government had begun the individual screening process with the assistance of UNHCR to determine refugee status.

In June as part of the same agreement, Rwandan government officials declared more than 6,600 Burundian asylum seekers in Rwanda "illegal immigrants" and said they would use "all means" to ensure they were repatriated without delay; according to the UNHCR, the Burundians had fled to Rwanda largely due to hunger and rumors of attacks in northern Burundi. After the Burundian presidential elections in August, the majority of the Burundian asylum seekers expressed a wish to return to Burundi. The UNHCR began weekly convoys to facilitate all Burundians willing to return; by December there were approximately 2,700 remaining in Rwanda.

The UNHCR continued to assist refugees and provided temporary protection to approximately 43,500 persons, the vast majority of whom were refugees from the DRC. The government generally cooperated with the UNHCR; however, there were some exceptions. For example the local governor of Butare Province denied UNHCR representatives access to recently returned Rwandans during several months of the year. However, by the end of the year, UNHCR had free access to returnees, and there were no reports that returnees were mistreated.

Unlike in the previous year, there were no reports that the government pressured Congolese refugees to return to the DRC.

Based on investigations conducted and information collected in late 2004 and part of the year, a UN panel of experts reported that the RDF was recruiting children in Rwandan refugee camps for use as soldiers.

In addition in May an international organization reported that uniformed men from Congo-based militias—suspected of belonging to the RCD–G—were recruiting children in two Rwandan refugee camps (Kiziba Camp and Gihembe Camp) for use as soldiers. According to the organization's report, on May 10, 45 children between the ages of 10 and 18 climbed onto a truck parked outside the entrance to Kiziba Camp in Rwanda's Kibuye Province, and their whereabouts were still not known by year's end. Parents in the camp told the organization's representative that the militia, which they said was the RCD–G, intended to attract at least a total of 80 new recruits. While there were some allegations of RDF involvement, senior Rwandan government officials stated that recruitment of child soldiers was not government policy and investigated the incidents. There were no further reports of such activities by year's end.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides for the right of citizens to change their government peacefully; however, despite peaceful presidential and legislative elections during 2003, this right was effectively restricted.

Elections and Political Participation.—In August 2003 President Paul Kagame won a landslide victory against two independent presidential candidates, receiving 95 percent of the vote. International election observers, representing both foreign governments and NGOs, noted that the country's first post-genocide elections, though peaceful, were marred by numerous irregularities, including ballot stuffing, "guarded" polling booths, and irregular ballot counting in at least 2 of the 12 provinces. There also were numerous credible reports that during the 2003 presidential and legislative campaigns, opposition candidates and their supporters faced widespread harassment and intimidation, including detention.

In the 2003 legislative elections, President Kagame's political party, the RPF, won the majority of the seats in the Chamber of Deputies and Senate. International election observers noted that the elections, though peaceful, were marred by "serious" irregularities, "fraud," and widespread intimidation of the opposition.

The parliament was dominated by the RPF; six other political parties were represented in the Chamber of Deputies and the Senate; however, none were considered to be fully independent of President Kagame and the RPF. The constitution provides for a multiparty system but provides few protections for parties and their candidates. The government's continuing campaign against divisionism and its occasional use of arbitrary arrest against those critical of the government discouraged potential election candidates or others from engaging in open debate or criticism of the government or its policies (see sections 1.d., 1.e., 2.a., 2.b., 2.c., and 4). For example on one occasion during the year, according to AI, officials "interrogated and intimidated" two former presidential candidates after radio broadcasts in which they voiced doubts about gacaca. Political observers and members of political parties other than the ruling RPF agreed that the RPF dominated the political arena, although, as provided by the constitution, members of other political parties held key positions in government and parliament, including the presidency of the Senate

(held by a Social Democrat). Other political parties represented in parliament held regular meetings and were free to recruit new members.

In accordance with the constitution, all political organizations were required to join the Forum for Political Organizations. In addition the law regulates the formation, structure, and functioning of political organizations; it also monitors their use of the media, management of financial assets, and relations between political organizations and other institutions. The law outlines a code of conduct for political organizations. For example the law states that political organizations have the "moral obligation to condemn any biased ideas and behavior aimed at turning the state into a state governed by a cluster of politicians." The law also outlines the government's ability to cancel an organization's mandate.

On December 21, the *The New Times* reported that during the year there was an "alarming" increase in the number of gacaca judges and senior political and military officials implicated in the 1994 genocide. Five members of parliament (MP), including MP Brigitte Tuyishime, who was accused of speaking in a derogatory manner about genocide survivors, had resigned from their posts by year's end.

The constitution requires that at least 30 percent of the seats in parliament be reserved for women, who won approximately 40 percent of the seats during September 2003 legislative elections. At year's end there were 8 women in the 26-seat Senate and 39 women in the 80-seat Chamber of Deputies. In addition President Kagame appointed nine women to ministerial positions, representing 32 percent of the positions in his cabinet.

There was one Batwa in the 26-seat Senate but none in the Chamber of Deputies.

Government Corruption and Transparency.—Corruption of government officials was a problem but not severe. Corrupt officials were routinely prosecuted. According to Transparency International's 2005 Corruption Perceptions Index, citizens perceived corruption in the country to be a "serious" but not a "severe" problem.

Authorities at times harassed journalists who reported on corruption in various government sectors (see section 2.a.).

The Office of the Ombudsman has an active good governance program and several anticorruption units that work at the local level. During the year the office pursued more than three thousand corruption cases, the majority of which involved land. There were reports that some corruption charges and prosecutions were directed at political opponents of the RPF. Several high level officials were convicted of corruption, including former Minister of Agriculture Patrick Habamenshi, who was found guilty of embezzlement in September. The inspector general of government worked to prevent corruption, and during the year the government strengthened or put in place other institutions and mechanisms intended to ensure transparency and accountability, such as the Auditor General's Office and the Rwanda Revenue Authority.

The law does not provide for access to government information, and in practice it remained difficult for citizens and foreigners, including journalists, to obtain access to government information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of international human rights groups operated in the country, investigating and publishing their findings. For the first part of the year, no domestic independent human rights NGOs were active as a result of the government's ongoing campaign against divisionism. However, local NGO LIPRODHOR published in December a 126-page report on human rights that was openly critical of the government, despite the government's tendency to be suspicious of and hostile toward local and international human rights observers. During the year some NGOs expressed fear of the government and self-censored their activities and comments, even during private meetings.

The government discouraged criticism of its human rights practices. For example during the year the government said calls by human rights groups or opposition figures for investigations of alleged war crimes committed by the RPF during the genocide were divisionist. The government claimed that such calls equated the genocide, which killed up to 1 million individuals and was perpetrated by the former regime, with abuses committed by RPF troops who stopped the genocide.

According to AI, during the year the Senate commissioned a study to identify divisionism and "genocide ideology" (support for genocide or its principle tenets) among international NGOs and scholars. By year's end the report had not been published.

In June 2004 parliament released a report by the Commission on Genocide Ideology about the allegedly widespread prevalence in the country of divisionism and genocide ideology. The report accused 13 domestic and international civil society

groups, including LIPRODHOR, the country's largest human rights NGO; religious institutions; journalists; allegedly corrupt leaders of local government; secondary schools; and the national university of engaging in divisionist activities and genocide ideology. The government accepted the commission's recommendation to dissolve five domestic civil society groups and used the report in conjunction with national security laws to justify arbitrary arrests and the effective dismantling of the country's independent human rights organizations. The government particularly targeted LIPRODHOR, the only nationwide human rights organization, by freezing its assets, threatening its dissolution, and forcing its alignment with government policy. In addition several key LIPRODHOR staff sought asylum abroad. Under new leadership, LIPRODHOR conducted an internal inquiry and, while acknowledging in a September 2004 communique that certain LIPRODHOR members had engaged in "bad behavior," reaffirmed its overall commitment to the protection of human rights. During the year one of more than 10 LIPRODHOR activists and leaders who fled the country in 2004 and remained in exile during the year called the communiqué "shameful" because it "apologized for things the organization had never done," and the activist questioned whether it represented a new era of submission to the government.

According to a 136-page report, *Front Line Rwanda: Disappearances, Arrests, Threats, Intimidation and Co-option of Human Rights Defenders 2001–2004*, which was published in March by the International Foundation for the Protection of Human Rights Defenders (Front Line), the "real reason" the government targeted LIPRODHOR had nothing to do with divisionism or genocide ideology; rather, LIPRODHOR had displayed too much independence and too much success in mobilizing a grassroots network of local human rights monitors and had criticized government actions. As one LIPRODHOR activist in exile reportedly told Front Line, "Even the international community trusted LIPRODHOR. That's why we had so many donors. Most of those donors were also government donors, and so sometimes they could lobby or put pressure on the government thanks to the information they received from LIPRODHOR. So that's why the regime was not pleased by the system LIPRODHOR was working in." A government official, who reportedly spoke anonymously to Front Line, said that what made LIPRODHOR such an "inviting target" was its independence and the fact that the government saw it as "the only human rights organization critical of the government."

Other civil society organizations implicated in the 2004 parliamentary report were also forced either to stop their activities or rework their programs to align more closely with government policy. According to Front Line, "With few exceptions, Rwandan human rights NGOs today rarely investigate and document violations by the state, preferring instead to focus on abuses by nonstate actors (such as domestic violence). Out of self-preservation, they now shy away from vigorous human rights advocacy and concentrate on nonconfrontational activities such as humanitarian assistance and human rights education and training."

Although not officially dissolved, LIPRODOHR was essentially not operating by February. In addition to facing pressure from within the country, many of LIPRODHOR's key members who had fled the country were advising international donors not to support the group, claiming that it had been infiltrated by the government, a claim that the Front Line report supported with several detailed accounts. Only a small core staff was still receiving salaries. At least during the first part of the year, the researchers remaining in the field said they were finding it difficult to work because the general public distrusted them following the issuance of the 2004 parliamentary report on genocide ideology. However, during the year a number of the individuals and organizations named in the 2004 parliamentary report were able to use the judicial system to clear themselves and to reverse initial punitive actions.

During the year LIPRODHOR gradually reconstituted itself and denied the parliamentary report's accusations regarding its alleged divisionist character; it also stressed that it had been actively working on behalf of genocide victims. By July LIPRODHOR's web site was functioning again and it had published some reports online that were critical of the government and the gacaca system. In December LIPRODOHR published a 126-page report covering the country's human rights situation in 2003 and 2004. The report criticized government actions in a number of political, judicial, and economic areas. By year's end it was not clear whether LIPRODHOR was handling as many human rights complaints as it had before the government's publication of the 2004 genocide ideology report; however, international human rights observers noted that LIPRODHOR had succeeded in reasserting much of its independence, despite government pressure.

In response to the 2004 parliamentary report on genocide ideology, a group of progovernment domestic NGOs created an NGO "platform," or collective, to manage the

activities of NGOs. Membership was mandatory for all umbrella NGO organizations, and the elections for officers were irregular. During the year the group continued to maintain a role in managing and directing NGOs during the year through the use of umbrella NGOs, which theoretically aggregated NGOs working in particular thematic sectors; however, many observers believed that the government controlled these umbrella NGOs.

The government continued to criticize reports by international observers and international human rights NGOs and was hostile towards those whose reporting was perceived by the government to be biased and inaccurate. During the year Landnet, an umbrella group of NGOs, said that the government prevented one of its meetings (see section 2.b.).

While investigating the disappearances of individuals, an international NGO reported that a government official intimidated and verbally threatened one of its staff members in a government office. There was no discussion of the cases the staff had raised. Instead, the official ordered the staff member to stop asking questions about the disappearances.

During the year and in 2004 AI said the government was "inappropriately manipulating the concept of genocide" to silence not only organizations and individuals critical of the government but also organizations that had a close relationship with the country's people and whose loyalty the government questioned. The reports said the government's treatment of LIPRODHOR had "effectively destroyed one of the remaining human rights pillars" of the country's civil society and "closes the door on human rights monitoring" in the country. In response to the government's judicial investigations of LIPRODHOR, AI said they "nullified any promise of reconciliation that gacaca contained" and further eroded public confidence in the fairness of the judiciary. But by the end of the year, LIPRODHOR had become operational and critical of the government.

The government's lead agency for human rights was the National Commission for Human Rights (NCHR), but this organization acted more as a public relations organ of the government. An NCHR commissioner provided evidence and background information to the prosecution at the gacaca hearing of Father Theunis, which local and international observers criticized for lack of fairness (see section 1.e.).

Based on investigations conducted and information collected in late 2004 and part of the year, a UN panel of experts report released on January 25 examined violations of a UN-imposed arms embargo in the eastern DRC. The UN accused the Rwandan government of continuing to routinely and illegally funnel weapons and military support to proxy forces in the DRC that committed human rights violations. The panel also accused the Rwandan government of continuing to maintain a "covert residual presence" in the DRC, despite officially withdrawing in 2002. In addition it said the government was recruiting children of the DRC in Rwandan refugee camps for use as soldiers (see section 2.d.). A July AI report also charged that the government continued to export arms to armed groups in the DRC. The government denied all of the panel's and AI's charges.

The ICTR continued to prosecute genocide suspects during the year. Since 1994 the ICTR has delivered 20 verdicts in 27 cases. As of December there were a total of 60 detainees in the court's seat in Tanzania: 28 on trial, 15 awaiting trial, 8 awaiting transfer, and 9 pending appeal. Unlike in the previous year, there were no reports that the government prevented witnesses from attending and giving testimony, or that it failed to cooperate on ICTR investigations of alleged RPF war crimes. In May 2004 the government publicly criticized efforts by the ICTR to investigate alleged RPF war crimes and said civilian casualties were sometimes an unavoidable consequence of military operations.

After a major increase in 2004 in the number of killings of genocide survivors and of witnesses in gacaca courts of those accused of genocide crimes, parliament investigated the cause of these incidents through an ad hoc commission. There was no information on whether the government continued to investigate the killings of genocide survivors and witnesses during the year.

During the year a Spanish court agreed to hear a suit alleging that the RPF had summarily executed nine of its nationals, including six Catholic missionaries, during the genocide. No additional information was available at year's end.

During the year a French court began to investigate allegations that French soldiers did not act to end genocide killings.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides that all citizens are equal before the law, without discrimination on the basis of ethnic origin, tribe, clan, color, sex, region, social origin, religion or faith opinion, economic status, culture, language, social status, or phys-

ical or mental disability. The government generally enforced these provisions; however, problems remained.

Women.—The law does not specifically prohibit domestic violence, and domestic violence against women, including wife beating, was common. Cases normally were handled within the context of the extended family.

The law criminalizes rape, and the government took steps to enforce the law more effectively. The government handled rape cases as priority within its courts and tribunals. From April to July, the judiciary processed a total of 555 rape cases. In recent years, those convicted of rape generally received sentences of between 20 and 30 years' imprisonment. The government recognized rape as a problem, and during the year it took steps to address it, including the classification of rape and other crimes of sexual violence committed during the genocide as a category I genocide crime. It also improved protection at the local level for rape victims testifying at gacaca courts. During the year police investigated more than 2,100 cases of rape.

Prostitution was not legal, and it was a problem.

Prostitution and trafficking in women for sexual exploitation were problems (see section 5, Trafficking).

Women continued to face societal discrimination, but the government has multiple programs to combat these traditional practices. Women traditionally performed most of the subsistence farming. Since the 1994 genocide, which left numerous women as heads of households, women assumed a larger role in the formal sector, and many operated their own businesses. Nevertheless, women continued to have limited opportunities for education, employment, and promotion. Government efforts to expand opportunities for women included a clause in the constitution providing that at least 30 percent of the seats in parliament be reserved for women (see section 3). Other efforts included scholarships for girls in primary and secondary school, loans to rural women, and the appointment of a minister in the prime minister's office for family and gender promotion to train government officials and NGOs in methods to increase the role of women in the workforce. The Family Code generally improved the legal position of women in matters relating to marriage, divorce, and child custody. The law allows women to inherit property from their fathers and husbands, and it allows couples to choose the legal property arrangements they wish to adopt; however, in practice it was much more difficult for women than for men to successfully pursue property claims.

The minister of gender and family promotion in the office of the prime minister was the lead government official handling problems of particular concern to women. A number of women's groups were active in promoting women's concerns, particularly those faced by widows, orphaned girls, and households headed by children.

Children.—The government was committed to children's rights and welfare, and it took efforts to improve education and health care to children. Children headed at least 65 thousand households. The government worked closely with international NGOs to secure assistance for children who were heads of households, and sensitized local officials to the needs of children in such situations.

Education is compulsory through primary school or until age 13. While primary school fees were officially waived during the year, most parents still had to pay the fees to support basic school operations. However, children were not dismissed from school for their parents' failure to pay such fees. School fees routinely were waived for orphans. Public schools lacked essential and basic supplies and could not adequately accommodate all children of primary school age. Private primary schools often were too distant or too expensive to serve as an alternative for many children. Examination decided entry to secondary school. According to the Ministry of Education, 93 percent of primary school-age children were enrolled in school. According to the UN Children's Fund (UNICEF), the net primary school enrolment/attendance ratio was 75 percent. Of the children who entered the first grade, 47 percent reached the fifth grade, and the secondary school attendance ratio was 5 percent.

According to UNICEF, 20 percent of women between the ages of 20 and 24 had married or entered into a union before they were 18 years old. The legal age for marriage for both males and females is 21.

There were some cases of trafficking and child prostitution. (see section 5, Trafficking).

Due to the genocide and deaths from HIV/AIDS, there were numerous households headed by children, some of whom resorted to prostitution to survive.

In January a UN panel of experts reported that the government was recruiting children of the DRC living in refugee camps in Rwanda and training them to be soldiers. Residents of a refugee camp in Kiziba, Kibuye Province, said that vehicles drove groups of students across the border into the DRC. The government denied all the panel's charges (see section 2.d.).

During the year there was also a report indicating that a DRC-based armed group was recruiting children from Rwandan refugee camps for use as child soldiers (see section 2.d.). During the year the government continued to support a demobilization and reintegration program, and a total of approximately 600 former child soldiers, all of whom had returned from serving as soldiers in the DRC, received care and reintegration preparation from a demobilization center for children in Ruhengeri Province.

Unlike in the previous year, there were no reports that children were recruited to work for the LDF.

There were cases of child labor (see section 6.d.).

There were approximately six thousand street children thr thrououghout the country. Local authorities rounded up street children and placed them in foster homes or government-run facilities. The Gitagata Center housed approximately 400 children, the majority of whom were rounded up by authorities in 2003. The government supported a "childcare institution" in each of the 12 provinces that served as safe houses for street children, providing shelter and basic needs.

Trafficking in Persons.—While there was no specific antitrafficking law, laws against slavery, prostitution by coercion, kidnapping, rape, and defilement were available to prosecute traffickers. No traffickers were prosecuted; however, during the year the government actively investigated cases of sex crimes. The government made significant efforts to fight trafficking despite resource constraints. The government provided training on sex crimes and crimes against children to police as part of the police training curriculum. During the year the national police offered specialized training in recognizing trafficking, particularly trafficking involving children, to 185 police cadets. In 2004 the government opened a forensic laboratory to improve the ability of police to build cases against traffickers. The government monitored immigration and emigration patterns, as well as border areas that were accessible by road.

There were reports that persons were trafficked from and within the country. The country was a source country for small numbers of women and children trafficked for the purposes of sexual exploitation, domestic labor, and soldiering. Unlike in the previous year, there were no reports of women being trafficked internally or to Europe for prostitution, or child victims being trafficked to Burundi and the DRC. The country was a source country for children internally trafficked for the purpose of sexual exploitation. Small numbers of impoverished children, typically between the ages of 14 and 18, were exploited by loosely organized prostitution networks.

Some children of Rwandan background were trafficked over the past decade for forced labor and child soldiering in the DRC. However, according to the UN, more than 200 child soldiers were returned to the country during the year. Although the UN reported in late January that the RDF was recruiting child soldiers, the RDF said it did not recruit child soldiers and condemned this practice (see section 5, Children).

Due to the genocide and deaths from HIV/AIDS, there were numerous children who headed households, and some of these children resorted to prostitution or may have been trafficked into domestic servitude. UNICEF estimated in 2004 that there were 2,140 child prostitutes in the major cities and several thousand street children throughout the country.

The government made efforts to protect the rights of women and children. The government identified the worst forms of child labor, and in collaboration with UNICEF, identified three NGOs to help children working in these sectors (see section 5, Children). The government also sponsored programs specifically designed to alleviate poverty among the poorest families, in which poverty was most often cited as the primary cause of forced child labor. When the government dismantled prostitution rings, it offered women rehabilitation programs, which included work retraining.

Persons with Disabilities.—The constitution provides that all citizens are equal before the law and prohibits discrimination on the basis of physical or mental disability; however, there are no laws specifically prohibiting discrimination against persons with disabilities in regard to employment, education, or access to social services, and few persons with disabilities had access to education or employment. There was no law mandating access to public facilities.

National/Racial/Ethnic Minorities.—Before the 1994 genocide, an estimated 85 percent of citizens were Hutu, 14 percent were Tutsi, and 1 percent were Batwa (Twa). Prior to the 1994 genocide, citizens were required to carry identity cards that indicated ethnicity, a practice that was instituted in 1931 when the country was under Belgian colonial administration. Following the genocide, the government banned all identity card references to ethnic affiliation as divisionist or contributing

to genocide ideology. As a result, the Batwa, purported descendants of the Twa (Pygmy) tribes of the mountainous forest areas bordering the DRC and numbering approximately 33 thousand (less than 1 percent of the population), were no longer designated as an ethnic group. On this basis the government no longer recognized groups advocating for Batwa needs. Batwa said their rights as an indigenous ethnic group were denied as a result of such government policies. However, in October the government permitted the Community of Indigenous People of Rwanda (CAURWA) to register, although it was not recognized as an "indigenous group." CAURWA had lobbied unsuccessfully for such recognition for years. Despite the registration of CAURWA, most Batwa continued to live on the margins of society with very limited access to education, and they continued to be treated as inferior citizens by both the Hutu and Tutsi groups.

Large-scale interethnic violence in the country between Hutus and Tutsis erupted on three occasions since independence in 1962, resulting on each occasion in tens or hundreds of thousands of deaths. The most recent and severe outbreak of such violence, in 1994, involved genocidal killing of much of the Tutsi population under the direction of a Hutu-dominated government and in large part implemented by Hutu-dominated armed forces called the ex-FAR and Interahamwe militia. The genocide ended later the same year when a predominantly Tutsi militia, operating out of Uganda, occupied Rwandan territory, overthrew that government and established the government of National Unity, which was composed of members of eight political parties and which ruled until the elections in 2003. Since 1994 the government has called for national reconciliation and abolished policies of the former government that were perceived to have created and deepened ethnic cleavages. The constitution provides for the eradication of ethnic, regional, and other divisions and the promotion of national unity. Some organizations and individuals accused the government of favoring Tutsis—particularly English-speaking Tutsis—in government employment, admission to professional schooling, recruitment into or promotion within the army, and other matters; however, the government continued to deny this charge.

Incitement to Acts of Discrimination.—Unlike in the previous year, there were no reports that local government officials incited Tutsi citizens to make false accusations against or discriminate against Hutus.

In its effort to prevent incitement of violence or discrimination and to encourage reconciliation, the government pursued a strict policy of non-recognition of ethnic identities. Government identification cards do not indicate ethnicity, and the government eliminated all references to ethnicity in written and non-written official discourse. There was no government policy of ethnic quotas for education, training and government employment.

Section 6. Worker Rights

a. The Right of Association.—The law provides all salaried workers, including some civil servants, with the right to form and to join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Although the effects of the 1994 genocide continued to hamper unions, they continued to regroup and assert themselves during the year; however, the government and many employers were opposed to the idea of trade unions operating freely. More than 85 percent of workers were engaged in small-scale subsistence farming, in the informal sector. Approximately 7 percent of the work force worked in the formal (wage) sector. Organized labor represented a small part of the work force.

There were no restrictions on the right of association for non-civil servants; while all unions must register with the Ministry of Labor for official recognition, there were no known cases in which the government denied recognition during the year. However, the law prohibits unions from having political affiliations and from publicly expressing their political opinions.

The law prohibits antiunion discrimination, but there were no functioning labor courts to resolve complaints involving discrimination against unions. Union activists complained that some employers threatened to fire employees who attempted to join a union. The law requires employers to reinstate workers fired for union activity; however, there were no reports that employers had fired employees for this reason.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice; however, the law does not extend this right to agricultural workers. The law provides for collective bargaining, but this right was severely limited in practice; only the Central Union of Rwandan Workers had an established collective bargaining agreement with the government. In addition the government was heavily

involved in the collective bargaining process since most union members were in the public sector. There are no export processing zones.

Participation in unauthorized demonstrations could result in employee dismissal, nonpayment of wages, and civil action against the union. Authorization was not required for union meetings.

The law provides for the right to strike, except for public service workers and workers in essential services. The minister of labor decides what constitutes an essential service. According to the International Confederation of Free Trade Unions, there is an excessively broad definition of so-called essential services in which strikes are prohibited. A union's executive committee must approve any strike, and the union must first try to resolve its differences with management according to steps prescribed by the ministry of labor. This process essentially prohibits strikes. There was one demonstration by union members during the year.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, prisoners were assigned to work details, which generally involved public maintenance duties. Unlike in the previous year, prisoners were not allowed to be hired out to perform work at private residences and businesses. A 2001 presidential decree authorized gacaca courts to sentence convicts to perform community service; in addition suspected genocidaires who confessed were given sentences involving community service.

Unlike in the previous year, there were no reports of forced coltan mining by prisoners, or of other forms of forced labor.

The law does not specifically prohibit forced and compulsory labor by children. Unlike in the previous year, there were no reports that the RCD–G forcibly recruited children.

d. Prohibition of Child Labor and Minimum Age for Employment.—Except for subsistence agricultural workers, who account for approximately 90 percent of the workforce, the law prohibits children under the age of 16 from working without their parents' or guardians' permission and prohibits children under 16 from participating in night work or any work deemed hazardous or difficult, as determined by the minister of labor; however, child labor was prevalent. Night work is defined by the Labor Code as work between 7 p.m. and 5 a.m.; children also must have a rest period of at least 12 hours between work engagements. The minimum age for full-time employment is 18 years, and 14 years for apprenticeships, provided that the child has completed primary school. According to a 2003 UN report, 31 percent of children between the ages of 5 and 14 engaged in child labor, and during the year children headed many households.

The government identified five forms of child labor as those that should be considered as the "worst forms of labor," including domestic work outside the family sphere; agricultural activities on tea, rice, and sugar cane plantations; work in brickyards and sand extraction quarries; crushing stones; and prostitution. During the year child labor persisted in the agricultural sector (particularly on tea plantations), among household domestics, in small companies, and the brick-making industry. In addition child prostitution was a problem. The UN reported in late January that the government recruited children from refugee camps in the country and trained them to be soldiers, although the government denied this report (see sections 2.d. and 5). Children received low wages, and abuse was common. The government did not effectively enforce laws restricting and regulating child labor; during the year there was an insufficient number of labor inspectors.

During the year the government took steps to prevent and reduce the use of child labor. The government worked with NGOs to raise awareness of the problem, to identify children involved in child labor, and to send them to school or vocational training. The government established various programs focused on interventions against child labor, including a joint two-year program with UNICEF begun in 2003, and an International Labor Organization program. In addition local government officials organized an awareness-raising campaign for employers, and the government imposed a fine against those who illegally employ children or send their children to work to the detriment of their education. The government continued to support 12 child labor inspector offices, 1 for each of the country's provinces; however, the government was unable to provide them with adequate resources to effectively identify and prevent the use of child labor.

e. Acceptable Conditions of Work.—The Ministry of Public Service, Skills Development, and Labor set minimum wages in the small formal sector. The government, the main employer, effectively set most other wage rates as well. According to the Ministry of Labor, there is no single minimum wage; minimum wages varied according to the nature of the job. The minimum wages paid did not provide a decent standard of living for a worker and family, and in practice workers accepted less

than the minimum wage. Families regularly supplemented their incomes by working in small businesses or subsistence agriculture.

Officially, government offices and private sector entities had a 40-hour workweek; the maximum workweek was 45 hours. The government mandated that the workday begin at 7 a.m. and end at 3:30 p.m., with a 30-minute break for lunch. There was no mandated rest period. The law regulates hours of work and occupational health and safety standards in the formal wage sector, but inspectors from the Ministry of Public Service did not enforce these standards aggressively. Workers did not have the right to remove themselves from dangerous work situations without jeopardizing their jobs.

SAO TOME AND PRINCIPE

The Democratic Republic of Sao Tome and Principe is a multiparty democracy with a population of approximately 160,400. Fradique De Menezes was elected president of the country in 2001, and parliamentary elections were held in 2002; international observers deemed both elections free and fair. On June 2, Prime Minister Damiao Vaz D'Almeida resigned, which resulted in the dissolution of the government. President De Menezes appointed Maria do Carmo Trovoada Silveira to replace D'Almeida and formed a new government. Legislative elections were scheduled for March 2006. Civilian authorities generally maintained effective control of security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Poverty and unemployment exacerbated some the following human rights problems:

- harsh prison conditions
- prolonged pretrial detention
- occasional political influence on the judiciary
- official corruption
- violence and discrimination against women
- child labor
- harsh labor conditions

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions were harsh but not life threatening. Facilities were overcrowded, and food was inadequate. Some pretrial prisoners were held with convicted prisoners.

The government permitted human rights monitors to visit prisons; however, there were no visits during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The Ministry of National Defense and Internal Affairs supervises and controls the military, the police, and immigration. The police were ineffective and widely viewed as corrupt. Impunity was a problem, and efforts to reform the Criminal Investigation Police, a separate agency under the Ministry of Justice, were ineffective, primarily due to inadequate resources.

Arrest and Detention.—The law requires arrest warrants issued by an authorized official to apprehend suspects unless the suspect is caught during the commission of a crime. The law provides for a determination within 48 hours of the legality of a detention, and authorities generally respected this right in practice. Detainees were allowed access to attorneys and family members, and indigent detainees were provided attorneys by the state. There was a functioning bail system.

There were no reports of political detainees.

Severe budgetary constraints, inadequate facilities, and a shortage of trained judges and lawyers resulted in lengthy pretrial detentions. According to the Sao

Tome Supreme Court, 75 percent of the country's 155 prisoners were awaiting trial as of October, and some pretrial detainees had been held for more than a year.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, at times, the judicial system was subject to political influence or manipulation. The government set judicial salaries, which remained low, and suspicion persisted that judges may be tempted to accept bribes. During the year, the government took steps to strengthen the judiciary.

The legal system is based on the Portuguese model. The court system has two levels: circuit courts and the Supreme Court. The Supreme Court is the appellate court of last resort.

Trial Procedures.—The law provides for the right to a fair public trial, the right of appeal, the right to legal representation, and, if indigent, the right to an attorney appointed by the state. Defendants are presumed innocent, have the right to confront witnesses, and to present evidence on their own behalf. However, inadequate resources resulted in lengthy pretrial detentions and greatly hindered investigations in criminal cases.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights. Journalists practiced self-censorship.

Two government-run and six independent newspapers and newsletters were published sporadically, usually on a monthly or biweekly basis; resource constraints determined publishing frequency. All parties freely distributed newsletters and press releases stating their views and criticizing the government, the president, and one another.

Television and radio were state operated. There were no independent local stations due to financial and market constraints; however, there were no laws prohibiting such stations. The Voice of America, Radio International Portugal, and Radio France International were rebroadcast locally. The law grants all opposition parties access to the state-run media, including a minimum of three minutes per month on television.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of peaceful assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for religious freedom, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There was no known Jewish community and no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law does not prohibit forced exile; however, there were no reports that the government used it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention regarding the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice, the government provided protection against refoulement, the return of persons to a country where they feared persecution. During the year there were no known requests for refugee or asylum status. In the past the government cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens have exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—President De Menezes was elected in a 2001 election that international observers deemed free and fair. In 2002 President De Menezes dismissed Arcanjo Ferreira da Costa; subsequently a 13-member coalition government was formed under Maria das Neves. In September 2004 De Menezes dismissed das Neves for corruption and appointed Damiao Vaz D'Almeida as prime minister. On June 2, Prime Minister D'Almeida resigned, and the Movement for the Liberation of Sao Tome and Principe-Social Democratic Party (MLSTP) withdrew from the government; both the prime minister and the MLSTP attributed their actions to the president's alleged corruption. D'Almeida was replaced by Trovoada Silveira, who formed a new government.

After a 2003 failed military coup, President De Menezes signed a framework agreement with the perpetrators of the attempted coup, which included a pledge to establish a national consensus on the country's developmental priorities. The resulting plan of action recommended: The conversion from political party-based to geographically-based representation in the National Assembly; improvement in living conditions of the army; land and agricultural reform; establishment of legal and regulatory measures to manage the country's oil wealth; and improvement in the education and health sectors.

There were 5 women in the 55-seat National Assembly; 3 of the 14 cabinet ministers were women, including the Prime Minister; and the president of the 3-member Supreme Court was a woman.

Government Corruption and Transparency.—Official corruption was widespread, and allegations of corruption resulted in the government's dissolution during the year. In June Prime Minister D'Almeida resigned and the MLSTP party withdrew from the government, alleging that President De Menezes awarded oil rights within the Nigerian-Sao Tomean Joint Development Zone in an allegedly corrupt and nontransparent manner. The attorney general was investigating the allegations at year's end. In May Oil Minister Arlindo de Carvalho resigned, citing similar irregularities in the contracting process. Low salaries for civil servants contributed to public corruption (see section 6.e.).

There were no laws that provided for public access to government information; however, the government took steps during the year to improve transparency, including passage of a law governing the use of oil revenues.

Section 4. Government Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

In the past a small number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, with the general improvement in human rights, such groups were inactive during the year. Government officials generally had been cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for the equality of all citizens regardless of sex, race, racial origin, political tendency, creed, or philosophic conviction, and while the government actively enforced these provisions, women faced discrimination.

Women.—Domestic violence against women occurred, including rape, but the extent of the problem was unknown. Although women have the right to legal recourse—including against spouses—many were reluctant to bring legal action or were ignorant of their rights under the law. Tradition inhibited women from taking domestic disputes outside the family.

Rape, including spousal rape, is illegal and punishable by 2 to 12 years' imprisonment.

Prostitution is illegal; however, it occurred.

The law does not prohibit sexual harassment, and it was a problem.

The law stipulates that women and men have equal political, economic, and social rights. While many women have access to opportunities in education, business, and government, in practice women still encountered significant societal discrimination. Traditional beliefs left women with most child-rearing responsibilities and with less access to education and to professions; a high teenage pregnancy rate further reduced economic opportunities for women. An estimated 70 percent of households were headed by women.

Children.—A number of government and donor-funded programs operated to improve conditions for children, notably an ongoing malaria control project and acquisition of school and medical equipment.

Education was universal, compulsory through the sixth grade, and tuition-free to the age of 15 or grade 6. In practice some rural students stopped attending school after the fourth grade. Enrollment in primary school was estimated at 74 percent.

Students were responsible for buying books and uniforms although the government provided both free to children from poor families. Transportation and tuition costs prevented some poor or rural-based students from attending secondary school. There were no differences between the treatment of girls and boys in regard to education.

Mistreatment of children was not widespread; however, there were few protections for orphans and abandoned children.

Child labor was a problem (see section 6.d.).

During the year a social services program within the Ministry of Labor collected street children in three centers where they received classes and training. Conditions at the center were good; however, because of overcrowding some children were returned to their families at night, and a few of these children ran away. Children who stayed full time at the center did not run away.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law does not prohibit discrimination against persons with physical and mental disabilities; however, there were no reports of discrimination against such persons. The law does not mandate access to buildings, transportation, or services for persons with disabilities, and local organizations have criticized the government for not implementing accessibility programs for persons with disabilities.

Other Societal Abuses and Discrimination.—There was societal discrimination against homosexuals. Persons with HIV/AIDS were generally rejected by the communities in which they lived and shunned by their families. However, the government provides free AIDS testing and distributed antiretroviral drugs to some patients.

Section 6. Worker Rights

a. The Right of Association.—The law provides for freedom of association, and workers generally exercised this right in practice. Only two unions existed in the very small formal wage sector: the General Union of Workers and the National Organization of Workers of Sao Tome and Principe. Both represented government workers, who constituted the majority of wage earners, and members of farmers' cooperatives.

There were no laws prohibiting antiunion discrimination; however, there were no reports of such discrimination.

b. The Right to Organize and Bargain Collectively.—The law provides that workers may organize and bargain collectively; however, due to its role as the principal employer in the wage sector, the government remained the key interlocutor for labor on all matters, including wages. There are no export processing zones.

The law provides for the freedom to strike, even by government employees and other essential workers, and workers exercised this right in practice. On May 30, government workers conducted a nationwide strike for higher wages, which resulted in a negotiated settlement on August 6. The terms of the settlement had not been implemented by year's end.

The law does not prohibit retaliation against strikers, but there were no such reports during the year.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—Employers in the formal wage sector generally respected the legally mandated minimum employment age of 18; however, child labor was a problem. The law prohibits minors from working more than 7 hours a day and 35 hours a week. Children were engaged in labor in subsistence agriculture, on plantations, and in informal commerce, sometimes from an early age. Although no cases of child labor abuses were prosecuted, the law states that employers of underage workers can be fined.

e. Acceptable Conditions of Work.—There was no national minimum wage. The legal minimum wage for civil servants was $40 (400 thousand dobras) per month, which was insufficient to provide a decent standard of living for a worker and family. Working two or more jobs was common, and labor law specifies areas in which civil servants may work if they pursue a second job. Civil servants in "strategic sectors," such as the court system; the ministries of finance, customs, education; and the Criminal Investigation Police, earned up to 400 percent more than other public service employees.

Working conditions on many of the cocoa plantations—the largest wage employment sector—were extremely harsh. The average salary for plantation workers did

not provide a decent standard of living for a worker and family, and the real value of their pay was further eroded by a high rate of inflation. During the year contaminated water led to cholera outbreaks, including one in April on the Ferreira Governo plantation, where 26 of the plantation's 135 workers fell ill, and 1 died.

The legal workweek is 40 hours with 48 consecutive hours mandated for rest. Shopkeepers worked 48 hours a week. The law provides for compensation for overtime work. The law prescribes basic occupational health and safety standards; however, resource constraints hindered the Ministry of Justice and Labor's enforcement of these standards. Employees have the right to leave unsafe working conditions.

SENEGAL

Senegal, with an estimated population of 10.1 million, is a moderately decentralized republic dominated by a strong presidency. In 2000 Abdoulaye Wade, backed by a coalition of opposition parties, became president in an election generally viewed as free and fair. The current National Assembly was elected in 2001 in a free and transparent election. The civilian authorities generally maintained effective control of the security forces.

The government generally respected citizens' rights; however, there were problems in some areas. The government made some improvements during the year and in April the National Assembly passed a law prohibiting human trafficking. However, there was a growing feeling that political considerations unduly influenced many government decisions, in some cases due to a widening rift within the majority Democratic Party of Senegal (PDS) between President Wade and former Prime Minister Idrissa Seck. The following human rights problems were reported:

- several unlawful killings were committed by security forces
- cruel and degrading treatment of detainees and prisoners
- overcrowded prisons
- questionable investigative detention and prolonged pretrial detention
- corruption and impunity
- some limits on freedom of speech and of the press
- restrictions on freedom of assembly
- domestic violence, rape, sexual harassment, discrimination against women, and female genital mutilation (FGM)
- abuse of children, child marriage, and infanticide
- trafficking in persons
- child labor

There were reports that Movement of Democratic Forces of the Casamance (MFDC) rebels killed at least 7 to 10 government security and civil service personnel, as well as one civilian, committed robberies and harassed local populations.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Neither the government nor its agents committed any politically motivated killings; however, there were several killings by security forces during the year.

On March 10, customs officers shot and killed a 20-year-old man named Libasse Kane in an incident involving the arrest of sugar smugglers in the city of Mbour. Kane was shot in the chest. Local police arrested four customs officers before they were granted conditional release pending completion of the investigation.

In April a man named Amadou Moctar Beye held in investigative detention at the research brigade of the gendarmes in Dakar was reported dead in his cell. Gendarmes indicated that Beye committed suicide, but the victim's family rejected this version of events.

Also in April gendarmes accidentally killed a 13-year-old boy, Assane Fall, and injured a man, Mamadou Fall, while pursuing a suspected drug trafficker in Mbour. According to reports, police were attempting to commandeer a fisherman's boat to pursue the trafficker, but the fisherman refused. As a result, the police opened fire. An investigation was ongoing at year's end.

On June 12, in the town of Kayar, gendarmes fired on and killed a fisherman and injured several others, including a 10-year-old child. This incident occurred as the

gendarmes intervened to put an end to the fighting between two communities of fishermen.

In November in Touba, a police officer fatally kicked a 21-year-old who began to run in panic after seeing a man in uniform. Officials negotiated with the young man's family, and no arrest was made.

In December a customs officer killed two smugglers during an altercation near Richard Toll. In a highly unusual move, the Customs Office issued a statement saying they "regretted the incident." No further action was taken at year's end.

No action was taken against government soldiers responsible for the 2003 killing of a man in Mandina Mancagne.

According to statistics from Handicap International, landmine accidents in Casamance continued to decline. However, on April 12 an anti-tank landmine exploded in the area of Sare Tening in Kolda, killing one government soldier and wounding two others.

Despite a December 2004 government and rebel-signed ceasefire, there has been increased violence in Casamance, particularly near the Senegal-Gambia border. In April a teacher was killed; MFDC rebels and the government blamed each other for the killing. In an August 5 attack on a public transport vehicle in the village of Mampalago, MFDC rebels discovered and executed two off-duty soldiers dressed in civilian clothing.

On June 22, one gendarme was killed in the Casamance causing some tension with The Gambia when the perpetrators, allegedly MFDC rebels and a Basque terrorist from Spain, fled across the border. Although briefly detained by Gambian authorities, they were ultimately released and remained in The Gambia at year's end.

Unlike in the previous year, there were no reports of mob killings, but there was an increase in injuries caused by mob violence (see section 1.c.).

b. Disappearance.—There were no reports of politically motivated disappearances during the year.

Although human rights groups noted the government took steps to prevent disappearances, they continued to criticize the government for its unwillingness to resolve older cases of disappearances linked to government security forces, particularly in Casamance.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were occasional reports that government officials employed them.

Although human rights groups noted fewer examples of physical abuse committed by security forces, they claimed poor training and supervision led to cruel and degrading treatment in prisons and detention facilities. In particular, they criticized strip search and interrogation methods. The police criminal investigation division (DIC) often required suspects to wait six hours or more before actually questioning them and may hold people up to 24 hours before releasing them. Police also reportedly forced detainees to sleep on the floor without any bedding, direct bright-lights at their pupils, and beat them with batons.

In November three volunteers at a military camp were seized by the security forces there, stripped naked in front of the hundreds of other volunteers, and had acid poured on their genitals. The forces responsible then shaved the initials, "GMI" (the title of the security forces) onto their heads. The affair was referred to the Police Commissariat in the city of Thiaroye where it occurred.

The case of the 2003 assault on Talla Sylla, leader of the opposition political party Jef-Jel, was closed, since it came under the Ezzan Amnesty Law (see section 1.d.).

Unlike in previous years, there were no reported human rights abuses committed by security forces deployed to Casamance.

Similarly, there were no reports that MFDC rebels sexually assaulted women in northern Casamance. There were no known government efforts to investigate claims of sexual abuse by rebels, since the amnesty law covered the alleged abuses.

There have been many reports of armed banditry in the Casamance. For example, on May 11 armed individuals opened fire on a motorcyclist and then held up all of the passengers in a vehicle, robbing them of all their possessions. One of the passengers was injured by gunfire. On December 1, there was an armed robbery on a car belonging to a micro-credit institution, leading to one death and one injury.

According to statistics from Handicap International (HI), landmine accidents in Casamance continued to decline. After recording 17 civilians injured by landmines in 2004, HI reported 10 injuries by year's end. It is unknown who left the mines responsible for these accidents.

There is a growing problem with the use of mob justice to address crimes. In September in the town of Guediawaye, a taxi driver was stopped and severely beaten by bystanders, after he demanded a young female passenger give him all her belong-

ings. He was brought to the police and charged with theft and aggression. In October a thief who was caught in the act of perpetrating his crime in Dakar was tied up, beaten, and severely burned. Those who had captured him took him to the police. The police arrested him, and let the vigilantes depart.

Prison and Detention Center Conditions.—Prison and detention center conditions were poor. The National Organization for Human Rights (ONDH), a local human rights NGO, identified overcrowding as the major problem facing the country's prisons. At Dakar's Central Prison, which has a maximum capacity of 500 persons, 1,500 were detained. At the penal camp in Dakar, 799 individuals were held in a facility with a 400-person capacity, and 32 guards. In Diourbel detainees were held outside in a former horse stable, sometimes up to 48 hours at a time.

According to media reports, the government has not constructed a new prison since 1960. Some facilities were buildings that were adapted and modified to be prisons. Due to old and overburdened infrastructure, prisons experienced drainage problems during the rainy season and stifling heat during the summer. Prisons lacked doctors and medicine to provide care for sick inmates, forcing them to be evacuated for treatment. One NGO reported a national ratio of one doctor per five thousand inmates and said the government spent only $.66 (350 CFA francs) daily per inmate to cover all costs. There was approximately one mattress for every five detainees.

Human rights groups and attorneys documented several irregularities concerning Idrissa Seck's detention at Rebeuss prison (see section 3). They noted that two guards were always present to monitor Seck's conversations with visitors despite guard shortages at other prisons, a metal detector was installed and used only for Seck's visitors, some individuals were prohibited from visiting Seck, and prison authorities opened Seck's private correspondence.

During the summer prisoner Abatalib "Ino" Samb died at a local hospital after his transfer from Dakar's central prison. He died from illness brought on by adverse conditions in the prison.

Although pretrial detainees were usually held separately from convicted prisoners, as required by law, they were occasionally kept with convicted prisoners and children due to limited space. Local NGOs reported that prisoner separation regulations were not enforced consistently.

The government permits certain prison visits by independent human rights monitors. During the year, ONDH continued its fact-finding review of prison conditions with the government's consent and assistance. The Senegalese Committee for Human Rights, the Parliamentarian Network for Human Rights, and a group of Catholic priests also visited prisons during the year.

Representatives of the Assembly for the Defense of Human Rights (RADDHO) were denied access to prisoners during the year. RADDHO reported that the lack of adequate health care facilities means that some people with mental disorders were being kept in prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, authorities at times arbitrarily arrested and detained persons. Human rights groups saw arbitrary detention as a growing problem.

Role of the Police and Security Apparatus.—Both police and gendarmes are responsible for maintaining law and order in the country. The army shares that responsibility in exceptional cases, such as when a state of emergency is announced. The police force contains 10 departments as part of the Directorate General of National Safety. In each of the country's 11 regions, police have at least one police station and at least one mobile safety brigade. Dakar has more than 15 police stations, which are spread throughout the city.

Impunity and corruption were problems. In Amnesty International's (AI) 2004 annual report, the security forces in the Casamance were cited for impunity. Specific examples included an amnesty law passed in 2004 that covered all actors except those who committed assassinations "in cold blood." There is also the example of the release without punishment of individuals caught in the act of committing a crime. However, police officer Abdoulaye Gaye and soldier Babacar Faye were convicted and sentenced to eight years in prison after committing an armed robbery of a gas station in Ziguinchor in 2002.

According to human rights groups, attorneys and alleged victims, security forces regularly and openly extorted money from detainees in exchange for release and from prostitutes to overlook noncompliance with the legalized prostitution regime and other laws (see section 5).

The government used security forces, especially the DIC, to harass political opponents and journalists. For example, two dozen persons close to ex-prime minister Seck were interrogated as part of his case as well as several journalists.

In February the military tribunal in Dakar delivered a verdict in the trial of two gendarmes accused of torturing a suspected criminal in 1993. Atoumane Sylla was released for lack of proof, and Medoune Diouf was sentenced to two years in prison without parole and ordered to pay compensation of $15,100 (8 million CFA francs) to the victim. Despite this prosecution, many felt suits against security officials were often blocked, allowing violators to go unpunished. No other security personnel accused of past human rights violations, including disappearances and brutality, were charged or prosecuted during the year.

There were no known developments in the 2004 arrest of Port of Dakar customs officers for committing fraudulent and corrupt practices in clearing incoming goods, or the 2003 case of a police chief charged with corruption. The customs officers were granted release pending trial and without being required to pay bail. Their cases were pending at year's end.

According to human rights groups, new members of the police force received training in human rights protection. In July a local human rights group conducted a seminar with security forces on respect for human rights. A foreign government has also helped facilitate training of the police force in a number of areas, such as crisis response, airport security, hostage negotiation, and trafficking in persons; however, it appeared that most training was limited to Dakar.

Arrest and Detention.—Although the law specifies that warrants issued by judges are required for arrests, police often lacked warrants when detaining individuals in practice. The law grants police broad powers to detain prisoners for lengthy periods of time before filing formal charges. Many detainees were not promptly informed of the charges against them. Under the law, police officers may hold suspects as part of an investigation without filing formal charges for up to 48 hours. Investigators can request that a prosecutor double this to 96 hours. For cases involving threats to state security, both detention periods are doubled, meaning that someone accused of threatening public order could be held up to 192 hours. The clock on investigative detention does not begin until authorities formally declare that an individual is being detained, a practice human rights groups criticized for creating unreasonably long detention periods. Bail is possible but was rarely used. During the first 48 hours of detention, the accused has no access to an attorney but has the right to a medical exam and possible access to family. Family access was not generally allowed as police tended to isolate detainees during investigation phase. If necessary, a prosecutor can also demand a medical examination of the accused. The accused has the right to an attorney after this initial period of detention at the accused's own expense. Attorneys are provided at public expense to all criminal defendants when they cannot afford one. A number of NGOs also provide legal assistance and/or counseling to those charged with crimes.

Human rights groups claimed that opposition leader Abdourahim Agne, arrested and detained for 15 days in June, was a political detainee. After Agne gave a public speech calling on citizens to take to the streets to demonstrate dissatisfaction with the government, he was arrested for threatening national security and later granted conditional release. His case was still pending at year's end. In almost every case involving security forces, the case is permitted to languish indefinitely as a political tool. In some cases, they are left pending to quiet the defendants. In others, the goal appears to be to wait so long that the public will forget or lose interest.

On November 24, police arrested Yankhoba Diattara, ex-prime minister Seck's political assistant and leader of the political party, Forces Integrees Pour la Democratie et la Liberte (FIDEL). He was arrested for compromising public security, following his public announcement on Sud FM, a popular radio station, that he wished his comrades to "welcome" President Wade to Thies. Wade's visit to Thies was marked by violent protests. On December 2, Diattara was sentenced to six months in prison.

According to the law, the accused may not be held in pretrial detention for more than six months for minor crimes; however, prisoners were routinely held in custody unless and until a court demanded their release. Despite the six-month limit on detention for most crimes, the average time between charging and trial was two years. ONDH claimed many detainees were held for years awaiting trial. In September the Court of Assises of Dakar acquitted Abdou Diakhate after seven years of pretrial detention. Judicial backlogs of up to 400 cases contributed to long pretrial detention periods. In cases involving murder, threats to state security and embezzlement of public funds, there are no limits on the length of pretrial detention. Judges are allowed the time necessary to investigate these more serious cases, but may order release pending trial with the prosecutor's consent. If a prosecutor disagrees with a judge's decision to order release, the order is frozen until the appeals court decides to grant or deny the release. Under the law, the prosecutor has total discretion to deny provisional release pending trial for cases involving threats to state security.

However, since judges lacked sufficient time to review all cases, orders to extend detention were often signed without individual consideration of the facts to avoid releasing potentially guilty detainees. Unlike in the previous year, there were no reports that authorities at Dakar's Central Prison held foreign nationals in inhumane conditions while they awaited repatriation.

Amnesty.—In February President Wade promulgated the Ezzan Amnesty Law, named after the PDS deputy who sponsored it. The law pardons all politically motivated crimes committed between January 1, 1983 and December 31, 2004. Opposition parties argued that the law was unconstitutional, but the court validated the most significant portions in February, letting the law stand. Local human rights groups unanimously denounced the law and asked the African Human Rights Commission to intervene. The commission had not acted on the request by year's end.

The International Human Rights Federation and AI criticized the law for encouraging impunity. In July Cheikh Oumar Sy became the first person to benefit from the law. Sy had been in pretrial detention for five years, for arson, death, and inciting rebellion, all of which were allegedly committed just prior to 2000 presidential elections.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judiciary was subject to government influence and pressure.

Magistrates began to publicly criticize terrible working conditions, including overwhelming caseloads; low pay; lack of paper, computers, and telephones; and inadequate transportation. In response to pay raises for deputies of the National Assembly, in October 2004 magistrates openly questioned the government's commitment to protecting judicial independence, despite promises of a pay raise in 2006. While the Superior Council for the Magistrature had responsibility over judicial assignments and promotions, several attorneys said it did not meet regularly to take action on appointments, leaving the decisions to the executive branch. Even when it did meet, magistrates said the president could veto council decisions. The president also had the power to raise judicial salaries.

Some argued that because of these presidential prerogatives, judges were subject to executive influence. A human rights organization claimed one of the most clear-cut examples of this were public comments about the extradition case of former Chadian leader Hissene Habre made while the legal proceedings were still underway. Other cases cited include the several times during the year when political leaders made public statements, which were followed the next day by related arrests.

Justice ministry officials have substantial authority to influence judicial procedures by keeping suspects in pretrial detention (see section 1.d.).

Based on French civil law, the judiciary is composed of ordinary courts and several higher and special courts, including the Council of State, the Constitutional Council, the Court of Final Appeal, and the Accounting Court. These courts remained understaffed. The High Court of Justice, which presides over cases against officials for acts committed in an official capacity, is composed of eight national assembly deputies and one professional judge. Three-fifths of all deputies must vote to pass a resolution to permit prosecution of a head of state or minister. If a resolution is so passed, the high court can convene.

The National Assembly elects the eight deputy members of the high court plus eight substitutes at the beginning of each session. The court then has the authority to convict and sentence or acquit. Many of the special courts, such as the Special Unlawful Enrichment Court that was established to try corruption cases against public officials, were dormant during the year.

In August for only the second time since independence, the high court was convened in the Thies Public Works corruption case against ex-prime minister Idrissa Seck. Seck was arrested in early July, along with several other persons. He was charged with embezzlement of public funds from public works projects in the city of Thies, being a threat to national security, and illegal correspondence. With the exception of police inspector Coumba Ngouye Thiam, most of his co-defendants have been granted conditional release. Seck has been kept in Dakar's Reubeuss prison. In December one of his attorneys, Djibril Diallo, was arrested and charged as an accomplice in the "illegal correspondence" charge. Approximately 200 lawyers agreed to defend him. The head of Seck's defense team, Boukounta Diallo, reported being harassed and threatened with prosecution. The case against Seck was ongoing at year's end.

While civil court judges are empowered to preside over civil and customary law cases, one option available is to turn disputes involving family matters over to religious judges, who act as advisors in such issues. Religious law has been incorporated into the country's laws (see section 2.c.).

Trial Procedures.—Defendants have the right to a public trial, to be present in court, confront witnesses, present evidence, and have an attorney. Only defendants charged with serious crimes, such as murder, have the right to a jury trial. They are tried in the Cour d'Assises, a special court meeting just once or twice a year. Attorneys are provided at public expense to all criminal defendants when they cannot afford one. Evidentiary hearings may be closed to the public and the press, but defendant and counsel have access to all evidence presented and may introduce their own evidence before the investigating judge decides to refer a case for trial. A panel of judges presides over ordinary courts in civil and criminal cases. Jurors also sit on the panels during special sessions of the criminal court. Defendants are presumed innocent. The right of appeal exists in all courts, except for the unlawful enrichment court, the Cour d'Assises, and the High Court of Justice.

There is a separate system of military courts for the armed forces and gendarmerie. Military courts may try civilians only if they were involved with military personnel who violate military law.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however the government limited these rights in practice. Journalists continue to practice self-censorship.

Individuals could generally criticize the government publicly or privately without reprisal, and the government generally did not attempt to suppress criticism.

The public had four sources for news: print, radio, television, and, increasingly, the Internet. There were at least 15 independent and 3 government-affiliated dailies and several weekly newspapers and magazines. Publishers were not required to register with the government prior to starting a publication.

Due in part to high adult illiteracy rates, radio was the most important medium of mass information and the main source of news. At year's end more than 73 radio frequencies have been assigned to 3 different types of stations: community radio stations, public stations, and private commercial stations. All community and private commercial stations can broadcast national news and political commentary; community radio stations tend to focus on local and "grassroots" issues.

Community radio operators criticized what they saw as a lack of transparency in radio frequency assignments. After the Ministry of Information receives a frequency request, officials decide whether to approve the request based on financial viability, station ownership information, and program content. If the ministry approves the request, the Agency for Regulation and Communication (ART) renders a technical judgment on the request based upon frequency strength and location. Once ART gives technical approval, the ministry grants the frequency.

Although an administrative law is in place to regulate frequency assignments, government officials and community radio operators disagree on its usefulness. There has been an increase in the number of people starting their own radio stations, often controlled by single religious, political, or ethnic groups. Although they obtain their frequencies legally, they often fail to follow labor and other business regulations, such as the payment of taxes.

The government maintained a monopoly on national television coverage through Radio Television Senegal (RTS), a parastatal corporation. In July 2004 privately financed RTS/2S television began broadcasting; however, it broadcast only cultural and entertainment programming and no news. French- and South African-owned satellite television services offered international programming and international news. Neither of these services provided domestic news coverage.

Under national media laws, the government must hold a majority interest in RTS at all times, and the president directly or indirectly controls selection of all members of the 12-person RTS executive staff. RTS's broadcasting fee structure left RTS officials with significant discretion when demanding fees for programs not financed through government funds (the government paid for some broadcasts). Several human rights and journalist groups criticized the fact that some religious leaders were able to broadcast for free while other groups paid.

Some encroachments on press freedom were linked to the ongoing public corruption case against Idrissa Seck (see section 3). In July the information and justice ministers threatened to charge any media institution broadcasting or printing extracts from compact discs (CDs) released by Seck with divulging state secrets and threatening national defense. In August police questioned two journalists, Latif

Coulibaly and Birima Fall, for their possible involvement in the public release of two CDs from Seck.

On October 17, police halted broadcast operations of the national radio station Sud FM after it aired an interview with Salif Sadio, a military leader of the MDFC. More than 24 Sud FM staff members were detained for police questioning but all were released by the end of the day. Sud FM returned to the airwaves that same evening. Key managers of the Sud Communications Group, including President Babacar Toure, were ordered to appear before a Dakar Regional Court on January 6, 2006 to face charges of being a threat to national security. They were charged as accomplices of Sadio. However, on January 6, 2006, the government announced they were dropping all charges against Sud Commuications. Sadio, who refused to appear in court, was sentenced in absentia to five years in prison, and a warrant was issued for his arrest.

On November 12, in response to the Sud FM affair and other encroachments on freedom of the press, members of a broad spectrum of the media organized a march in support of freedom of the press and ending the harassment of journalists. The march was joined by politicians, union members, and members of civil society.

Several groups believe failure to enforce regulations on establishing media outlets and distributing government-provided media assistance has led to a proliferation of media outlets, both print and audiovisual, which are unprofessional and politicized. Journalists and human rights groups maintained that some media outlets were created solely to refute antigovernment criticisms and defend the government. After the Madiambal Diagne case, journalists were increasingly concerned about what they believe are government efforts to control media content by giving or withholding money. The government frequently uses subsidies or more direct means to put pressure on the media not to publicize certain issues.

In December the National Council for the Regulation of Audiovisual Media (CNRA) was created to replace the High Audiovisual Council (HCA). Its mission is to respect pluralism and ethics. However, with its members chosen directly by President Wade, it gives his administration more control over the media.

In May filmmaker Joe Gai Ramaka was interrogated by the DIC regarding a film he was preparing about President Wade's regime.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of assembly, the government interfered with this right in practice. During the year the government repeatedly denied public permits for civil society and opposition demonstrations.

According to human rights groups, the government refused to authorize planned demonstrations for war veterans, Idrissa Seck's and Abdourahim Agne's release, and against the Ezzan Amnesty Law. These groups complained of undue delays when waiting for a government response to authorization requests and majority-organized "counter demonstrations" to show popular support for the government.

In a new form of protest, citizens began wearing red armbands during demonstrations to express displeasure with government policy, particularly during visits by high-level officials. Even members of the governing party wore red armbands to show their lack of support for various initiatives. In November persons protesting the visit of President Wade to Thies wore red armbands to express their support for ex-Prime Minister Seck. Violent protests occurred in a few cities. In the city of Mbacke, three high school students were wounded, one of whom lost part of his arm from the explosion of a tear-gas grenade.

Unlike previous years, there were no reported killings of demonstrators. However, many demonstrations were banned this year. Although guaranteed by the constitution, the government issued administrative orders on several occasions to prohibit demonstrations, especially those initiated by political opponents. At times, the ruling party staged counter-demonstrations, such as on April 12, when it sought to prevent a Coalition of Opposition Parties (CPC) protest demanding more action by security forces during counter-demonstrations. In August a group of civil society and political leaders attempted to stage a demonstration to demand Seck's release, despite a ban on such protests. The police detained some of the protestors for 24 hours.

In November six young men were arrested for staging an unauthorized demonstration in Kolda. They went to trial, won their case, and were released on November 30 after nine days of detention.

There was no reported progress in the investigation into the September 2004 death of a demonstrator in Mampatim.

On May 23, a party rival stabbed and injured Madiop Biteye, leader of MEEL (the youth movement of the ruling PDS). This was one of several cases of political violence that have characterized internal competition within PDS. The perpetrator of

the attack, Bacary Traore, a law student at Cheikh Anta Diop University in Dakar, was sentenced to six months' imprisonment.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Any religious group that wants to form an association with legal status must register with the Ministry of Interior in accordance with the civil and commercial code. Registration was generally granted.

Unlike other religious groups, Muslims have the right to choose Muslim-based laws contained in the family code for marriage and succession cases. Civil court judges can preside over civil and customary law cases, but many disputes were turned over to religious judges for adjudication, particularly in rural areas (see section 1.e.).

Societal Abuses and Discrimination.—There was no reported progress in the investigation into January 2004 death threats made against the country's Catholic clergy.

There were no reports of anti-Semitic acts. There is no significant Jewish community in the country. Most resident Jews are Israeli, American, or French citizens and number less than one hundred.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. However, there were three notable exceptions during the year. Mamadou Alassane "Bro" Mbaye was arrested on March 23 at Dakar-Yoff Airport when he was about to leave for Italy. Mbaye was detained for several hours in connection with a statement he made the day before, alleging that the accidental death of his brother, Ismaila Mbaye, was suspicious. Ismaila was one of President Wade's bodyguards and was under investigation for the attack against political opponent Talla Sylla.

In November journalist Madiambal Diagne, who was detained in inhumane prison conditions in 2004 then later released, had his passport seized when attempting to board a flight to France for a media seminar. He was asked to report to the DIC the following day where his passport was returned to him after several hours of questioning.

In December Oumar Sarr, a Deputy in the National Assembly and defector from the PDS, was prevented from flying to Morocco, where he was to attend a conference of local governing bodies. He was given no explanation as to why he was not permitted to board his plane. The day before, he had introduced an amendment in the National Assembly to extend the mandate of the president of the assembly, angering the PDS. By the time he was permitted to fly, the conference had almost ended.

Some public employees, including teachers, are required by law to obtain government approval before departing the country; however, human rights groups noted that this law was only enforced against teachers and not other public servants.

The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons (IDPs).—During the more than two-decade-old Casamance conflict, tens of thousands of Casamancais fled villages due to fighting, forced removal, and landmines. Because of improved security conditions after the December 2004 ceasefire, IDPs and refugees continued to return during the year. The number of IDPs during the year was estimated to be 20 thousand. The government continued to provide returning IDPs and refugees with roofing materials for home construction and sacks of rice.

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum.

Since 1989 the country has offered temporary protection for Mauritanian refugees, who generally lived in dispersed locations in the river valley along the Mauritanian border and enjoyed free movement within the country. However, most refugees could not obtain current refugee documents from the authorities and sometimes encountered administrative difficulties when using their expired refugee application receipts. While no formal repatriation agreement existed, both governments continued to permit generally unsupervised and largely informal repatriation. Due to the

mobile nature of this population, the absence of identification documents, and cases of fraud, the exact number of remaining Mauritanian refugees was unknown. Anecdotal evidence from the UN High Commissioner for Refugees (UNHCR) and NGOs working with Mauritanian refugees estimated the number of refugees to be as much as 20 thousand.

In February several Mauritanian refugee groups staged a hunger strike during the visits of President Chirac from France and President Taya from Mauritania. First Lady Viviane Wade and High Commissioner for Human Rights Mame Bassine Niang intervened to stop the strike. Subsequently, Niang met with leaders in the Mauritanian refugee community and requested a memorandum detailing their situation since deportation. No further progress was reported at year's end. Mauritanian refugees seek an UNHCR-organized return to Mauritania, receipt of UNHCR-provided refugee identification documents, or, what one leader called, a durable solution. Representatives of the UNHCR office in Dakar claimed to be searching for a solution agreeable to all parties, and some exiles and refugees have reportedly returned to Mauritania since the August coup.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The National Eligibility Commission at the interior ministry is responsible for hearing requests to grant refugee status. If the commission issues a documented approval, the case is referred to the presidency for a presidential decree. Once an individual receives a printed approval from the commission, this document can be used to look for employment in the formal sector. Lengthy delays of one to two years before the granting of refugee status was still a concern

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Citizens exercised their right to vote during the 2000 presidential election in which Abdoulaye Wade, backed by a coalition of opposition parties, defeated the incumbent president in what was considered to be a generally free and fair election. There were reports of several incidents of pre-election violence and minor procedural irregularities; however, the majority of political parties and civil society accepted the result. In the 2001 legislative elections, characterized as generally free and transparent by international and national observers, President Wade's coalition won 49.6 percent of the vote and 89 of 120 seats in the National Assembly.

In previous years, the interior ministry was responsible for the organization and implementation of elections, an arrangement that opposition political parties criticized because of the interior minister's partisan affiliation with the president and the PDS. During 2004 the National Electoral Observatory (ONEL) oversaw and supervised elections and had the power to order bureaucrats to obey electoral laws as well as initiate legal action against individuals and parties who violated these laws. Under pressure from opposition political parties, the government created a committee tasked with establishing an autonomous electoral committee to replace ONEL.

Since August 2004, the government has adopted three electoral reform measures: creation of a new voter list, a new national identity card for registration, and a new Autonomous National Electoral Committee (CENA). In August 2004 the National Assembly adopted a proposal to redo the national voter rolls, requiring all eligible voters for upcoming national elections to re-register, or register for the first time. Under the same law, in an attempt to reduce the potential for voter fraud, a new national identity card was made the sole form of identification accepted for voter registration. Voters will also receive new voter registration cards to present at the polls.

As part of the national voter registration campaign, the government is expected to set up 500 fixed and 200 mobile voter registration offices throughout the country and provide electrical generators in areas with power-supply problems. In August the interior ministry conducted a successful test of the new registration system. The government had set a deadline of early 2006 to finish voter registration, but, in late August, Wade announced his intent to change the election calendar and hold joint legislative and presidential elections, which could affect the timetable for implementing electoral reforms. In May the National Assembly unanimously adopted the bill creating the CENA, which is tasked with monitoring all aspects of election management, is financially autonomous, and has independent authority to sanction electoral law violations. In August the CENA's 12 members were sworn in and began

training courses despite opposition criticism that the government did not follow proper consultation procedures before naming the 12 members.

In addition President Wade introduced and the National Assembly passed a law temporarily amending the constitution in order to "couple" the legislative and presidential elections. This effectively set the stage for both elections in 2007. The law was hotly debated, and a broad set of opposition groups held a rally to protest it, claiming this single act had broken whatever political consensus was in place. The opposition asked the constitutional council to rule on the constitutionality of the amendment.

There are 91 registered political parties according to official government sources.

There were 25 women in the 120-seat National Assembly and 7 women in the 40-member cabinet. A study conducted by the Union of Locally Elected Representatives Associations indicated that only 11 percent of locally elected leaders were women. Even in areas where women won local leadership positions, they often remained a minority in the local bureaucracy. For example, Rufisque-East has a female mayor, but only 8 of 58 municipal counselors were women.

There were approximately 39 members of minorities in the 120-seat National Assembly and approximately 15 members of minorities in the 40-member cabinet.

Government Corruption and Transparency.—Government corruption was a problem, and there was a widespread public perception of government corruption.

In 2003 the government created a 10-member national anticorruption commission. On November 29, the National Commission to Fight Non-Transparency, Corruption, and Government Fraud officially began its activities with an initial operating budget of approximately $28 thousand (15 million CFA francs).

During the year several corruption cases gained media attention, including widespread corruption in the health sector, as reported by Transparency International's local branch; the Seck case; and cases brought against Socialist-era director generals of parastatals.

At an April press conference, the prosecutor general at the Dakar appeals court claimed that since 2000, when President Wade took office, government authorities have initiated investigations into 24 cases of possible government corruption; some of the cases have been resolved but most were still under investigation at year's end. For example, in May authorities reopened the investigation into possible corrupt practices committed by Pathe Ndiaye, director general at the Port of Dakar from 1995 to 2000, and former Socialist leader in Rufisque. The criminal investigation department questioned Ndiaye several times between 2000 and 2002 for misuse of public funds; however, the investigation was not officially opened until May and was ongoing at year's end.

In December three Treasury inspectors at the Ministry of Economy and Finance were prosecuted for embezzlement and sentenced to six years' imprisonment and to pay to the government $3.6 million (2 billion CFA francs).

Salary increases over the last two years for deputies at the National Assembly and civil servants at all levels, which also included all-terrain vehicles and land provided to deputies, only fostered the public belief that government officials were corrupt and only interested in self-enrichment.

The law provides citizens the right to access government information freely; however, the government rarely provided access in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

The government's National Committee on Human Rights had a broad membership, including government representatives, civil society groups, and independent human rights organizations. The committee, which received its budget from the government, had the authority to investigate abuses on its own initiative. The committee was poorly funded and was not effective in promoting human rights. It has not released an annual report during the past two years.

National assembly deputies participated in a Parliamentary Network on Human Rights and the Rule of Law. Members visited prisons, hospitals, and courts to observe conditions and report back to the National Assembly. The network made reports to the Minister of Justice and the president of the National Assembly, with recommendations to improve prison conditions for inmates and career prospects for prison guards.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides that men and women are equal under the law and prohibits discrimination based on gender, race, class, or language; however, gender discrimination was widespread in practice, and antidiscrimination laws often were not enforced. Domestic violence, rape, sexual harassment, discrimination against women, female genital mutilation (FGM), abuse of children, child marriage, and trafficking in persons were problems.

Women.—Domestic violence, including spousal abuse, was a widespread problem. Violence against women is against the law, although, the government did not enforce the law in practice. The law criminalizes assaults and provides for a punishment of one to five years in prison and a fine. If the victim is a woman, the prison term and fine are both increased. Domestic violence that causes lasting injuries is punishable with a prison sentence of 10 to 20 years, and if an act of domestic violence causes death, the law prescribes life imprisonment. Several women's groups asserted that during the year there was a worsening trend in domestic violence. During the year there were growing reports of violence between co-wives in polygynous marriages.

Police usually did not intervene in domestic disputes, and most persons were reluctant to go outside the family for redress. Some groups felt that the harsh sentences under the law caused judges to require higher burdens of proof before finding potential offenders guilty, resulting in fewer total convictions for domestic violence. The Committee to Combat Violence Against Women (CLVF), a local NGO, criticized the failure of some judges to apply the law. There are no statistics available on the number of abusers prosecuted under the law during the year.

While local NGOs that assisted domestic violence victims and other women's rights groups viewed the antiviolence laws as important, they criticized the government's failure to permit associations to bring suit on behalf of victims.

Rape, including spousal rape, was a problem. The law prohibited rape, but not spousal rape. However, the government rarely enforced the law prohibiting rape. The law provides for 5 to 10 years' imprisonment for rape, and rapes resulting in death qualify for life imprisonment. One young man was arrested in October for attempted rape of a married woman. His case is ongoing at year's end. It was nearly impossible for victims to provide judges with sufficient proof to merit convictions. There was no government system to collect statistics on the extent of rape or convictions. A women's rights NGO criticized the country's lack of rape shield laws and the common practice of using a woman's sexual history to defend men accused of rape.

The NGO Tostan estimated FGM was practiced in thousands of villages throughout the country, particularly in the north, northeast, and southeast. In June 2004 the minister of family claimed that almost 100 percent of the women in the country's northern Fouta region were FGM victims, as were 60 to 70 percent of women in the south and southeast. Sealing, one of the most extreme and dangerous forms of FGM, was sometimes practiced by the Toucouleur, Mandinka, Soninke, and Bambara ethnicities, particularly in rural areas. Some girls were as young as one-year-old when FGM was performed on them.

FGM is a criminal offense under the law, carrying a sentence of six months' to five years' imprisonment for those directly practicing FGM or ordering it to be carried out on a third person. The government has prosecuted those caught engaging in the practice and fought to end it by collaborating with Tostan and other groups to educate people about the inherent dangers. During the year 140 villages renounced the use of FGM. Nevertheless, many people still practice FGM openly and with impunity.

Prostitution is legal if individuals meet certain criteria: they must be at least 21 years of age, register with the police, carry a valid sanitary card, and test negative for sexually transmitted infections (STIs). Pimping and soliciting customers are illegal. There were arrests of foreign illegal prostitutes, underage prostitutes, and pimps during the year. NGOs working with prostitutes claimed the problem was worse than official statistics on prostitution suggested, and that police targeted prostitutes for abuse and extortion.

Trafficking of adult women for sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment was common, but there have been only two sexual harassment cases since the law was passed in 1995. The law prohibits sexual harassment, which is punishable by a prison term of five months' to three years' imprisonment and a fine of $100 to $1 thousand (50 thousand to 500 thousand CFA francs); however, the government did not effectively enforce the law. Women's rights groups claimed

sexual harassment victims found it difficult, if not impossible, to present sufficient proof to justify prosecutions.

Women faced pervasive discrimination, especially in rural areas where traditional customs—including polygyny—and rules of inheritance were strongest. Under national law, women have the right to choose when and whom they marry, but traditional practices restricted a woman's choice. The Family Code prohibits marriage for girls younger than 17 years and men younger than 21 years. Under certain conditions, a judge may grant a special dispensation for marriage to a person below the age requirement. This law was not enforced in some communities where marriages were arranged. Women typically married young, usually by the age of 16 in rural areas (see section 5, Children).

According to the law, a woman's consent is required for a polygynous union, but once in a polygynous union, a woman need not be notified or given prior approval to the man's subsequent marriage. A 2004 study of marriage practices indicated that slightly less than 50 percent of the country's marriages were polygynous. Although protected under the law, marriage rights were not enforced because of sociocultural pressures, judicial reluctance to enforce the law, and a lack of information on marriage laws.

Traditional practices made it difficult for women to purchase property. Due to the fact that men are legally considered the head of household, until the end of the year women paid higher taxes than men for the same salary (they were taxed as single individuals without children), and employers paid child allowances to men but not to women.

Only an estimated 20 percent of women have paid employment. In March at the fifth conference of African Women's Jurists, women criticized weak participation in productive and industrial activities, including modern economic sectors such as information technologies, energy, and natural resource management. Low education levels, lack of information, domestic responsibilities, lack of access to factors and means of production, and multiple pregnancies were cited as barriers to economic advancement for women. According to statistics from the National Center to Assist and Train Women, women represented 52 percent of the population but were held liable for 90 percent of domestic responsibilities and 85 percent of agricultural work. Approximately 22 percent of teachers and 14 percent of lawyers are women.

Women's groups criticized discriminatory provisions in the law, a problem the government has admitted. However, in September the president appointed the first woman to be police chief for the police department of Dakar.

Children.—The government was committed to children's rights and welfare. The Ministry of Women's Affairs, Family and Social Development was responsible for promoting children's welfare and is was assisted by the health, education, and labor ministries

The law provides for free education, and education policy declares education to be compulsory for children ages 6 to 16; however, many children did not attend school for lack of resources or available facilities. Students must pay for their own books, uniforms, and other school supplies. Due to government, NGO and international donor efforts, school enrollment reached 82.5 percent during the year. In fact, President Wade established "Places for the Little Ones" throughout the country to serve as pre-kindergartens for children. He also encouraged increased school enrollment. However, the highest level of education attained by most children is elementary school. In the 2005–2006 academic year, more girls than boys were enrolled in elementary school for the first time ever.

Although girls' attendance rates continued to climb, young girls still encountered greater difficulties in receiving an education. For example, when families could not afford for all of their children to attend school, parents tended to remove their daughters from school, rather than their sons. Only 23 percent of women over 15 years of age were literate, compared with 43 percent of men.

Boys and girls generally have equal access to medical care. Medical care is more readily available to children in urban areas than to those in rural parts of the country. Many villages completely lacked health care facilities.

Child abuse was common. Easily observable are the many poorly dressed, barefoot young boys (known as "talibés") begging on street corners for food or money for their Koranic teachers ("marabouts"). In the past year, two marabouts were arrested for chaining up and beating their talibés. There were periodic reports of child rape (in one case, three minor sisters were raped by a man), children exploited for sexual tourism, infanticide, and children physically abused by their parents.

Cases of pedophilia were often reported in the press. For example, in September a man was discovered by police to be in the act of molesting a 13-year-old girl. He was being prosecuted for the crime at year's end. One foreign national was arrested March 23 after being caught in the act of molesting a 15-year-old boy he had picked

up from a school for children in difficult living situations. At his initial trial, he was convicted of a "flagrant delit" (as he was apprehended in the act) and sentenced to five years in prison. He was also ordered to pay approximately $1,900 (1 million CFA) to the victim. Upon appeal, his conviction was upheld, but his sentence was reduced to three months in prison. At that point, he was released with time served. One of the country's leading prosecutors indicated that his sentence was reduced for "insufficient evidence."

The law punishes sexual abuse of children with 5 to 10 years' imprisonment. If the offender is a family member, the punishment is 10 years' imprisonment. Any offense against the decency of a child is punishable by imprisonment for 2 to 5 years' and in some aggravated cases up to 10 years' imprisonment. Procuring a minor for prostitution is punishable by imprisonment for two to five years' imprisonment and a fine between $575 (300 thousand CFA francs) and $7,600 (4 million CFA francs).

Because of social pressures and fear of embarrassment, incest remained taboo and often went unreported and unpunished. A women's rights NGO said that of all cases of violence committed against girls, paternal incest cases were the fastest growing type of violence.

FGM was performed primarily on girls (see section 5, Women).

The law prohibits marriage for girls younger than 17 years and men younger than 21 years; however, family ministry officials and women's rights groups considered child marriage a significant problem in parts of the country, particularly in rural areas. Girls, sometimes as young as nine-years-old, were married to older men because of religious, economic, and cultural reasons.

Trafficking and commercial exploitation of children were problems (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

Many children have been displaced due to the Casamance conflict and often lived with extended family members, neighbors, or in children's homes. The government lacked adequate resources to effectively support these children. According to NGOs in Casamance, displaced children suffered from psychological effects of conflict, malnutrition, and poor health.

Infanticide is a problem. It is usually due to poverty or embarrassment. Many domestic workers or women from villages who go to cities for work and find themselves pregnant but without family ties and kill their babies because they cannot care for them. Others who may be married to men working outside the country that give birth to an illegitimate child will often dispose of their infants out of shame or to hide the truth. In some cases, the families of the women shame them into killing their own babies. Methods range from burying them alive, putting them in septic tanks, or, in the "best case" scenario, simply abandoning them along the road. The press has reported a rise in infanticide in the holy city of Touba. When the identity of the mother is discovered, the police arrest and prosecute her. For example, in December Dieynaba Laye was convicted and sentenced to 5 years' forced labor for strangling her newborn with its own umbilical cord.

Trafficking in Persons.—The law prohibited trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. In April the National Assembly unanimously adopted a law prohibiting human trafficking. Older laws prohibit pimping and kidnapping, which could be used in some trafficking cases. Under the new law, those who recruit, transport, transfer, or harbor persons, whether by means of violence, fraud, abuse of authority, or otherwise for the purposes of sexual exploitation, labor, forced servitude, or slavery are subject to punishment of 5 to 10 years' imprisonment and a fine of between $10 thousand and $40 thousand (5 to 20 million CFA francs). When the infraction involves torture, barbarism, the removal of human organs, or exposing the victim to a risk of death or injury, jail time could range from 10 to 30 years' imprisonment.

During the year the government arrested, prosecuted, and convicted traffickers. During the year there were prosecutions for rape, pedophilia, prostitution, and abuse of talibé children; however, there was no system to regularly collect statistics on cases. The human rights commissioner and the family ministry were the government's coordinators on human trafficking issues.

Reliable statistics on the extent of the trafficking problem were unavailable. However, studies have shown the extent of trafficking in and through the country to be significant, particularly with regards to child begging. Talibés were trafficked from surrounding nations, such as The Gambia, Mali, Guinea, and Guinea-Bissau, and internally to participate in exploitive begging by some Koranic schools. According to the UN International Children's Emergency Fund (UNICEF), the country had 100 thousand talibe boys and 10 thousand street children. "Marabouts," the Koranic teachers who take charge of these boys, were the principal traffickers in the coun-

try. Young girls were trafficked from villages in the Diourbel, Fatick, Kaolack, Thies, and Ziguinchor regions to urban centers for work as underage domestics. Young girls from both urban and rural areas were involved in prostitution, which NGOs claimed involved an adult pimp to facilitate commercial sex transactions or provide shelter. In one case, a Guinean citizen was arrested by gendarmes for allegedly recruiting women in Dakar to produce pornography and for engaging in cybercrime.

The country is believed to be a transit point for women en route to Europe for sexual purposes. ENDA Sante, a local NGO, treated illegal prostitutes for STIs through a mobile clinic program. According to ENDA Sante's staff, they saw many women from surrounding African countries—Nigeria, Ghana, Sierra Leone, Liberia, Guinea-Bissau, and Guinea—practicing prostitution. Evidence suggested foreign prostitutes' entry to the country was organized: groups of women often crossed the border together; foreign prostitutes usually lived together in identifiable dwellings; foreign prostitutes were never found sleeping on the street but had a predetermined destination upon arrival; women from Anglophone countries knew the French and Wolof phrases to solicit sex, making it appear as if they were trained; despite the fact many come from conflict zones, foreign prostitutes were well-dressed upon arrival; and many foreign women came to the country but did not stay indefinitely, suggesting their departures were better organized and professional. Nevertheless, there was no definitive proof these women were trafficking victims.

The government prosecuted victims for violating prostitution laws, such as not having the proper documentation (registration/medical information), or what is referred to as "escroqueries" (swindling), when people lure others into immigration scams. Authorities have not discouraged victims from filing complaints against traffickers. However, to date, trafficking victims have filed few complaints.

Most government efforts to combat trafficking, particularly trafficking in persons, are centered in the Ministry of Women, Family and Social Development, which operated the Ginddi Center, a children's center where over 4 thousand child trafficking victims received nutritional, medical, and other assistance over a two and one-half-year period. The center accommodated children from The Gambia, Mali, Guinea-Bissau, and Guinea. The center was also home to a toll-free child protection hot line that has fielded over 150 thousand calls since May 2003. The ministry also worked with other ministries to combat the worst forms of child labor. With assistance from a foreign government, the police have established a trafficking in persons database. There were no government programs to protect or assist trafficked women.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services, and the government effectively enforced it. No laws mandate accessibility for persons with disabilities, and there was a lack of infrastructure to assist them.

During the year, President Wade passed a decree requiring that 15 percent of new civil service positions would be reserved for persons with disabilities. The government operated schools for children with disabilities, provided grants for persons with disabilities to receive vocational training, and managed regional centers for persons with disabilities where they could receive training and funding for establishing businesses.

Despite these efforts, the leader of a women's handicapped association criticized the government's failure to designate a ministry responsible for persons with disabilities. She also questioned the lack of attention paid to persons with disabilities in national poverty reduction strategies. Several programs, which appeared to be earmarked for the persons with disabilities, offered services to other vulnerable populations and subsequently persons with disabilities received fewer resources. Lack of special education training for teachers and facilities accessible to children with disabilities meant that only 30 percent of them were enrolled in school.

National/Racial/Ethnic Minorities.—While the country's many ethnic groups have coexisted relatively peacefully, some observers have cited inter-ethnic tensions between Wolofs and southern ethnic groups as playing a significant role in the long-running Casamance rebellion that was characterized by grievous human rights abuses.

Other Societal Abuses and Discrimination.—Homosexuals face widespread discrimination and social intolerance, but they are not targeted for violence and harassment. Because homosexuality is not tolerated by society, homosexuals make no attempt to assert their individual rights.

As a result of awareness campaigns to combat this disease, persons with HIV or AIDS were not discriminated against. In fact, the government has implemented a free anti-retroviral program to treat HIV/AIDS patients. However, they often feel

stigmatized. One local doctor estimated that approximately four thousand people with HIV or AIDS have refused to identify themselves and benefit from the government program for fear of being rejected by others.

Section 6. Worker Rights

a. The Right of Association.—By law, all workers, except security forces, such as the police and gendarmes, customs officers and judges, are free to form and join unions, and workers exercised this right in practice. The Labor Code requires the interior minister to give prior authorization before a trade union can exist legally. The government can also dissolve trade unions by administrative order but has not done so. The labor code does not apply to the majority of the workforce because most persons worked in agriculture or the informal sector. Approximately 4 percent of the total workforce was employed in the private industrial sector, of which 40 to 50 percent belong to unions

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right to collective bargaining, and it was freely practiced everywhere but in private security companies. Collective bargaining agreements applied to approximately 44 percent of workers. The law provides for the right to strike but with significant restrictions; however, workers exercised this right by conducting legal strikes. Health, transportation, manufacturing, education, justice, and oil workers held strikes during the year. Unions representing members of the civil service must notify the government of their intent to strike at least one month in advance; private sector unions must notify the government three days in advance. There are no special laws or exemptions from regular labor laws in the one export processing zone.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law bans the exploitation of child labor, and there are regulations on child labor that set the minimum working age, working hours, working conditions, and barred children from performing particularly dangerous jobs; however, child labor was a problem. Most child labor occurred in the country's informal economic sector where labor regulations were not enforced. Economic pressures and inadequate educational opportunities often pushed rural families to emphasize labor over education with their children.

The minimum age for employment was 15; however, children under the age of 15 continued to work in traditional labor sectors, particularly in rural areas where there was no enforcement of child labor laws. According to the International Labor Organization (ILO), 50 percent of the population was under 16 years of age, and over 35 percent of these children were engaged in child labor in several different sectors: mining, construction, transportation, domestic work, commerce, restaurant and hotel work, manufacturing, and—making up the largest percentage of child laborers—agriculture, fishing, and hunting.

Some religious instructors in Koranic schools brought young boys from rural villages to urban areas and held them under conditions of servitude, forcing them to beg on a daily basis in unsanitary and dangerous conditions under the threat of physical punishment.

One particularly egregious area of child labor is in the mining and rock quarry sector. Child gold washers, mostly between the ages of 10 and 14, work around 8 hours per day without training or protective equipment. Children worked long hours in rock quarries, crushing rock, and carrying heavy loads—also without protection. Both types of work can lead to serious accidents and long-term illness.

The labor ministry and social security inspectors were in charge of investigating and initiating lawsuits in child labor cases. Inspectors can visit any institution during work hours to verify and investigate compliance with labor laws and can act on tips from trade unions or ordinary citizens. In practice inspectors did not initiate visits because of a lack of resources and relied on unions to report violators. Labor inspectors closely monitored and enforced minimum age rules within the small formal-wage sector, which included state-owned corporations, large private enterprises, and cooperatives. However, there are no available statistics on the number of violations found.

In addition to efforts to fight human trafficking for exploitive labor purposes, the government attempted to raise awareness about the dangers of child labor through seminars with local government officials, NGOs, and elements of civil society. For example, during an Independence Day speech, President Wade highlighted the need

for child protection and efforts to combat exploitive child begging. In 2004 the family ministry organized seminars with assistance from UN International Children's Emergency Fund and the Italian government to sensitize over five thousand youth to the dangers of underage prostitution. The government has taken steps to provide classes in religious education via the formal school system, to provide an alternative to parents sending their children to Koranic schools, where they may be abused.

In August the ILO initiated a project in Fatick to remove children under age 15 from working in domestic labor. The project is expected to encompass 10 villages, continue for a year, and provide training to children in cloth dying, sewing, and food-processing.

e. Acceptable Conditions of Work.—The national minimum wage was $0.42 (209.10 CFA francs) per hour, which did not provide a decent standard of living for a worker and family.

Within the formal sector, the law mandates for most occupations a standard workweek of 40 to 48 hours with at least one 24-hour rest period, one month per year of annual leave, enrollment in government social security and retirement plans, safety standards, and other measures, but enforcement was irregular. The law does not cover the informal sector. Premium pay for overtime was required in the formal sector.

While there are legal regulations on workplace safety, they often were not enforced. There is no explicit legal protection for workers who file complaints about unsafe working conditions. Workers had the right to remove themselves from situations that endangered health or safety without jeopardy to their employment; however, it was seldom exercised due to high unemployment and a slow legal system.

SEYCHELLES

Seychelles is a multiparty republic of approximately 81 thousand citizens. President James Michel, formerly vice president, assumed power in April 2004 when President France Albert Rene resigned. In the 2001 elections, Rene and the Seychelles People's Progressive Front (SPPF) won reelection with 54 percent of the vote. Some international observers concluded that the overall result was decided fairly; however, other observers reported that the election was not entirely free and fair and alleged that the SPPF gave cash donations to supporters. The president and the SPPF dominated the country through a pervasive system of political patronage, control over government jobs, contracts, and resources. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- prolonged pretrial detention
- inefficient and politically influenced court system
- control of the press
- political corruption
- violence against women
- child abuse
- restrictions on labor rights
- discrimination against foreign workers

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in the previous year, there were no reports that the government or its agents committed arbitrary or unlawful killings. There were no developments in the July 2004 killing of Claude Monnaie by government agents who accidentally confused Monnaie for an opposition party activist.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and unlike in the previous year, there were no reports that government officials employed them. Of the eight cases of police brutality before the Supreme Court in 2004, one case was dismissed, and the rest were either settled out of court or resulted in a court judgment favorable to the plaintiff.

Prison and Detention Center Conditions.—Detention centers included the Grand Police High Security Prison for violent inmates and the Long Island prison for all other prisoners and those awaiting trial or sentencing. Long Island prison conditions remained spartan, particularly for those on remand. Prison officials stated that staff shortages forced guards to limit prisoner time outside of their cells.

During the year, local and international nongovernmental organizations (NGOs) and diplomats visited the Long Island Prison facility. A local NGO, the Center for Rights and Development, held a public meeting to discuss suggestions for improving conditions at the prison.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The president had complete control over the security apparatus, which included a national guard, the army, the presidential protection unit, the coast guard, and police. The police commissioner, who reported to the defense forces chief of staff, commanded the unarmed police and the armed paramilitary Police Mobile Unit, which together had primary responsibility for internal security. When necessary, police worked with the army on issues of internal security, as police resources were limited. Corruption was a problem. Officially, there is a "complaints against police" unit with the police department, but it was rarely if ever used. In practice, private attorneys filed complaints or published them in *Regar*, the independent newspaper.

Arrest and Detention.—The law provides that persons arrested must be brought before a magistrate within 24 hours, with allowances made for boat travel from distant islands, although police did not always uphold this requirement. The law also provides for detention without charge for up to seven days if authorized by court order, and, in practice, police generally respected this provision. Detainees have the right to legal counsel. Free counsel is not a legal right, but courts usually provided it to the indigent. Courts provided bail for most offenses. Although warrants are required by law, in practice, the police made some arrests and detentions without a warrant.

There were no reports of political detainees.

Prolonged pretrial detention was a problem. The time that prisoners awaited trial or sentencing often extended beyond two years due to the inefficiency of the judicial system.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary was inefficient and subject to executive influence. Both civil and criminal court cases regularly lasted years.

The judicial system includes magistrates' courts (or small-claims court), the Supreme (or trial) Court, the constitutional court, and the court of appeal. The constitutional court convenes weekly or as necessary to consider constitutional issues. The court of appeal convenes three times per year for two weeks in April, August, and October to consider appeals from the Supreme Court and constitutional court.

The chief justice of the Supreme Court was a naturalized citizen, and one other judge was a native of the country. The remaining judges were either naturalized citizens or hired from other Commonwealth countries. The bar association criticized the government for not advertising domestically that judicial positions were available. Critics widely believed that some foreign justices bent to the will of the executive branch for fear of deportation.

Several justices of the peace were responsible for small-claims cases, and there were allegations that many of the justices were appointed because of their affiliation with the SPPF.

Trial Procedures.—Defendants have the right to a fair public trial, and trials were public in practice. Magistrates' court or the Supreme Court heard criminal cases, depending on the gravity of the offense. A jury heard cases involving murder or treason. The accused was considered innocent until proven guilty. Defendants have the right to be present at their trial, to confront witnesses, and to appeal.

An 18-member, part-time family tribunal heard and decided all matters relating to the care, custody, access, and maintenance of children, except paternity cases, which remained under the courts. The government empowered the family tribunal to offer protection orders to victims of family violence. Most members of the tribunal were not legally trained and were affiliated with the SPPF.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. The law requires that all electronic surveillance be approved by a judge and justified on the grounds of preventing a serious crime; however, it was widely

believed that the government maintained telephone surveillance of some political figures and private citizens.

Reports continued that the government barred members of the opposition from receiving postings in administrative positions in the education sector.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government did not respect these rights in practice. The law provides restrictions "for protecting the reputation, rights, and freedoms of private lives of persons" and "in the interest of defense, public safety, public order, public morality, or public health." As a result, the government limited freedom of speech and press because civil lawsuits could easily be filed to penalize journalists for alleged libel.

The government-controlled Seychelles Broadcasting Corporation (SBC) continued its ban on the broadcast of a local singer's music on the grounds that the songs were seditious.

There were two independent newspapers, the weeklies *Regar* and *le Nouveau Seychelles Weekly*. The only daily newspaper was the government-owned *Nation*, which adhered closely to the government's position on policy issues and gave only limited attention to the opposition and news adverse to the government.

The law allows for independent radio and television, but in practice the exorbitant licensing fee of approximately $185 thousand (SR one million) per year discouraged the opening of any independent outlets. The government continued to own the only television station and all radio stations.

The law allows the Minister of Information Technology to prohibit the broadcast of any material believed to be against the "national interest" or "objectionable." The legislation also requires telecommunications companies to submit subscriber information to the government.

In the past, government officials sued *Regar* for libel numerous times, threatening its financial viability due to legal fees. However, during the year no suits were filed, and the government did not pursue previous outstanding cases. Journalists told of pressure to report news favorable to the government. In December arson at the *Regar* office damaged one of the two printing presses. Nobody was charged in the attack. Reporters Without Borders condemned this attack and stated that the arson "seems to have been politically motivated."

There were no government restrictions on the use of the Internet.

The government limited academic freedom in that persons could not reach senior positions in the academic bureaucracy without demonstrating at least nominal loyalty to the SPPF. There were no universities; secondary school teacher appointments were largely apolitical. The government controlled faculty appointments to the Polytechnic, the most advanced learning institution.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There were fewer than 10 individuals in the Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Although it was not used during the year, the law allows the government to deny passports to any citizen if the minister of defense finds that such denial is "in the national interest."

According to foreign exchange regulations, citizens could exchange only $400 worth of foreign exchange, severely hindering their ability to pay for travel.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution; however, the issue did not arise during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice in the 2001 presidential elections and in the 2002 national assembly elections.

Elections and Political Participation.—In the 2001 presidential election, approximately 90 percent of eligible voters participated. Citizens reelected President Rene with 54 percent of the vote; Seychelles National Party (SNP) candidate Wavel Ramkalawan received 45 percent, and independent candidate Dr. Philip Boulle received 1 percent. Ramkalawan challenged the election results but withdrew his case in 2003. Observers from the Southern African Development Community stated their general satisfaction with the election. However, the Commonwealth Organization observers reported that, while the presidential elections were peaceful, they were not entirely free and fair, describing instances of intimidation during voting and the lack of open competition during the campaign. Rene resigned in April 2004 and nominated his vice president, James Michel, as his successor.

In the 2002 national assembly elections, judged by international observers to be free and fair, the opposition SNP party won 11 of the 34 seats.

Under President Michel, the SPPF party continued to use its political resources and those of the government to develop a nationwide organization that extended to the village level. The opposition parties have been unable to match the SPPF's organization and patronage, in part because of financial limitations. Former President Rene continued to head the SPPF. During the year, the government allocated the SPPF approximately $50 thousand (SR 271,500), the SNP approximately $39,500 (SR 213 thousand), and the Democratic Party approximately $2,800 (SR 15,500). These amounts were based on percentages received by the political parties nationally in the 2002 legislative elections.

Some members of opposition parties claimed that they lost their government jobs because of their political beliefs and were at a disadvantage when applying for government licenses and loans.

There were 10 women in the 34-seat National Assembly, 7 by direct election and 3 by proportional representation, and there was 1 woman in the 12-minister cabinet. There were seven female principal secretaries in the government service.

Government Corruption and Transparency.—There was widespread public perception of political corruption. In particular, there were reports of rewards to SPPF supporters in the form of job assistance, land distribution, free building materials, and monetary payments. Legal entities of the government, such as the attorney general's office, were reluctant to pursue charges of wrongdoing or abuse of power against senior officials.

There are laws allowing public access to government information, although the government does not enforce them, and citizens routinely did not have access.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic human rights groups, including churches, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

A government-run National Humanitarian Affairs Committee (NHAC) operated with a range of members from both civil society and the government. The International Committee of the Red Cross acted as a technical adviser to the NHAC.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law affirms the right to be free from all types of discrimination, but it does not prohibit discrimination based on specific factors. In practice, there was no overt discrimination in housing, employment, education, or other social services based on race, sex, ethnicity, nationality, or disabilities.

Women.—Domestic violence against women, particularly wife beating, was a continuing problem. Police rarely intervened in domestic disputes, unless the dispute involved a weapon or major assault. The authorities often dismissed the few cases that reached a prosecutor, or the court gave the perpetrator a light sentence. Rape, spousal rape, and domestic abuse are criminal offenses, all punishable for a maximum 20 years' imprisonment. In November the government amended the penal code to impose a seven year minimum penalty on the rape of minors under 15. There was growing societal concern about domestic violence and increased recognition of the need to address it.

Prostitution is illegal but remained prevalent. Police generally did not apprehend prostitutes unless their actions involved other crimes.

The law prohibits sexual harassment but was rarely enforced.

The society largely was matriarchal. Unwed mothers were the societal norm, and the law required fathers to support their children. There was no officially sanctioned discrimination in employment, and women were well represented in business. Inheritance laws did not discriminate against women.

Children.—The division of social affairs in the Ministry of Social Affairs and Manpower Development worked to protect children's rights, and in practice they were fairly effective.

The government required children to attend school through the 10th grade and made tuition-free public education available through the secondary level until age 18. Students had to buy school uniforms but did not have to pay for books. According to government figures, all children between the ages of 6 and 16 attended school, and the percentages of boys and girls enrolled was roughly equal. There was a noncompulsory fifth year of secondary school. After completing secondary school, students could go to the Polytechnic School for Vocational Training, go abroad for university studies, or go to apprenticeship or short term work programs. Children in the apprenticeship or short term work programs received a training stipend, which was less than the minimum wage.

The age of consent was 15 years. Girls were not allowed to attend school when they were pregnant, and many did not return to school after the birth of a child.

The law prohibits physical abuse of children. Sexual abuse of children, usually in low-income families and perpetrated by stepfathers and older brothers, was a problem. Rape of girls under the age of 15 continued to be a problem, according to the Ministry of Health. Authorities prosecuted very few child abuse cases in court. The strongest public advocate for young victims was a semiautonomous agency, the National Council for Children. There was criticism that police failed to investigate charges of child abuse.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law provides for the right of persons with disabilities to special protection, including reasonable provisions for improving the quality of life; however, there was no law providing for access to public buildings, transportation, or state services, and the government did not provide such access for persons with disabilities. There was no reported discrimination against persons with disabilities in housing, jobs, or education, or in the provision of other state services.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers with the right to form and join unions of their choosing; however, police, military, prison, and fire fighting personnel may not unionize. Some citizens were reluctant to join the nongovernment-sponsored labor union due to fear of government reprisal. Unions organized between 15 and 20 percent of the workforce, and the law prohibits antiunion discrimination.

b. The Right to Organize and Bargain Collectively.—The law allows for unions to organize and conduct their activities without interference. The law provides workers with the right to engage in collective bargaining, but free collective bargaining did not take place. The government has the right to review and approve all collective bargaining agreements in the public and private sectors. There was little flexibility in setting wages. In the public sector, which employed over 50 percent of the labor force, the government set mandatory wage scales for employees. The employer generally set wages in the private sector in individual agreements with the employee, but in the few larger businesses, the government set wage rates.

The law authorizes the Ministry of Employment and Social Affairs to establish and enforce employment terms, conditions, and benefits, and, in practice, workers frequently obtained recourse against their employers through the ministry.

Strikes are illegal without first exhausting arbitration procedures. However, in September workers at the Indian Ocean Tuna Factory went on strike without interference by security forces. The government intervened and promised generous compensation packages, ending the strike.

There is one export processing zone, the Seychelles International Trade Zone (SITZ), with 24 participating companies. Only the Seychelles Trade Zone Act applied in the SITZ, and the government did not require the SITZ to adhere to labor, property, tax, business, or immigration laws.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law states that the minimum age for employment is 15, "subject to exceptions for children who are employed part time in light work prescribed by law without harm to their health, morals, or education," and, in practice, the government followed these requirements. It is a criminal offense punishable by a fine of $1,113 (SR 6 thousand) to employ a child under the age of 15. The Ministry of Employment and Social Services enforced child labor laws. The ministry handled such complaints within its general budget and staffing; the ministry did not report any cases requiring investigation.

e. Acceptable Conditions of Work.—There is no official private sector minimum wage. The government encouraged but did not require the private sector to grant the minimum public sector wage. In December legislation increased the minimum public sector wage from $387 to $445 (SR 2,025 to SR 2,325) per month effective January 2006. Even with free public services, primarily health care and education, a single salary at the low end of the pay scale did not provide a decent standard of living for a worker and family. Private employers generally paid higher wages than the government to attract qualified workers.

The legal maximum workweek varied from 45 to 55 hours, depending on the economic sector; in practice, some workers worked up to 60 hours per week. Government employees worked fewer hours. Regulations entitled each full-time worker to a 30-minute break per day and a minimum of 21 days of paid annual leave. The government permitted workers to work overtime up to 60 additional hours per month. The government generally enforced these regulations.

Foreign workers did not enjoy the same legal protections as citizens and were employed in the construction and commercial fishing sectors. Companies sometimes paid foreign workers lower wages, forced them to work longer hours, and provided them with inadequate housing.

The Ministry of Employment and Social Affairs has formal responsibility for drafting the government's comprehensive occupational health and safety regulations, and the Ministry of Health enforced such standards, although safety and health inspectors rarely visited job sites. Occupational injuries were most common in the construction, marine, and port industries. Workers do not have the right to remove themselves from dangerous or unhealthy work situations without risking their continued employment, and if they took such action, employers considered them to have resigned.

SIERRA LEONE

Sierra Leone is a constitutional republic with a directly elected president and a unicameral legislature. In 2002 the devastating 11-year civil conflict officially ended, and the government, backed by a large United Nations peacekeeping force, asserted control over the whole country. Ahmed Tejan Kabbah was reelected president in 2002, and his Sierra Leone People's Party (SLPP) won a large majority in parliament. Many international monitors declared the elections free and fair; however, there were also numerous reports of election irregularities. In May 2004 the first local government elections in 32 years were held in 311 wards nationwide. National and international monitors declared the elections free and fair; however, evidence of substantial electoral irregularities later emerged. In 2004 the peacekeeping UN Mission in Sierra Leone (UNAMSIL) handed over responsibility for security countrywide to the Republic of Sierra Leone Armed Forces (RSLAF) and Sierra Leone Police (SLP). By year's end UNAMSIL withdrew all remaining peacekeepers. UNAMSIL also handed over residual, non-peacekeeping responsibilities to a follow-on peacebuilding UN mission (UNIOSIL). Civilian authorities generally maintained effective control of security forces throughout the year.

On June 27, the government released a white paper in response to the recommendations contained in the Truth and Reconciliation Commission's (TRC) final report. During the year the UN Special Court of Sierra Leone (SCSL) war crimes tribunal continued trials of three Civil Defense Force (CDF) indictees and three Revolutionary United Front (RUF) indictees, and it began trials of five former members of the Armed Forces Revolutionary Council. The government generally respected the human rights of its citizens; however, there were serious problems in a number of areas.

Widespread poverty, an infrastructure devastated by the civil war, and decades of bad governance influenced the human rights situation. The following human rights problems were reported:

- abuses by security forces, including rape, and use of excessive force with detainees, including juveniles
- police theft and extortion
- poor conditions in prisons and detention centers
- official impunity, including for alleged manslaughter
- arbitrary arrest and detention
- prolonged detention, excessive bail, and insufficient legal representation
- an inefficient and corrupt judiciary
- restrictions on freedom of speech and press
- widespread official corruption
- government and chiefdom arrest and abuse of journalists
- societal discrimination and violence against women
- female genital mutilation (FGM)
- child abuse
- trafficking in persons, including children
- forced labor, including by children
- child labor

The judicial branch took action to improve excessively long pretrial detentions by dismissing charges, releasing detainees on bail, and beginning delayed trials. In an attempt to reduce corruption in the judiciary, the chief justice introduced a code of conduct for judicial officers.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings during the year; however, a parliamentarian was briefly detained in connection with a beating that led to the death of a newspaper editor (see section 2.a.). In addition during a demonstration police allegedly shot a girl who later died from her injuries (see section 1.d.).

The detention center guard sought in connection with the 2003 beatings of three boys, one of whom was beaten to death, remained at large.

Preliminary investigation by the magistrate court revealed that one of the three RSLAF soldiers accused of beating a businessman to death in 2003 was actually a witness to the crime. The case against the remaining two soldiers was dismissed after no witnesses appeared in court to testify against them.

In April 2004 UNAMSIL soldiers were accused of murdering a prostitute, who was found dead after last being seen with the men. Although UNAMSIL concluded its mandate by year's end, UNIOSIL continued to investigate the case (see section 1.c.).

There were no further investigations into the possible existence of a mass grave in Kamakwie.

b. Disappearance.—There were no reports of politically motivated disappearances; however, the Poro Society, a secret male initiation society present throughout the country, reportedly abducted a local imam near Bo following a dispute over the forced ritual initiation, which normally includes circumcision, of a local Muslim man. When the imam did not reappear and others in the community appealed to the SLP to investigate, the SLP referred the case to chiefdom authorities. The imam reappeared after a number of weeks, during which time he had been forcefully initiated into the society. The Freetown-based Council of Imams registered a complaint with the chiefs; the latter apologized to the council for the incident and the matter was not referred to court.

Former RUF rebels continued to hold persons, including women and children, as forced or common law spouses or as laborers. Some women reportedly remained with their captors due to intimidation and a lack of viable options (see section 5). The Ministry of Social Welfare, Gender and Children's Affairs maintained a database, with the help of the UN Children's Fund (UNICEF), which attempted to track children separated from their families during the war. International nongovernmental organizations (NGOs) continued to work, often with government assistance, to secure the release of women and children from their captors.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that security forces beat and raped persons, and that police stole, extorted, and accepted bribes.

The pre-independence Corporal Punishment Act of 1960 allows boys under age 17 to receive up to 12 lashes as punishment. In January a magistrate in Bo sentenced an 11-year-old boy to 6 lashes for stealing a cellular phone. The draft Child Protection Bill, currently being reviewed by the cabinet, contains a provision that would repeal the act.

On March 11, a police officer in Kenema allegedly beat a woman and stole $3.50 (10 thousand leones) from her while she was in custody. The woman was subsequently released; however, police denied the allegations and took no action against the accused police officer.

Unlike in 2004, there were no reports that security forces beat journalists during the year, although a member of parliament allegedly ordered the beating of a journalist during the year (see section 2.a.). Intimidation and arrest of journalists occurred.

There were reports that security forces raped women and children during the year (see section 5). On April 10, a police officer in Port Loko raped an 11-year-old girl. The girl's father, also a police officer, settled the case out of court for approximately $68 (200 thousand leones).

The Freetown police officer held in custody at the end of 2004 for raping a 12-year-old girl was released on bail, but the matter was later settled out of court.

In December 2004 the magistrate court in Kenema released and then ordered the re-arrest of a soldier who had been charged during the year with raping an 8-year-old girl in Kailahun. The soldier presented evidence that he was impotent; however, subsequent press reports indicated that he had a pregnant wife and two children, and the magistrate concluded that he had made his original decision based on false evidence. At year's end the SLP had still not executed the re-arrest order for the soldier.

There were no charges filed by year's end against a Kenema police officer accused of impregnating an 18-year-old prisoner in August 2004; however, the officer was assigned to a different location.

There were no reports of action taken in other 2004 and 2003 cases of rape committed by security forces.

There were no reports that UNAMSIL staff or soldiers raped persons during the year. Although UNAMSIL ceased operations by year's end, UNIOSIL retained a human rights mandate and continued to investigate the alleged 2003 rape by a UNAMSIL soldier of a girl in Makeni.

In February an SCSL staff member from another country was convicted of raping a young girl in August 2004 and sentenced to an 18-month prison term; however, on October 12, the court of appeal overturned the conviction.

On multiple occasions, police were not present when crowds beat alleged thieves.

During the year Guinean forces continued to occupy the Yenga area in the eastern part of the country, contravening an agreement between the presidents of Guinea and Sierra Leone acknowledging that the town of Yenga was part of Sierra Leone. The government and human rights groups accused the Guinean troops of harassing the local population. In October a joint meeting to officially delimit the boundary between the two countries ended without success, and the issue was unresolved at year's end.

Prison and Detention Center Conditions.—Prison conditions improved in some locations during the year, due in large part to a UN Development Program (UNDP)-funded prison reconstruction and rehabilitation program. However, conditions in most facilities, including the maximum security prison on Pademba Road in Freetown, remained poor. After visits to prisons in the Western (Freetown) Area, Kambia, Magburaka, Bo, Bonthe, Moyamba, and Kenema, human rights observers reported that conditions frequently fell below minimum international standards because of overcrowding, lack of access to food, unhygienic conditions, and insufficient medical attention. Unlike in the previous year, there were no reports that such conditions resulted in death during the year.

Many problems resulted from the lack of resources and inefficiency of the judiciary. For instance, case backlogs in the courts, which often led to long pretrial detention, caused severe overcrowding. Government records indicated that there were approximately 1,740 detainees in prisons nationwide, 696 of whom had not completed their trials. This figure did not include detainees in police jails and detention centers. Prison overcrowding was a severe problem at Freetown's maximum security Pademba Road prison, which was designed to house 325 prisoners but held an estimated 930. A Commonwealth judge who inspected Pademba Road Prison in 2004 described conditions as "deplorable." There were 13 district prisons. The UNDP completed the rehabilitation and reconstruction of eight prisons and a training center by year's end.

Conditions in holding cells in police stations were extremely poor, especially in small stations outside Freetown. During the year international monitors visited the SCSL detention facilities and reported that they met acceptable standards.

Unlike during the previous year, the government permitted family visits, but only for brief periods. The International Committee of the Red Cross (ICRC) provided a message delivery service that allowed prisoners housed in all district prisons to communicate with their families.

In April Liberian ex-combatants staying at the Mape and Mafanta internment camps began returning to Liberia with the assistance of the ICRC and the National Commission for Social Action (NaCSA). All internees had returned to Liberia by year's end. The United Nations High Commissioner for Refugees (UNHCR) facilitated the repatriation of the internees' families, many of whom had lived in refugee camps.

Except for pilot "work release" programs offering income (prison wardens collect tips from the community on behalf of detainees for work performed) in Kabala and Pujehun, detainees frequently worked outside of the prison without appropriate compensation.

According to a local NGO report, male and female prisoners shared cells in Bo, Kenema, Moyamba, Kono, and Pujehun prisons. Adults and juveniles were sometimes incarcerated together. Juvenile detainees did not have adequate access to food, education, or vocational training. Pretrial detainees were held with convicted prisoners.

International monitors, including UNAMSIL and the ICRC, had unrestricted access to Pademba Road prison and other detention facilities, including the SCSL detention facilities. Prison Watch, a local human rights group, reported on detention facilities throughout the country but stated that the government did not allow it access to Pademba Road prison.

On October 20, the minister of internal affairs publicly acknowledged the deficiencies in the prison system and encouraged civil society to report problems so that they could be addressed.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily.

Role of the Police and Security Apparatus.—The SLP, which has primary responsibility for maintaining internal order, received insufficient resources, lacked investigative and forensic capabilities, and was widely viewed as corrupt and incompetent. Impunity was a serious problem. During the year there were frequent reports that police officers took bribes at checkpoints, falsely charged motorists with violations, and impounded vehicles to extort money. The Driver's Union complained that police demanded bribes at illegal checkpoints during the year. Police also accepted bribes from criminal suspects in exchange for dropping charges.

The inspector general of police continued efforts to recruit and train police during the year and increased the number of officers from 7,900 in 2004 to 9,300 by year's end.

Police responded, overall professionally, to a number of public demonstrations since the drawdown of UNAMSIL peacekeeping forces; however, some reports indicated that police used live ammunition to quell demonstrators, and at least one of these incidents resulted in the death of a 16-year-old girl (see below).

During the year a formal police training program provided instruction to police in areas such as professional ethics and human rights. A total of 3,500 were trained—new recruits as well as other officers who received refresher training. In November senior police officers participated in a human rights workshop in Freetown.

There were several mechanisms available to investigate police abuses. The Police Complaints Commission and the Complaints, Discipline and Internal Investigations Department (CDIID) both heard complaints against police officers. The CDIID received over 400 complaints during the year and disciplined approximately 150 police officers. There was also a Police Council, composed of the vice president, minister of internal affairs, inspector general, and others who accepted written complaints against police.

On multiple occasions police were not present when crowds beat alleged thieves. Police also were not always able to control violence at public demonstrations (see section 2.b.). For example, during a February 28 to March 1 demonstration, protestors threw stones and bricks and threatened onlookers; a 16-year-old girl was shot in the mouth. There were reports that police brought the girl to a dental clinic for care and told medical personnel they would pay the bill. The girl died two

months later, and her father requested a police investigation into the shooting. By year's end, however, the girl's father claimed that no investigation had begun.

On November 7, police in Kenema fired live warning shots to quell a violent demonstration of the Kenema Bike Drivers' Association that began after two motorcyclists were found dead. The shots killed at least one bystander who was not participating in the demonstration.

Arrest and Detention.—The law in many cases requires warrants for searches and arrests; however, arrest without warrant was common. The law prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. Once arrested a detainee must be told the reason for arrest within 24 hours, and a case must be charged to court within 72 hours or, in the case of serious crimes, within 10 days. However, detainees were often held without charge or trial for minor offenses for long periods. Detainees have the right of access to family and counsel; however, access to counsel was often delayed, and family visits to prisoners were restricted. Prison visits are allowed once every two weeks. Prison headquarters must approve all visits, however, so visits are further subject to restriction, and were reportedly very short at Pademba Road prison (see section 1.c.). Indigent detainees usually did not receive legal advice prior to trial.

There were provisions for bail, and there was a functioning bail system; however, the TRC recommended that the law concerning bail provisions be revised.

Incommunicado detention was generally not a problem; however, jailed *For di People* editor Paul Kamara was sent to solitary confinement and not allowed to communicate with his family for a brief period (see section 2.a.).

There were numerous instances of arrest without charge for strictly civil offenses; arrests for alleged breach of contract or failure to satisfy debt were the most common.

The SLP sometimes acted on individual informal complaints outside the established chain of command and scope of duty. In July an SLP officer in Freetown illegally forced a woman to pay a "summons fee" to a chief who had asked him for assistance. The officer would not allow the woman to sell food from her street stall until she went to see the chief and paid the fee.

During the year police arrested demonstrators (see section 2.b.).

Trials were in progress at year's end for approximately one hundred ex-combatants who fought for the RUF, the rebel group which started the country's 11-year civil war; the Armed Forces Revolutionary Council (AFRC) junta; and the West Side Boys, a splinter group of the AFRC. All combatants were represented by a legal assistance NGO.

In October 2004 the final report of the TRC noted that the government still illegally held at least 16 detainees in "safe custody" without charge, several of them since 2000. The government released all known prisoners remaining in safe custody during the year; however, the procedures remained flawed and the process was not transparent. In September a woman from Rokupr claimed that her husband remained in safe custody detention, where he had been for several years.

Lengthy pretrial detention was a problem. Authorities held many criminal suspects for months and some for years before courts examined their cases or filed formal charges. According to government records, approximately 40 percent of the country's 1,740 detainees in prison were in pretrial detention. There were reports that the percentage of pretrial detainees at Pademba Road prison exceeded 70 percent.

Amnesty.—The law provides the president with the power to grant amnesty by the "prerogative of mercy," which the president traditionally exercises on Christmas Day (December 25) and Independence Day (April 27). During the year President Kabbah did not grant any releases using this power.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary at times was subject to government influence and corruption.

The judicial system consists of the Supreme Court, court of appeal, high court of justice, and magistrate courts. The president appoints and parliament approves justices for the three courts. Local chieftaincy courts administer customary law with lay judges; appeals from these lower courts are heard by the superior courts.

Judicial presence outside the capital district remained limited, which contributed to excessive delays in the justice system. Although magistrate courts functioned in all 12 judicial districts, an insufficient number of magistrates resided permanently outside the capital. Justices of the peace or customary law partially filled the gap, and magistrates periodically visited districts with judicial vacancies.

Trial Procedures.—The law provides for a fair trial; however, in practice the lack of judicial officers and facilities often produced long delays in the judicial process.

Persons accused of crimes have a limited right to a trial by jury in the magistrate courts. Juries were drawn from a list maintained by the master and registrar of active and retired civil servants and youth groups; however, the attorney general frequently exercised his power to determine that cases be heard by a judge only. Defendants have the right to be present and to consult with an attorney in a timely manner; however, access to counsel was often delayed. The law directs that attorneys be provided at public expense if defendants could not afford their own; however, state-appointed attorneys were often overburdened and poorly paid, and indigent detainees usually did not receive legal advice prior to trial. Defendants can confront or question witnesses against them, present witnesses on their own behalf, and access government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence as well as a right to appeal. Trials were usually fair; however, there was evidence that corruption influenced some cases. A majority of cases on the magistrate level were prosecuted by police officers, many of whom had little or no formal legal training.

Traditional justice systems continued to extensively supplement the central government judiciary, especially in rural areas, in cases involving family law, inheritance, and land tenure. There were reports that local chieftains at times exceeded their mandates and administered harsh punishments. For example chiefs often judged criminal cases, such as rape, and there were reports that chiefs ordered rape victims to marry their attackers (see section 5).

The law does not limit the rights associated with a fair trial to any group; however, there are a number of civil laws and customary law that discriminate against women.

In April 2004 Freetown Port employees severely beat a port authority official who was investigating corruption. During the trial the port authority director allegedly bribed all 12 jurors, and the suspects who had been arrested for the beating were subsequently acquitted and released. The jurors later were arrested and charged with conspiracy to impede the cause of justice. Trials were ongoing at year's end.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such practices, and the government generally respected these prohibitions in practice.

Unlike in the previous year, there were no reports that Liberian combatants conducted cross border raids or forced villagers to be porters.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government at times limited these rights in practice. The press frequently published stories critical of the government; however, self-censorship may also have occurred.

More than 25 newspapers were published in Freetown during the year, covering a wide spectrum of interests and editorial opinion. Most of the newspapers were independent, and several were associated with opposition political parties. Reporting was often politicized and inaccurate, in large part because of poor journalistic skills, insufficient resources, and lack of professional ethics. Corruption among journalists was widespread. The number of newspapers fluctuated weekly. Newspapers openly and routinely criticized the government and its officials, as well as opposition parties and former rebel forces, but they also were accused of libeling individuals.

On May 10, five individuals beat Harry Yansaneh, the acting editor of *For di People* newspaper, who died on July 28 from his injuries. Police detained a parliamentarian, Fatmata Hassan Komeh, who allegedly ordered and oversaw the beating, and two others on August 26, and on August 30 police released them on bail pending trial. (Three suspects, who were Komeh's children, returned to their residence in the United Kingdom after the beating so arrest warrants for them could not be executed.) The beating took place soon after the parliamentarian served an eviction notice on several newspapers operating in a building she owned. At a press conference on November 7, the attorney general said that because the coroner in charge of the government inquest had not followed correct procedures, the case could not be charged to court. By year's end the government had taken no further action to move the case forward.

No action was taken against the police officers who assaulted two journalists in September 2004, nor against SLPP members who beat a journalist the same month.

Due to low levels of literacy and the relatively high cost of newspapers and televisions, radio remained the most important medium for public dissemination of information. Several government and private radio and television stations broadcast, featuring domestic news coverage and political commentary. UN Radio provided additional coverage of news and other current events.

The Public Order Act of 1965 criminalizes both defamatory and seditious libel; however, the law was infrequently applied and only in cases involving top officials. Punishment for first-time offenders can be up to three years' imprisonment, and subsequent seditious libel convictions can bring terms of up to seven years.

During the year officials used libel laws to suppress criticism of political or other leaders, and ordered security forces to arrest journalists. For example, on February 11, police arrested a newspaper editor after he published an article that criticized President Kabbah for failing to dismiss a minister accused of corruption. The editor was initially accused of seditious libel and held for three days, after which he was released.

On May 24, police arrested a newspaper editor and a reporter following the publication of an article that quoted an unnamed source that reportedly said that President Kabbah was angered by earlier reports alleging that the attorney general had accepted bribes. On May 27, a judge granted the defendants bail, and on June 7, both were acquitted.

Paul Kamara, the newspaper editor found guilty of seditious libel against President Kabbah in October 2004, was released from prison on November 29 after winning an appeal of his conviction. Kamara served just over one year of a two-year sentence, at times in solitary confinement.

The Independent Media Commission regulated independent media organizations. Although still subject at times to government influence, the commission took steps to increase its independence. In October the commission sponsored a workshop advocating the repeal of the criminal libel provisions of the Public Order Act.

Registration fees for radio stations ranged from approximately $170 (500 thousand leones) for a 100-watt community radio station to $2 thousand dollars (5.9 million leones) for approval to rebroadcast international programming such as that of Voice of America and the British Broadcasting Corporation. Annual renewal fees ranged from $85 to 2 thousand dollars (250 thousand to 5.9 million leones). Newspapers were charged an annual registration fee of approximately $35 (103 thousand leones). Although some newspapers had not paid the fees, none had been banned by year's end.

The paramount chief of Bo threatened to close down a radio station and banish a radio commentator after a September 12 broadcast in which the commentator charged that the recent ruling SLPP convention was rigged. The radio station manager sent the commentator on one month's leave, dispatched a letter of apology to the paramount chief, and paid the chief $45 (130 thousand leones).

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

Police in Bo arrested 11 individuals who were allegedly associated with a November 18 demonstration in support of presidential hopeful Charles Margai, including Margai himself. The spontaneous demonstration occurred at a school alumni event to which both Margai and Vice President Berewa had been invited. Margai supporters crowded the streets when Margai left the school and briefly blocked the vice president's advancing motorcade. Authorities charged them with violations of the Public Order Act. By year's end a trial had not begun.

Members of the Chief Sam Hinga Norman Help Line, a group in Bo that supports the former CDF chief who was standing trial for war crimes at the SCSL, complained that local authorities denied group members the right to assemble in Bo to commemorate the third anniversary of Norman's arrest on March 10.

Unlike in the previous year, there were no reports that police harassed local groups that met in Kono to discuss mining practices.

Several large demonstrations took place during the year, including opposition party political rallies. Although some demonstrations were marred by violence, most were relatively peaceful, and security forces generally did not seek to prevent them from taking place.

On February 28 and March 1, police used tear gas to disperse a protest by the Fourah Bay College Student Union that became violent; one demonstrator died from gun shot injuries. Protesters threw stones, burned tires, attacked cars, and held policemen hostage. Police reportedly arrested 40 demonstrators, although press reports indicated that the number may have been as high as 52. There were reports of gunfire, and a 16-year-old girl, who was shot in the mouth, died two months later from her injuries (see section 1.d.).

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

Although the law requires political parties to register with the Political Parties Registration Commission (PPRC), the commission was not operational by year's end. As a result two new political parties were unable to register during the year (see section 3).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—On April 21, a Muslim public holiday, a group of Muslims in Rokupr burned the *igbala* (hut or shrine) where the local hunting society stored its traditional hunting masks so that the group could not stage its traditional parade. A local newspaper reported and police confirmed that the Muslims burned the masks because they believed that the tradition was a desecration of the Prophet Muhammad's birthday. Police arrested several persons, but the case was resolved out of court.

On May 19 and 20, an altercation in Freetown that began when a group of Anglican schoolchildren harassed a Muslim woman trying to cross the street escalated when a group of Muslims wielding sticks, knives, and copies of the Koran went to the children's church. The group threw objects at the church and broke most of its windows. After the incident church leaders cancelled Sunday services and closed the school. The Inter Religious Council hosted a series of meetings between the two groups to mediate the problem. On May 29, church services resumed, and the school re-opened on June 2.

There was no Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice; however, there were reports that police officers who operated security roadblocks outside of the capital often extorted money from motorists.

The law does not provide for forced exile, and the government did not use it.

The border shared with Liberia was officially open, and authorities permitted refugees, returnees, and other persons to move regularly between the two countries; however, there were reports that police, customs, and army personnel demanded bribes at border crossing points.

Since 2000 approximately 271 thousand refugees have repatriated to the country. An estimated 13,500 persons have remained in refugee camps or integrated locally outside the country.

Internally Displaced Persons (IDPs).—Combatants from all sides targeted civilians during the country's 11-year civil war. Estimates of the number of IDPs in past years varied from 750 thousand to 2 million people.

No officially registered IDPs remained; however, one camp for war-wounded persons and their families remained open in Grafton. At year's end the camp population was approximately 520. Unlike in the previous year, there were no reports that refugees and IDPs returned to find their homes occupied.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, in practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status and asylum and cooperated with the UN High Commissioner for Refugees (UNHCR) and other organizations in assisting refugees.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention Related to the Status of Refugees and its 1967 protocol. During the year the government continued to provide temporary protection to Liberians who had fled the conflict in their country. At year's end, according to the UNHCR, there were approximately 47 thousand Liberian refugees living in refugee camps in the country and an additional 12 thousand living outside of the camps.

Unlike in 2004 there were no reports that refugees were sexually exploited in camps by locally employed staff of international NGOs in exchange for extra food and aid materials; however, there were reports that Liberian refugees were victims of sexual abuse (see section 5).

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through generally free and fair elections held on the basis of universal suffrage; however, the 2002 and 2004 elections were

marred by irregularities, although many observers judged them to be generally free and fair.

Elections and Political Participation.—Eleven political parties participated in the May 2002 presidential and parliamentary elections. President Kabbah of the SLPP was re-elected with 70 percent of the popular vote. The Revolutionary United Front Party, the political successor to the RUF rebel forces, fielded presidential and parliamentary candidates, but it won only 1.7 percent of the vote. In parliament, the SLPP won 83 of the total 112 seats; only 2 other parties won seats. Only the SLPP was represented in the cabinet after two cabinet members, who were earlier considered to be independent, joined the SLPP following the elections. Many international monitors declared the elections free and fair; however, there were credible reports of significant abuse of incumbency, uneven voter registration, manipulation of vote counting, and partisan action by the National Electoral Commission (NEC). There also were reports of voter coercion by party bosses and traditional leaders.

In May 2004 the first local elections in 32 years were held. International and domestic monitors judged them to be generally free and fair at the time; however, evidence of widespread electoral fraud by both the SLPP and the All People's Congress (APC) emerged after voter turnout numbers were analyzed and found in many districts to exceed the total number of registered voters. A UNAMSIL electoral consultant concluded, however, that fraud did not alter the outcome of the elections because it was equally spread across party lines.

During the year the NEC began a reform campaign with a new commissioner, civil society activist Christiana Thorpe, at its head. With the assistance of the donor community, the NEC dismissed all staff that had been seconded from other ministries, hired and trained new staff, formed a committee to review and streamline electoral legislation, and prepared for a nationwide electoral district boundary demarcation in preparation for the presidential and parliamentary elections scheduled for 2007.

Although there were no formal government restrictions on the political opposition, the incumbent party enjoyed significant advantages. Opposition MPs complained that they did not receive television coverage. Members of the APC, the main opposition to the ruling SLPP, successfully captured the majority of seats on the Freetown City Council, but the city's APC mayor complained that for political reasons the council did not receive SLPP-controlled government funds, a charge that the government and some independent observers disputed.

The law calls for a Political Parties Registration Commission (PPRC); however, the commission was not operational. During previous election cycles, political parties registered with the NEC; however, the NEC discontinued that function during the year as part of its reform efforts. President Kabbah swore in the first group of PPRC members on December 19, but the commission was not operational by year's end. As a result, at least two new political parties were unable to register, thus could not legally engage in political activities.

The basic unit of local government is the paramount chief, who is elected for a life term. Candidates for the position are limited to members of local ruling houses. Only tribal authorities were allowed to vote for paramount chief, and in the north only men could be designated as tribal authorities. Although paramount chiefs' authority exists independently of the central government, they frequently displayed party affiliations and were influenced by the party in power.

There were 16 women in the 112-seat parliament, 3 women in the 28-minister cabinet, 4 female judges out of a total of 7 on the high court, and 3 female judges out of 6 on the court of appeal. A significant number of women worked as civil servants.

Only citizens can vote, and the Citizenship Act restricts the acquisition of citizenship at birth to persons of "patrilineal Negro-African descent." Legal requirements for naturalization effectively denied citizenship to many long-term residents, and a large number of persons of Lebanese ancestry, who were born and resided in the country, could not vote (see section 5). While a small percentage of the Lebanese population had been naturalized and did vote, others insisted that naturalization implied second-class citizenship and did not seek it.

Government Corruption and Transparency.—Corruption in the executive, legislative, and judicial branches was common. Official corruption was exacerbated by low salaries and a lack of accountability. The president continued to publicly support the Anti-Corruption Commission (ACC). Since the ACC's inception in July 2000, approximately 10 percent of the 551 cases investigated were charged to court. At year's end there were 16 cases in court, and 21 of the 35 completed cases had resulted in a conviction. No high-level government officials were convicted by year's end, however, and some observers complained that cases against corrupt high-level

officials were not prosecuted because the ACC lacked the authority to refer cases directly to court. During the year the ACC focused on improving transparency at "hot spot" ministries where opportunities for corruption were most pronounced.

There is no provision in the law for public access to government information; however, the government at times provided access to both citizens and non-citizens, including foreign media.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated with few government restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The National Forum for Human Rights (NFHR) served as an umbrella organization for human rights groups in the country. There were 41 human rights NGOs registered with the NFHR at year's end, and all were reportedly active. The majority of domestic human rights NGOs focused on human rights education. A few NGOs, including the Campaign for Good Governance, the Lawyers' Center for Legal Assistance, and Access to Justice, actively monitored and reported on human rights abuses.

Human rights monitors traveled freely throughout the country. Intensive reporting, data collection, and investigations continued. During the year representatives of international NGOs, foreign diplomats, the ICRC, and UN human rights officers were able to monitor trials and to visit prisons and custodial facilities; however, government authorities did not grant permission to at least one human rights NGO to visit Pademba Road prison during the year (see section 1.c.).

UNAMSIL operated eight provincial human rights offices in addition to the UNAMSIL Human Rights Section in Freetown, which conducted training, monitoring, reporting, and advocacy throughout the year. During 2003 the UNAMSIL Human Rights Section led a campaign to establish a National Human Rights Commission as mandated by the 1999 Lome Peace Accord. At year's end advertisements had run in newspapers for commission positions, but a civil society panel of screeners found the first round of applicants unqualified for presidential consideration.

During the year the Parliamentary Human Rights Committee took a proactive role in protecting human rights. It passed legislation against trafficking in persons, held public discussions on human rights issues, and worked with international organizations to advance other human rights-related initiatives.

The SCSL was established in 2002 to try those who "bear the greatest responsibility for the commission of crimes against humanity, war crimes, and serious violations of international humanitarian law."

Trials began in March of AFRC leaders Alex Tamba Brima, Brima Bazzy Kamara, and Santigie Borbor Kanu. Trials of CDF leaders Sam Hinga Norman, Moinina Fofana, and Allieu Kondewa, begun in June 2004, and trials of RUF leaders Issa Sesay, Morris Kallon, and Augustine Gbao, begun in July 2004, also were ongoing at year's end.

In 2003 the SCSL indicted 13 persons, including former Liberian President Charles Taylor, who had accepted an offer of asylum in Nigeria in 2003. All of those indicted were charged with crimes against humanity, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II, and other serious violations of international humanitarian law. Specific charges included murder, rape, extermination, acts of terror, sexual slavery, conscription of children into an armed force, attacks on UN peacekeepers, and looting and burning of homes from 1997 to 1999.

In October 2004 the TRC, established in 2002 to provide a forum for publicly airing the grievances of victims and the confessions of perpetrators during the civil war, completed its activities and delivered its final report and recommendations to the government. The full version of the final report was distributed to the public in August. The report contained a separate child-friendly version, since children played such large roles as both victims and perpetrators of violence during the war. The report concluded that years of bad governance, endemic corruption, and denial of basic human rights created the conditions that made the conflict inevitable. The commission offered a number of recommendations on legal, political, and administrative reforms, including elimination of the death penalty. The government released a white paper in June accepting some and rejecting or ignoring other recommendations. Civil society groups criticized the government's response and called the white paper too vague.

The UN and numerous NGOs, both domestic and international, continued to educate and sensitize the population about the TRC and the SCSL, and the government generally supported these efforts.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination on the basis of race, tribe, sex, place of origin, political opinions, color, or creed; however, the government did not enforce this prohibition effectively, and a number of legal acts and customary laws contravene these constitutional provisions.

Women.—The law does not specifically prohibit domestic violence and the government rarely enforced the provisions contained in the 1861 Offenses Against the Persons Act for violent acts against women, including assault, wounding, and rape. Domestic violence against women, especially wife beating and forced sexual intercourse, was common. The police were unlikely to intervene in domestic disputes except in cases involving severe injury or death. In rural areas, polygyny was widespread. Women suspected of marital infidelity often were subjected to physical abuse; frequently, women were beaten until they divulged the names of their partners. Because husbands could claim monetary indemnities from their wives' partners, beatings often continued until the women named several men, even if there were no such relationships. There also were reports that women suspected of infidelity were required to undergo animistic rituals to prove their innocence.

In 2000 the government established the Family Support Unit (FSU) to deal with gender-based violence. The SLP had FSU offices at 18 police stations around the country. Although some international human rights workers complained that the FSU lacked basic infrastructure and communications support, the UN reported that the FSU was increasingly playing a leading role in investigating cases of violence against women and children. It was also engaged in community education and sensitization through radio and television programs.

The law prohibits rape, which was punishable by up to 14 years' imprisonment; however, rape was viewed as a societal problem. Rape cases were frequently settled out of court, and rape victims were sometimes ordered to marry their attackers. There were reports that some women and girls abducted during the war remained with their captors due to intimidation and a lack of options. Unlike in the previous year, there were no reports of the sexual abuse of refugees in refugee camps by locally employed staff of international NGOs in exchange for extra food and aid materials; however, there were reports that Liberian refugees were victims of sexual abuse. Cases of rape were underreported and indictments were rare, especially in rural areas. Since the establishment of the FSU, however, reports of rapes, especially involving child victims, have steadily increased. In 2003 the FSU reported that 83 percent of rape cases reported involved girls under the age of 18. Rapes have been documented involving children as young as a few months old. An NGO reported that 87 percent of perpetrators were known to rape victims, and included teachers, family friends, relatives, and neighbors.

Medical and psychological services for rape victims were very limited. Rape victims were required to obtain a medical report to file charges; however, government doctors charged $20 (approximately 60 thousand leones) for such an exam, which was prohibitively expensive for most victims. Since 2003 human rights monitors have urged the government to eliminate or lower the cost of medical reports. The International Rescue Committee ran centers in Freetown, Kenema, and Koidu to perform medical examinations, provide counseling for victims of sexual assault, and offer legal assistance for victims who wanted to pursue their cases in court. Although approximately 90 percent of female victims chose to go to court, most cases did not make it to trial because of inefficiencies in the judicial system.

No law prohibits FGM, and it was practiced widely at all levels of society. In past years prominent government officials openly supported the practice. The less severe form of excision was practiced. UNICEF and other groups estimated that 80 to 90 percent of women and girls had undergone the practice; however, some local groups believed that this figure was overstated. FGM was practiced on girls as young as five years old.

Although a number of NGOs worked to eradicate FGM and to inform the public about its harmful health effects, active resistance by women's societies, in which FGM was commonly a part of initiation rites, countered efforts to stop the practice.

Although police occasionally detained practitioners on accusations of forced mutilation or manslaughter, human rights workers reported that police remained hesitant to interfere in cultural practices. When police in Lunsar attempted to investigate a case of forced circumcision of a woman and her daughter in September, the men's secret society and the local paramount chief reportedly intervened to stop the investigation.

On June 6, an eight-year-old girl from Tainkatopa died after her circumcision ceremony. Although the case was reported to the police, they made no arrests by year's end.

On August 15, a six-year-old girl from Calabatown died after her circumcision ceremony. The case was reported to the police; however, they made no arrests by year's end.

In August 2004 a secondary-school student died from complications from female circumcision. Police completed an investigation, but by year's end no indictments had been filed.

There has been some progress in reducing the practice. An anti-FGM NGO reported that by year's end 700 *digbas* (practitioners) had agreed to "lay down their knives" and abandon the practice and that 500 others were prepared to do so.

Prostitution was widespread and not prohibited by law; however, prostitutes sometimes were arrested and charged with loitering or vagrancy. Many women and girls, particularly those displaced from their homes and with few resources, resorted to prostitution as a means to support themselves and their children.

Trafficking in women for prostitution was a problem (see section 5, Trafficking).

Sexual harassment is not specifically prohibited by law and it was widespread. In 2002 a women's parliamentary conference identified sexual harassment as a barrier to women standing for office.

The law provides for equal rights for women; however, in practice women faced both legal and societal discrimination. In particular, their rights and status under traditional law varied significantly depending upon the ethnic group to which they belonged. All women born in the Western (Freetown) Area, which is governed by general law, had a statutory right to own property in their own names. Many women born in the provinces, which are governed by customary laws that vary from chiefdom to chiefdom, did not. In the Temne tribe, women could not become paramount chiefs; however, in the Mende tribe, there were several female leaders. Women did not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas women performed much of the subsistence farming and had little opportunity for formal education.

The country was a point of origin, transit, and destination for internationally trafficked persons. The majority of victims were women and children (see section 5, Trafficking).

The Ministry of Social Welfare, Gender and Children's Affairs has a mandate to protect the rights of women; however, the ministry was under-financed and relied on the assistance of international organizations and NGOs to help its efforts to fulfill its mandate.

Women were active in civic and philanthropic organizations. Domestic NGOs, such as 50/50, the Forum for African Women Educationalists, and Women's Forum raised awareness of the lack of gender equality and other women's issues, and they encouraged women to enter politics as candidates for parliament.

Children.—The government was committed to improving children's education and welfare; however, it lacked the means to provide them with basic education and health services.

Public education is available up to the university level. The law requires school attendance through primary school; however, only 41 percent of primary school-aged children were enrolled in school, according to UNICEF. Schools, clinics, and hospitals throughout the country were looted and destroyed during the 11-year insurgency, but the majority have been rebuilt. A large number of children received little or no formal education. Formal and informal fees largely financed schools, but many families could not afford to pay them. The average educational level for girls was markedly below that of boys, and only 20 percent of women were literate. At the university level, male students predominated.

Government medical care was extremely limited throughout the country, but boys and girls had equal access.

Sexual violence against children was a problem. At a Freetown sexual assault service center, 83 percent of the clients were between 6 and 15 years old. There were reports that children as young as three months were raped.

FGM was commonly performed on girls (see section 5, Women).

Child prostitution was a problem (see section 5, Trafficking).

To address the issue of child prostitution in the capital, the Freetown City Council discussed the introduction of a regulation that would bar minors from nightclubs, a common venue for commercial sex transactions, but by year's end the city council had taken no action to pass such a regulation.

Child labor, including forced child labor, occurred. An estimated 57 percent of children between the ages of 5 and 14 were engaged in some form of child labor (see section 6.d.).

Street children were a problem.

Trafficking in Persons.—In August President Kabbah signed a law prohibiting trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country.

A person convicted of trafficking can be sentenced to up to 10 years in prison. Although there were no prosecutions or convictions by year's end, on August 22 police arrested two people in Makeni for suspected trafficking of eight children. By year's end, the police investigated the case and delivered the results to the public prosecutor's office; however, preliminary indications revealed that the suspects were likely engaged in US-related adoption fraud rather than trafficking.

A number of government agencies are responsible for combating trafficking, including the SLP, Ministry of Social Welfare, Gender, and Children's Affairs, the Immigration Department, and the Office of National Security. The government assisted in reintegrating trafficking victims when requested; however, there were no known requests for assistance with international investigations or extraditions.

The country continued to be a source, transit point, and destination for internationally trafficked persons. The majority of victims were women and the majority of traffickers were thought to be family members or friends who lured victims from their home villages with promises of education, caretaking, or employment.

There were no specific figures on the number of persons trafficked. However, anecdotal reports indicated the following: children were trafficked from the provinces to work in the capital as laborers and commercial sex workers and to diamond areas for labor and sex work; persons were trafficked from neighboring countries for domestic and street labor and for commercial sex work; persons were trafficked out of the country to destinations in west Africa, including Nigeria, Cote d'Ivoire, Guinea, and Guinea-Bissau for labor and sex work; persons were also trafficked to Lebanon, Europe, and North America; and the country served as a transit point for persons trafficked from elsewhere in west Africa and possibly the Middle East.

In an effort to combat trafficking in persons, government authorities became slightly more vigilant in their efforts to scrutinize minors leaving the country without their parents. The government also publicized trafficking issues through government-sponsored radio programs and in official statements to the press.

Document fraud was common and there were frequent reports that government registry officials, police, immigration officials and border guards accepted bribes, in some cases to facilitate traffickers.

The government worked closely with NGOs on trafficking-related issues to develop training programs, but was hampered by a lack of resources and an incomplete understanding of the problem. The government supported prevention programs, including community education initiatives. During the year members of the Parliamentary Human Rights Committee traveled to the provinces to discuss trafficking with their constituencies.

Persons with Disabilities.—The law does not prohibit discrimination against persons with physical and mental disabilities. No law mandates accessibility to buildings or assistance to such persons. There was no government policy or program to assist persons with disabilities; public facility access and discrimination against persons with disabilities were not considered public policy priorities. A few private agencies and organizations provided job training for such persons.

There was no outright discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, given the high rate of general unemployment, work opportunities for such persons were very limited.

Despite the sizeable numbers of persons disabled by polio, there was little government assistance to this group. In September 2004 the SLP evicted residents without notice from a facility for polio victims.

Some of the many individuals maimed during the civil war, or who had their limbs amputated by rebel forces, received special assistance from local and international humanitarian organizations. Such programs involved reconstructive surgery, prostheses, and vocational training to help victims acquire new work skills; however, amputees complained that they did not receive sufficient assistance compared to ex-combatants, who received aid through the demobilization process. In its white paper reply to the recommendations of the final TRC report, the government accepted in principle the need to work towards an aid program for war wounded, amputees, and victims of sexual violence; however, assistance to these groups remained limited and mostly funded by outside entities.

National/Racial/Ethnic Minorities.—The ethnically diverse population consists of about 18 ethnic groups of African origin, many of whom speak distinct primary languages and who were concentrated outside urban areas. In addition there are sig-

nificant Lebanese and Indian minorities. Little ethnic segregation was apparent in urban areas, where interethnic marriage was common. The two largest ethnic groups were the Temne in the North and the Mende in the South. These groups each constituted an estimated 30 percent of the population; however, the Krio, which constituted 1 percent of the population, have historically dominated the civil service and judiciary. Strong ethnic loyalties, bias, and stereotypes existed among all ethnic groups. The Temne and Mende have historically vied for political power and the violence during the 11-year civil war had some ethnic undertones. For example the Minorities At Risk Project reported that although the RUF did not specifically advocate for Temne issues, ethnic Temnes predominated in RUF leadership and ranks. After the SLPP victory in the 1996 elections, the RUF objected to what they claimed was Mende hegemony and claimed that the Mende-dominated SLPP government used ethnic criteria in appointing ministers to marginalize non-Mendes. Although the SLPP actively worked to counter this perception (President Kabbah himself is Mandingo), most citizens viewed the SLPP as a predominantly Mende party. Ethnic loyalty remained an important factor in the government, armed forces, and business. Complaints of ethnic discrimination in government appointments, contracts, military commissions, and promotions were common.

Residents of non-African descent faced institutionalized political restrictions (see section 3). Legal requirements for naturalization, such as continuous residence in the country for 15 years, or the past 12 months and 15 of the previous 20 years, effectively denied citizenship to many locally born residents, notably members of the Lebanese community.

Other Societal Abuses and Discrimination.—There was no official discrimination based on persons being HIV/AIDS positive; however, persons with HIV/AIDS were stigmatized in society.

The law prohibits homosexual acts, and there was both official and societal discrimination based on sexual orientation. On November 29, the Ministry of Social Welfare, Gender, and Children's Affairs condemned same-sex marriage at an Inter-Religious Council meeting.

In October 2004 a prominent gay activist was killed in her office. The activist's recently-dismissed domestic employee was arrested and charged with the crime. On July 11, the defendant, along with approximately 24 other prisoners, escaped custody. At year's end the defendant was still at large.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of association, and in practice workers had the right to join independent trade unions of their choice. Police and members of the armed services are prohibited from joining unions. Approximately 30 to 60 percent of workers in the formal sector in urban areas, including government workers, were unionized, but attempts to organize agricultural workers and mineworkers were largely unsuccessful. In general, labor unions joined the Sierra Leone Labor Congress (SLLC), but membership was voluntary. There were no reliable statistics on union membership.

The law does not prohibit antiunion discrimination against union members or organizers and does not prohibit employer interference in the establishment of unions; however, there were no reports of such incidents during the year. An employee fired for union activities could file a complaint with a labor tribunal and seek reinstatement. Complaints of discrimination against trade unions were made to a tribunal.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government generally protected this right; however, by year's end the government had not yet granted a bargaining certificate to the Civil Servant's Union, whose application has been on file since 1986. The law provides for collective bargaining, and the government protected this right in practice. Collective bargaining must take place in trade group negotiating councils, each of which had an equal number of employer and worker representatives. According to the International Confederation of Free trade Unions, collective bargaining was widespread in the formal sector, and most enterprises were covered by collective bargaining agreements on wages and working conditions. Unions have the right to strike, although the government could require 21 days' notice, and workers exercised this right in practice.

There were no export processing zones.

No law prohibits retaliation against strikers, even for a lawful strike. The government did not take action against strikers during the year; however, there were reports that a Freetown hotel fired two SLLC-affiliated employees after a one-day strike in February to protest poor working conditions.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children; however, forced labor remained a problem. Under the Chiefdom's Council Act, individual chiefs may impose forced labor as punishment, and have done so in the past. They also may require members of their villages to contribute to the improvement of common areas, a practice that occurred only in rural areas. There is no penalty for noncompliance. There were reports of bonded labor in rural areas, and debt bondage was common among the thousands of alluvial diamond diggers and miners.

Forced and compulsory labor by children occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits forced and bonded labor by children; however, child labor remained a problem due to strong tradition and high levels of poverty, which averaged 80 percent in rural areas. The Ministry of Mineral Resources enforced regulatory prohibitions against the worst forms of child labor. The ministry also was charged with protecting children working in the diamond mining areas; however, enforcement was not always effective.

The law allows children as young as 12 to engage in "light" labor, and employers have the authority to determine working hours.

The law does not limit working hours for children; however, it does set health and safety standards. The law only requires school attendance through primary school, which children generally complete by age 12 (see section 5).

In rural areas children worked seasonally on family subsistence farms. Children also routinely assisted in family businesses and worked as petty vendors. Adults engaged a large number of street children to sell, steal, and beg. Because the adult unemployment rate remained high, few children were involved in the industrial sector or elsewhere in the formal economy.

There were reports that foreign employers hired local children to work as domestic laborers outside the country at extremely low wages and in poor conditions. The Ministry of Social Welfare, Gender and Children's Affairs was responsible for reviewing the issuance of passports to minors, but did not do so effectively, and the prevalence of document fraud made effective government oversight difficult.

There were reports that children whose parents sent them to friends or relatives in urban areas for education were forced to work on the street. There also were reports that adults asked orphanages for children to be used as household help.

Many girls, particularly those displaced from their homes and with few resources, resorted to prostitution as a means to support themselves (see section 5).

The international NGO World Vision continued to help child prostitutes (girls between the ages of 14 and 20) by paying their school fees, providing them with educational materials, and caring for girl mothers. Out of 304 girls assisted, 86 were full-time sex workers.

Children continued to work in alluvial diamond mining, particular in areas that were less accessible to government monitors. In many cases children worked alongside parents or relatives. Children who engaged in diamond mining often abandoned educational or vocational training and, according to a recent study, the work was inherently exploitative.

Bonded child labor was not prevalent in alluvial diamond mining.

Some of the children who were hired by employers outside the country may have been victims of trafficking (see section 5).

The Ministry of Labor was responsible for enforcing child labor laws. Ministry of Mines and Mineral Resources mine monitoring officers enforced rules against child mining in diamond mining areas. Authorities did not have adequate resources to effectively enforce child labor policies.

e. Acceptable Conditions of Work.—The national minimum wage, covering all occupations, was set at $14 (40 thousand leones) per month, which did not provide a decent standard of living for a worker and family. The Ministry of Labor was responsible for enforcing the minimum wage, but it lacked the resources to effectively execute its mandate. Most workers supported an extended family, often including relatives who were displaced by the insurgency in the countryside. It was common to pool incomes and to supplement wages with subsistence farming and child labor (see section 6.d.).

Although not stipulated by law, the standard workweek was 40 hours (60 hours for security personnel). Employers negotiated work hours with employees at the time of hire, and overtime was to be paid if an employee's work hours exceeded the standard workweek.

The Ministry of Health and Sanitation was responsible for setting and enforcing health and safety standards. Although the government set these standards, it lacked the funding to properly enforce them. Trade unions provided the only protection for

workers who filed complaints about working conditions. Initially, a union could make a formal complaint about a hazardous working condition; if this complaint was rejected, the union could issue a 21-day strike notice. If workers were to remove themselves from dangerous work situations without making a formal complaint, they risked being fired.

The law protects both foreign and domestic workers; however, there were fewer protections for illegal foreign workers.

SOMALIA [1]

Somalia, with an estimated population of 8.5 million, has been without a central government since 1991. The country is fragmented into three autonomous areas: the Transitional Federal Government (TFG) in the south, the self-declared Republic of Somaliland in the northwest, and the State of Puntland in the northeast. In August 2004 a 275-member clan-based Transitional Federal Assembly (TFA) was selected, and in October 2004 the TFA elected Abdullahi Yusuf Ahmed, former Puntland president, as the Transitional Federal president. In December 2004 Yusuf Ahmed appointed Ali Mohammed Ghedi as Prime Minister. Presidential elections in Somaliland, deemed credible and significantly transparent, were held in April 2003. During Somaliland parliamentary elections in September there was little evidence of election violence or intimidation, and most voters were able to cast their ballots without undue interference. In January after years of internecine power struggles, Puntland's unelected parliament selected General Adde Musse as president. The civilian authorities did not maintain effective control of the security forces.

Security conditions were relatively stable in many parts of the country, but during the year serious inter-clan and intra-clan fighting continued in the central regions of Hiran and Middle Shabelle, the southern regions of Bay, Bakol, Gedo, Lower Shabelle, Middle Juba, Lower Juba, and in Mogadishu. Infighting among factions of the Rahanweyn Resistance Army (RRA), which controlled Bay and Bakol, continued as RRA leaders fought to assert control over Baidoa. No group controlled more than a fraction of the country's territory.

The country's human rights record remained poor and serious human rights abuses continued. Unemployment, malnutrition, drought, floods, ethnic fighting, the Indian Ocean tsunami, and the displacement of more than 400 thousand persons exacerbated the country's already extremely poor human rights situation. The following human rights problems were reported:

- abridgement of citizens right to change their government
- politically motivated killings
- unlawful killings
- kidnapping
- torture, rape, and beatings
- impunity
- harsh and life threatening prison conditions
- arbitrary arrest and detention
- denial of fair trial
- limited privacy rights
- restrictions on freedom of speech, press, assembly, association, religion, and movement
- discrimination and violence against women, including rapes
- female genital mutilation (FGM)
- abuse of children
- trafficking in persons
- abuse and discrimination against clan and religious minorities
- restrictions on workers' rights
- forced labor, including by children
- child labor

[1] The United States does not have diplomatic representation in Somalia. This report draws in part on non-U.S. Government sources.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Since the collapse of the government in 1991 tens of thousands of persons, mostly noncombatants, have died in interfactional and interclan fighting. Incidents of arbitrary deprivation of the right to life occurred in the following contexts: factional militia fighting for political power and control of territory and resources, including revenge reprisals; criminal activities, widespread banditry, settlement of private disputes over property and marriage; and revenge missions after incidents such as rapes, family disagreements, and abductions. The vast majority of killings during the year resulted from clashes between militias or from unlawful militia activities; several occurred during land disputes, and a number involved common criminal activity. Numerous killings continued as a result of inter-clan and intra-clan fighting between the following groups: The RRA sub-factions in Bay and Bakol regions; the Somali National Front sub-factions in north Gedo; the Awlyahan and Bartire subclans in Buale; the Dir and Habar Gidir subclans in Galkacyo; the Dir and Marehan subclans in Galgudud; the former Transitional National Government and gunmen in Mogadishu; Abgal intra-clan fighting in and around Jowhar; Habar Gidir intra-clan fighting in Mudug; Puntland's forces and those of Somaliland in the disputed regions of Sool and Sanaag; and General Mohammed Said Hersi Morgan's Somali Patriotic Movement and those of the Juba Valley Alliance in Kismayu.

On January 2, in Somaliland police allegedly shot and killed two unarmed persons and wounded two others near the Ministry of Public Works. The police unit leader and a police officer were arrested and being detained awaiting trial at year's end. Also in January a police officer allegedly shot and killed a person who was clearing roads for the municipality, reportedly at the instigation of a resident. The police officer remained in detention, and the authorities were investigating the incident at year's end.

During the year hundreds of civilians were killed, mostly during inter-clan or intra-clan militia clashes. For example, in the Kenya-Somalia border area of el-Waq, April and July fighting between the Garre and Marehan clans resulted in dozens of deaths, the displacement of thousands, and the closure of the border crossing in Mandera. In April fighting in central Somalia, in Galkayo and Obiyo, between subclans Habar Gidir Sa'ad and Habar Gidir Sulieman resulted in numerous deaths. In June fighting in Beledweyne between militias from the Galje'el and Jajele subclans, reportedly triggered by a land dispute and revenge for the killings of two Jajele men and one Galje'el man, resulted in at least 30 killings.

Medecins sans Frontieres said in a press statement that during the first half of the year it treated more than 500 cases of violent trauma injuries in its two hospitals in the town of Galkayo, the regional capital of central Somalia's Mudug region.

No action was taken against the responsible members of the security forces or militias who committed killings in 2004 and 2003. There were no developments in the reported killings due to inter- or intra-clan fighting in 2004 and 2003.

Landmines throughout the country resulted in human and livestock casualties, denial of pastoral and cultivable land, and road closures. The Landmine Monitor project reported that anti-personnel and anti-vehicle mines were available in the country, and could be bought from weapons markets in Mogadishu and other towns. In February an explosive device detonated on a street corner in Mogadishu while an African Union (AU) team was present to assess the security situation. The explosion killed two bystanders and injured six. No suspects were identified.

During the year several journalists were killed (see section 2.a.).

Attacks against humanitarian and nongovernmental organization (NGO) workers resulted in at least three deaths during the year (see section 4). In October a UN security official was shot and killed in Kismayu. No suspects had been identified at year's end. In April the trial of 10 persons accused of masterminding attacks on international aid workers in Somaliland began. In November a Somaliland court convicted 15 Somali men of responsibility for the killings and sentenced eight of them to death. An investigation into the death of a fourth aid worker, Annalena Tonelli, was reopened in light of new evidence, and the court ordered investigations into the roles of Aden Hashi 'Ayro and Ahmed Abdi Godane to continue at year's end.

During the year there were a number of apparently politically motivated killings by unknown assailants. In most cases, the victim had made statements in support of the deployment of international peacekeeping forces to the country to facilitate the relocation of the TFG from Kenya to Mogadishu, a proposal opposed by various armed groups: some preferred the protection of individual cabinet members' militias

to the imposition of foreign forces, particularly those drawn from neighboring countries; other groups were believed to be allied with domestic Islamist groups opposed to any central government. Observers noted that some of the killings were intended as a warning to the TFA, the TFG, and any outside intervention force. In January three men shot and killed Abdirahman Diriiye Warsame, a veteran of the insurgency against former president Siad Barre. On January 22, gunmen shot and killed Mogadishu police chief General Yusuf Sarinle. In May a former military officer, Colonel Mohamed Sa'id Abdulle was killed near his home in Mogadishu. There were at least nine other politically motivated killings of former security officials, activists, or intellectuals during the year. No suspects had been identified in these cases or in other politically motivated cases from previous years.

In May during a rally at the stadium in honor of the TFG prime minister's visit, an explosive device went off, killing 14 and injuring at least 38 persons. The explosion could have been an accidental discharge of a grenade by a bodyguard, although it remained unclear at the year's end.

b. Disappearance.—There were no reports of politically motivated disappearances, although cases easily might have been concealed among the thousands of refugees and displaced persons.

During the year, there were numerous kidnappings by militia groups and armed assailants who demanded ransom for hostages. The UN Independent Expert on Human Rights in Somalia (UNIE) noted after his January-February visit to the country, that the incidence of kidnapping remained high. The majority of kidnappings were reported in the southern regions, especially Mogadishu, where ransoms allegedly funded purchases of weapons and ammunitions. In recent years UN staff or consultants have been kidnapped periodically in the country (see section 4). There were no investigations or action taken against the perpetrators of any kidnappings during the year.

There were no investigations or action taken against the perpetrators of kidnappings in 2004 or 2003.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The unimplemented Transitional Federal Charter (TFC) prohibits torture, and the Puntland Charter prohibits torture "unless sentenced by Islamic Shari'a courts in accordance with Islamic law"; however, there were some reports of the use of torture by the Puntland and Somaliland administrations and warring militiamen against each other or against civilians. Observers believed that many incidents of torture were not reported. Prison guards beat inmates in prison.

Security forces, police, and militias also abused and beat persons during the year. During a January 26 to February 7 mission to Somaliland, the UNIE noted an increase in police brutality in Somaliland. Acts of violence, including several killings, continued against TFG supporters or members (see section 1.a.).

On February 2, 16-year-old Zamzam Ahmed Dualeh was unconditionally freed by authorities and released into the custody of the UNIE. In August 2004 in Hargeisa, Somaliland police arrested and detained Dualeh and Omar Jama Warsame, her taxi driver, on espionage charges; both allegedly were beaten in detention, and Dualeh claimed that six policemen tortured and raped her. In December 2004 Dualeh was tried as an adult without legal representation and sentenced to five years' imprisonment. The four attorneys retained by local human rights activists to represent Dualeh were detained and sentenced to four years' imprisonment after they asked the judge to withdraw from the case due to alleged bias; in December 2004 the attorneys were released on appeal after they paid a fine.

There continued to be reports of rapes, largely committed by militia members. Factions have used rape as a weapon of war to punish and intimidate rival ethnic factions.

There were reports of rapes of Somali women and girls in refugee camps in Kenya (see section 2.d.).

There were prisoners of war in Somaliland and Puntland. Other human rights violations occurred in the contested border region of Sool and Sanaag.

Militia and other groups attacked humanitarian and NGO workers, which resulted in deaths and injuries (see section 4).

No action reportedly was taken against Somaliland or Puntland forces, warlord supporters, or members of militias responsible for torturing, beating, raping, or otherwise abusing persons in 2004 or 2003.

Although reliable statistics were not available, a large number of persons were killed and injured as a result of inter-factional and inter-clan fighting (see section 1.a.).

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. The main prison in Hargeisa, built in 1942 to hold 150 inmates,

held over 800 prisoners. After his January–February visit, the UNIE stated that in comparison to his previous visits in 2002 and 2003, the prison had deteriorated to an appalling condition. The UNIE noted that the prisons lacked funding and management expertise. Overcrowding, poor sanitary conditions, a lack of access to adequate health care and inadequate food and water supply persisted in prisons throughout the country. Tuberculosis, HIV/AIDS, and pneumonia were widespread. Abuse by guards reportedly was common in many prisons. The detainees' clans generally were required to pay the costs of detention. In many areas, prisoners were able to receive food from family members or from relief agencies.

Juveniles frequently were held with adults. A major problem continued to be the incarceration of juveniles at the request of families who wanted their children disciplined.

The Puntland Administration permitted prison visits by independent monitors. Somaliland authorities permitted prison visits by independent monitors, and such visits occurred during the year.

d. Arbitrary Arrest or Detention.—In the absence of constitutional or other legal protections, various factions continued to engage in arbitrary arrest and detention, and there was no system of due process.

Role of the Police and Security Apparatus.—The police were generally ineffective. Corruption within the various police forces was endemic. Members of titular police forces throughout the country were often direct players in politically-based conflict, and owed their positions to other politically active individuals. In Somaliland, more than 60 percent of the budget was allocated to maintain a militia and police force composed of former troops. Abuses by police and militia members were rarely investigated, and impunity was a problem. Police generally failed to prevent or respond to societal violence.

Arrest and Detention.—Judicial systems are not well established, are not based upon codified law, do not function, or simply do not exist in most of the country. Respect of codified law requiring apprehension with warrants based on sufficient evidence issued by authorized officials; prompt judicial determinations; prompt access to a lawyer or family members; or other legal protections for the detained was rare. There is no evidence of a functioning bail system or equivalent.

Arbitrary arrest was a problem. Authorities in Puntland and Somaliland arbitrarily arrested journalists during the year as did faction and militia leaders (see section 2.a.).

In July gunman seized the crewmembers of an UN World Food Program (WFP) ship (see section 4).

There were no known reports of political detainees.

Lengthy pretrial detention was a problem. Persons were sometimes held for extended periods while awaiting trial. Militias and factions detained persons for unduly long periods without trial and without charge.

e. Denial of Fair Public Trial.—The unimplemented TFC provides for an independent judiciary; however, there is no national judicial system. The charter replaced the 1990 constitution; however, for many issues about which the charter is silent, the constitution still applies.

The charter provides for a high commission of justice, a supreme court, a court of appeal, and courts of first reference. Some regions established local courts that depended on the predominant local clan and associated factions for their authority. The judiciary in most regions relied on some combination of traditional and customary law, Shari'a, the Penal Code of the pre-1991 government, or some elements of the three. For example, in September the managing operator of K–50 airport was killed by a local man who was angry over removal of teashops from the terminal area. An aviation security force apprehended the man, who was turned over to traditional authorities. They summarily found him guilty and condemned him to death. Under the system of customary justice, clans often held entire opposing clans or subclans responsible for alleged violations by individuals.

There were functioning local Shari'a-based entities in various parts of southern Somalia that usually operated within clan parameters. Amnesty International reported that they did not meet international standards of fair trial.

Trial Procedures.—The unimplemented TFC provides for the right to be represented by an attorney. The right to representation by an attorney and the right to appeal did not exist in those areas that apply traditional and customary judicial practices or Shari'a. These rights more often were generally respected in regions that continued to apply the former government's laws, such as Somaliland and Puntland.

The Somaliland constitution provides for an independent judiciary; however, the judiciary was not independent in practice. Although Somaliland has a constitution

based on democratic principles, it continued to use the pre-1991 laws. There was a serious lack of trained judges and of legal documentation in Somaliland, which caused problems in the administration of justice. Untrained police and other persons reportedly served as judges. The UNIE reported that local officials had a tendency to interfere with legal matters. The UNIE also raised concerns about the Public Order Law in Somaliland, which reportedly has been used to detain and imprison people without trial.

The Puntland Charter has been suspended since the infighting between Abdullahi Yusuf and Jama Ali Jama began in 2001. The Charter provides for an independent judiciary; however, the judiciary was not independent in practice. The Puntland Charter also provides for a Supreme Court, courts of appeal, and courts of first reference. In Puntland clan elders resolved the majority of cases using traditional methods; however, those with no clan representation in Puntland were subject to the administration's judicial system.

In July there was a clash between the traditional justice methods and the state judiciary when Puntland President Adde Musa would not allow blood compensation by the clan of an accused killer of a police officer. President Musa insisted Puntland courts handle the case with the possibility of a death sentence if the accused was found guilty. On July 20, the sub-clan of the accused attacked the hotel outside where President Musa and TFG President Yusuf were residing, which resulted in the deaths of several security guards. The subclan also freed their imprisoned clansman.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The unimplemented TFC provides for the sanctity of private property and privacy; however, looting, land seizure, and forced entry into private property continued in Mogadishu and elsewhere, although on a smaller scale than in previous years. The Puntland charter and the Somaliland constitution recognize the right to private property; however, authorities generally did not respect this right in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The unimplemented TFC and the Somaliland constitution provide for freedom of speech and the press; however, there were incidents of harassment, arrest, and detention of journalists in all areas of the country, including Puntland and Somaliland. The Puntland charter provides for freedom of the press "as long as they respect the law"; however, this right was not respected in practice.

A law requires all media to register with the minister of information and imposes penalties for false reporting; however, the law had not been enforced by year's end. Critics alleged that if enforced, the law would provide authorities with censorship powers.

The print media consisted largely of short, photocopied dailies, published in the larger cities and often linked to one of the factions. Several of these newspapers nominally were independent and criticized faction leaders. In its annual survey on press freedom, Freedom House has ranked the country as "not free" every year from 1972–2004.

Somaliland has two daily newspapers—one government and one independent. There also was an English language weekly newspaper.

The majority of citizens obtained news from foreign news broadcasts, primarily the BBC, which transmitted a daily Somali-language program. The major faction leaders in Mogadishu, as well as the authorities of Somaliland, operated small radio stations. There were reportedly 11 FM radio broadcasts and 1 shortwave station in Mogadishu. A radio station funded by local businesses operated in the south, as did several other smaller FM stations in various towns in central and southern parts of the country. There was at least one FM station in both Puntland and Somaliland.

During the August general assembly of the Somali Journalist Network in Mogadishu, delegates pointed out that warlords, regional administrations, independent militias, clan-governed Islamic courts, and armed business groups posed security problems for journalists.

Harassment of journalists including detention without charge, assaults, and killings increased during the year. In February according to BBC news, a BBC international journalist, Kate Peyton, was shot from a passing car in front of her hotel shortly after arriving in Mogadishu. She was reportedly speaking to TFG officials about the security situation and whether it was safe for the government to relocate to Mogadishu. She died later from her wounds. No suspects were identified. In June a well-known radio commentator and poet was shot and killed in Mogadishu. Also in June a HornAfrik female reporter was shot and killed while attempting to cover the dismantling of a militia checkpoint in Mogadishu. In Sep-

tember the chairman of supreme council, Mohamed Barre Haji, and the secretary general, Omar Faruk Osman, of the National Union of Somali Journalists (NUSOJ) received death threats.

Numerous journalists were arrested. In April two journalists in Somaliland were dismissed from Radio Hargeisa and subsequently detained reportedly for the sake of national security; they were subsequently released. On June 30, authorities in Puntland arrested two STN journalists in Bossasso and held them for 13 days before they were released without charges. In September a journalist was detained after he failed to publish the proceedings of a press conference held by Yusuf Ali, the self-appointed governor of the Hiiran region. Supporters of Yusuf Ali reportedly put a pistol to the journalist's head and ordered him to tell his editor to publish the press conference. The NUSOJ facilitated the journalist's release. Militia loyal to Mohamed Dheere detained Abdullahi Kulmiye Adow after a controversial report on the TFG. He was released several days later and expelled from Jowhar. In September the editor of *Kaaha Bari* weekly newspaper, which is the oldest newspaper in Puntland, was arrested after reportedly publishing an article critical of an agreement between Puntland authorities and oil refineries.

In September authorities in the Puntland city of Bossasso arrested STN radio editor Awale Jama Salad, who had reported on his July detention at Bossasso prison, according to NUSOJ. Those reports, broadcast on STN and picked up by some local newspapers, alleged that officials at Bossasso prison were taking bribes to free prisoners and that conditions in the jail spread disease. Authorities accused Awale Jama of defamation and publishing false information, although he had not been officially charged, NUSOJ said. Authorities released Awale Jama after four days of detention in the Bossasso prison and the Puntland Intelligence Service headquarters.

There were no further developments in the 2004 and 2003 cases in which journalists were harassed and arrested.

In September 2003 Somaliland's information minister, Abdullahi Mohammed Duale, issued a statement banning independent television and radio stations in Somaliland, alleging that they posed a threat to national security; the ban remained in effect at year's end. Somaliland Television, which operated under a temporary license, was exempt from the ban. In March Somaliland police allegedly attempted to shut down a new radio station, Radio Horyaal, on the grounds that it was illegal because it was not registered.

Authorities did not restrict access to the Internet.

There were restrictions on academic freedom, and academicians practiced self-censorship. Abdi Samatar, a professor and vocal critic of the Somaliland administration, was banned from travel to Hargeisa, Somaliland, because of his academic research. In Puntland academics were required to obtain a government permit before conducting academic research. There were two universities in Mogadishu, two in Somaliland, and one in Puntland; however, there was no organized higher education system in most of the country.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The unimplemented TFC and the Somaliland constitution provide for freedom of assembly; however, the lack of security effectively limited this right in many parts of the country. The ban on demonstrations continued; however, demonstrations occurred throughout the country during the year. The government of Somaliland banned political demonstrations following the closely contested April 2003 multiparty elections (see section 3).

In May 100 members of the minority Gaboye community were detained after holding demonstrations in Hargeisa in response to a fatal shooting of one of their clansmen by a police officer. They were held incommunicado for a short period and then freed without charge.

Freedom of Association.—The unimplemented TFC provides for freedom of association; however, the charter was not enforced during the year.

The Puntland charter provides for freedom of association; however, the Puntland administration banned all political parties.

The Somaliland constitution provides for freedom of association, and this right was generally respected in practice. Legislation that governs the formation of political parties limits the number of political parties allowed to contest general elections to three. An ad hoc commission, nominated by the president and approved by the house of representatives, was responsible for considering applications. The law provides that approved parties that win 20 percent of the vote in Somaliland elections would be allowed to operate. There were three approved parties operating since the April 2003 elections.

Professional groups and local NGOs operated as security conditions permitted. The UN and other NGOs were evacuated from Jowhar in September due to security concerns.

c. Freedom of Religion.—There was no legal provision for the protection of religious freedom, and there were some limits on religious freedom. The unimplemented TFC establishes Islam as the national religion. Some local administrations, including Somaliland and Puntland, have made Islam the official religion in their regions.

Only Shafi'iyyah, a moderate Islamic doctrine followed by most citizens, is allowed in Puntland. Puntland security forces monitored religious activities very closely. In Puntland, religious schools and places of worship must receive permission from the Ministry of Justice and Religious Affairs to operate; such permission was granted routinely.

Under the regulations in Somaliland, religious schools and places of worship are required to obtain the Ministry of Religion's permission to operate. The ministry must approve entry visas for religious groups, and certain unspecified doctrines were prohibited.

Proselytizing for any religion except Islam is prohibited by law in Puntland and Somaliland and effectively blocked by informal social consensus elsewhere in the country. Christian-based international relief organizations generally operated without interference, as long as they refrained from proselytizing.

Non-Sunni Muslims often were viewed with suspicion by members of the Sunni majority. There was strong social pressure to respect Islamic traditions. Organized Islamic fundamentalist groups, whose goal was the establishment of an Islamic state, were actively engaged in the private sector and in political activities throughout the country.

Societal Abuses and Discrimination.—The small Christian community kept a low profile. Christians, as well as other non-Muslims who proclaimed their religion, sometimes faced societal harassment.

There were no reports of anti-Semitic acts, and there is no known Jewish community in the country.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The unimplemented TFC and the Puntland Charter provide for freedom of movement; however, this right continued to be restricted in some parts of the country. Checkpoints manned by militiamen loyal to one clan or faction inhibited passage by other groups. In the absence of a recognized national government, most citizens did not have the documents needed for international travel.

In June roadblocks in and around Mogadishu were removed in an effort to secure Mogadishu for the TFG. Members of parliament and civic leaders succeeded in removing 10 of 43 roadblocks in the city, agreeing to pay the freelance militia operating them $70 per month in compensation. Militia members who refused to abandon their roadblocks in some instances were confronted by angry crowds who shouted at them and diverted traffic away to deny them revenue. Some of these roadblocks were subsequently re-established.

The law does not prohibit forced exile; however, none of the authorities used forced exile during the year.

Internally Displaced Persons (IDPs).—In January the UNIE estimated that more than 5 percent of the total population of 6.8 million, or approximately 370 to 400 thousand was categorized as most highly vulnerable IDPs, most of them women and children, residing within host communities in public buildings and temporary settlements. The largest populations were in Mogadishu (250 thousand) and Kismaayo (18,500) with the remainder scattered around the country.

As security conditions showed some stability in the northern parts of the country, refugees and IDPs returned to their homes. According to UN High Commissioner for Refugees (UNHCR) figures, 11,633 Somali refugees were repatriated to Somaliland and Puntland areas during the year, although data on countries of origin were not available. Despite sporadic harassment, including the theft of humanitarian provisions from convoys by militiamen, repatriation to the northern parts of the country generally took place without incident. The UNIE continued to report that IDP settlements in Somaliland were overcrowded, had poor sanitation, and offered little or no access to employment and education. No local, regional, or UN authorities have taken responsibility for the settlements.

This situation differs dramatically from that in the south of the country, where UNHCR can count only six returnees. As harvests failed to materialize in December due to the failed "Deyr" rains, populations in the south were on the move, with the expectation of IDP and refugee flows rapidly developing in 2006.

Protection of Refugees.—The 1990 constitution and unimplemented TFC do not include provisions for the granting of asylum or refugee status in accordance with the definition in the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and there was no official system for providing such protection. In practice the authorities provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The authorities granted refugee status or asylum.

The authorities in Somaliland have cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

There continued to be reports of rape of Somali women and girls in refugee camps in Kenya during the year. Somali bandits who crossed over the border perpetrated the majority of the rapes; Kenyan security forces and police committed a small number of the rapes. There were rapes, defilements, and abuse of Somali refugees in Kenyan refugee camps, according to the UNHCR. The rapes usually followed looting attacks by bandits and occurred when women and girls left the camps to herd goats, collect water or firewood, or at night when bandits entered the refugee camps. Many of the rapes reportedly resulted in pregnancies.

The security at these camps remained a problem, such as at Kakuma camp where rape was among the most frequently reported crimes, some reportedly perpetrated by members of the local Kenyan community. At some camps, such as Dadaab, refugees formed committees to combat such abuse with some success although women and children remained vulnerable to rape, abuse, and exploitation. In November 2004 the rape of a woman by three Turkana men outside the camp ignited a series of retaliatory incidents of violence, until UNHCR and police interceded. UNHCR also reported on the importance of evidence gathering after several acquittals of accused rapists due to lack of evidence.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

In the absence of a fully functioning central government, citizens cannot exercise the right to change their government. In most regions, local clan leaders functioned as de facto rulers. Although many such leaders derived their authority from the traditional deference given clan elders, most faced opposition from intra-clan groups and political factions.

Elections and Political Participation.—In 2002 in Eldoret, Kenya, the Inter-Governmental Authority for Development-sponsored Somalia National Reconciliation Conference (SNRC) convened more than 400 delegates representing all clans and a wide spectrum of political, military, and traditional leaders to form a new government; Somaliland did not join the conference. Early in 2003 the SNRC moved to Nairobi, where a transitional charter was adopted but subsequently contested by several factions. In September 2004 the SNRC adopted, but did not implement, the TFC for a five-year TFG, which replaced the Transitional National Government, and selected a 275-member TFA, which replaced the Transitional National Assembly. In October 2004 the TFA elected Abdullahi Yusuf Ahmed, the former president of Puntland, as Transitional Federal president; Abdullahi Yusuf subsequently appointed Ali Mohammed Ghedi as prime minister. In December 2004 the president and prime minister swore in a new cabinet, which, in December 2004 received a vote of no confidence in the TFA. In January parliament gave a vote of confidence to a new, 89-person cabinet nominated by Prime Minister Ghedi. The new cabinet was formed according to the "4.5 formula," fixing proportional representation in the cabinet by clan.

Representatives of the self-declared Republic of Somaliland did not recognize the results of the SNRC.

Presidential elections in Somaliland were held in April 2003 with the participation of three political parties: the Democratic United Peoples' Movement (UDUB), the Solidarity Party (Kulmiye), and the Party for Justice and Democracy. The incumbent UDUB President, Dahir Riyale Kahin, won the election by a small margin of only 80 votes. Kulmiye initially disputed the results; however, it was resolved through mediation by traditional elders. Unofficial diplomatic observers considered the elections credible and sufficiently transparent. Parliamentary elections, which had been repeatedly postponed, were held in September. There were 246 candidates running for 82 parliament seats. Once inaugurated, the parliament will be an elected rather than appointed body.

In Somaliland there is a constitution and bicameral parliament with proportional clan representation, and an elected president and vice president. The Hargeisa authorities have established functioning administrative institutions in virtually all of the territory they claim, which equaled the boundaries of the Somaliland state that achieved international recognition briefly in 1960 before entering into a union with

the country. In 2001 a referendum was held with 97 percent of voters supporting Somaliland independence.

In 1998 Puntland declared itself a regional government during a consultative conference with delegates from six regions, including traditional community elders, the leadership of political organizations, members of legislative assemblies, regional administrators, and civil society representatives. Representatives of Puntland-based subclans chose Abdullahi Yusuf as president. Puntland has a single chamber quasi-legislative branch known as the Council of Elders, which played a largely consultative role. Political parties were banned in Puntland. Regional elections in Puntland were held during 2001; however, President Yusuf refused to step down. In November 2001 elders elected Jama Ali Jama as the new President of Puntland, and he assumed power in Garowe. Yusuf refused to accept the decision and militarily seized Garowe, which forced Jama to flee to Bosasso. In 2002 Yusuf occupied Bosasso and declared himself president of Puntland. During 2003 General Adde Musse, a former army general, organized Jama Ali Jama's militiamen, drawn primarily from the Majerten Osman Mohamoud subclan, and established a base in Somaliland. General Musse's forces attacked Puntland twice from their base in Somaliland without success. Puntland traditional elders then intervened and brokered a peace agreement between Musse and Yusuf, which was signed in May 2003. In May 2003 the two joined their forces and began sharing power. Mohammed Abdi Hashi, Yusuf's vice president, assumed the presidency of Puntland after Yusuf's election in October 2004 as TFG president.

Somaliland and Puntland continued to contest the Sanaag and Sool regions and the Buhodle district during the year (see section 1.a.). Both governments maintained elements of their administrators at the Sanaag and Sool regions, and both governments exerted influence in various communities.

There were 22 women in the 275-seat TFA, and 1 female minister and 4 female deputy ministers in the TFG. However, the number of women in parliament did not fulfill the legal requirement that at least 12 percent of the 275-member parliament be reserved for women. A woman, Fowiza Mohamed Sheikh was appointed cabinet minister for Gender and Family Affairs in the TFG. A woman held the post of Foreign Minister in the Somaliland cabinet, and two women were elected to the lower house of parliament; in addition, several women were important behind-the-scenes figures in the various factions. There were 5 women in the 69-seat Puntland council of elders.

There were 31 members of the minority Bantu or Arab ethnic groups in the 275-seat TFA, and 4 in the TFG Cabinet. The Somaliland parliament and cabinet had no members of minority groups.

Government Corruption and Transparency.—Official corruption was endemic throughout the country, and there were no laws that provided for public access to government information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without official restriction, investigating and publishing their findings on human rights cases. Authorities were somewhat cooperative and responsive to their views.

Several local human rights groups were active during the year, including the Mogadishu-based DIJHRC, Isha Baidoa Human Rights Organization in Bay and Bakol regions, and KISIMA in Kismayu. The DIJHRC investigated the continuing causes of conflict in the Mogadishu area, conducted effective human rights monitoring, protested the treatment of prisoners before the Islamic Shari'a courts, and organized periodic demonstrations for peace. KISIMA monitored human rights and organized peace marches in Kismayu. The Mogadishu-based Somali Journalists Network monitored human rights violations against journalists in Mogadishu. The Mogadishu-based Center for Research and Dialogue, women's NGOs, and other members of civil society also played an important role in galvanizing support in the country for the reconciliation talks in Kenya and in efforts to secure Mogadishu for the TFG.

On March 1, the TFG Ministry of Environment and Disaster Management sent a letter to the NGO Consortium, an umbrella group of international nongovernmental organizations involved in relief and development work in the country, to request that all contract work with local NGOs be routed through the ministry. Critics contended that the policy intended to place local civil society groups and NGOs under restrictive government regulations and had the potential to compromise the independence and capacity of civil society organizations in the country. The letter specifically stated that, "each Ministry has the responsibility to overtake its mandated duties that is (sic) currently exercised by local NGOs and issue license for

those competent NGOs. Hence, no local NGO has a full right to implement any project regarding our ministry's duties unless licensed and registered by our concerned office. Those competent local NGOs will cooperate with the Ministry according to the rules and regulations." The NGO Consortium Secretariat responded on behalf of its constituency on May 10, asking only that the ministry provide the referenced "rules and regulations", since none had yet been promulgated. There was no further communication from the ministry, and there has been no known attempt to enforce the licensing requirement at year's end.

Security problems complicated the work of local and international organizations, especially in the south. There were reported incidents of harassment against NGOs, resulting in at least three deaths. In April there were two separate attacks on international aid agencies that claimed the life of one Somali national and injured three, including a foreign nun. In July assailants broke into the home of peace activist and NGO worker Abdulqadir Yahya Ali who they subsequently shot and killed. In recent years UN staff or consultants were kidnapped, often for use as leverage by ethnic Somali former UN workers dismissed by the organization and seeking compensation. Most hostages were released unharmed after mediation by clan elders. The UNIE reported that four lawyers and human rights defenders were detained in Somaliland. They were later released.

Attacks on NGOs also disrupted flights and food distribution during the year. On July 27, gunmen seized the MV Semlow with 10 crewmembers from Kenya, Tanzania, and Sri Lanka, plus 850 tons of food aid sent by the WFP for 28 thousand tsunami survivors. In July the WFP suspended all shipments of humanitarian assistance to the country. An International Maritime Organization report listed the country's coast as one of the most dangerous areas for piracy. In October the 10 crewmembers were released and most of the food aid was intact, according to press reports. The release reportedly was orchestrated through a deal between the gunmen and a local businessman.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The unimplemented TFC prohibits discrimination on the basis of gender and national origin; however, societal discrimination and violence against women and widespread abuse of children continued to be serious problems. The Somaliland Constitution prohibits discrimination on the basis of gender and national origin; however, these rights were not respected in practice.

Women.—Domestic violence against women was a serious problem. There are no laws that specifically address domestic violence; however, both Shari'a and customary law address the resolution of family disputes (see section 1.e.). Women suffered disproportionately in the civil war and in the strife that followed. There was no information available on the prevalence of domestic violence in the country. Sexual violence in the home was reportedly a serious problem, linked to general gender discrimination. UNHCR reported that in refugee camps husbands frustrated by losing their traditional role as provider sometimes abused their wives.

Laws prohibiting rape exist; however, they generally were not enforced. There were no laws against spousal rape. There were no reports that rape cases were prosecuted during the year. NGOs documented patterns of rape of women with impunity, particularly those who have been displaced from their homes due to civil wars or were members of the minority clans. Police and militia members raped women, and rape was commonly practiced in inter-clan conflicts. Traditional approaches to dealing with rape tend to ignore the victim's situation and instead communalize the abuse by negotiating with members of the perpetrator's clan. Victims sustained subsequent discrimination based on attributions of "impurity." There were reports of rapes of Somali women and girls in refugee camps in Kenya during the year (see section 1.c.). Women and girls in displaced persons camps were also especially vulnerable to sexual violence, contributing to the spread of HIV/AIDS.

In Somaliland there was an increase in incidents of gang rape in urban areas, primarily by youth gangs, members of police forces and male students. Many of these cases occurred in poorer neighborhoods and among immigrants, refugee returnees, and rural displaced populations. Many cases were not reported.

The practice of FGM is widespread throughout the country. There were estimates that approximately 98 percent of women have undergone FGM. The majority of women were subjected to infibulation, the most severe form of FGM. In Somaliland FGM was illegal; however, the law was not enforced. In Puntland legislation prohibited FGM in northeastern areas of the country; however, in practice the law was not effectively enforced. UN agencies and NGOs have made intensive efforts to educate persons about the danger of FGM; however, no reliable statistics were available on the success of their programs.

Prostitution is illegal; however, it was practiced. Because it is culturally proscribed, it was not reported, and there were no statistics on its prevalence.

Women do not have the same rights as men and were subordinated systematically in the country's overwhelmingly patriarchal culture. Polygyny was permitted, but polyandry was not. Under laws issued by the former government, female children could inherit property, but only half of the amount to which their brothers were entitled. Similarly, according to the Shari'a and local tradition of blood compensation, those found guilty in the death of a woman must pay only half as much to the aggrieved family as for a male victim. As a predominantly Muslim society, many women wore traditional religious dress

Several women's groups in Mogadishu, Hargeisa (Somaliland), Bossasso (Puntland), and Merka (Lower Shabelle) actively promoted equal rights for women and advocated the inclusion of women in responsible government positions. The UNIE noted an improvement in recent years in the profile and political participation of women in the country.

Women's groups were active in efforts to secure Mogadishu for the TFG.

Children.—The authorities were generally not committed to children's rights and welfare.

The lack of resources limited the opportunity for children to attend school. Approximately 22 percent of the school-aged population attended school, according to UNICEF officials. Disproportionately more boys than girls were enrolled in school. Overall enrollment rates have been on the rise in recent years with considerable regional variability. Since collapsing in 1991 education services have been revived in various forms: a traditional system of Koranic schools; a public primary and secondary school system financed by communities, foreign donors and the administrations in Somaliland and Puntland; a system of Islamic charity-run schools; and a system of privately-run primary schools, secondary schools, universities, and numerous vocational training institutes. There were three secondary schools in Somaliland and several secondary schools in Mogadishu; however, only 10 percent of those few children who entered primary school graduated from secondary school. Schools at all levels lacked textbooks, laboratory equipment, and running water. Teachers were trained poorly and paid poorly. The literacy rate was estimated at 25 percent throughout the country; however, reliable statistics did not exist. There was a continued influx of foreign Muslim teachers into the country to teach in private Koranic and Madrassa schools. These schools were inexpensive and provided basic education; however, there were reports that these schools required the veiling of small girls and other conservative Islamic practices normally not found in the local culture. In south-central regions of the country, over 100 thousand children were enrolled in educational establishments funded by Islamic charities.

Medical care was rudimentary, and only a small percentage of children had access to adequate medical facilities. There was a chronic lack of qualified health professionals, weak management of health services, inadequate resources and infrastructure to finance a public health system, an urban bias in health provision and a weak drug certification regime.

There was no information available on the prevalence of child abuse in the country; however, it was a problem. There were reports of rapes of Somali girls in refugee camps in Kenya during the year (see section 2.d.). UNHCR reported that children at refugee camps were victims of rape, sodomy, early/forced marriages, and unwanted pregnancies (see section 1.d.). A 2003 UNICEF report noted that nearly a third of all displaced children reported rape as a problem within their family, compared to 17 percent of children in the general population.

FGM was performed on approximately 98 percent of girls (see section 5, Women).

Children remained among the chief victims of the continuing violence. Boys as young as 14 or 15 years of age have participated in militia attacks, and many youths were members of the marauding gangs known as "morian" (parasites or maggots). This year's annual report of the Secretary-General on children and armed conflict documented grave violations against children in Somalia. The report focused violations that are being systematically committed against children in Somalia: killing or maiming of children; the recruitment or use of child soldiers; attacks against schools or hospitals; rape or other grave sexual violence against children; abduction of children; and denial of humanitarian access for children.

The Somaliland Republic constitution contains no minimum age of recruitment into the armed forces. There were no reports of minors under-18 in its forces, and the authorities generally accepted that recruits should not be under 20-years-old, but an inadequate system of birth registration made it difficult to establish the age of recruits.

During the year the UNIE conducted his fourth annual fact-finding mission, which raised the issue of *asi walid*, a custom whereby parents place their children

in prison for disciplinary purposes and without any legal procedure. Many of these juveniles were incarcerated with adults (see section 1.c.).

Child prostitution was practiced; however, because it is culturally proscribed and was not reported, there are no statistics on its prevalence.

Trafficking in children for forced labor was a serious problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—The pre-1991 law prohibits trafficking; however, there were reports of trafficking during the year. The unimplemented TFC does not specifically prohibit trafficking. Puntland was noted by human rights organizations as an entry point for trafficking. The UNIE reported that trafficking in persons remained rampant in Somalia and that the lack of an authority to police the country's long coastline contributed to trafficking. Various forms of trafficking are prohibited under the most widespread interpretations of Shari'a and customary law, but there was no unified policing in the territory to interdict these practices, nor any authoritative legal system within which traffickers could be prosecuted.

Trafficking in children for forced labor was a serious problem. There were reports of a significant increase in the trafficking of children out of the country to relatives and friends in western countries where they worked or collected welfare and sent money back to family members in the country.

The country was a source and destination for trafficked women and children. Armed militias reportedly trafficked Somali women and children for sexual exploitation and forced labor. Some victims were trafficked to the Middle East and Europe for forced labor or sexual exploitation. Trafficking networks also were reported to be involved in transporting child victims to South Africa for sexual exploitation.

Authorities within Somaliland and Puntland have expressed a commitment to address trafficking, but corruption and a lack of resources prevented the development of effective policies. Many of these individuals were known to condone human trafficking. In the absence of effective systems of revenue generation, no resources were devoted to preventing trafficking or to victim protection across the majority of the country. Government officials were not trained to identify or assist trafficking victims. NGOs worked with IDPs, some of whom were possibly trafficking victims.

Persons with Disabilities.—In the absence of a functioning state, the needs of persons with disabilities were not addressed. There were several local NGOs in Somaliland that provided services for persons with disabilities. Associations of disabled persons reported numerous cases of discrimination to the UNIE.

There was widespread abuse of persons with mental illness, and it was common to chain such persons to a tree or within their homes for up to seven years.

National/Racial/Ethnic Minorities.—More than 85 percent of citizens shared a common ethnic heritage, religion, and nomadic-influenced culture. In most areas, members of groups other than the predominant clan were excluded from effective participation in governing institutions and were subject to discrimination in employment, judicial proceedings, and access to public services.

Minority groups and low-caste clans included the Bantu (the largest minority group), the Benadiri, Rer Hamar, Brawanese, Swahili, Tumal, Yibir, Yaxar, Madhiban, Hawrarsame, Muse Dheryo, and Faqayaqub. The UNIE estimated that minority groups living in the country might constitute up to one-third of the population, approximately two million persons. Intermarriage between these groups and mainstream clans was restricted. Some of these groups had limited access to whatever social services were available, including health and education. Minority groups had no armed militias and continued to be subjected to killings, torture, rapes, kidnappings for ransom, and looting of land and property with impunity by faction militias and clan members. These groups continued to live in conditions of great poverty and to suffer numerous forms of discrimination and exclusion.

On June 6, a member of a minority clan was killed when a local militia placed explosives on the side of his house while he was sleeping, in an effort to seize his farmland.

The UNIE expressed concern that members of minority clans were excluded from the Somali National Reconciliation Process and from the Transitional Federal parliament and government.

Section 6. Worker Rights

a. The Right of Association.—The 1990 constitution and the unimplemented TFC provide workers with the right to form unions; however, the civil war and factional fighting have resulted in the absence of any legal protection for workers' rights and the disintegration of the country's single labor confederation, the then government-controlled General Federation of Somali Trade Unions. In view of the extent of the

country's political and economic breakdown and the lack of legal enforcement mechanisms, trade unions did not function freely.

The unimplemented TFC, the Puntland Charter, and the Somaliland Constitution establish the right of freedom of association, but no unions or employer organizations existed.

b. The Right to Organize and Bargain Collectively.—Wages and work requirements in the traditional culture were established largely by ad hoc bartering based on supply, demand, and the influence of the worker's clan. In June there were private strikes by private transportation groups in protest of higher fuel costs. Also in June, a number of Puntland businesses shut down to protest higher taxes. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The pre-1991 Penal Code and the unimplemented TFC prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.). Local clan militias generally forced members of minority groups to work on banana plantations without compensation. There were reports that in Middle and Lower Juba, including the port of Kismayu, Bantus were used as forced labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—The pre-1991 Labor Code and the unimplemented TFC prohibit child labor; however, child labor was a problem, and there were child soldiers (see section 5). Formal employment of children was rare, but youths commonly were employed in herding, agriculture, and household labor from an early age. Substantial numbers of children worked. From 1999–2003, UNICEF estimated that 32 percent of children, 29 percent of males and 36 percent of females, between the ages of 5 and 14 worked; however, the percentage of children engaged in labor was believed to be even higher during the year. The lack of educational opportunities and severely depressed economic conditions contributed to child labor.

e. Acceptable Conditions of Work.—There was no organized effort by any of the factions or de facto regional administrations to monitor acceptable conditions of work during the year. There is no national minimum wage and with an estimated 43 percent of the population living in extreme poverty with a per capita income of less than $1 (approximately 1,700 Somali shillings) per day, there was no mechanism to enforce a decent standard of living for a worker and family.

SOUTH AFRICA

South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the president and the parliament. The country has a population of approximately 46.9 million. President Thabo Mbeki led the African National Congress (ANC) party, which increased its seats to 279 in the 400-seat National Assembly after a free and fair national election in April 2004. Parliament, in turn, elected the president. The civilian authorities maintained effective control of the security forces.

The government generally respected the human rights of its citizens. However, the government, nongovernmental organizations (NGOs), and local media reported the following serious human rights problems:

- police use of excessive force against suspects and detainees, which resulted in deaths and injuries.
- vigilante violence and mob justice
- abuse, including beatings and rape, of prisoners and severe overcrowding of prisons
- lengthy delays in trials and prolonged pretrial detention
- forcible dispersal of demonstrations
- pervasive violence against women and children and societal discrimination against women and persons with disabilities
- trafficking in persons
- violence resulting from racism, xenophobia, and ethnic tensions
- child labor, including forced child labor related to child prostitution

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the government or its agents; however, police use of lethal force during apprehensions resulted in a significant number of deaths, and deaths in police custody were a problem. The government investigated and punished some abusers.

According to the governmental Independent Complaints Directorate (ICD), there were 366 deaths as a result of police action during the year and 286 deaths in police custody between April 1, 2004, and March 31; 170 of the 286 resulted from suicide or natural causes.

On October 17, the court convicted Witdraai Constable Sebastian van Wyk of killing a Khomani San civilian in 2004; Inspector Johannes Liebenberg was acquitted of the same charge.

A formal inquest during the year concluded that no one was liable for the January 2004 police killing of a civilian fleeing the scene of a crime.

Political violence between ANC and Inkatha Freedom Party (IFP) supporters in KwaZulu-Natal resulted in deaths during the year. On March 2, unknown assailants shot and killed Zulu Royal Prince Thulani Zulu, chairman of the ANC's Nongoma branch in KwaZulu-Natal. Three persons were arrested and released after questioning. An investigation was ongoing at year's end.

On May 10, a campaigning IFP member was killed while campaigning in the party's by-election. The IFP charged that the killing was politically motivated because the victim was hanging party posters when he was shot; however, no additional evidence was uncovered to support the charge. No arrests had been made by year's end.

During the year at least 13 persons in Kwa-Zulu-Natal were killed in taxi violence, which resulted from the rivalry between taxi associations for lucrative routes. Politicians and police officers owned taxis companies in some areas and were allegedly involved in the violence. Taxi associations also charged that the government provided preferential treatment to taxi associations that supported certain politicians. Local residents reportedly were reluctant to provide information or testimony about such violence to police because of their suspected involvement; therefore, many cases remained unsolved.

There were no developments in the December 2004 attacks on members of a taxi association by unknown assailants.

On November 28, the appeal hearing began of right-wing Afrikaners Leon Peacock, Hercules Viljoen, and Alan Rautenback, who plotted to blow up the Vaal Dam in 2001 and were convicted in 2003 of sabotage.

Incidents of vigilante action and mob justice continued, particularly in Gauteng, the Western Cape, and KwaZulu-Natal. The 2004–05 ICD Report recorded a 184 percent increase in vigilantism over the previous year. On January 11, a mob in Pretoria attacked 2 Angolan men for allegedly raping a 17-year-old girl; 1 of the Angolans was beaten to death, and the other was critically injured. On April 30, in Port Elizabeth, a mob beat to death Desmond Zothe after he allegedly hit a pedestrian with his car. On May 1, a mob in the Barcelona informal settlement beat a man to death for allegedly stealing a bicycle.

The trial continued of 14 persons charged with kidnapping and murder for allegedly attacking 2 men accused of murder in May 2004.

Unlike in previous years, there were no reports of killings by Mapogo A Mathamaga, a vigilante group with more than 90 branches and 50 thousand members throughout the country. Mapogo targeted persons suspected of property crimes against their members, tortured suspected criminals, and beat persons with clubs and whips.

On February 24, after the only surviving witness disappeared, the public prosecutor withdrew murder charges against Bertrams Pringle, Willie Skhosana, and Mapogo member Robert Van der Colff, who in 2002 had beaten to death Adam Potgieter and Samuel Moletsane for allegedly stealing construction equipment.

Unlike in previous years, there were no reports of killings by People Against Gangsterism and Drugs (PAGAD), an anticrime group with an antigovernment bias. One ongoing court case remained from the numerous cases involving the group. On March 7, the Cape high court acquitted Moegamat Isaacs, Nasrodien Gamielden, Achmat Abrams, Loegmaan Sapat, and Gabiebodien Burton of murdering three drug dealers in 1999; however, the five remained in prison serving sentences for other PAGAD-related crimes. In March the court sentenced PAGAD member Shaheem "Doc" Ismail to 12 years in prison for the attempted killing of a Cape Town magistrate. PAGAD leader Salie Abader's suit against authorities for "wrong-

ful arrest and malicious prosecution" following his acquittal in 2002 for a killing had not concluded by year's end.

There continued to be reports that xenophobia led to a number of violent attacks on foreigners (see section 5).

Killings and other violent crimes against farmers and, on occasion, their families continued in rural areas. Despite concern among white farmers that they were targeted for racial and political reasons, studies indicated that the perpetrators generally were common criminals motivated by financial gain. According to Agriculture South Africa (AgriSA), there were 652 farm attacks and 86 farm killings by the end of October 2004. There were 82 killings and 694 incidents of violence against the farming community, according to the 2004–05 SAPS report. Security forces generally lacked the capability to prevent such activities.

On April 25, farm owner Mark Scott Crossley and farm workers Richard Mathebula and Simon Mathebula were found guilty of the 2004 killing of a former farm laborer, who they tossed into a lion enclosure.

On October 17, Jewell Crossberg appeared in high court in connection with his alleged June 2004 killing of a farm worker; however, the case was postponed until April 2006 for further investigation. Crossberg had told police that he had mistaken his victim for a baboon, but farmworkers who witnessed the shooting said the killing was triggered by the victim's failure to report to work the day before.

In Limpopo Province, where traditional beliefs regarding witchcraft remained strong, there were occasional reports of attacks on persons accused of witchcraft (see section 1.f.). Traditional leaders cooperated with government programs and reported threats against persons suspected of witchcraft. In April a man from Dan Village in Rityavi, Limpopo, killed his grandmother with an ax after accusing her of bewitching him; the man was charged with murder. On May 11, the court sentenced a man to life imprisonment for the 2004 killing of four elderly women accused of witchcraft in Nontshinga Village in the Eastern Cape. The trial of those accused of the 2003 killing of a man suspected of witchcraft in KwaZulu-Natal was ongoing at year's end.

Muti killings—killing, especially of children, to obtain body parts for traditional healing—continued. In February charges were dropped against a businessman and a traditional healer for allegedly hacking off a young boy's hand, ear, and genitals in 2004; the boy died 10 days later. An inquest into the incident was ongoing at year's end. SAPS estimated that 150 to 300 such killings occurred each year.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, some police officers beat, raped, tortured, and otherwise abused suspects. Police torture and abuse occurred during interrogation, arrest, detention, and searches of persons' homes.

Police forcibly dispersed demonstrators, resulting in numerous injuries (see section 2.b.).

Incidents of police harassment against foreigners continued, particularly during coordinated police raids of areas where foreign nationals resided. Some state hospitals reportedly routinely refused emergency treatment to indigent foreigners despite regulations that required such treatment.

The press reported that many refugee seekers claimed that immigration personnel whipped, beat, and subjected them to other brutal treatment. Despite promises by the Minister of Home Affairs to investigate such claims, no investigations had begun by year's end. No information was available on the case of four soldiers arrested in 2004 on allegations of ambushing, stripping, raping, and robbing illegal Zimbabwean immigrants.

Unlike in the previous year, there were no reports that police abused homosexuals; however, gay and lesbian rights NGOS alleged that such incidents were still occurring.

During the year SANDF troops stationed in the Democratic Republic of the Congo (DRC) as part of the UN peacekeeping mission were accused of sexual misconduct towards women and girls. According to UN statistics, 30 of the 95 accusations of sexual misconduct made against UN peacekeepers in the DRC involved members of the SANDF; 8 of the allegations were substantiated, and the responsible soldiers were returned to the country. The government reportedly had a "zero tolerance policy" for human rights abuses perpetrated by SANDF members.

Vigilante action and mob justice resulted in attacks on suspected criminals, some of whom were killed (see section 1.a.). Acts of violence against suspected witches also were a problem (see section 1.a.).

There were incidents in which white employers abused their black South African farm laborers (see section 1.a.). NGOs claimed that rural police and courts refused to arrest or prosecute whites in many cases.

Prison and Detention Center Conditions.—Most prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements. The country had 240 prisons with a capacity of 114 thousand prisoners; however, there were 189,748 prisoners in custody, according to the Governmental Judicial Inspectorate of Prisons. Prisons were overcrowded and understaffed, according to the Police and Prisons Civil Rights Union. Severe overcrowding in some prisons led to poor health, with as many as 75 inmates occupying a cell designed to hold 40 inmates.

According to the Judicial Inspectorate Report, there were 1,758 prison deaths in 2004, 1,689 of which resulted from natural causes, including HIV/AIDS. In June Correctional Services Minister Ngconde Balfour stated that 8 thousand prisoners were HIV positive and that only 195 were receiving treatment with anti-retroviral (ARV) therapy. In partnership with a foreign government, Correctional Services conducted programs to prevent HIV/AIDS, care for victims, and to treat some patients with the disease.

Prison employees and other prisoners abused and assaulted prisoners physically and sexually. Detainees awaiting trial reportedly contracted HIV/AIDS through rape. The Institute for Security Studies (ISS) reported in 2003 that some inmates intentionally infected other inmates with HIV/AIDS to control or punish them in a process called "slow poison."

Official corruption was a problem. There were reports that prison employees stole food and money from prisoners. According to NGOs, prisoners used drugs provided to them illegally by guards or other prisoners. In many cases offending police or correctional officers were suspended or expelled from their services for corruption. On March 2, Correctional Services Minister Balfour announced that since 2002, 132 officials had been referred for criminal prosecution related to corruption in prison, of whom 105 were convicted. Two of those convicted were dismissed, and 95 were given final warnings.

The Jali Commission completed its investigation into allegations of corruption and sexual abuse in prisons, but its final report had not been released by year's end. The commission has reported widespread irregularities involving prisoners leaving the premises illegally, nepotism, drug trafficking, irregular appointments of personnel, extortion, abuse of parole procedure, abuse of disciplinary inquiries and appeal procedures, educational qualifications fraud, and massive medical aid fraud.

Human rights groups continued to raise serious concerns regarding C–MAX prisons, which were designed to hold the country's most dangerous criminals. Concerns included the government's criteria for transferring prisoners from other prisons to a C–MAX facility and the restrictive, solitary conditions of the prisons.

There were allegations of corruption and abuse of detainees at the overcrowded Lindela Repatriation Center, the country's largest detention facility for undocumented immigrants. On October 28, the Department of Home Affairs released an inquiry into the deaths of two immigrants at Lindela in July. The inquiry found that the deaths resulted from meningitis and could have been prevented had proper medical care been available. In a separate inquiry, three officials from home affairs, including a deputy director general, were briefly suspended for mismanagement of the Lindela facility. However, on a December 7 visit to the facility, the regional representative of the UN High Comissioner for Refugees (UNHCR) noted improvements for women and children and characterized sanitary conditions and medical facilities as "good."

Although the government operated 13 youth detention facilities, juveniles sometimes were held with adults. There were credible reports that these youths were vulnerable to sexual exploitation, including rape.

Pretrial detainees generally were held with convicted prisoners. The government generally permitted independent monitoring of prison conditions, including visits by human rights organizations. According to a November 14 study by the Institute for Security Studies, groups like Lawyers for Human Rights, the South Africa Human Rights Commission, and faith-based groups like Khulisa were granted extensive access to prisoners and were allowed to conduct various programs. Unlike in previous years, there were no reports that organizations sometimes were told that only lawyers were able to visit prisoners or that certain groups were routinely denied access. The Judicial Inspectorate visited all prisons regularly.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, prolonged

pretrial detention was a problem, and police arbitrarily arrested demonstrators (see section 2.b.).

Role of the Police and Security Apparatus.—The South African Police Service (SAPS), under the Department of Safety and Security, has primary responsibility for internal security. The SANDF, under the Department of Defense, is responsible for external security but also has domestic security responsibilities. The National Prosecuting Authority's (NPA) Directorate of Special Operations, the "Scorpions," coordinates efforts against organized crime and corruption.

SAPS continued its major restructuring and transformation from a primarily public order security force to a more accountable, community service-oriented police force; however, it remained ill-equipped, overworked, and poorly trained. According to the 2004–05 SAPS annual report, there were 115,595 police officers and 33,375 civilians working in SAPS. The majority of police resources remained focused on wealthy residential and business areas.

SAPS continued to create partnerships between local police forces and the communities they served. Municipalities also maintained metropolitan police forces in major cities under local control, such as in Johannesburg, Durban, Pretoria, and Cape Town. SAPS continued to have deficiencies in mid-level leadership and institutional memory that damaged its overall performance.

During the year the ICD received 1,731 allegations of criminal offenses committed by police and 3,407 complaints of misconduct.

Broad efforts to reform police practices continued, and the ICD investigated reports of police misconduct and corruption; however, reports of killings and misconduct decreased, while reports of criminal offenses increased. The government made efforts to address abuses with an official anti-torture policy and training programs for police and SANDF officers that included human rights.

Arrest and Detention.—The law requires arrest warrants in most cases and provides that every detainee be informed promptly of the reasons for detention. Detainees must be advised promptly of their right to remain silent and the consequences of waiving that right. Detainees must be charged within 48 hours of arrest, held in conditions of human dignity, allowed to consult with legal counsel at every stage, and permitted to communicate with relatives, medical practitioners, and religious counselors. Courts and police generally respected most of these rights; however, there continued to be problems with prison conditions and prolonged pretrial detention. Detainees must be released (with or without bail) unless the interests of justice require otherwise; however, bail for pretrial detainees often exceeded what suspects could pay. An estimated 10 to 15 thousand prisoners remained in detention because they were unable to pay bail. Some school children spent more than a year in detention because their families were unable to afford to pay bail.

Human rights groups, judges, and judicial scholars continued to express concern about the Criminal Procedure Second Amendment Act, which mandates minimum jail sentences and prohibits bail in certain cases.

There were no reports of political detainees.

Minister of Justice Mabandla reported in July that the backlog of court cases increased 13.2 percent over the previous year in district courts, 6.2 percent in regional courts, and 10.4 percent in high courts. As of January 31, 52,326 of the country's 187,446 prisoners were awaiting trial. According to the ISS, prisoners waited an average of three months, but some as long as two years, for a trial. This problem was primarily due to an understaffed, underfunded, and overburdened judiciary (see section 1.e.).

Amnesty.—Between June and August, the Department of Correctional Services reduced the sentences of 10 thousand prisoners by 6 months to ease prison overcrowding. The sentence reduction only applied to prisoners convicted of non-violent crimes and excluded persons who committed sexual crimes such as rape, incest, and child pornography.

The National Director of Public Prosecution continued to prepare cases against persons who were denied amnesty, failed to apply for amnesty, or were implicated in human rights abuses during the Truth and Reconciliation Commission (TRC) process. In the first case, charges were brought against Gideon Nieuwoudt (who died during the year of natural causes), Johannes van Zyl, and Johannes Koole for the Pebco Three killing in 1985; however, the case was postponed.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and while the judiciary was generally independent, it was understaffed, underfunded, and overburdened.

The constitutional court is the highest court for interpreting and deciding constitutional issues, while the Supreme Court of Appeal is the highest court for interpreting and deciding other legal matters. The lower courts include magistrates'

courts, divorce courts, small claims courts, and courts of chiefs and headmen. Magistrates' courts—including regional and district courts—have civil and criminal jurisdiction. The country also has a range of special courts, including the labor appeals court, labor court, land claims court, special income tax courts, special (consumer) court, sexual offences court, and the electoral court.

Trial Procedures.—The bill of rights provides for due process, including the right to a fair, public trial within a reasonable time after being charged, and the right to appeal to a higher court. It also gives detainees the right to state-funded legal counsel when "substantial injustice would otherwise result"; however, a general lack of information for accused persons regarding their rights to legal representation and the government's inability to pay for these services remained problems.

There is a presumption of innocence for criminal defendants. Judges and magistrates hear criminal cases and determine guilt or innocence. The law requires that a panel of lay assessors and a magistrate hear cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also can use assessors in an advisory capacity in bail applications and sentencing.

The government operated 46 justice centers in the country, composed of the Departments of Justice, Correctional Services, Welfare and Health, and SAPS, to speed the administration of justice, reduce the court rolls, and alleviate overcrowding in prisons. However, serious backlogs in the numbers of cases that have gone to trial remained.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, there were allegations of police abuse during sweeps and home searches and other criticisms against government legislation and practice.

In October National Intelligence Agency Director General Masetlha, Deputy Director General Njenje, and General Manager Mhlanga were suspended for conducting surveillance on Saki Macozoma, a political ally of President Mbeki. Njenje subsequently resigned.

The Regulations of Interception and Provision of the Communication-Related Information Bill, which provides for state monitoring of all telecommunications systems for criminal investigations, including cell phones, the Internet, and e-mail had not been implemented by year's end.

The Promotion of Access to Information Act is intended to assist authorities in obtaining personal information and is used solely in criminal investigations; however, opposition parties and human rights NGOs objected to its broadly defined provision that enabled the government to access an individual's personal information.

Farmers continued to evict workers legally and illegally. During the year the Land Claims Court rejected 25 percent of the 645 eviction orders it reviewed. The law requires that evictions be approved by a court; however, less than 1 percent of evictions involved a legal process. Many farmworkers were unaware of their right to legal counsel during eviction proceedings, according to an study released in October by the Nkuzi Development Association.

There were reports that persons accused of witchcraft were attacked and driven from their villages in rural communities (see section 1.a.). In February approximately 90 youths burned 39 houses in 4 villages in Limpopo, accusing the occupants of being witches. Thirteen suspected ringleaders were arrested and charged with public violence and arson; their trial was expected to resume in March 2006. Some survivors of attacks and their families took refuge in "witch villages," which had no running water or electricity, in Limpopo Province.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights. Several apartheid-era laws that remained in force posed a potential threat to media independence.

The independent media was active and expressed a wide variety of views, although some journalists expressed concern that the government heavily influenced the media.

Print media reached approximately 20 percent of the population. Due to socio-economic and demographic circumstances, the majority of the population received news through radio broadcasts from the government-owned South African Broadcasting Corporation (SABC) and community radio stations.

The SABC, which was managed by black South African executives and provided broadcasting in the country's main African languages, continued to own and control the majority of the television and radio outlets. SABC provided news coverage of the

government and the leading opposition parties; however, media commentators and opposition politicians continued to criticize SABC for allegedly showing partiality in its coverage of government ministers or events.

Low-power, not-for-profit community radio stations continued to play an important role in informing the mostly rural public; however, they often had difficulty producing adequate content and maintaining staff. Government broadcast regulators regularly issued new community radio licenses and also withdrew a few for noncompliance with the terms of issuance. The cases of two radio stations that were refused licenses in 2004, Alex Radio and Radio Pretoria, were pending at year's end.

The only independent television station, e.tv, reached 78 percent of the population. Satellite programming was also available.

Police injured journalists covering a strike (see section 6.b.).

High-ranking government officials on occasion reacted sharply to media criticism and accused black South African journalists of disloyalty and white journalists of racism. Some journalists believed that the government's sensitivity to criticism caused self-censorship in the media.

On May 26, the Johannesburg high court blocked the liberal weekly *Mail and Guardian* from publishing a follow-up article regarding a scandal involving alleged misappropriation of public funds. On June 7, the judge lifted the order because the article had been discussed openly in parliament, making the case moot.

Several laws remained in effect that permitted the government to restrict the publication of information about the police, the national defense forces, prisons, and mental institutions. While these laws rarely were used, journalists considered them a threat to constitutional rights. There were no instances in which these laws were invoked during the year.

The Foreign Publication Board reviewed written and graphic materials published in or imported into the country. The board had the power to edit or ban books, magazines, movies, and videos, and it regularly exercised that power, mostly regarding pornographic material.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, police forcibly dispersed numerous demonstrators during the year, which resulted in injuries and one death.

On May 25, in Cape Town, police used tear gas and stun grenades to disperse protesters demanding better housing. There were no reported injuries, but 36 persons were arrested and briefly detained. On May 30, in Ocean View, police arrested and briefly detained another 12 persons dispersing a demonstration with tear gas and stun grenades.

On July 12, police used rubber bullets and teargas to disperse a peaceful demonstration against the local hospital's slow provision of ARV therapy; 40 persons were injured, and 10 were treated for gunshot wounds.

During the year three police officers were arrested and charged with murder in the September 2004 killing of a demonstrator in Johannesburg. The trial was ongoing at year's end.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right.

c. Freedom of Religion.—The law provides for freedom of religion; the government generally respected this right.

Societal Abuses and Discrimination.—While there were occasional reports of desecration and vandalism or verbal or written harassment, no violent incidents were reported during the year.

There were approximately 90 thousand Jews in the country, and there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them.

The law does not prohibit forced exile; however, the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and the government has established a system for providing protection to refugees. The law also provides for a broader definition of refugee status to be granted if a person satisfies the definition in the 1969 Organization of African Union's Convention on Governing the Specific Aspects of Refugee Problems in

Africa. In practice, the government provided protection against *refoulement*, the forcible return of persons to a country where they feared persecution, and granted refugee status and asylum.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. According to incomplete statistics provided by the Department of Home Affairs, the government received 32,558 asylum applications during the year. Asylum seekers faced long delays in the processing of their claims. According to Human Rights Watch (HRW), the government admitted in November to a backlog of approximately 80 thousand to 115 thousand asylum requests. As of September, the government had granted refugee status to 27,683 persons. The majority of recognized refugees came from the DRC, Angola, Zimbabwe, and Somalia; there also were refugees from Rwanda, Burundi, and the Republic of the Congo.

Lawyers for Human Rights, a local NGO, criticized the Department of Home Affairs for not following the provisions of the Immigration Act and the Refugee Act. There were reports that police and immigration officials abused refugees and asylum seekers and that asylum seekers were repatriated immediately upon arrival at airports without benefit of formal asylum processing. Applicants for asylum and NGOs assisting refugees also reported that immigration authorities requested bribes to process applications for permits to remain in the country. During the year the government dismissed numerous immigration officials for corruption (see section 3).

Despite procedural safeguards, efforts to combat a growing illegal immigration problem occasionally resulted in the government wrongfully deporting illegal aliens, some with potential refugee claims. However, there were no confirmed reports of the forced return of persons to countries where they feared persecution during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The country held its third national election in April 2004. Although largely peaceful, the election was marred by a few incidents of political violence in KwaZulu-Natal that occurred in the weeks before the election. The IFP registered a number of complaints with the Independent Electoral Commission, including large numbers of special votes, posters being removed or defaced, individuals being threatened because of political affiliation, and other incidents of intimidation. The IFP challenged the legitimacy of the election in KwaZulu-Natal at the electoral court but later withdrew court action and accepted the election results.

Thabo Mbeki was reelected in April 2004 for a second term as president and head of state. Three parties—the African National Congress (ANC), the New National Party (NNP), and the Azanian People's Organization (AZAPO)-shared executive power. ANC members occupied 26 of the 28 ministerial positions and increased their parliamentary strength from 266 seats to 279. The official opposition, the Democratic Alliance, increased its seats from 38 to 50. Twelve political parties were represented in parliament. In August 2004 the NNP announced that it would merge with the ANC but its elected representatives would continue to hold their seats in the national and provincial legislatures as NNP members until September. After the September floor crossing period, the ANC increased its seats to 293. Five new parties were formed, making a total of 16 parties with parliamentary representation.

There continued to be reports of inter-party rivalry and violence during the year (see section 1.a.).

On June 22, President Mbeki named Minister of Minerals and Energy Phumzile Mlambo-Ngcuka as the country's first female deputy president. Women held 12 of 28 ministerial positions and 10 of 21 deputy ministerial slots. There were 131 women in the 400-seat National Assembly (NA) and 21 women in the 54-seat National Council of Provinces (NCOP). In addition women occupied three of four parliamentary presiding officer positions, including speaker and deputy speaker of the NA and chair of the NCOP.

There were approximately 140 members of minorities, i.e. non black South Africans, in the NA. There were approximately 20 minority members among the 54 permanent members of the NCOP. There were 6 members of minorities in the cabinet.

Government Corruption and Transparency.—The government continued its efforts to curb corruption, although the public perception of widespread official corruption, particularly in the police and the Department of Home Affairs, continued. The government's anticorruption actions included ongoing investigations into the alleged misconduct of public officials, which resulted in numerous convictions during the year.

In April 2004 parliament passed the Prevention and Combating of Corrupt Activities Act, which for the first time defines the scope of corrupt activities, as well as complements several existing anticorruption laws. Government anticorruption entities also made significant progress by expanding their operations and working towards greater interagency cooperation. In March the National Anticorruption Forum—a consortium of government, civil society, and business that focused on ways to combat graft—also convened the country's second annual anticorruption summit.

The Office of the Public Protector investigated government abuse and mismanagement and served as the office of last resort for citizens reporting unfair treatment by government entities. The office handled an increasing number of complaints but was hampered by severe resource constraints.

The government continued to prosecute officials involved in "Travelgate," the ongoing scandal involving misuse of official funds by parliamentarians and their travel agents. In March and April seven ANC Members of Parliament (MPs) were fined and given suspended prison sentences in exchange for their guilty pleas. On June 7, 21 MPs, including 18 from the ANC, appeared in court on the same charge of misusing official vouchers; the trial was ongoing at year's end. On May 31, the ANC announced that it would expel from the party, and therefore parliament, any MPs convicted in the scandal; five MPs had lost their seats by year's end.

On June 2, the Durban high court convicted Schabir Shaik, financial advisor to former deputy president Jacob Zuma, of two counts of corruption and one count of fraud, including the payment of bribes to Zuma. On June 14, President Mbeki dismissed Zuma for suspected corruption. On June 20, the NPA arrested and charged the former deputy president for corruption; his trial was scheduled for July 2006.

On July 18, Home Affairs Minister Mapisa-Nqakula announced that 80 ministry officials had been charged with corruption. Between April 2004 and June, at least 66 senior officials from the Department of Home Affairs were dismissed for serious misconduct.

On November 15, Papi Mokoena, the mayor of Mangaung City, and the municipal speaker were suspended after being investigated for fraud and corruption.

The 2000 Promotion of Access to Information Act provides for access to information, and the government generally complied with the act, but there were problems with implementation. A 2003 study indicated that more than two-thirds of requests for information went unanswered or were answered outside the period provided for in the legislation. If a government department refuses to provide information, an internal appeal can be launched. If this also fails, the requestor may appeal a decision to the high court, a time consuming process that excludes groups or individuals who cannot afford it. Results of the study also indicated a bias against media critical of the government. In April the Cape high court ruled that political parties should not be compelled to disclose details of private donations they receive.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Many organizations participated in governmental bodies that gathered information and developed policies related to human rights.

The South African Human Rights Commission (SAHRC), which was created by the government but operated independently, was responsible for promoting the observance of fundamental human rights at all levels of government and throughout the general population. The SAHRC also has the power to conduct investigations, issue subpoenas, and hear testimony under oath. During the year the SAHRC issued reports on the treatment of the Khomani San and other human rights issues.

The TRC, created to investigate apartheid-era human rights abuses and compensate victims, released its final report in 2003. Of the 18 thousand victims approved by the TRC for a one-time payment of $4,600 (R30 thousand), 16 thousand received payment in 2004, and 700 received payment during the year after door-to-door campaigns conducted by the government. Remaining victims who had not received benefits by year's end had either not completed applications correctly or were believed to be dead.

In 2004 the NPA prosecuted former security agents Gideon Nieuwoudt, Johannes "Slang" (Snake) van Zyl, and Johannes Koole on charges of kidnapping, murder, and assault to do grievous bodily harm in the 1985 killings of the "Pebco Three," Qaquwili Godolozi, Champion Galela, and Sipho Hashe. The TRC denied amnesty to Nieuwoudt, Van Zyl, Herman Barend du Plessis, and Gerhardus Johannes Lotz for failure to make a full disclosure. The case was postponed to December, pending

the review proceedings of the amnesty re-hearing case, also involving Nieuwoudt. That re-hearing became moot when Nieuwoudt died of natural causes in late August.

During the year Wybrand du Toit and Marthinus Ras were granted amnesty for the so-called Motherwell killings in 1989. Gideon Nieuwoudt, also convicted in connection with the killings, was denied amnesty after his death in August.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the grounds of race, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, sexual orientation, or marital status; however, entrenched attitudes and practices, as well as limited resources, restricted the practical effect of these legal protections in some cases. The Promotion of Equality and Prevention of Unfair Discrimination Act places a responsibility on the state and any person in the public domain to promote equality. The act addresses discrimination in a broad context in the workplace, health care, education, services, pensions, and other socio-economic areas.

Women.—Domestic violence was pervasive and included physical, sexual, emotional, and verbal abuse, as well as harassment and stalking of former partners. The law defines victims of domestic violence, facilitates the serving of protection orders on abusers, requires the police to take victims to a place of safety, and allows police to seize firearms at the scene and arrest abusers without a warrant. The law also applies to persons who are not in legal or common-law marriages. Violating a protection order is punishable by a prison sentence of up to 5 years or 20 years if additional criminal charges are brought.

Societal attitudes and a lack of infrastructure, resources, and training for law enforcement officials hampered the implementation of domestic violence legislation. According to NGOs, an estimated 25 percent of women were in abusive relationships, but few reported it. Doctors, police officers, and judges often treated abused women poorly.

The government financed 25 shelters for abused women, but more were needed, particularly in rural areas. During the year SAPS continued to convert Child Protection Units (CPUs) to Family Violence, Child Protection, and Sexual Offenses Units (FCS); by September 15, the number of FCSs had increased from 40 in 2004 to 62. FCS investigating officers and other police officers received annual training in gender sensitivity. The government continued to conduct domestic violence awareness campaigns.

Rape, including spousal rape, is illegal, but remained a very serious problem. According to the 2004–05 SAPS annual report, the incidence of rape increased 4 percent from the previous year to 118.3 rapes per 100 thousand persons. A poor security climate and societal attitudes condoning sexual violence against women contributed to the problem. Amnesty International noted that the number of reported rapes was believed to be only a third of the estimated number of actual rapes. The 2004–05 SAPS reported 55,104 rapes, 30,915 of which were referred to court. Although judges in rape cases generally followed statutory sentencing guidelines, women's advocacy groups occasionally criticized judges for using questionable criteria such as the victim's behavior or relationship to the rapist as a basis for imposing lighter sentences.

Rape, sexual assault, and sexual harassment of black South African female farm workers by farm owners, managers, and by other farm workers were common.

The government operated 54 sexual offenses courts throughout the country that included designated waiting rooms and counseling for victims. The Sexual Offenses and Community Affairs Unit (SOCA) operated five centers known as Thuthuzela centers, which specialized in rape care management and streamlined a network of existing investigative, prosecutorial, and medical and psychological services in the hospitals where they were located.

On December 8, Ncedile Ntumbukane was found guilty of raping Lorna Mlofana and beating her to death in 2003 after discovering that she was HIV/AIDS positive. Vuyelwa Dlove, a second man accused in the case, was found guilty of attempted murder.

Exacting a bride price (*"lobola"*) was a traditional practice of some ethnic groups.

Prostitution is illegal but was widespread and practiced openly. In the past police demanded sex from prostitutes in return for not arresting them; however, there were no specific reports of such incidents during the year.

There was no further information on the seven police officers who were arrested in 2004 on charges of corruption and extortion for demanding sex from prostitutes in return for not arresting them; the officers were subsequently released on bail.

There were reports that women were trafficked to the country for prostitution or were trafficked to foreign territories such as China and Macao (see section 5, Trafficking).

The law prohibits sexual harassment; however, sexual harassment remained a widespread problem. On June 1, the Supreme Court of Appeal reaffirmed a March 2004 Cape high court judgment allowing a woman to sue her employer for failing to protect her against sexual harassment.

Discrimination against women remained a serious problem despite equal rights under family law and property law with regard to inheritance, divorce, and custody of children, and equal legal rights under the judicial system. Women experienced economic discrimination in areas such as wages, extension of credit, and access to land. For example, township housing transfer schemes favored existing titleholders, who tended to be men. Rural areas were often administered through traditional leadership structures, often including a chief or a council of elders, who did not grant land tenure to women, a precondition for access to housing subsidies.

In October 2004 the constitutional court ruled that allowing the eldest male descendant to inherit everything and excluding children whose parents were not married is unconstitutional and invalid. The judgment also provided a formula for calculating inheritances, including for children of unmarried parents and partners in polygynous unions.

Women, particularly black South African women, typically had lower incomes and less job security than men. Most women were engaged in poorly paid domestic labor and micro-enterprises, which did not provide job security or benefits. The Department of Trade and Industry provided incentive grants to promote the development of small and medium businesses and micro-enterprises for women, young persons, and persons with disabilities.

According to a survey conducted by the Businesswoman's Association during the year, women comprised 41 percent of the working population, but held only 14.7 percent of executive- and 7.1 percent of director-level positions.

Female farm workers often experienced discrimination, and their access to housing often was dependent on their relationship to male farm workers. Many female farm workers were denied maternity leave in violation of the law or were allowed only enough time to give birth before having to return to work.

A number of governmental bodies and NGOs monitored and promoted women's human rights. Numerous active women's rights groups focused on such areas as violence against women and the economic advancement of women.

Children.—The government was generally committed to children's welfare. The law provides for greater educational opportunities for disadvantaged children—traditionally black South African children—through a uniform system for the organization, governance, and funding of schools. It mandates compulsory education from ages 7 to 15 and ensures that children cannot be refused admission to public schools due to a lack of funds. According to the 2003 Statistics South Africa General Household Survey, approximately 97 percent of children between 7 and 15 years old were enrolled in school. Those not enrolled tended to be children with special needs. While there generally were comparable attendance numbers for boys and girls, a number of factors, including unplanned pregnancies, domestic responsibilities (particularly in rural areas), and gender stereotypes contributed to high drop-out rates and lower secondary school pass rates for girls.

Each of the nine provincial departments of education had responsibility for the schools in their provinces, which resulted in the uneven distribution of educational facilities. The disparity affected the poorer provinces of Eastern Cape, Limpopo, and KwaZulu-Natal most severely. The availability and quality of primary schooling continued to be a problem, especially in rural areas where schools often were not easily accessible or where children worked (see section 6.d.). HRW reported in 2004 that children attending farm schools, which are public schools on private commercial farms (13 percent of all state-funded schools), were among the poorest in resources and were vulnerable to the farmers on whose land they occupied. Many schools reportedly had problems of inadequate teaching materials, long-vacant teaching posts, overcrowding, late pupil registration, and vacation time vandalism.

There continued to be reports of widespread rape, sexual abuse, sexual harassment, and assaults of girls at school by teachers, students, and other persons in the school community. In August the *Sunday Times* reported that records of provincial education department disciplinary hearings showed that 49 teachers had been found guilty of raping, sexually abusing, or sexually harassing students during the previous 15 months. The law requires schools to disclose sexual abuse to the authorities; however, administrators often concealed sexual violence or delayed disciplinary action. The level of sexual violence in schools also increased the risk for girls of contracting HIV/AIDS or other sexually transmitted diseases, as well as unwanted

pregnancies. Girls were often raped on school premises, and the victims' age generally ranged from 4 to 14.

Although the law prohibits corporal punishment in schools, there were reports that teachers used physical violence to discipline students. There also continued to be racially motivated violence among students in schools.

The HIV/AIDS activists, physicians, and opposition parties continued to widely criticize the government for failing to protect young children from HIV/AIDS transmission through the provision of ARV therapy to pregnant and breast-feeding women. The government responded to a 2004 constitutional court finding that they must provide programs to prevent the transmission of HIV from mothers to children by expanding the number of antenatal clinics providing nevirapine to HIV-positive mothers. Implementation by the national and provincial governments was slow, and the government continued to raise concerns about the use of nevirapine mono-therapy to prevent transmission. The government was unable to provide for the rapidly growing number of children who were affected by HIV/AIDS, including both infected children and AIDS orphans.

Violence against children, including domestic violence and sexual abuse, remained widespread. While there was increased attention to the problem, a lack of coordinated and comprehensive strategies to deal with violent crimes continued to impede the delivery of needed services to young victims. According to the 2004–05 SAPS report, 22,486 children were raped, 1,128 were murdered, 24,189 were assaulted with intention to do grievous bodily harm, and 4,829 were subjected to indecent assault. Observers believed that these figures represented a small percentage of the actual incidents of child rape, because most cases involved family members and were not reported. The country had a low conviction rate for rape and child abuse. The minimum sentence for rape of a child was life in prison; however, judges have the discretion to grant more lenient sentences.

The law prohibits virginity testing but was not always enforced. For example, virginity testing occurred in KwaZulu-Natal, especially related to the Reed Dance ceremony in which only "maidens" could participate.

Despite several outreach programs in 2004, traditional male circumcision was still prevalent in various parts of the country. Initiation practices, which included circumcisions, continued during the year. The House of Traditional Leaders attempted to address unsafe initiation practices and designed strategies to prevent deaths and the spread of diseases, such as HIV/AIDS. The Department of Health in the Eastern Cape provided 400 surgeons, 425 officials, and 80 vehicles during the June initiation season to monitor initiation practices. Nonetheless, circumcision deaths reported in the Eastern Cape during the year increased from 14 in the previous year to 20, according to press reports.

Child prostitution continued during the year (see section 5, Trafficking).

The government continued to increase its social welfare programs to children affected by poverty and the loss of parents, and, according to the Ministry of Social Development, more than 5.5 million children received such grants during the year, according to the ministry. Child support grants cover children up to the age of 14, but it was sometimes difficult for children, particularly in rural areas, to obtain access to health care facilities and other social welfare programs.

NGOs provided shelter, medical, and legal assistance for child prostitutes and a hot line for victims of child abuse. The government donated land and buildings for various shelters for victims of sexual abuse, street children, and orphans.

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and trafficking in persons was a problem. The government used the Prevention of Organized Crime Act, the Basic Conditions of Employment Act, the Refugee Act, the Aliens Control Act, and provisions of criminal law to prosecute traffickers.

The law prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, and permitting a female under 16 to stay in a brothel for the purpose of prostitution.

The prosecution of 2004 cases involving child prostitution in Cape Town continued at year's end.

Charges were dropped against members of a Nigerian syndicate implicated in the trafficking of 14 girls in Johannesburg after the girls reportedly refused to testify.

The NPA's SOCA section coordinated an interagency task force to develop and implement a strategy for dealing comprehensively with trafficking in persons. The task force included the departments of foreign affairs, social development, justice and constitutional development, health, safety and security, as well as the NPA, SAPS, and local and international NGOs.

Corruption within the police, immigration, customs, and private services at the airport impeded interdiction efforts. For example, traffickers reportedly bribed offi-

cials to help them move victims out of the transit area to avoid detection. The border police incorporated antitrafficking material into their training manuals, and both police and judicial officials continued to receive training in antitrafficking in persons activities. Despite this effort, law enforcement units handling trafficking problems were understaffed and sometimes corrupt, which hindered effective enforcement. The country used its 54 sexual offenses courts to handle trafficking cases and relied heavily on NGOs to provide witness protection.

The country was a destination, transit, and point of origin for the trafficking of persons, including children, from other countries in Africa, Asia, and Europe for prostitution and forced labor. A substantial number of persons were believed to be trafficked annually. Domestic and international organized crime syndicates trafficked women into the country for the sex industry. Young men were generally trafficked for agricultural work.

The extent of trafficking operations was unknown, but the International Organization for Migration (IOM) reported there were 12 major routes for trafficking operations, including Southern Africa, Asia, and Eastern Europe.

Trafficked women and children who worked in the sex industry often lived with other trafficked victims in segregated areas; were frequently under constant surveillance; usually had no money or identifying documents; were often indebted to the agents who arranged their travel; often worked long hours, in some cases up to 18 hours each day, on weekends, and when ill; and sometimes were fined by their trafficker for infractions of strict rules. Young men trafficked for forced agricultural labor often were subjected to violence and food rationing.

Child prostitutes were often highly sought because of the belief that sex with them provided a cure for HIV/AIDS.

According to the IOM, there were several major criminal groups in the country that trafficked women: Bulgarian and Thai syndicates; the Russian and the Chinese Mafia; and African criminal organizations, mainly from West Africa. Traffickers also included male citizens and African refugees.

In most cases traffickers lured women with promises of employment, marriage, or educational opportunities abroad. Traffickers often lured the children of poor families with promises of jobs, education, or a better way of life. Victims, who could be kidnapped or forced to follow their traffickers, were subjected to threats of violence, withholding of documents, and debt bondage to ensure compliance.

Government agencies did not facilitate trafficking; however, during the past two years, a few immigration officers from the Department of Home Affairs were dismissed for such activities.

Some domestic victims of trafficking were placed in government facilities for the sexually abused. The government continued to fund private shelters that provided short- and long-term care to trafficking victims.

Persons with Disabilities.—The law prohibits discrimination on the basis of disability; however, government and private sector discrimination in employment existed. The law mandates access to buildings for persons with disabilities, but such regulations rarely were enforced, and public awareness of them remained minimal. The National Environmental Accessibility Program, an NGO staffed by persons with disabilities as well as service providers, had a presence in all nine provinces to lobby for compliance with the regulations and to sue offending property owners when necessary.

The law provides persons with disabilities with protection from harassment and, in conjunction with the Employment Equity Act, also provides guidelines on the recruitment and selection of persons with disabilities, reasonable accommodation for persons with disabilities, and guidelines on proper handling of employee medical information; enforcement of this law was limited. The law also requires employers with more than 50 workers to create an affirmative action plan with provisions for achieving employment equity for persons with disabilities. It was estimated that persons with disabilities constituted only 0.02 percent of the public service workforce, compared with 5.9 percent of the general population.

On May 11, the Compensation Commissioner settled a 2004 class action suit filed by the Legal Resources Center, which represented 50 thousand citizens disabled by work-related accidents in the previous 11 years; the litigants claimed the government reneged on its statutory obligation to provide them with their source of income. Under the agreement the commissioner committed to pursue all outstanding claims within eight months and enact new procedures for these types of cases.

National/Racial/Ethnic Minorities.—The law requires employers with 50 or more employees to ensure that previously disadvantaged groups, defined for legal purposes as "Blacks"—including "Africans," "Colored," and "Asians,"—are represented adequately at all levels of the workforce; however, they remained underrepresented,

particularly at the professional and managerial levels. The government continued efforts to reorganize and redesign the educational, housing, and health care systems to benefit all racial and ethnic groups in society more equally.

Notwithstanding the country's antidiscrimination legislation, the Commission for Employment Equity reported in its 2003 annual report that racial imbalances in the workplace still existed, and that only 19 percent of positions at the top management level in 2002 were held by Blacks and approximately 31 percent of professionally qualified employees were Black. The report makes it clear that Black women by far remained the most disadvantaged off in terms of the number and quality of senior or skilled jobs. Employers cited a lack of training and development, poor recruitment processes, and an antagonistic corporate culture as the main impediments to affirmative action.

Blacks constituted 83 percent of the workforce in unskilled, low paid jobs. In occupations such as newspaper venders, garage attendants, car washers, gardeners, and garbage collectors, Blacks accounted for 98 percent of the workforce.

The armed forces struggled with the process of integrating black South Africans into the predominantly white officer corps.

The continued killings of mostly white farm owners by black South African assailants created concern among white farmers that they were being targeted for racial and political reasons (see section 1.a.). There also were reports that white employers abused and killed black South African farm laborers, and complaints that the white employers received preferential treatment from the authorities (see section 1.a.).

Xenophobia led to attacks on foreigners, and anti-immigrant groups such as the Unemployed Masses of South Africa often blamed immigrants for job losses. In June the African Communities Network claimed that increasing xenophobia in the Western Cape resulted in the shooting and beheading of a Burundian security guard.

No arrests were made in a series of attacks in December 2004 on Somali refugees in the Western Cape, Eastern Cape, and Gauteng; seven refugees were killed.

No action was taken against those responsible for the alleged killings of as many as 28 refugees in 2002 and 2003.

Indigenous People.—The Khoikhoi, nomadic herders of cattle and sheep, were the first indigenous people in the country and lived mainly in the southwestern Cape. Only a few thousand Khoikhoi remained, some of whom worked as farmers or laborers on farms. Under the law the Khoikhoi have the same political and economic rights as other citizens; however, their participation was limited due to fewer opportunities, minimal access to education, and relative isolation.

On March 1, the SAHRC issued a report criticizing the government for failing to protect the rights of the Khomani San community, particularly in respect to poor service delivery and the administration of fixed farms.

Other Societal Abuses and Discrimination.—There was some official and societal violence and discrimination against homosexuals; however, unlike in the previous year, there were no reports that police raped, beat, or assaulted homosexuals.

Although the government conducted campaigns to reduce or eliminate discrimination against persons with HIV/AIDS, the social stigma associated with HIV/AIDS remained a general problem. There were reports of the abuse of HIV-infected individuals by their families and communities.

Section 6. Worker Rights

a. The Right of Association.—The law provides for freedom of association, and workers exercised this right. All workers with the exception of members of the National Intelligence Agency and the Secret Service were entitled to join a union. Union membership continued to decline steadily as a result of job layoffs and declining formal sector employment. Total union membership as of 2003 was approximately 3.3 million persons, 42 percent of persons employed in the formal sector.

Although labor laws protected farm workers, some farm workers' unions encountered difficulties trying to organize workers because union organizers were considered trespassers on private property. In addition farm workers or farm residents who attempted to organize were harassed, dismissed, and evicted. The Department of Labor (DOL) and unions enlisted the cooperation of AgriSA, the national farmers' organization, to educate farmers about workers' rights and to improve working conditions. The DOL reported that 4.5 percent of the agricultural labor force was unionized.

b. The Right to Organize and Bargain Collectively.—The law defines and protects the rights of workers to organize and bargain collectively; workers exercised these rights. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right. Although members of the SANDF were allowed to join a union, they and other work-

ers considered to be providing an essential service were prohibited from striking. Disputes between workers in essential services and their employers that are not resolved through collective bargaining, independent mediation, or conciliation are referred to arbitration or the labor courts.

In August police reportedly used rubber bullets to disperse a demonstration of strikers, resulting in injuries to strikers and journalists. Leaders of municipal unions were briefly detained without charge. During the demonstration, six union members allegedly beat to death a worker who tried to report to work.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor is prohibited by law; however, child labor was widespread in informal and agricultural sectors, particularly in the former homeland areas. The government generally enforced child labor laws in the formal sectors of the economy. The death of parents by HIV/AIDS has increased the number of children who have to support themselves.

The law prohibits employment of a child who is under 15 years of age; who is under the minimum school-leaving age (where the age is 15 or older); or who is over 15 but under 18 if the work places at risk the child's well being, education, physical or mental health, or spiritual, moral, or social development, or has been prohibited by the minister of labor. Underage children in the performing arts were allowed to work if their employer received DOL permission and agreed to follow specific guidelines.

Child laborers, including those from Zimbabwe and Mozambique, worked in the country on commercial farms, for the taxi industry, or as domestic servants.

There were reports that children were forced into prostitution and anecdotal evidence that some children worked in conditions that amounted to bondage (see section 5, Trafficking).

During the year the DOL recruited and trained inspectors to follow up on transgressors and enforce existing policies. Violation of laws regulating child employment are punishable by a maximum prison sentence of 3 years or a fine of $2,308 (R15 thousand). DOL inspectors continued to investigate a case of child labor against a Ventersdorp commercial farmer in the North West Province that involved a 13-year-old boy who was seriously injured while allegedly working on the farm. In some cases, DOL inspectors opted to resolve child labor cases through counseling of employers, parents, and children or by enlisting the services of professionals in the welfare and education departments. There were reports that inspectors had difficulty gaining access to farms where incidents of child labor were reported.

The DOL continued an awareness program aimed at educating farmers about the rights of children.

e. Acceptable Conditions of Work.—There was no legally mandated national minimum wage, but the law gives the Minister of Labor the authority to set wages by sector. As of July, minimum wages had been established for the retail sector, farm laborers, domestic workers, and taxi (minibus) drivers. The minimum wage for farm workers was approximately $141 (R950) a month in urban areas and $117 (R872) a month in rural areas. The minimum hourly rates for domestics depended on the number of hours worked and could range from $0.50 (R3.87) to $0.80 (R5.25). Compliance with the minimum wage rate ranged from 65 to 90 percent, depending on province. These wages did not provide a decent standard of living for a worker and his family.

Annual negotiations between employers and employee associations or unions set wage rates on an industry-by-industry or plant-by-plant basis for unionized workers in the formal economy. Such negotiated wages generally were sufficient to provide a decent standard of living for a worker and family; however, in sectors in which workers were not organized sufficiently to engage in collective bargaining, many unskilled or rural workers were unable to provide an adequate standard of living for themselves and their families.

The law standardizes time-and-a-half pay for overtime, establishes a 45-hour workweek, and authorizes 4 months of maternity leave for women. A ministerial determination exempted businesses employing fewer than 10 persons from certain provisions of the law concerning overtime and leave. These provisions often did not apply to farmers.

The government set occupational health and safety standards. Occupational health and safety issues were a top priority of trade unions, especially in the mining, construction, and heavy manufacturing industries, and the country's industrial and mining processes were dangerous and sometimes deadly. The law provides for the right of mine employees to remove themselves from work deemed dangerous to

health or safety. In addition, a tripartite mine health and safety council and an inspectorate of mine health and safety were responsible for enforcing the act and monitoring compliance with its provisions. The law specifically prohibits discrimination against an employee who asserted a right granted by the law (for example, to leave a hazardous work site) and required mine owners to file annual reports providing statistics on health and safety incidents for each mine.

There were no laws or regulations, other than in the mining industry, that permitted workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment; however, the law provides that employers may not retaliate against employees who disclose dangerous workplace conditions.

The investigation into the September 2004 explosion at a Sasol plastics plant that killed 11 and injured 142 persons was ongoing at year's end.

Labor conditions for mostly black farm workers were harsh. Many mostly white farmers did not accurately measure working hours and often required their laborers to work 11 hours per day and 6 days per week. Twelve-hour days were common during harvest time, and few farmers provided overtime benefits. HRW reported low wages, a lack of basic services in farm workers' housing, and inadequate education for workers' dependents (see section 5). Some white farmers still gave the predominantly black farm workers cheap alcohol (a system of payment known as "tot") in addition to wages. Mostly white farmers continued to evict workers legally and illegally; however, unlike in previous years, there were no reports that farmers set their dogs on employees (see section 1.f.). There was lack of compliance with labor legislation, lack of information on HIV/AIDS, and unacceptable levels of violence and crime against farm workers and farm owners. Health and safety regulations often were not observed during the use of chemicals in agricultural work.

SUDAN

Sudan, with a population of 40.2 million, has an authoritarian government in which President Omar Hassan al-Bashir and the National Congress Party (NCP) inner circle hold all effective political power. In 2000 Bashir was reelected, and his political party won 340 out of 360 seats in the parliament in deeply flawed elections boycotted by all major opposition parties. The country experienced serious and violent ethnic and religious conflict, including a rebellion in the South led by the Sudan People's Liberation Movement (SPLM) and a rebellion in Darfur led by the Sudan Liberation Movement/Army and the Justice and Equality Movement (JEM). On January 9, the government and the SPLM signed a Comprehensive Peace Agreement (CPA) that gave the SPLM representation in the government. The parties adopted a constitution in July, and in September they installed a government of National Unity (GNU) to serve until elections are held in 2009. The state of emergency was lifted on July 9. The government generally maintained effective control over the security forces.

In Darfur, government and government-supported militia (*janjaweed*) committed serious abuses during the year, killing hundreds of civilians, razing villages of African tribes, and committing acts of torture and violence against women. On January 25, the UN International Commission of Inquiry on Darfur concluded that, while the government did not pursue a genocidal policy directly or through the militias under its control, there were violations of humanitarian and international law that could be considered war crimes. The World Health Organization reported that, as a result of the conflict, at least 70 thousand civilians had died, more than 1.9 million civilians were internally displaced, and an estimated 210 thousand refugees fled to neighboring Chad since the start of the Darfur conflict. Despite the presence in Darfur of the African Union-led international monitoring force (African Mission in Sudan or AMIS), security remained a major problem, and reports of violence continued at year's end.

The government's human rights record remained poor, and there were numerous serious problems, including evidence of continuing genocide in Darfur, for which the government and *janjaweed* continued to bear responsibility. The following human rights problems were reported:

- abridgement of citizens' rights to change their government
- evidence of war crimes
- extrajudicial and other unlawful killings by members of the security forces and government-allied militias acting with impunity
- killings of civilians in conflict

- abductions
- torture, beatings, and rape by security forces
- harsh and life-threatening prison conditions
- arbitrary arrest and detention, including incommunicado detention of suspected government opponents, and prolonged pretrial detention
- executive interference in the judiciary and denial of fair trial in civilian and military courts
- forced military conscription of underage men
- obstructions to humanitarian assistance in Darfur
- infringement of citizens' privacy rights
- severe restrictions on freedom of speech, press, assembly, association, religion, and movement within the country
- harassment and detention of internally displaced persons (IDPs)
- harassment of human rights organizations
- violence and discrimination against women and female genital mutilation (FGM)
- abuse of children, particularly in Darfur
- trafficking in persons
- discrimination and violence against ethnic minorities
- denial of workers' rights
- forced labor, including forced child labor, by security forces and associated militias
- widespread child labor

Antigovernment insurgent groups and associated militia forces also committed numerous, serious abuses. The SPLM Army (SPLM/A), the Sudan Liberation Army (SLA), and the JEM committed killings, beatings, abductions, rape, robbery, destruction of property, and forcible conscription. They restricted freedom of movement of populations under their control and access of relief workers and supplies, and kidnapped and killed nongovernmental organization (NGO) workers.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings by the government or its agents; however, there were reports of numerous extrajudicial killings (see section 1.g.).

On August 15, the Special Criminal Court in Darfur convicted 2 military intelligence officers for killing a 13-year-old boy in custody in North Darfur in March. It was the first conviction of government officials for murder in a case of death by torture.

There were no known developments in the case of two members of the security services arrested in 2004 in connection with the September 2004 death of two men in government custody.

The police and army killed demonstrators (see section 2.b.).

Although the level of large-scale violence in Darfur diminished during the year, general lawlessness and continued attacks by militias and rebel and paramilitary forces on villages, humanitarian aid workers, and convoys increased the degree of insecurity (see section 1.g.).

Approximately 75 civilians reportedly died or were injured due to landmines in the South, although some observers believed the number to be much higher since only a small percentage of deaths were actually reported to the UN (see section 1.g.). The government cooperated with the UN Mine Action Group to remove landmines in the South.

Government-allied militias continued to use violence in the South. The Civilian Protection Monitoring Team (CPMT) confirmed that government-allied militia forces attacked Akobo and killed two civilians on February 17.

Rebel groups operating throughout the country were responsible for killings (see section 1.g.).

Interethnic conflict resulted in deaths during the year (see section 5).

Societal violence occurred after the death of First Vice President John Garang on July 30. Riots erupted in Khartoum and Juba, resulting in several deaths and injuries. Credible sources indicated that in the immediate aftermath of Garang's death southerners attacked and killed northerners in the capital. In retaliation, northern

vigilante groups harassed, beat, and killed at least 100 southerners. Credible sources indicated the complicity of the police and army in retaliation against southerners.

The genocide determined to have occurred in Darfur by the Department of State in September 2004 continued in 2005 (see section 1.g.).

b. Disappearance.—There were continued allegations that the government was responsible for politically motivated disappearances, including those of persons suspected of supporting rebels, especially in Darfur.

An estimated 15 thousand Dinka women and children have been abducted, mainly from 1983 to 1999; between 10 thousand and 12 thousand of these, primarily Dinka, remained unaccounted for at year's end. Observers believed that some of those abducted in the past were sold into de facto slavery as forced laborers, while others were drafted into the military. In some cases the abductees escaped or eventually were released or ransomed; in other cases they were killed. Few persons who were previously abducted were returned during the year by the government's Committee to Eradicate the Abduction of Women and Children (CEAWC). The government did not identify the abductors or forced-labor owners and has not prosecuted them.

Rebel forces in Darfur reportedly abducted persons, including government officials and humanitarian aid workers (see sections 1.g. and 4).

There also were reports of periodic intertribal abductions of women and children in the Eastern Upper Nile (see section 5).

The Ugandan Lord's Resistance Army (LRA) kidnapped children in Uganda and brought them into the southern part of the country. The LRA also killed civilians in the South (see section 5).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution prohibits such practices, government security forces continued to torture, beat, and harass suspected political opponents and others.

In accordance with Shari'a (Islamic law), the Criminal Act provides for physical punishments, including flogging, amputation, stoning, and "crucifixion"—the public display of a body after execution. According to the constitution, the government officially exempts the 10 southern states from Shari'a law. There were no reports of physical punishments carried out against non-Muslims in the North. During the year hundreds of persons, primarily southerners, were flogged, especially after the August Khartoum riots. On December 25, the Special Court in Zalingy, Darfur, sentenced a man to cross amputation after convicting him of murder and armed robbery.

Credible sources indicated that security forces tortured to death several southerners in security camps during the Khartoum riots. Common methods of torture were severe beatings and beatings of the genitals. Individuals perceived as government opponents were subjected to torture.

On January 24, authorities arrested, beat, and detained, and for several months political activist Salah Abdelrahman; they held Abdelrahman incommunicado for two months before releasing him on August 11 without filing charges.

Impunity continued to be a serious problem. On October 17, government security forces detained and tortured nine students on the campus of the Islamic University in Omdurman after they attempted to form a union. The students were beaten with thick metal chains, plastic piping sticks, and rifle butts.

There were reports that government security forces tortured and beat persons suspected of supporting the rebels in Darfur. On February 22, Mahmoud Abaker Osman and Diggo Abdel Jabbar were arrested on suspicion of joining the SLA in Darfur. They were reportedly detained for 11 days in a hole in the ground and beaten with sticks.

Security forces beat and mistreated refugees and injured and killed persons while dispersing demonstrations (see sections 2.b. and 2.d.).

Soldiers, Popular Defense Force (PDF) members, and militia forces raped women (see section 1.g.). There was a clear and documented pattern of rape and sexual abuse directed at IDPs of all ages in Darfur (see section 1.g.).

Although there were two convictions for torture during the year, the government seldom acted against security forces responsible for torture or other such abuses.

Government forces and allied militias were responsible for injuring many civilians during attacks on rebel forces, during raids on civilian settlements (see section 1.g.).

SPLM/A and affiliated forces were responsible for civilian injuries (see section 1.g.).

Prison and Detention Center Conditions.—Prison conditions remained harsh, overcrowded, and life threatening. Most prisons were old and poorly maintained, and many lacked basic facilities such as toilets or showers. Health care was primitive, and food was inadequate. Prison officials arbitrarily denied family visits to pris-

oners. High-ranking political prisoners reportedly often enjoyed better conditions than did other prisoners.

The government routinely mistreated persons in custody. There were credible reports that security forces held detainees incommunicado; beat them; deprived them of food, water, and toilets; and forced them to sleep on cold floors.

Juveniles often were held with adults and in some cases subjected to sexual abuse by the adult inmates. On October 9, an adult inmate raped a 16-year-old male in police detention in Juba.

The government did not permit regular visits to prisons by domestic human rights observers; however, in the latter part of the year, the government allowed limited access to UN monitors. The government granted the International Committee for the Red Cross (ICRC) limited access to some detention facilities, but the ICRC requested unrestricted access, which the government denied.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention without charge; however, the government continued to use arbitrary arrest and detention under the state of emergency provisions (until July 9) or under the National Security Act.

Role of the Police and Security Apparatus.—The National Intelligence and Security Service (NISS) and the Ministry of Interior both have security forces under their control, along with the police force that maintained internal security. The police forces included regular police units and the Popular Police Force, a parallel progovernment force that received higher pay than regular forces. Effectiveness varied depending on the strength of the local militias and security forces. The army was responsible for external and internal security. Police corruption was a problem, and police officers supplemented their incomes by extorting bribes from the local civilians. Impunity remained a serious problem.

Arrest and Detention.—Warrants are not required for an arrest. Under the Criminal Code, an individual may be detained for 3 days without charge, which can be extended for 30 days by order of the director of security and another 30 days with the approval of the prosecuting attorney. Under the National Security Act, which supersedes the Criminal Code, an individual accused of violating national security may be detained for three months without charge, which the director of security may extend for another three months. Under the state of emergency, the government was not constrained by the National Security Act and reportedly detained individuals indefinitely without judicial review. The law provides for the individual to be informed of the arrest charges at the time of arrest and for prompt judicial determination without undue delay, but these provisions were rarely followed.

The law allows for bail, except for those accused of crimes punishable by death or life imprisonment, and there was a functioning bail system.

Although the law provides for access to a lawyer, security forces often held persons, including criminal detainees, incommunicado for long periods in unknown locations without access to their lawyers or family members.

Individuals were arbitrarily arrested and detained. In general the government detained persons for a few days before releasing them without charge or trial; however, there were exceptions, particularly for perceived political opponents.

The government held an estimated 100 political detainees, such as members of opposition parties, and security forces reportedly tortured, detained without charge, and held incommunicado political opponents (see section 1.c.). Detentions of such persons generally were prolonged. Security forces arrested numerous persons suspected of supporting the rebels in Darfur, some of whom were tried, convicted, and sentenced to death under special courts (see section 1.e.). Security forces frequently harassed political opponents by summoning them for questioning, forcing them to remain during the day without questioning, and then ordering their return the following day—a process that sometimes continued for weeks. For instance on October 23, NISS arrested leading Kalma camp IDP spokesman Sheikh Suleiman Abaka Taha and released him three days later. On October 31, he was rearrested by police and at year's end remained in custody, although the charges against him were unclear.

The government did not permit international humanitarian organizations to have access to political detainees.

Unlike in the previous year, there was a decrease in the detention of members of Hassan al-Turabi's Popular Congress Party. On June 30, authorities released Turabi (after 15 months' detention) and 17 members of the Eastern-based Beja Congress (who had been detained for 5 months without charges).

Journalists were arrested and detained during the year (see section 2.a.).

Unlike in the preceding year, detentions nominally for religion reasons were extremely limited. For example, on May 4, the *Al Wafaq* editor-in-chief faced criminal

charges of insulting religious creed when he republished an article with contentious assertions regarding the origins of the Prophet Mohammed.

Security forces often targeted southern women in IDP camps because they produced and sold traditional home-brewed alcohol; such women were arrested and imprisoned for up to six months under Shari'a. Some women were held in prison until they could pay the fine, regardless of time served in prison, thereby effectively serving indefinite sentences. Vagrant children accused of committing crimes were detained for indefinite periods (see section 5).

Arrests and detentions of NGO members and civil society groups increased from the previous year (see section 4).

Arbitrarily lengthy detention before trial was common. Trial delays were caused by large numbers of detainees and judicial inefficiency, such as the failure of judges to appear for court.

The government routinely used house arrest without due process.

e. Denial of Fair Public Trial.—Although the constitution provides for an independent judiciary, the judiciary was largely subservient to the president or the security forces, particularly in cases of crimes against the state.

A judiciary committee recommends and the president appoints the chief justice and justices of the Supreme Court. The president appoints the Constitutional Court's seven members. On occasion courts displayed a degree of independence. For example, appeals courts overturned several decisions of lower courts in political cases, particularly decisions from public order courts. However, political interference with the courts regularly occurred.

The judicial system includes four types of courts: regular, military, special, and tribal courts. Tribal courts functioned in rural areas to resolve disputes over land and water rights, and family matters. Within the regular court system, there are civil and criminal courts, appeals courts, and the Supreme Court. Special courts in Darfur operated under the state of emergency to try crimes against the state; there were three such courts, one in each Darfur capital. The Criminal Act governs criminal cases, and the Civil Transactions Act applies in most civil cases. Shari'a is applied in the North but not by courts in the South.

Trial Procedures.—The law provides for fair and prompt trials; however, this was often not respected. Trials in regular courts nominally met international standards of legal protections.

Trials were open to the public at the discretion of the judge. In cases of national security and offenses against the state, trials were usually closed. Juries are not used.

The accused normally have the right to an attorney, and the courts are required to provide free legal counsel for indigent defendants accused of crimes punishable by death or life imprisonment; however, there were reports that defendants frequently did not receive legal counsel and that counsel in some cases could only advise the defendant and not address the court. There were reports that the government sometimes denied defense counsel access to the courts or did not allow the calling of defense witnesses. For example, an appeals court upheld a judge's October 2004 ruling that banned lawyers from representing 28 defendants on trial for allegedly plotting a coup and ordered them to pick new counsel or accept government-appointed lawyers. Thereafter 43 additional persons were charged. On May 15, 49 out of the 81 defendants were convicted of plotting a coup and sentenced to 5 to 15 years in prison. The others were released.

According to the law, there is a presumption of innocence; however, this was not respected in practice. Defendants have a right to appeal, except in cases of military trials where the decision is final and there is no appeal.

Military courts tried only military personnel. Military trials, which sometimes were secret and brief, did not provide procedural safeguards. For example, the defendant's attorney could advise the defendant but could not address the court. Witnesses may be permitted to appear at military trials.

The Special Courts Act created special three-person security courts to deal with violations of constitutional decrees, emergency regulations, and some sections of the Penal Code, as well as with drug and currency offenses. Special courts, composed primarily of civilian judges, handled most security-related cases. Attorneys could address the court. Lawyers complained that they sometimes were granted access to court documents too late to prepare an effective defense. Sentences usually were severe and implemented at once; however, death sentences were referred to the chief justice and the head of state. Defendants could file appellate briefs with the chief justice. The defendant has seven days to appeal a decision; the decision of the appeal court is final. Special criminal courts operated in Darfur as authorized by presidential decree.

Lawyers who wished to practice were required to maintain membership in the government-controlled bar association. The government continued to harass members of the legal profession whom it considered political opponents. On September 27, security forces in Darfur briefly detained Darfur Lawyers Association director Mohamed Addoma and several fellow lawyers while they were attending a conference on legal aid.

In the South the SPLM employed a judicial system of county magistrates, county judges, regional judges, and a court of appeals. The court system did not function in many areas due to lack of infrastructure, communications, funding, and an ineffective police force. The SPLM recognized traditional courts or "courts of elders," which usually heard domestic matters such as marriages and dowries and based their decisions on traditional and customary law. Local chiefs usually presided over traditional courts. Traditional courts were particularly active in Bahr el-Ghazal. In rural areas outside effective SPLM control, tribal chiefs applied customary laws.

In parts of the South and the Nuba Mountains where civil authorities and institutions did not operate, there were no effective judicial procedures. According to credible reports, military units in those areas summarily tried and punished those accused of crimes, especially for offenses against civil order.

Political Prisoners.—Although there were no convicted political prisoners, the government did hold political detainees (see section 1.d.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, but the government routinely violated these rights in practice. Security forces frequently conducted night searches without warrants and targeted persons suspected of political crimes.

In Darfur throughout the year government armed forces and allied militia continued to burn down villages, loot property and attack IDP camps. For example, on April 7, approximately one thousand heavily armed men on camels and horses along with the six Land Cruisers belonging to the government army attacked the village of Salloquoia. According to survivors, the government vehicles surrounded the village, and soldiers along with the armed militias indiscriminately shot at and then burned the village. Approximately 22 men and women were killed, and women were raped. On July 24, approximately 40 government soldiers attacked an IDP camp in Shangil Tobaya. The soldiers reportedly lined up on both sides of the road and shelled the camp for 20 minutes. Following the shelling, the soldiers continued to shoot civilians and burned approximately 130 houses. The attack left 5 people dead and 17 injured. On September 24, Arab militias backed by government soldiers attacked the village of Toray in South Darfur. Both the Arab militia and the government soldiers were heavily armed, arriving in four Land Cruisers and on camelback. The four military vehicles, mounted with guns, were parked in an area outside the village and started shooting into the village. The group split into three, with one group entering the valley and destroying the irrigation system. The second group stayed in the village and began indiscriminately shooting the civilian population. The village was pillaged; all water pumps were stolen or destroyed and large numbers of cattle stolen; eight villagers were killed and at least three women were reportedly raped.

Police often entered IDP areas without a warrant in search of illegal alcohol brewing and often seized property unrelated to brewing. Police also extorted money from illegal alcohol brewers by threatening them with prison. For example, between September and October in Zalengei, South Darfur, human rights observers documented four incidents of IDP harassment by government forces. Typically armed men in green uniforms broke into houses at night, made threats, and attempted to assault female IDPs.

A wide network of government informants conducted surveillance in schools, universities, markets, workplaces, and neighborhoods.

The government continued forcibly to conscript citizens for military service as part of mandatory military service for male citizens, and government-allied forces and rebels continued to recruit and accept child soldiers in Darfur (see section 1.g.). Community leaders relayed unconfirmed reports that all sides to the conflict in Darfur recruited child soldiers. The UN Children's Fund (UNICEF) worked to raise awareness of the law and dangers in using child soldiers. As a result of its awareness campaign, more than 500 children have been released in Darfur; more than 200 of the children were attending UNICEF schools.

A Muslim man may marry a non-Muslim, but a Muslim woman cannot marry a non-Muslim, unless he converts to Islam (see section 5); however, this prohibition was not observed or enforced universally, particularly in the South and among Nubians. Non-Muslims may adopt only non-Muslim children; no such restrictions apply to Muslim parents.

The SPLM/A generally did not interfere with privacy, family, home, or correspondence in areas that it controlled; however, southern militias, especially the South Sudan Independent Movement, continued forcibly to conscript citizens, including children of high school age.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—While all sides in Darfur violated international law and international humanitarian law, the government and the janjaweed continued to bear responsibility for genocide that occurred in Darfur. On January 25, the UN International Commission of Inquiry on Darfur concluded that the government did not pursue a genocidal policy directly or through the militias under its control; however, it concluded that there were violations of humanitarian and international law that might be considered war crimes.

The conflict in Darfur has roots in both government neglect of the region and ethnic tensions between nomadic pastoralists and sedentary farming communities, exacerbated by scarce resources and the government's support of the nomad militias. The government and Arab militia forces destroyed a large number of villages of African tribes, and there were tens of thousands of deaths. At year's end there were more than 1.8 million IDPs in Darfur, and another 210 thousand civilians had fled into Chad, where the UN High Commissioner for Refugees (UNHCR) coordinated a massive refugee relief effort. More than 70 thousand persons died as a result of the violence and forced displacement; the ongoing conflict in Darfur contributed to widely divergent estimates of how many persons may have been killed. The government continued to support the largely Arab nomad *janjaweed* militia, which terrorized and killed civilians, raped women, and burned and pillaged the region.

The government and government-supported militias attacked IDP camps, civilian facilities, and housing, killing hundreds of civilians, including children. The government-allied militia and rebel militias used excessive force and violated humanitarian law in Darfur. The AMIS Ceasefire Commission confirmed that on January 13 the *janjaweed* and armed militia supported by government military vehicles attacked Hamada village in Darfur, killing 77 civilians, injuring 18 civilians, and raping 13 women, the youngest of whom was 9 years old. On September 28, *janjaweed* attacked Aro Sharow IDP camp in Darfur, killing 34 persons and seriously injuring civilians. On October 23, an attack on the Fur village of Tama in southern Darfur left dozens of civilians dead and many more injured.

Beginning in September there was an upsurge of violence in Darfur that included attacks on villages. Typically, mounted *janjaweed* forces, often in concert with regular government forces, conducted the attacks. Although the government employed aerial bombardments in attacks against some villages, it significantly reduced the use of such aerial bombardments during the year.

The UN's International Commission of Inquiry in Darfur found that "rape or other forms of sexual violence committed by the *janjaweed* and government soldiers in Darfur was widespread and systematic." The majority of victims were women and girls that lived in camps for IDPs and were raped if they left their camps to gather firewood, water, or food. Women often described the perpetrators as "men in uniform," either government or rebel soldiers. Rape victims were almost always beaten, threatened with death, and subjected to racial epithets during attacks. In some cases attackers killed their victims.

Authorities, particularly the police, often obstructed access to justice for rape victims (see section 5). For example, on February 5, two sisters allegedly beaten and raped by three armed progovernment militia men in Western Darfur State stated that they did not report the incident to the police because of the harassment they endured when reporting an earlier rape. On February 15, in Southern Darfur State, progovernment militia raped two female minors. A local sheik who lodged a complaint on their behalf with the local police was arrested for spreading false information; although the minors had a corroborating medical report, they refused to file a complaint for fear of further police reprisals.

The NGO MSF–H reported that between October 2004 and mid-February, it had treated almost 300 rape victims in western Darfur. During October the UN documented 21 cases of sexual and gender-based violence in western Darfur: 9 cases of rape, 4 cases of attempted rape, and 8 cases of assault.

By year's end the government had taken some small steps to improve the situation of violence against women in Darfur: increasing the number of prosecutors to 15 to focus on rape prosecutions, increasing the number of female police officers (although they functioned as secretaries), beginning public discussion on the previously taboo topic of rape, and removing the requirement for rape victims to file a police report before receiving medical treatment (see section 5). However significant problems remained regarding violence against women, including the harassment and intimidation by police of rape victims, lack of investigations into rape allegations, and the continued impunity of the police in Darfur.

After sustained international pressure, the government considerably improved humanitarian access to Darfur by issuing entry visas and facilitating importation of supplies; however, increased insecurity severely hampered humanitarian assistance and access to certain areas, particularly in West Darfur. Problems remained for free and safe passage of relief supplies and access by impartial humanitarian organizations providing relief assistance. The government undertook to issue entry visas for humanitarian workers within 48 hours; however, in May there were several delays lasting months for the issuance of such visas. Additionally in May entry and exit visas took longer than two weeks causing delays and disruptions to humanitarian programs.

The government imposed several impediments to humanitarian agency operations. For example, in April the government's Humanitarian Action Committee (HAC) requested agencies to refrain from interviewing or selecting staff unless they used a five-person selection panel and had HAC officials present, significantly delaying the hiring of new staff in Darfur.

The government continued to harass humanitarian workers and detain them on various arbitrary rules and requirements without prior notification. On March 17, government officials at Nyala airport demanded a registration fee for the humanitarian organizations to operate in the area, which was not included in the established procedures. On October 23, the UN reported that government police and national security officials forced their way into an international NGO's compound at Kalma and arrested two national staff members without apparent cause. The government deferred renewing the Norwegian Refugee Council's mandate to operate Kalma IDP Camp for several weeks, but restored the authorization on November 6. There were frequent reports of government attempts in Darfur forcibly to return persons to their homes (see section 2.d.). On August 15, police and military forces entered the Bela IDP camps in North Darfur and attempted forcibly to relocate residents with an excessive use of force, including gathering the men in the area and beating them with sticks, then burning their huts. On August 16, in Shikan squatter camp, which held hundreds of IDPs, the government without prior notification forcibly relocated hundreds of families to desert areas outside Khartoum devoid of services. Typically police arrived early in the morning, surrounded the area, and announced relocation without disclosing the destination. Residents who did not follow orders were reportedly beaten and their houses and possessions burned.

Arab militias and rebel groups in Darfur committed numerous abuses during the year. For example, on October 8, Arab militias killed four Nigerian AMIS peacekeepers and two civilian contractors near Menawasha. On October 9, a breakaway group of JEM forces (JEM–F) ambushed AMIS peacekeepers in Tine, Northern Darfur State and detained 35 AMIS personnel whom they released the same day. On April 4, JEM forces released unharmed three national staff members of the Adventist Development and Relief Agency International whom they had captured in South Darfur in December 2004.

While there were no reports of child conscription into the government military, there were reports that government and allied militias conscripted children and accepted children as soldiers and reports of children participating in hostilities in northern Darfur (see section 5). Rebel forces attacked commerce on the roads, including humanitarian aid shipments, and seized goods, vehicles, and persons, including government officials and humanitarian aid workers. On October 31, two Swiss Foundation for Mine Action landmine removers were killed on the road from Juba to Nimule.

Rebel forces and bandits also obstructed the flow of humanitarian assistance to the Darfur region and were responsible for attacks on humanitarian workers. On July 26, the SLA claimed that the town of Korma was under its control and stated that the area was in urgent need of assistance but that vehicles carrying humanitarian supplies would not be allowed to pass through the area without sharing the supplies. On August 20, the SLA robbed a convoy of four AMIS trucks near El Fasher, Darfur.

There were no reports that the government prosecuted or otherwise penalized attacking militias or made efforts to protect civilian victims from attacks. Government forces provided logistic and transportation support, weapons, and ammunition to progovernment militias throughout the country.

The government controlled the country's urban areas, although the South was in transition with the major cities reverting to Government of South Sudan control after the 21-year civil war. In the West the government controlled the major towns; however, the rebel forces at times controlled the rural areas. In the East the government controlled the major cities; however, the National Democratic Alliance, an opposition movement, controlled the Hamesh Koreib enclave in the East.

After the signing of the CPA, violence in the South decreased, but insecurity continued due to militia activity. Government forces routinely killed, injured, and displaced civilians, and destroyed clinics and dwellings intentionally during offensive operations. There were confirmed reports that government-supported militia intentionally attacked noncombatant civilians, looted their possessions, and destroyed their villages.

The CPMT, located in Rumbek, Malakal, and Khartoum, investigated numerous violations and found that both sides committed human rights abuses. The CPMT substantiated numerous reports in the southern war zone that militias allied with the government continued to limit the freedom of movement of returning IDPs to the South by illegally extorting taxes to pass through areas under their control. The CPMT ceased operations in September following the expiration of its mandate.

There were a few reports that SPLM/A soldiers and associated militias continued to kill, rape, injure, loot, and displace persons in rural areas of the South; however, the incidence of such abuse declined throughout the year due to the establishment of some local governments under the CPA. On November 23, six SPLM soldiers robbed one aid worker's family and beat up a civilian. The CPMT indicated that on April 28, government-allied militia arrested and detained a civilian who could not afford to pay the illegal tax imposed upon him by militia soldiers in Upper Nile.

The SPLM/A released approximately 500 prisoners of war (POWs) within their territories during the year. The government did not acknowledge holding any POWs; the SPLM alleged that government-held POWs were killed during the years of fighting.

There were credible reports of SPLM/A and SLA taxation and theft of relief supplies. The SPLM/A leadership repeatedly committed itself to eliminating these practices; however, it appeared unable consistently to enforce compliance with those commitments by its forces in the field.

The UN reported that at least 75 persons were killed or injured by landmines previously laid by the government to protect garrison towns and from landmines laid by the SPLM/A and its allies during the war. There were no reports of new mines laid in the South. Landmines were used in the Darfur conflict. On April 16, the detonation of unexploded ordinance killed two children in West Darfur.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of thought, expression, and of the press "as regulated by law"; however, the government severely restricted these rights in practice. On July 9, the government lifted the emergency laws, thereby ending official censorship, but it continued to censor print media. Journalists practiced self-censorship.

Individuals could not publicly criticize the government without reprisals, such as harassment.

There were many daily newspapers, mainly in urban areas, reflecting somewhat differing political views. Several newspapers also reprinted articles from the international press, some of which were critical of government policies. There was one formally government-controlled newspaper in Arabic and one in English, although security services also controlled other newspapers. A number of independent publications were under intensive scrutiny during the year and experienced intimidation, interruption, and arrest of their editors. The English-language press complained of prejudice, noting that the Arabic test required of all accredited journalists was much more difficult than the English test. Many Anglophone journalists thus could not report or had to do so unofficially. For example, the *Khartoum Monitor* employed both Arabic- and English-speaking journalists so that the unaccredited English-speakers could translate articles written by their accredited Arabic-speaking colleagues who could not write in English.

The government directly controlled radio and television and required that they reflect government policies. Television has a permanent military censor to ensure that the news reflected official views. Some foreign radio broadcasts were available in the country. A private FM radio station, which began broadcasting music in Khartoum in 2004, continued to operate. Despite the government's license requirement and the high price of satellite dishes, citizens had access to foreign electronic media; the government did not jam foreign radio signals. In addition to domestic and satellite television services, there was a pay cable network, which directly rebroadcast uncensored foreign news and other programs.

Foreign journalists were allowed access to Darfur. Several journalists and photographers were detained for photographing slums or taking pictures without a license; however, all were quickly released, and none were charged with any crimes.

Government security harassed, intimidated, and arrested journalists. For example, on May 4, the *Al Wafaq* editor-in-chief faced criminal charges of insulting reli-

gious creed when he republished an article with contentious assertions regarding the origins of the Prophet Mohammed. The National Press Council, which was directly responsible to the president, suspended the journalist's publishing license for three days, and the criminal court fined the newspaper $3,200 (SDD 732 thousand) and suspended its publication for three months.

Unlike in the preceding year, there were no reports that the government summoned editors of newspapers and detained them all day so that they could not do their work.

The National Press Council applied the press law and licensed newspapers, set press policy, and responded to complaints. In the event of a complaint, it could warn a newspaper or suspend it indefinitely and suspend journalists for up to two weeks. The council consisted of 21 members: 7 selected by the president; 5 from the National Assembly; 7 directly elected by journalists from the Journalists' Union; and 2 selected by leaders of the Journalists' Union, which observers considered to be government-controlled. The National Press Council suspended journalists and newspapers during the year.

The government exercised control of news reporting, particularly of political topics, the war, and criticism of the government—particularly regarding government actions and policies in Darfur through the National Press Council and security forces. For example, on May 21, *The Khartoum Monitor* was suspended for a day because it intended to publish information and an editorial about the Soba Aradi riots. Security forces informed the *Monitor* that they would review all articles before publication and would remove any objectionable material. On June 12, the National Press Council notified the newspaper that its license had been revoked stemming from a 2003 Supreme Court decision in a license revocation special court proceeding of which the newspaper had been unaware.

On August 6, security forces prevented publication of two Arabic-language daily newspapers and confiscated all the copies of the newspapers, reportedly because of their criticism of the government's handling of the August riots after the death of First Vice President Garang.

During the year the National Security Office imposed restrictions on press freedom by suspending publications, confiscating printed editions, conducting prepublication censorship, and restricting government advertising to progovernment media only. The office targeted newspapers *Al-Ayam Al-Wafaq, Al-Sahafa, Al-Wan, Al-Watan*, and the *Khartoum Monitor*, often citing security reasons for its censorship.

The government did not restrict access to the Internet.

The government restricted academic freedom. In public universities, the government appointed the vice chancellors, who were responsible for administering the institutions. The government also continued to determine the curriculum. While many professors lectured and wrote in opposition to the government, they exercised self-censorship. Private universities were not subject to direct government control; however, in some cases, professors also exercised self-censorship. Nonetheless many university professors in exile returned to the country.

The government continued to harass university student groups. The government harassed student unions, took their files, destroyed their computers, and arrested and detained their members.

Unlike in previous years, the SPLM/A and the umbrella opposition National Democratic Alliance permitted journalists to report on their activities (see sections 1.c. and 2.b.), and there were no reports that the SPLM/A restricted freedom of speech among populations under its control.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the constitution provides for freedom of assembly, the government severely restricted this right in practice. The government banned all rallies and public demonstrations in the country and issued no permits authorizing such rallies. The authorities generally permitted only government-authorized gatherings and routinely denied permission for or disrupted gatherings they perceived were politically oriented. Before July 9, the government used the state of emergency as an excuse to restrict gatherings; after July 9, the government continued to restrict demonstrations under the pretext of security concerns for drivers and pedestrians.

Islamic orders associated with opposition political parties, particularly the Ansar (the Umma Party) and Khatimia (the Democratic Unionist Party), continued to be denied permission to hold large public gatherings during most of the year. On April 6, riot police attacked Umma party members meeting at their party headquarters; four party members were detained for several hours before being released. Govern-

ment security agents occasionally attended opposition political meetings or summoned participants to security headquarters for questioning after political meetings.

Security forces used excessive force, including beatings, tear gas, and firing of live ammunition to disperse unapproved demonstrations. For example, on January 26, government security forces in Port Sudan fired live ammunition at participants in peaceful demonstrations held by the Beja Congress, killing 20 persons; attacked houses outside the demonstration area; and reportedly threw grenades. On April 11, army and police fired on student demonstrators protesting rigged student elections at Deling University, killing student Nagemeldin Gafar Adam Eisa. Subsequently police fatally injured Khalid Mohamed Nour, a student at Neilien University in Khartoum who was demonstrating against the killing at Deling University.

Authorities took no action against security forces that used excessive force.

Freedom of Association.—The law provides for freedom of association, but the government severely restricted this right in practice. Although there were 20 officially registered political parties, the law effectively prohibits traditional political parties linked to armed opposition to the government. The Political Parties Act allows some formerly banned political parties to resume their activities, but the parties were required to notify the registrar in writing to participate in elections. Observers believed that the government controlled professional associations.

The government continued to harass some opposition leaders who spoke with foreign organizations or embassies.

c. Freedom of Religion.—While the constitution provides for freedom of religion, the government continued to place many restrictions on non-Muslims, non-Arab Muslims, and Muslims from tribes or sects not affiliated with the ruling party. The government, which came into power with a goal of Islamization, treated Islam as the state religion, declaring that Islam must inspire the country's laws, institutions, and policies. While in general non-Muslims were allowed to worship freely in their places of worship, authorities continued to restrict the activities of Christians, followers of traditional indigenous beliefs, and other non-Muslims, as well as certain Islamic groups.

Religious organizations and churches were subject to the same restrictions placed on nonreligious corporations. Although the law requires religious groups to register to be recognized or to assemble legally, registration reportedly was no longer necessary, and churches, including the Catholic Church, declined to register.

There were reports that security forces harassed and at times threatened to use violence against persons on the basis of religious beliefs and activities; it was unclear whether the harassment was for religious or political reasons.

The use and construction of houses of worship required government approval. Applications to build mosques generally were granted in practice, but applying to build churches was more difficult, and the last permit was issued around 1975. The construction of small churches continued with owners registering the land for personal not church use. The guidance and endowment minister stated that his ministry had granted permission for new places of worship but that the local authorities denied permission based on local criteria, such as prohibitions on construction within a certain radius of a similar church or the requirement of a minimum number of worshippers in the locality for the proposed church.

While the law permits non-Muslims to convert to Islam, conversion by a Muslim is punishable by death. In practice authorities usually subjected converts to intense scrutiny, ostracism, and intimidation, and encouraged them to leave the country, and there were no reports of conversion punished by death.

Although some non-Muslims converted to obtain or keep a job, for promotions and job advancement, or for other social services or benefits, there was no evidence of forced conversions during the year.

PDF trainees, including non-Muslims, were indoctrinated in the Islamic faith. In prisons and juvenile detention facilities, government officials and government-supported Islamic NGOs pressured and offered inducements, such as early release, to non-Muslim inmates to convert. Some persons in the government-controlled camps for IDPs reportedly at times were pressured to convert to Islam. Children, including non-Muslim children, in camps for vagrant minors were required to study the Koran, and there was pressure on non-Muslim children to convert to Islam.

Christian religious workers, including priests and teachers, like almost all visitors, experienced delays in getting visas to visit the country. The visas were generally issued, sometimes after very lengthy delays or after the person could no longer travel.

Muslims could proselytize freely in government-controlled areas, but non-Muslims were forbidden to proselytize.

Children who were abandoned or whose parentage was unknown—regardless of presumed religious origin—were considered Muslims and could be adopted only by Muslims.

In SPLM/A-controlled areas, Christians, Muslims, and followers of traditional indigenous beliefs generally worshiped freely; however, many of the region's Muslim residents had departed voluntarily over the years. Although the SPLM officially favored secular government, Christians dominated the SPLM. Local SPLM authorities often had a very close relationship with local Christian religious authorities.

Societal Abuses and Discrimination.—Some non-Muslim businessmen complained of petty harassment and discrimination in awarding of government contracts and trade licenses. Christians reported pressure on their children in school; teachers and media characterized non-Muslims as non-believers. There also were reports that some Muslims received preferential treatment regarding limited government services, such as access to medical care, and in court cases involving Muslim against non-Muslim. However, non-Arab Muslims and Muslims from tribes and sects not affiliated with the ruling party, such as in Darfur and the Nuba Mountains, stated that they were treated as second-class citizens and were discriminated against in government jobs and contracts in the North and government-controlled southern areas. For example, the employment application of the Ministry of Energy and Mining emphasizes nationality, creed, and tribe; Muslims associated with the NCP were given preference in government employment.

There were few, if any, members of the Jewish community. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, but the government restricted them in practice.

Movement generally was unhindered for citizens outside the war zones; however, before the lifting of the emergency laws on July 9, travelers who failed to produce an identity card at checkpoints risked arrest. After July 9 road checkpoints were removed. At times foreigners needed government permission for domestic travel outside of Khartoum; such permission could be difficult to obtain and was sometimes refused. Foreigners must register with the police on entering the country, obtain permission to move from one location to another, and reregister at each new location within three days of arrival.

Although foreign NGO staff more easily obtained entry visas and work or travel permits for Darfur, there were numerous reports of continuing delays and restrictions (see section 1.g.). The government generally implemented its policy of issuing humanitarian visas within 48 hours, but nationals of specified countries encountered difficulties in obtaining visas to work with NGOs.

The government detained persons, particularly opposition political figures, at the airport and prevented them from traveling due to "security concerns." For example, in March Ali Hussan Dossa, a member of the Darfur Forum for Dialogue and Peaceful Co-Existence, was denied permission to leave the country. After the signing of the peace agreement, the minister of interior announced the cancellation of the lists of persons that should be denied exit visas.

Women cannot travel abroad without the permission of their husbands or male guardians, but this prohibition was not enforced strictly for the Bashir-led NCP members.

The law prohibits forced exile, and the government did not use it. Opposition leaders remained in self-imposed exile in Cairo, Asmara, and other locations during the year.

Since the January 9 CPA signing, the SPLM has not restricted the freedom of movement among populations under its control. The SPLM and government-related militias enforced illegal taxation for citizens entering or leaving the area under their control. For example, the CPMT concluded that government-aligned militias maintained checkpoints illegally to collect taxes from local residents and returning IDPs in Abyei. Insurgent movements in the South also required foreign NGO personnel to obtain permission before traveling to areas under their control; however, the insurgents generally granted such permission. NGO workers who have worked in government-held areas encountered problems receiving permission to work or travel in insurgent-held areas.

Internally Displaced Persons (IDPs).—There were estimates that up to five million IDPs due to the civil war. The UN estimated that at least 1.9 million persons had been displaced by the conflict in Darfur and that another 210 thousand had fled to Chad. Tens of thousands of persons, largely southerners and westerners displaced

by famine and civil war, continued to live in squatter slums around Khartoum. Darfur IDPs have not returned in any significant numbers to their place of origin, although small-scale spontaneous returns to certain villages occurred.

There were frequent reports of abuses committed against IDPs, including rapes, beatings, and attempts by the government to forcibly return persons to their homes (see section 1.g.). There were credible reports that the government harassed IDPs in Darfur who spoke with foreign observers, especially high-profile foreigners, demanding to know the content of their discussions. On May 31, security forces harassed UN Secretary General Kofi Annan's translator after Annan met with rape victims in Darfur. The UN reported that IDPs lived in a climate of fear.

The government occasionally blocked commercial and road access to IDP camps, purportedly for security reasons. Following riots in Darfur's Kalma camp on May 19, the government banned all commercial and motorized traffic linking the camp to Nyala town. The UN noted that the blockade prevented "the flow of critical goods and materials into the camp" and violated international human rights and humanitarian law. On December 15, the governor of South Darfur lifted the Kalma camp commercial ban.

Insecurity in Darfur, especially outside of IDP camps, restricted IDPs freedom of movement; women and girls who left the town risked sexual violence (see section 1.g.).

The government forced or coerced IDPs to return to their villages by promising food and money; however, most IDPs who returned to the villages to receive the assistance then returned to the IDP camps.

The UNHCR reported that approximately 515 thousand Sudanese refugees resided in neighboring countries, largely due to the conflict in the South; approximately 223,500 of these refugees were in Uganda. Improved security in the South increased the return of displaced populations into areas of origin that were severely affected by the war and lacked basic services. A number of refugees and displaced persons voluntarily returned to the country during the year, particularly to the Nuba Mountains region. At times local militias subjected the displaced populations returning to the South to illegal taxation and forced conscription.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice the government generally provided protection against *refoulement*, the forced return of persons to a country where they feared persecution. The government also granted refugee status or asylum, but there was no standard determination procedure, and government officials reportedly were unresponsive to applications for refugee status. The government cooperated with the UNHCR and other humanitarian assistance organizations in assisting refugees and asylum seekers.

According to the UNHCR, there were approximately 145 thousand refugees in the country, primarily from Eritrea, Ethiopia, Chad, Uganda, the Democratic Republic of the Congo, and Somalia. Approximately 110 thousand refugees were in camps, and the rest were scattered in urban areas throughout the country. The government also provided temporary protection to individuals who might not qualify as refugees under the 1951 convention/1967 protocol, but no statistics were available for the year.

Child refugees did not receive free primary school education nor were they treated as citizens as required by the UN convention. Refugees were vulnerable to arbitrary arrests, harassment, and beatings because applicants did not receive identification cards while awaiting government determination of refugee status. Refugees could not become resident aliens or citizens, regardless of their length of stay. Refugees were not entitled to work permits.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Although the constitution provides citizens the right to change their government peacefully, under the January CPA between the government and the SPLM, all governmental positions are appointive until the national elections scheduled to be held no later than 2009. Effective July 9 the state of emergency was lifted except in Darfur and in the Kassala and Red Sea states.

The interim constitution establishing the GNU, adopted on July 6, provides for power sharing nationwide between the NCP and the SPLM. A three-member presidency heads the government and consists of a president, Omar Hassan El-Bashir (NCP); a first vice President, Mayardit Salva Kiir (SPLM); and a vice president, Ali Taha (NCP). A bicameral legislature is composed of the 450-member National Assembly and 52-member Council of States. Legislative and cabinet positions are allo-

cated by a CPA-specified formula that reserves 52 percent of the positions for the NCP, 28 percent for the SPLM, 14 percent for northern opposition parties, and 6 percent for southern parties. GNU members took office on September 22, and on October 23, Salva Kiir Mayardit, the country's first vice president and president of the Government of Southern Sudan (GOSS), appointed the cabinet of the GOSS. On September 21, Kiir appointed governors of the 10 states of southern Sudan, and each southern state also formed its legislative assembly with 48 members allocated proportionally as stipulated in the CPA: 70 percent to the SPLM, 15 percent to the NCP, and 15 percent to other southern political forces. Southern Sudan's legislative assembly approved an interim constitution on October 24, which President Kiir signed on December 5.

Elections and Political Participation.—Presidential and parliamentary elections were last held in 2000; they were marked by serious irregularities, including official interference, electoral fraud, insufficient opportunities for voters to register, and inadequate election monitoring. All major opposition parties boycotted the elections.

The law allows the existence of political parties but prohibits parties linked to armed opposition to the government, and the government routinely denied permission for and disrupted gatherings viewed as politically oriented (see section 2.b.). Security forces arrested, detained, and on occasion beat political opponents (see sections 1.c. and 1.d.). During the year opposition parties became more vocal in the demanding inclusion, and the government sought the support of additional parties to add legitimacy to the CPA. Hassan al-Turabi's PNC remained a proscribed political organization.

The government continued summarily to dismiss military personnel as well as civilian government employees whose loyalty it considered suspect in a process called "separation for public interest." Authorities fired or arrested military officers either because they were from Darfur or did not support the ruling party strongly enough.

The president appointed the governors and senior officials of the 26 states in the country's federal system. These appointees were not necessarily representative of their constituencies.

Women had the right to vote. There were approximately 70 women in the 450-person National Assembly, 3 national women state ministers and 1 woman minister in the GNU.

As provided by the CPA, southerners hold 28 percent of the government seats.

Government Corruption and Transparency.—The NGO Transparency International reported a perception of severe corruption. Relatives of high government officials often owned companies that did business with the government; in turn they usually received kickbacks for government business. Women caught brewing alcohol could pay police officers not to arrest them.

There were no laws providing for public access to government information, and the government did not provide such access.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Various local human rights groups were active in the country, but they suffered from government harassment, particularly those groups reporting on sexual gender-based violence (SGBV). The government was generally uncooperative with and unresponsive to domestic human rights groups. Major local NGOs included the Sudan Organization Against Torture (SOAT) and Sudan Development Organization. In an effort to silence them, the government often charged human rights groups with spreading false information. For instance NGOs continued to be harassed in Darfur with the intimidation of national staff and the detention and arrests of workers treating victims of sexual violence. Government security forces often detained members of humanitarian staff under the Criminal Act, usually on charges of spreading false information. For example, on May 30 and 31, security forces arrested the Doctors Without Borders (MSF–H) director and its Darfur coordinator on charges of spreading false information, stemming from MSF–H's report on SGBV in Darfur; the charges were dropped on June 19.

In August the government accused SOAT of spreading false information through its press release about arrests during the August Khartoum riots. There was no action taken against SOAT.

The government often resisted the heightened levels of international NGO scrutiny generated by events in Darfur. At the beginning of the year, the government made it difficult for international NGOs to operate in Darfur by denying visas, holding up the clearance of equipment and supplies at customs, denying permission to travel within the country, and harassing the humanitarian community; visa issuance and access for humanitarian workers improved later in the year (see section 1.g.).

The government's HAC, which regulates humanitarian efforts in the country, continued to create difficulties for NGOs operating in Darfur. All NGOs must register with HAC to operate in the country. On March 21, the HAC assumed a role in hiring NGO national staff, which caused major delays in hiring new staff for Darfur (see section 1.g.). HAC applied rules for NGOs inconsistently, often changing them without prior notification. An August 4 presidential decree required international NGOs to reregister and did not provide applicants to appeal a denial.

Rebels reportedly abducted and on rare occasions killed NGO workers and contractors, particularly in Darfur. On July 12, the UN reported that SLA members seized a government vaccination team's vehicle and detained the NGO driver for four days. On May 1, armed men alleged to be rebels from the Eastern Front hijacked a Sudanese Red Crescent vehicle in Port Sudan, killing two employees and injuring another. Banditry and robbery of relief convoys in Darfur increased. For example, on June 11, unknown perpetrators in Darfur robbed four UN-subcontracted trucks and beat the drivers.

The UN also sent different teams to the country to investigate the situation in Darfur. For example, the UN High Commissioner for Human Rights, the UN Special Adviser on the Prevention of Genocide, the UN Special Rapporteur on the Situation of Human Rights in Sudan, and the UNHCR visited the country during the year. The UN Mission in Sudan deployed approximately human rights observers to Darfur to monitor and investigate the human rights situation and events. The UN special rapporteur on the situation of human rights in Sudan and The UN special advisor on the prevention of genocide issued reports to the UN on the human rights situation in the country.

On March 31, the UN Security Council referred Darfur to the chief prosecutor for the International Criminal Court (ICC). On June 6, the chief prosecutor opened an investigation into Darfur without the cooperation of the government, which refused to hand over any criminals associated with the conflict to the ICC.

The Advisory Council for Human Rights, with representatives of human rights offices in 22 ministries and agencies, is the government's major focal point for the promotion and protection of human rights. The council provided lists of detained individuals to the international community.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, or religious creed, but discrimination against women and ethnic minorities continued. Mechanisms for social redress, particularly with respect to violence against women and children, were ineffective.

Women.—There were no laws specifically prohibiting domestic violence. Violence, including spousal abuse, against women was common, although there were no reliable statistics on its prevalence. Women who filed claims were subjected to accusations of lying or spreading false information, harassment, or detention, which made many women reluctant to file formal complaints, although such abuse constituted grounds for divorce. The police normally did not intervene in domestic disputes. The government launched its Violence Against Women Action Plan in November; the program included awareness posters and a media campaign of zero tolerance for violence against women, increased the number of female police officers, and expanded training for police in Darfur. Displaced women from the South were particularly vulnerable to harassment, rape, and sexual abuse while returning home.

Women in Darfur were particularly vulnerable to abuse and rape (see section 1.g.). Many victims did not report their cases either to family or authorities for fear they would be punished or arrested for "illegal pregnancy." Local authorities often exacerbated the problem by requiring rape victims to file a police report before receiving medical treatment, despite an August 21 decree that waived the requirement. On October 24, the minister of justice formally declared that victims need not file a police report to receive medical treatment. UN and NGO sources confirmed that the decree was not regularly observed because police at the working level were not informed of it. Women distrusted the police and rarely filed a police report. Although slow to acknowledge the magnitude of violence against women, in December the government did participate in the UN's "16 Days of Activism Campaign" to combat violence against women, which included multiple workshops.

The police arrested unmarried pregnant women who claimed to have been raped. Unless she could provide proof of the crime, a rape victim could be charged with the capital offense of adultery. For example, from August 17 to 19, police in Mukjar, Darfur, detained 18 pregnant women for adultery and physically abused them. The victims said that the police slapped and kicked them and called them prostitutes. Most victims were released after the first night of detention but were forced to pay $30 (10 thousand dinars).

The punishment for rape under the law varies from 100 lashes to 10 years' imprisonment to death. Spousal rape is not addressed. In most cases convictions were not publicized; however, observers believed that sentences often were less than the legal maximum. On June 7, soldiers in Southern Darfur State who allegedly raped two girls on May 2 were convicted of the lesser offense of gross indecency rather than rape; the judge stated that, under the Shari'a and the Evidence Act, a conviction of rape required the testimony of four witnesses despite the presentation of clear medical evidence. Nonetheless, during the year there were two convictions for rape in Darfur (see section 5).

FGM remained widespread, particularly in the North, although it was becoming less common as a growing number of urban, educated families abandoned the practice. In a compromise with tradition, some families adopted clitoridectomy, the least severe form of FGM, as an alternative to infibulation. Although no form of FGM was illegal, the health law prohibited doctors and midwives from performing infibulation. The government did not support FGM and actively campaigned against it, as did the SPLM in its zone of control. On December 6, a young girl, Inaam Abdel Wahab, died from FGM. One local NGO worked to eradicate FGM.

Prostitution is illegal but widespread throughout the country.

Trafficking in women remained a problem (see section 5, Trafficking).

While no law specifically prohibits sexual harassment, the law does prohibit gross indecency, which is defined as any act contrary to another person's modesty. The penalty for gross indecency is imprisonment of up to 1 year and 40 lashes. Harassment reportedly occurred, although reliable statistics were not available. There were frequent reports of sexual harassment by police in Darfur and elsewhere.

Some aspects of the law discriminated against women, including many traditional law practices and certain provisions of Shari'a as interpreted and applied by the government. In accordance with Islamic law, a Muslim woman has the right to hold and dispose of her own property without interference, and women are entitled to inheritance from their parents. However, a widow inherits one-eighth of her husband's estate; of the remaining seven-eighths, two-thirds goes to the sons and one-third to the daughters. It is much easier for men than for women to initiate legal divorce proceedings.

Since, under Islamic law, a non-Muslim woman takes on the religion of her husband at marriage, a Muslim man may marry a Christian or Jew, and their children will be considered Muslim. The same is not true for a Muslim woman, who cannot legally marry a non-Muslim unless he converts to Islam. This prohibition usually was neither observed nor enforced in areas of the South or among Nubans (most of whom are Muslims).

Women cannot travel abroad without the permission of their husbands or male guardians; however, this prohibition was not enforced strictly for NCP members. To obtain an exit visa, children must receive the permission of their father or their paternal uncle. Women cannot apply for exit visas for their children.

Although women generally were not discriminated against in the pursuit of employment, they were not legally permitted to work after 10 p.m., in theory limiting their employment opportunities. Nonetheless, many women did work after 10 p.m., and in official positions such as airport security. Women were accepted in professional roles; more than half the professors at Khartoum University were women.

Various governmental bodies have decreed that women must dress modestly according to Islamic standards, including wearing a head covering, but police rarely enforced such decrees. Women often appeared in public wearing trousers or with their heads uncovered.

A number of women's groups were active, focusing on a wide range of social and economic issues.

Children.—The government's commitment to children's rights and welfare was uneven. While education was legally compulsory through grade eight, UNICEF reported that only half of school-age children attended primary school. The law provides for free basic education, but students have been expelled from class for failing to pay school fees. On August 8, the government issued a decree prohibiting dismissal of students for nonpayment of school fees. There were wide educational disparities among states and sometimes between genders, particularly in the eastern and western regions; for example, enrollment was 78 percent in Khartoum State and only 30 percent in the eastern part of the country. In the North boys and girls generally had equal access to education (enrollments of 50 and 47 percent, respectively), although girls were more affected by early marriage and the fact that many families with restricted income chose to send sons and not daughters to school. In the urban areas of the South, class size reached 120 students, with fewer than 27 percent of primary school age children in basic education and a basic education gender disparity of 3 boys for each girl.

UNICEF reported that educational access for school-age IDP children in Darfur improved considerably compared with the preceding year. UNICEF, supported education for nomadic groups, also reported a significant increase in nomadic group education.

There were significant inequalities in access to health services for children living in different areas of the country. UNICEF reported an under-5 mortality rate of 93 per 1,000, a low birth weight rate of 31 percent, and immunization rates of approximately 50 percent. In the South, infant mortality was 150 per thousand births, and approximately 21 percent of children under age 5 suffered severe malnutrition.

A large number of children suffered abuse, including abduction, enslavement, and forced conscription (see sections 1.b. and 5, Trafficking).

FGM on girls was performed commonly in rural areas and less in the cities (see section 5, Women).

The law establishes the legal age of marriage as 10 for girls and 15 or puberty for boys. There were no reliable statistics on the extent of child marriage.

Child prostitution, trafficking of children, and sexual abuse of children remained problems, particularly in the South (see section 5, Trafficking). Children engaged in prostitution for survival, usually without third-party involvement.

Government-allied militias and rebel forces conscripted or accepted young men and boys into the allied militias in Darfur (see section 1.g.). Although rebel factions forcibly conscripted citizens, including children, the SPLM/A also continued to demobilize child soldiers.

Unlike in the previous year, there were no reports that southern militias recruited child soldiers. Credible observers stated that southern tribal chiefs delivered children to the militias for recruitment goals in an effort not to give up their able-bodied fighters. The ICRC and UNICEF worked to remove child soldiers from the South.

Child labor remained a problem mainly in the informal sector (see section 6.d.). In the South children, particularly girls, often worked in the fields.

The government operated "reformation camps" for vagrant children. Police typically sent homeless children who had committed crimes to these camps, where they were detained for indefinite periods. Health care and schooling at the camps generally were poor, and basic living conditions often were primitive. All of the children in the camps, including non-Muslims, must study the Koran, and there was pressure on non-Muslims to convert to Islam (see section 2.c.). In the camps, the PDF often conscripted teenage males (and, in the South, some females). Conscripts faced significant hardship and abuse in military service, often serving on the frontline. There were reports that abducted, homeless, and displaced children were discouraged from speaking languages other than Arabic or practicing religions other than Islam.

Trafficking in Persons.—Although the law prohibits slavery and forced labor, the law does not specifically address trafficking in persons, and there were reports that persons were trafficked from and within the country. There were no reports during the year that government and government-supported militias abducted women for use as domestic servants, forced labor, or concubines (forced marriages) due to the continuation of the North-South cessation of hostilities. There were some reports that the abduction of women and children continued in the South due to tribal clashes.

Shari'a and the State of Emergency Law prohibit all forms of sexual exploitation, and penalties include fines and imprisonment. However, there were no prosecutions under these laws during the year. The government's National Council of Child Welfare, working with immigration officials, was responsible for combating the trafficking of camel jockeys.

There were no informed estimates on the extent of trafficking, either for jockeys or for sexual exploitation. There were credible reports that tribal leaders with government connections transported children to the Persian Gulf to be used as jockeys in camel races or as laborers. Despite the absence of a signed agreement with the government, UNICEF cooperated with the government to repatriate child camel jockeys and indicated that 16 children had been repatriated since May. More than 300 children were repatriated from the United Arab Emirates and Qatar through the combined efforts of governments and NGOs.

There were credible reports that intertribal abductions of women and children continued in the South. Victims frequently became part of the new tribal family, with most women marrying into the new tribe; however, some victims were used for labor or sexual purposes. As intertribal fighting in the South decreased, the number of abductions also appeared to decline. The government acknowledged that abductions occurred and that abductees were sometimes forced into domestic servitude and sexual exploitation. The CEAWC and its 22 joint tribal committees in-

vestigated abduction cases and sought to facilitate the safe return of victims. CEAWC did not pursue legal action against abductors. CEAWC reported that since 1999, 1,354 abductees were reunited with their families. Credible sources noted that some of the CEAWC-facilitated reunions were forced repatriations of persons over age 18 against the wishes of the abductees.

During the past 20 years, the LRA kidnapped more than 20 thousand Ugandan children, took them back to the southern part of the country, and forced them to become sex slaves, pack animals, or soldiers. Many of the victims were killed. The LRA also abducted citizens while raiding towns in the South. According to SPLM/A officials, on November 21, suspected LRA rebels abducted 11 people in Western Equatoria and were suspected of killing 5 civilians and abducting 25 persons near Maridi. The government permitted the Ugandan army access to the South to pursue the LRA. Although Ugandan military operations significantly reduced LRA numbers, the LRA continued to operate in the South and to hold child abductees; such LRA attacks restricted humanitarian activities.

The government assisted some victims of trafficking; through CEAWC it provided clothing, food, shelter, and transportation to victims.

The government conducted antitrafficking public information and education campaigns at the national, state, and local levels.

Persons with Disabilities.—While the law does not specifically prohibit discrimination against persons with disabilities, it does stipulate that "the state shall guarantee to persons with special needs the enjoyment of all the rights and freedoms set out in the constitution, access to suitable education, employment and full participation in society." The government did not discriminate against persons with disabilities but has not enacted any special legislation for persons with disabilities, such as mandating accessibility to public buildings and transportation. Credible sources noted that prisoners with mental disabilities were chained 24 hours per day. The law requires equal educational opportunities for persons with disabilities.

National/Racial/Ethnic Minorities.—The population was a multi-ethnic mix of more than 500 Arab and African tribes with numerous languages and dialects. Northern Muslims, numbering approximately 16 million persons, traditionally dominated the government, while southern ethnic groups fighting the civil war (largely followers of traditional indigenous religions or Christians) numbered approximately 6 million. The fighting in Darfur was between Muslims who self-identify as either Arab or non-Arab (see section 1.g.).

The Muslim majority and the government continued to discriminate against ethnic minorities in almost every aspect of society. Citizens in Arabic-speaking areas who did not speak Arabic experienced discrimination in education, employment, and other areas.

There were occasional reports of intertribal abductions of women and children in the South, primarily in the eastern Upper Nile (see section 5, Trafficking). The abductions were part of traditional warfare in which the victor took women and children as a bounty and frequently tried to absorb them into their own tribe. There were traditional methods of negotiating and returning the women who were taken in these raids. Many of these women were raped and "chose" to "marry" their abductors, rather than return home where they would be stigmatized.

There were deaths in conflicts between ethnic groups, such as continued fighting between Dinka and Nuer or among Nuer tribes.

Other Societal Abuses and Discrimination.—Homosexuality is a crime, but no one has been prosecuted on the charge; there is societal but not official discrimination against homosexuals.

Incitement to Acts of Discrimination.—The government and government-supported militias actively promoted hatred and discrimination, using standard propaganda techniques to incite tribal violence. Credible sources noted that the government supported one tribe over another, arming certain tribal militias against other tribes.

Section 6. Worker Rights

a. The Right of Association.—Although the law provides for the right of association for economic and trade union purposes, the government denied this right in practice. The Trade Union Act established a trade union monopoly in the government. Only the government-controlled Sudan Workers Trade Union Federation (SWTUF) could function legally; all other unions were banned. The International Labor Organization (ILO) has frequently noted that the trade union monopoly contravened the principles of freedom of association. The International Confederation of Free Trade Unions continued to recognize the "legitimate" Sudan Workers Trade Union Federation—the national trade union center that functioned prior to the ban—which operated in exile.

The law does not prohibit antiunion discrimination by employers.

b. The Right to Organize and Bargain Collectively.—The law denies trade unions autonomy to exercise their right to organize or to bargain collectively. The law defines the objectives, terms of office, scope of activities, and organizational structures and alliances for labor unions. The government's auditor general supervised union funds because they were considered public money.

While labor organizing committees have the right to organize and bargain collectively, in practice the government dominated the process of setting wages and working conditions through its control of the steering committees. A tripartite committee comprising representatives of the government, the government-controlled SWTUF, and business set wages. The absence of labor legislation allowing for union meetings, the filing of grievances, and other union activity greatly reduced the value of these formal rights. Local union officials raised some grievances with employers, although few raised them with the government. There were credible reports that the government routinely intervened to manipulate professional, trade union, and student union elections (see sections 1.c. and 2.b.).

Specialized labor courts adjudicated standard labor disputes, but the Ministry of Labor has the authority to refer a dispute to compulsory arbitration.

Strikes were considered illegal unless the government granted approval, which has never occurred. In most cases employees who tried to strike were subject to employment termination; however, workers went on strike during the year and were not terminated.

There is one export processing zone located in Port Sudan, and it is exempt from regular labor laws.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices continued (see sections 5 and 6.d.).

Although the government continued to deny that slavery and forced labor existed, CEAWAC acknowledged that abductions had occurred (see sections 1.b. and 5).

Both the government and rebel factions continued to conscript men and boys into the fighting forces (see section 5).

Some SPLM/A commanders and affiliated forces continued to force southern men to work as laborers or porters. The ILO Committee of Experts reported that abduction, forced labor, and sexual slavery of women and children continued.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although mandated by the constitution to protect children from exploitation, the government did not effectively do so, and child labor was a serious problem. The legal minimum age for workers was 18 years, but the law was not enforced in practice. Young children worked in a number of factories, and severe poverty produced widespread child labor in the informal and rural farming economy.

There were reports that government and allied militias conscripted children and accepted children as soldiers (see section 5). Child trafficking continued, and child prostitution was widespread (see section 5).

Child labor existed in SPLM/SPLA-held areas, particularly in the agricultural sectors. Child labor in such areas was exacerbated by lack of schools, extreme poverty, and the lack of an effective legal minimum age for workers.

e. Acceptable Conditions of Work.—The minimum wage was $48 (SDD 12,500) per month, which did not provide a worker and family a decent standard of living. The Ministry of Labor, which maintained field offices in most major cities, was responsible for enforcing the minimum wage, which employers generally respected. Workers who were denied the minimum wage could file a grievance with the local labor ministry field office, which then was required to investigate and take appropriate action. There were reports that some workers, including postal and health workers, were not paid their regular wages. The government failed to comply with a constitutional court ruling that employees fired by the Central Bank in 2004 should receive severance pay.

Legal foreign workers had the same labor rights as domestic workers. Illegal workers had no such protections and, as a result, typically worked for lower wages in worse conditions than legal workers. Southern IDPs generally occupied the lowest paying occupations and were subject to economic exploitation in rural and urban industries and activities.

The law, which was generally respected, limits the workweek to 48 hours—an 8-hour day, with a day of rest on Friday. Overtime should not exceed 12 hours per week or 4 hours per day. There was no prohibition on excessive compulsory overtime.

Although the laws prescribe health and safety standards, working conditions generally were poor, and enforcement by the Ministry of Labor was minimal. The right

of workers to remove themselves from dangerous work situations without loss of employment is not recognized.

SWAZILAND

Swaziland is a modified traditional monarchy with executive, legislative, and limited judicial powers ultimately vested in the king (Mswati III). The king rules according to unwritten law and custom, in conjunction with a partially elected parliament and an accompanying structure of published laws and implementing agencies. The population was approximately 1.1 million. The most recent parliamentary elections, held in 2003, were not considered free and fair. Political parties continued to be banned. Political power remained largely with the king and his circle of traditional advisors, including the queen mother. The civilian authorities maintained effective control of the security forces; however, there were some instances in which security forces committed abuses.

The government's human rights record was poor, and government agents continued to commit serious abuses. The country faced a serious socio-economic situation characterized by sluggish economic performance, poverty, drought, an HIV/AIDS prevalence rate of 42.6 percent, and growing unemployment. The following human rights problems were reported:

- inability of citizens to change their government
- arbitrary killings by security forces
- police use of torture, beatings, and excessive force
- police impunity
- arbitrary arrest and lengthy pretrial detention
- infringement on citizens' privacy rights
- limits on freedom of speech and of the press
- restrictions on freedom of assembly and association
- prohibitions on political activity and harassment of political activists
- restrictions on freedom of movement
- discrimination and violence against women
- poor enforcement of women's rights
- child abuse
- trafficking in persons
- societal discrimination against mixed race and white citizens
- antiunion discrimination
- child labor

The country adopted its first constitution in 32 years when the king signed the Constitution Bill on July 26; the constitution was scheduled to take effect 6 months afterwards. It contains a bill of rights, although civil society organizations charged that the document would not protect the rights of all citizens. The government amended the Industrial Relations Act (IRA) to increase workers' rights by strengthening the role of the Conciliation, Mediation, and Arbitration Commission (CMAC).

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government and its agents did not commit any politically motivated killings; however, there were a few reports that security forces committed arbitrary killings.

On January 15, members of the Umbutfo Swaziland Defense Force (USDF) beat to death a South African murder suspect. The suspect's companion was also beaten. In late April USDF members patrolling the border with South Africa shot and killed a man and injured another suspected of smuggling an automobile across the border. At year's end the USDF was conducting internal investigations of both cases.

On May 24, Charles Mabuza and his brother Mfanzile were killed during a police raid. Family members claimed that police shot Charles in retaliation for the killing of a police sergeant by Mfanzile, but police stated that a stray bullet fired by the brother killed Charles. Police shot and killed Mfanzile when he tried to flee the scene. Police set up a commission of inquiry to investigate the shootings. On July 1, police shot and killed Mzamo Hlophe during a marijuana raid. His body was

abandoned for several hours before the police took it to a mortuary in Nhlangano. Police claimed that Hlophe's family attacked them, forcing them to withdraw without collecting the body. Police set up a commission of inquiry to investigate the shooting. Investigations of both cases were ongoing at year's end.

In January the senior magistrate appointed by the prime minister to conduct an inquest into the May 2004 death of Mandla Mathousand Ngubeni in police custody released an inconclusive report. It stated that Ngubeni was subjected to "torture of sorts, possibly suffocation by police" but did not give a specific cause of death or assign responsibility for the death. At year's end no arrests had been made.

There were no developments in the cases of the 2004 killings of three car smugglers.

There were reports of mob killings during the year. On July 24, a mob killed a man suspected of stealing three cell phones and a purse. At year's end no arrests had been made. On September 14, a mob attacked and beat Zakhele Mndzebele after he was found raping a teenage girl. The mob turned him over to police, who left him in a police van while recording witness statements instead of immediately taking him for medical treatment. He was dead upon arrival at the hospital.

Thandiwe Sellinah Simelane was arrested in September for allegedly killing her sister-in-law for practicing witchcraft. At year's end the case had been referred to the high court for scheduling, and the accused was free on bail awaiting trial.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law does not specifically prohibit such practices, although under the Prisons Act correctional facility officers may be prosecuted if they engage in such procedures; however, government officials employed them. Security forces used torture during interrogation and abused their authority by assaulting citizens and using excessive force in carrying out their duties.

There were credible reports that police beat criminal suspects and occasionally used the "tube" style of interrogation, in which police suffocate a suspect by using a rubber tube around a suspect's face and mouth. According to media reports, police also used the "Kentucky" method of interrogation, in which the arms and legs of a suspect are tied together and then the person is beaten. The government took no action against police or soldiers accused of abuse.

On May 10, a 16-year-old student was admitted to the hospital in critical condition after police detained and interrogated him for stealing a cell phone. He said that police squeezed his testicles during the interrogation. Majaha Dlamini sued a USDF member for a June 6 attack in which he sustained serious injuries on his testicles and open wounds on the back and hip. Stephen Thwala said that police suffocated him by the tube style of interrogation after his August 17 arrest for assaulting a policeman.

On September 10 and 11 in Kwaluseni, community police severely beat two men suspected of burglarizing a house before turning the suspects over to police. In addition there were credible reports that members of the community beat suspects before handing them over to police.

Mfanawenkhosi Mntshali complained of police harassment and beating when he was questioned in November on suspicion of involvement in a series of petrol bombings that targeted government buildings and residences of several officials, including that of the government's spokesperson. Between December 16 and 18, Mntshali was arrested, along with eight others, for planning or participating in the bombings. Police said the suspects were members of "banned political parties." All nine suspects were charged with high treason and sedition on December 20, and at year's end they were in custody awaiting trial.

There were no developments in the 2004 case of police beatings of Ndwandwe High School students or the 2004 case of police beating a man suspected of attacking a policeman.

Police forcibly dispersed demonstrations (see section 2.b.).

Prison and Detention Center Conditions.—Government prisons and detention centers remained overcrowded, and conditions generally were poor. There were reports of torture and that a lack of basic hygiene and unsafe sexual practices, including forced sexual intercourse between prisoners, were spreading HIV/AIDS among the prisoners. Newspapers reported on September 17 that the government's draft multisectoral HIV and AIDS policy would provide for the release of prisoners in the last stages of AIDS, but at year's end the policy was not final.

On May 29, more than 200 inmates at Balegane Prison Center rioted over the death of Musa Nkambule, a prisoner serving a 3-year sentence for illegal weapons and ammunitions charges. Inmates alleged that Nkambule's death was due to warden negligence.

In the sole women's detention facility, detainees were not held separate from convicts.

The government routinely permitted prison visits by diplomats, journalists, human rights monitors, and representatives of international organizations. During the year the local Red Cross visited several prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, arbitrary arrest and lengthy pretrial detention were problems.

Role of the Police and Security Apparatus.—The police maintain internal security. The army is responsible for external security but also has domestic security responsibilities. Police are under the authority of the prime minister, while the USDF reports to the Ministry of Foreign Affairs.

The Royal Swaziland Police Service (RSPS), a nationwide police force, was generally professional despite inadequate resources and bureaucratic inefficiency. There were credible allegations that the force was susceptible to political pressure. The government generally failed to prosecute or otherwise discipline police officers for abuses. No independent body had the authority to investigate police abuses; however, an internal complaints and discipline unit investigated reports of human rights abuses by the police but did not release results to the public. There were no government actions, including training, to reform the RSPS. However, the government provided training to community police in the areas of investigative skills and the appropriate use of force.

Unlike in 2004, the courts did not invalidate any confessions induced through physical abuse.

Traditional chiefs had their own community police who could arrest suspects and bring them before an inner council within the chiefdom for a trial. Some community police were accused of abuses.

Arrest and Detention.—The law requires warrants for arrests except when police observe a crime being committed or believe that a suspect might flee. Detainees may consult with a lawyer of their choice, but the government pays for defense counsel only in capital cases or when difficult points of law are at issue. Detainees must be charged with the violation of a statute within a reasonable time, usually 48 hours or, in remote areas, as soon as the judicial officer appears. In general detainees were promptly informed of the charges against them, and their families had access to them.

There is a functioning bail system, and except in cases of murder and rape, suspects can request bail at their first appearance in court, which by law must take place within 48 hours of arrest. Unlike in 2004, there were no cases of suspects remaining detained after posting bail.

Arbitrary arrest was a problem. When police dispersed demonstrations that they considered unauthorized or politically motivated, they sometimes detained some of the demonstrators for several hours before releasing them without charge (see section 2.b.).

There were no reports of political detainees.

Lengthy pretrial detention was common. Police justified pretrial detention on the basis that they were collecting evidence of the crime and that releasing the detainee would allow the person to influence witnesses. In some cases this has led to repeated remands that can last for years. On June 23, Jabulani Simelane, the country's longest serving detainee, died while undergoing medical treatment. He had been in custody without trial for 11 years, charged with the murder of his father. Simelane spent most of that time in a psychiatric center.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the king has certain judicial powers. Unlike in previous years, there were no known cases where government officials attempted to influence or reverse court decisions. The lack of an independent court budget and trained manpower, inadequate levels of salary remuneration, and poor casework management remained problems for the judiciary.

There were no developments in the 2003 case against the director of public prosecutions for obstruction of justice, which was indefinitely postponed in 2004.

Judicial powers are vested in a dual system, one based on Roman-Dutch law and the other based on a system of national courts that follows unwritten traditional law and custom.

The Roman-Dutch-type judiciary consists of the Court of Appeal (the highest judicial body and composed entirely of foreign, usually South African, judges), the high court, and magistrate courts. The courts were generally claimed to be independent of executive and military control; however, the royal family has not always respected court of appeal rulings.

The Court of Appeal was reconstituted in November 2004, after a 2-year absence due to the government's refusal to comply with a 2002 court decision involving the eviction of 200 residents from 2 chiefdoms (see section 1.f.).

In March the government launched a children's court to try cases in which children were victims of sexual abuse or other crimes. Children testify from a separate room, linked by closed-circuit television to the courtroom.

Most citizens who encountered the legal system did so through the 13 traditional or "national" courts, each with a "president" appointed by the king. Authorities may bring residents to these courts for minor offenses and violations of traditional law and custom. The October 22 *Swazi News* quoted the judicial commissioner as saying that some traditional court presidents imposed fines exceeding the legal limit of approximately $16 (100 emalangeni).

The public prosecutor legally has the authority to determine which court should hear a case, but in practice police usually made the determination. Accused persons have the right to transfer their cases from the traditional courts. Prolonged delays in trials in the magistrate court and high court were common.

Trial Procedures.—Trials are public, except in cases in which proceedings are closed to protect child crime victims. Juries are not used. Court-appointed counsel is provided at government expense in capital cases or when difficult points of law are at issue. Otherwise, defendants in magistrate courts are entitled to hire counsel at their own expense. Defendants can question witnesses against them and present witnesses in their own behalf. Defendants and their attorneys have access to relevant government-held evidence, generally obtained during pretrial consultations with the Public Prosecutor's Office. Defendants enjoy a presumption of innocence. Defendants and prosecutors have the right of appeal, up to the Court of Appeal.

In traditional courts defendants are not permitted formal legal counsel but may speak on their own behalf, call witnesses, and be assisted by informal advisors. Sentences are subject to review by traditional authorities and can be appealed to the high court and the Court of Appeal.

The king appoints traditional chiefs. The traditional courts have limited civil and criminal jurisdiction and are authorized to impose fines up to approximately $16 (100 emalangeni) and prison sentences of up to 12 months. However, traditional courts are empowered to administer customary law only "insofar as it is not repugnant to natural justice or morality" or inconsistent with the provisions of any law in force. Accused persons are required to appear in person without representation by a legal practitioner or advocate, but the defendant may appeal the court's decision.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law requires police to obtain a warrant from a magistrate before searching homes or other premises, but at times police did not respect this requirement. Police officers with the rank of subinspector or higher have the authority to conduct a search without a warrant if they believe that evidence might be lost through the delay in obtaining a warrant. Searches without warrants occurred. For example, according to the October 6 issue of *The Swazi Observer* daily newspaper, the Lubombo regional police commander stated that since the population was not providing information about who was burglarizing the houses of Duze Primary School teachers, police would raid homesteads at random until the residents "repented." Police arrested 13 persons in the resulting raid.

There were instances in which police conducted physical surveillance on members of labor unions and banned political groups. On September 17, police officers posing as journalists attended a Swaziland Federation of Trade Unions (SFTU) seminar.

Chief Mliba Fakudze, whose eviction along with 200 other residents of 2 chiefdoms in 2000 sparked the 2002 rule of law crisis, returned to Macetjeni in April. The other ousted chief, Mtfuso Dlamini, did not return. Chief Dlamini said the other evictees were permitted to return not because of a 2002 court ruling in their favor, reinforced when the Court of Appeal was reconstituted in 2004, but rather because they finally agreed to accept the king's representative as chief. At year's end only Chief Dlamini, his family, and a few students remained in South Africa.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law does not provide for freedom of speech or of the press, and the government limited these rights in practice. Citizens criticized the government without fear of reprisal but generally did not criticize the royal family. Journalists practiced self-censorship. Police monitored some meetings (see section 1.f.).

There were two daily newspapers—one independent and one owned by Tibiyo Taka Ngwane, the king's investment company. Both newspapers covered a wide variety of sensitive topics and criticized government corruption, inefficiency, and waste. With some exceptions, the government continued to withhold its advertising from the independently owned daily newspaper.

There was one government-owned radio station and one independent radio station, which broadcast only religious programs. There was a privately owned television station, which was officially independent; however, the owner's mother was the daughter of the previous king, Sobhuza II, and its reporting favored the monarchy. The government-owned television and radio stations, the most influential media in reaching the public, generally followed official policy positions. Government broadcast facilities retransmitted Voice of America and BBC news programs in their entirety.

Private companies and church groups owned several newsletters and magazines.

The government discouraged critical news coverage of the royal family. In February palace officials banned the press from taking photographs of the king's cars, following negative publicity surrounding the king's purchase of one of the world's most expensive automobiles. In May the king privately threatened journalists from the *Times of Swaziland* newspaper. He said that if reporters did not immediately cease all negative coverage of his immediate family and himself, he would shut down the newspaper. The *Times* refrained from printing any stories about the king and his immediate family for at least 10 weeks.

In November the cabinet approved a media policy drafted by the Minister of Public Information and Public Service that calls for reviewing outdated legislation.

During the first week of August a Media Institute of Southern Africa representative stated that the media were economically crippled as a consequence of an increase of civil defamation cases that resulted in high financial penalties being awarded to litigants.

In late 2004 a traditional court convicted a senator's husband of common assault and imposed a fine, following his assault of a *Times of Swaziland* reporter who implicated the senator in an extramarital affair.

There were no government restrictions on the Internet.

The practice of self-censorship and the prohibition on political gatherings restricted academic freedom by limiting academic meetings, writings, and discussion on political topics.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law does not provide for freedom of assembly, and the government restricted this right in practice. A decree prohibits meetings of a political nature, processions, or demonstrations in a public place without the consent of the police commissioner. Authorities routinely withheld permission to hold most such meetings.

During the year police forcibly dispersed several demonstrations and meetings and arrested demonstrators. For example, on January 22, police used tear gas and a water cannon to disrupt a demonstration by the banned People's Democratic Movement (PUDEMO), held to commemorate a young girl killed during a 1998 strike.

On May 12, approximately 150 members of the clergy delivered to the prime minister a petition protesting the draft constitution. Members of parliament (MPs), including the Speaker of the House, accused the church of engaging in a protest march, and King Mswati publicly censured the group.

On August 6 in Mbabane, police used tear gas and rubber bullets to disperse a rally organized by the Swaziland Youth Congress (SWAYOCO). SWAYOCO members and a few bystanders were treated for injuries. Police detained SWAYOCO Secretary Ignatius Dlamini for an hour and a half when he tried to join the rally. Police also arrested five SWAYOCO members for damaging police vehicles and charged one SWAYOCO member with sedition. He was awaiting trial at year's end.

On September 8, police intercepted a protest by one thousand first-year university students demanding government scholarships. The police fired tear gas at the students and used a water cannon to disperse the crowd. Several protestors were injured.

On November 30, the minister of health and social welfare postponed the government-sponsored World AIDS Day ceremony because it coincided with the start of the Incwala harvest festival. Other organizations held their celebrations as planned. AIDS activists and other members of the government decried the postponement in view of the pandemic in the country.

There was no action taken against security forces who forcibly dispersed demonstrations in 2003 and 2004.

During the year police harassed and disrupted the meetings of prodemocracy activists and members of banned political parties. On July 9 in Manzini, police occupied the location planned for a PUDEMO rally organized to commemorate the 22nd anniversary of its establishment.

Freedom of Association.—The law does not provide for freedom of association, and the government restricted this right in practice. Political parties were banned, although political organizations operated without calling themselves parties (see section 3). After the king signed the constitution on July 26, a group of persons announced that they were forming the Communist Party of Swaziland but conducted no subsequent activities.

c. Freedom of Religion.—There is no formal legal provision for freedom of religion; however, the government generally respected freedom of religion in practice.

New religious groups or churches are expected to register with the government. There is no law that describes the organizational requirements of a religious group or church. All religions were recognized unofficially. Groups were registered routinely, and there were no reports that any groups were denied registration during the year.

Government permission was required for the construction of new religious buildings. Non-Christian groups sometimes experienced minor delays in obtaining permits from the government.

On May 7, traditional leaders fined the family of a Jehovah's Witnesses member one cow because the woman refused to wear mourning clothes after her husband's death.

On June 23, the Court of Appeal ruled that the University of Swaziland's failure to accommodate a student's religious obligation was an infringement of his freedom of religion. The first-year university law student, a member of the Seventh-day Adventist Church, failed his course because he chose to attend a church service instead of taking his final exam on a Saturday in May 2004.

On September 2, three children in Lomahasha who were members of Jehovah's Witnesses were reinstated in school after being expelled in 2004 for refusing to pray during assemblies.

On November 11, the Court of Appeal ordered a chief to return five cows that he had seized in 2003 from a member of Jehovah's Witnesses who refused to allow his daughters to wear the virginity tassels ordered by the king.

Societal Abuses and Discrimination.—The relationships among religions were generally amicable. The Jewish community comprises less than 1 percent of the population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law does not provide for these rights, and the government placed some limits on them in practice. Under traditional law a married woman requires her husband's permission to apply for a passport, and an unmarried woman requires the permission of a close male relative. Nonethnic Swazis sometimes experienced lengthy processing delays when seeking passports and citizenship documents, in part due to the prejudice that mixed-race and white persons were not real citizens (see section 5). Unlike in 2004, there were no reports that political dissenters had their citizenship questioned or experienced difficulty in obtaining travel documents.

The government treated several thousand ethnic Swazis living across the border in South Africa who were not Swazi citizens as indistinguishable from citizens and routinely granted them travel and citizenship documents.

The government blocked overseas employment agencies from obtaining or transferring foreign currency, which was necessary to make arrangements for jobs abroad. This effectively stopped citizens from being able to gain employment in another country.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. According to the UNHCR, there were an estimated one thousand refugees in the country, the majority from central Africa and Angola. The government did not accept refugees for resettlement.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens are not able to change their government peacefully. The king retains ultimate executive and legislative authority, and Parliament has no real authority. Legislation passed by parliament requires the king's assent to become law, which he is not obliged to give. The king chooses the prime minister, the cabinet, two-thirds of the Senate, many senior civil servants, and the heads of government offices.

On July 26, the king ratified a constitution and announced that it would take effect in January 2006. Civic organizations criticized the government for the way it drafted the constitution, specifically for not allowing groups to contribute to the document. In addition civic groups charged that the constitution would not enable citizens to change executive government officials peacefully. In March the high court dismissed an application by two banned political parties and two labor unions for a court order to stop parliament from debating or ratifying the constitution. The case was dismissed under the 1973 proclamation that banned all political parties.

Elections and Political Participation.—According to law, 55 seats in the 65-member House of Assembly are popularly contested, and the king appoints the remaining 10 members. The most recent parliamentary elections took place in 2003; however, commonwealth observers concluded they were not free and fair. Election procedures generally were carried out in an orderly fashion, but police arrested several persons for using forged voter registration certificates and for trying to vote more than once. Political parties are banned but several participated, and three opposition members were elected to parliament.

The king appoints 20 members of the 30-seat Senate; the House of Assembly elects the other 10.

Chiefs are custodians of traditional law and custom and are responsible for the day-to-day running of their chiefdom and for maintaining law and order. Chiefs are an integral part of society and act as overseers or guardians of families within the communities and traditionally report directly to the king. Local custom mandates that chieftaincy is hereditary.

Women generally had full legal rights to participate in the political process; however, in accordance with societal practice, widows in mourning (for periods that can vary from one to three years) are prevented from appearing in certain public places and in close proximity to the king. As a result, they can be excluded from voting or running for office. There were 5 women in the 65-member House of Assembly, 10 women in the 30-member Senate, and 3 female ministers in the cabinet. Three women served as principal secretaries, the most senior civil service rank in the ministries.

There were three members of minorities in the Senate. There were no minority members in the House of Assembly or cabinet.

Government Corruption and Transparency.—There was a widespread public perception of corruption in the executive and legislative branches of government; however, apart from denunciations of corruption by several high-level government officials and the drafting of an anticorruption bill, the government took no action to combat it. On March 9, Minister of Finance Majozi Sithole stated during his budget speech presentation that the government was losing more than $5.9 million (40 million emalangeni) through corruption every month. There were credible reports that unqualified businesses were awarded contracts due to the owners' relationship with government officials.

The press reported that some MPs engaged in fraud, kickbacks, and scams. There were no developments in the 2004 cases of three sitting MPs who were free on bail pending trial for fraud, the case of a former speaker of the House of Assembly who was alleged to have misappropriated $7,463 (50 thousand emalangeni) while in office, or the case of fraud charges against the chair of the Swaziland Electricity Board. The latter two cases were referred to police for further investigation.

There is no law permitting public access to government documents, and public documents were difficult to access. For example, few persons were able to obtain copies of the draft constitution while it was being debated in parliament.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Among the active groups were the Swaziland Action Group Against Abuse (SWAGAA), Lawyers for Human Rights of Swaziland, and Women and Law in Southern Africa. Government officials were generally receptive but unresponsive to their views, although in August the RSPS and SWAGAA finished co-

drafting a manual to be used in training police recruits on sexual abuse and domestic violence cases (see section 5). Human rights groups spoke out on a number of occasions, criticizing the lack of accountability and transparency in the government.

On July 3, the African Commission on Human and People's Rights released a report stating that the 1973 decree, which outlawed political parties and allowed the king to intervene in the judiciary, violates Article 13 of the African Charter. The commission gave the country six months to conform to the charter. By year's end the government had taken no action except to declare the decree would be repealed when the constitution goes into effect in early 2006.

In July the International Crisis Group, an NGO working to prevent and resolve deadly conflict, issued a report, *Swaziland: The Clock Is Ticking*, which criticized the absolute monarchy and called for a number of reforms. By year's end the government had not acted on any of these recommendations.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

In general the law does not prohibit discrimination based on race, sex, disability, language, or social status, and women and mixed-race citizens sometimes experienced governmental and societal discrimination. The labor law forbids employers from discriminating on the basis of race, sex, or political affiliation.

Women.—Domestic violence against women, particularly wife beating, was common despite traditional restrictions against this practice. Women have the right to charge their husbands with assault under both the Roman-Dutch and the traditional legal systems, and urban women frequently did so, usually in extreme cases when intervention by extended family members failed to end such violence. Penalties for men found guilty of assault not involving rape depended on the court's discretion. Rural women often had no relief if family intervention did not succeed, because the traditional courts could be unsympathetic to "unruly" or "disobedient" women and were less likely than the modern courts to convict men for spousal abuse. The Roman-Dutch legal system sometimes handed out light sentences in cases of abuse against women. For example, on July 25, a high court judge sentenced a man who had killed his girlfriend to seven years' imprisonment but suspended five years of the sentence.

Rape also was common and regarded by many men as a minor offense. Rape is against the law, and the penalty is nine years' imprisonment. A sense of shame and helplessness often inhibited women from reporting such crimes, particularly when incest was involved. In the modern courts, the acquittal rate was high and sentences were generally lenient. The three persons suspected of raping and sexually assaulting a student in September 2004 for wearing a miniskirt were awaiting trial at year's end.

Prostitution is illegal, and police continued to enforce the law. The law provides some protection from sexual harassment, but its provisions were vague and largely ineffective. For example, according to a July 13 article in the *Times of Swaziland*, several female fire department officers complained to their union that senior officers called them into their offices and touched them inappropriately; one of the women was transferred to another station. In July three newly recruited female soldiers were dismissed after medical tests revealed they were pregnant. Several NGOs provided support for victims of abuse or discrimination. Despite the law's requirement for equal pay for equal work, average wage rates for men by skill category usually exceeded those of women.

Women occupied a subordinate role in society. In both civil and traditional marriages, wives are legally treated as minors, although those married under civil law may be accorded the legal status of adults if stipulated in a signed prenuptial agreement. A woman generally must have her husband's permission to borrow money, open a bank account, obtain a passport, leave the country, gain access to land, and, in some cases, obtain a job. Women routinely executed contracts and entered into a variety of transactions in their own names.

The dualistic nature of the legal system complicated the issue of women's rights. Since unwritten law and custom govern traditional marriage, women's rights often were unclear and changed according to where and by whom they were interpreted. Couples often married in both civil and traditional ceremonies, creating problems in determining which set of rules applied to the marriage and to subsequent questions of child custody and inheritance in the event of divorce or death.

In traditional marriages a man may take more than one wife. A man who marries a woman under civil law legally may not have more than one wife, although in practice this restriction sometimes was ignored. Traditional marriages consider children to belong to the father and his family if the couple divorce. Children born out of wedlock are viewed as belonging to the mother. Under the law a woman does not

pass citizenship automatically to her children. Inheritances are passed through male children only.

Mourning customs led to inequalities for women, and the high prevalence rate of HIV/AIDS further exacerbated this inequality. When the husband dies, his widow must remain in strict mourning for one month, during which she cannot leave the house and the husband's family can move into the homestead and take control of its operations. The mourning period can extend as long as three years, during which the widow's actions are extremely restricted. For example, she cannot participate in the chief's *kraal*, a traditional place of gathering where persons take their problems (see section 3).

The Ministry of Home Affairs is responsible for coordinating women's issues but took no notable actions during the year. Although gender sensitization was not part of the formal school curriculum, some schools organized debates and other mechanisms to address gender issues. The University of Swaziland Senate had a subcommittee that encouraged students and faculty to hold seminars and workshops on gender issues.

Children.—The government was committed to children's rights and welfare, but the growing number of orphans and vulnerable children (OVC)—70 thousand in 2004—challenged that commitment.

The government did not provide free, compulsory education for children; the government paid teachers' salaries, while the student paid fees for books and contributed to the building fund. The government paid for OVC tuition and school fees, but at year's end some schools complained of delayed payment. Supplemental money sometimes had to be raised for building maintenance, including teachers' housing. The country had a 70 percent primary school enrollment rate. Children were required to start attending school at the age of six. Most students reached grade 7, the last year of primary school, and many went on to finish grade 10. The public school system ends at grade 12. In rural areas families favor boys over girls if they do not have enough money to send all their children to school. A government task force continued to educate the public on children's issues.

Medical care for children generally was inadequate and characterized by long waits for medical care, poor nursing care in public hospitals, and overcrowded and understaffed hospitals. Most prescription drugs were available in urban facilities, but rural clinics had inadequate supplies of certain drugs.

Child abuse was a serious problem, and the government did not make specific efforts to end such abuse. Rape of children was also a serious problem, with media reports of rapes of children one year old and younger. Children convicted of crimes sometimes were caned as punishment. On June 30, the Mbabane National Court sentenced a 14-year-old boy to 4 strokes of the cane for shoplifting. In July, 10 students from Siphocosini High School said their teacher used corporal punishment (reports varied between 2 and 15 strokes of a stick) for laughing at a joke. The Minister of Education stated that teachers are permitted to use up to four strokes for disciplinary action. Some students complained teachers used a whip for punishment or beat them with a long stick.

Abandoning newborn babies was a problem. On August 26, the *Times of Swaziland* published a police report stating that 21 newborn babies had been discovered abandoned since January; most did not survive. The media subsequently reported additional instances of abandoned babies, but no official statistics were available.

The legal age of marriage is 21 for both men and women. However, with parental consent and approval from the minister of justice, girls age 16 and boys age 18 married. The government recognized two types of marriage: civil marriages and marriages under law and custom. Traditional marriages under law and custom can be with girls as young as 14. Critics of the royal family said the king's many wives and young fiancees, some of whom were 16, set a poor example for behavior change in a country with the highest HIV/AIDS prevalence rate in the world.

The law prohibits prostitution and child pornography, provides protection to children under 16 years of age from sexual exploitation, and sets the age of sexual consent at 16 years. Nevertheless, female children sometimes suffered sexual abuse, including by family members. There were reports that Mozambican and Swazi girls worked as prostitutes in the country (see section 5, Trafficking). Children, including street children, were increasingly vulnerable to sexual exploitation.

Child labor was a problem (see section 6.d.).

There were growing numbers of street children in Mbabane and Manzini. A large and increasing number of HIV/AIDS orphans were cared for by aging relatives or neighbors, or they struggled to survive in child-headed households. Some lost their property to adult relatives. The National Emergency Response Committee on HIV and AIDS, a private group partly funded by the government and by international aid, and other NGOs assisted some AIDS orphans.

With more than 10 percent of households headed by children, the UN Children's Fund (UNICEF) supported school feeding programs, established a number of neighborhood care points, and provided nutritional support to children weakened by AIDS.

Trafficking in Persons.—The law does not prohibit trafficking in persons, and there were reports of trafficking of small numbers of women and girls. Underage Mozambican and Swazi girls reportedly worked as prostitutes in the country or were trafficked to South Africa for domestic work or prostitution. There is no government agency specifically responsible for combating trafficking.

Persons with Disabilities.—There is no law prohibiting discrimination against persons with disabilities in employment, access to health care, or in the provision of other state services. Persons with disabilities complained of government neglect. There was no secondary school for deaf children. In November the Foundation of Disabled Persons in Swaziland complained that there were no schools for approximately 900 visually impaired children of school age. The hospital for persons with mental disabilities in Manzini held 80 patients in wards designed for 35 and was understaffed. There are no laws that mandate accessibility for persons with disabilities to buildings, transportation, or government services, although government buildings under construction included some improvements for those with disabilities, including accessibility ramps.

In June the body of a child with a disability was buried after three weeks in a mortuary. His family said that the reason for delay was the traditional leaders' belief that the child's disability would spread in the community if he was buried in the traditional manner.

National/Racial/Ethnic Minorities.—Governmental and societal discrimination was practiced widely against nonethnic Swazis, namely white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population was nonethnic Swazi. Nonethnic Swazis experienced difficulty in obtaining official documents, including passports (see section 2.d.). Nonethnic Swazis also suffered from other forms of governmental and societal discrimination, such as needing special permits or stamps to buy a car or house, delays in receiving building permits for houses, and difficulties in applying for a bank loan.

Other Societal Abuses and Discrimination.—Societal discrimination against homosexuals was prevalent, and homosexuals often concealed their sexual preferences. There is a social stigma associated with being HIV positive, and this discouraged persons from being tested; however, education was slowly eroding the cultural prejudice.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form associations, including trade unions, and workers exercised this right in practice. The 2000 IRA was amended, strengthening the CMAC. Business and labor representatives in the apparel sector entered into an agreement clarifying procedures governing union recognition. Unlike in 2004, the government did not harass labor unions. Workers in essential services, such as the police, may not form unions. Approximately 80 percent of the formal private sector was unionized. The informal sector employed approximately 98 thousand persons.

The law prohibits antiunion discrimination; however, such discrimination continued to occur. Unlike in 2004, manufacturers did not refuse to recognize any duly elected unions. In the case of unfair dismissal, the court can order reinstatement and compensation for the employee as well as fine the employer. Union leaders made credible charges that management in various industries dismissed workers for union activity. Other concerns identified were undefined hours of work and pay days, frequent assaults on workers by supervisors, surveillance by hired security officers of trade union activity both at the workplace and outside, and the use of workers' councils stacked with employer-picked representatives to prevent genuine worker representation. The allegations of union discrimination were most common in the garment sector. On April 27, the *Times of Swaziland* reported that the Oxford Leasing Company in Manzini fired two employees for joining the Swaziland Manufacturing and Allied Workers Union. The government did not intervene, and the union took the matter to the industrial court, where the case was pending at year's end. The CMAC ordered the government to promote a fireman who had allegedly been denied promotion because he was a union official; the fireman was promoted on November 1.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively, and the government generally respected this right in practice. However, employer interference with representatives of workers'

councils to negotiate terms of conditions of work for employees contributed to the failure of some trade unions to negotiate or promote collective bargaining agreements. Several collective bargaining agreements were reached during the year. There are no export processing zones.

The IRA does not specifically permit strikes, but it allows employees who are not engaged in essential services to participate in peaceful protest action to promote their socioeconomic interests. In January, 150 to 200 persons participated in a 2-day protest to express to the prime minister their dissatisfaction with the government. The protest was organized by the two largest trade unions as well as the country's banned political parties. There were no reports of violence. The IRA prohibits protest actions in "essential services," which included police and security forces, correctional services, fire fighting, health, and many civil service positions. The law details the steps to be followed when disputes arise and provides penalties for employers who conduct unauthorized lockouts; unlike in 2004, no lockouts occurred. When disputes arose with civil servant unions, the government often intervened to reduce the chances of a protest action, which may not be called legally until all avenues of negotiation have been exhausted and a secret ballot of union members has been conducted. In June the International Labor Organization again cited the government for excessive length in the procedures required before a trade union can conduct a legal strike. The IRA empowers the government to mediate employment disputes and grievances through the CMAC.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and the government rarely had to enforce this prohibition. However, there were reports that such practices occurred (see section 5). The SFTU cited the 1998 Administrative Order as a form of forced labor, because it reinforced the tradition of residents performing tasks for chiefs without receiving compensation and penalized them for nonparticipation.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits child labor, but child labor was a problem. The 1980 Employment Act distinguishes between a "child" (under 15 years) and a "young man" (ages 15 to 18), but it does not establish a minimum age of employment. The law prohibits hiring a child below the age of 15 in an industrial undertaking except in cases where only family members were employed in the firm or in technical schools where children worked under supervision. However, children were vulnerable to joining the workforce early, and the law does not guarantee a primary school education. Legislation limits the number of night hours that children may work on schooldays and also limits children's work hours overall to 6 per day and 33 per week. Employment of children in the formal sector was not common; however, children below the minimum age frequently were employed in the agricultural sector, particularly in the eastern cotton-growing region. Children also were employed as domestic workers and as herd boys in rural areas. Children were victims of prostitution and trafficking in persons (see section 5). The Ministry of Enterprise and Employment's Department of Labor was responsible for enforcement, but its effectiveness was limited by personnel shortages.

e. Acceptable Conditions of Work.—The Ministry of Enterprise and Employment sets wage scales for each industry. There was a legally mandated sliding scale of minimum wages depending on the type of work performed. The minimum monthly wage for a domestic worker was approximately $45 (300 emalangeni), for an unskilled worker $63 (420 emalangeni), and for a skilled worker $90 (600 emalangeni). These minimum wages generally did not provide a decent standard of living for a worker and family. Wage arrears, particularly in the garment industry, were a problem.

There is a maximum 48-hour workweek in the industrial sector except for security guards, who worked up to six 12-hour shifts per week. The law permits all workers one day of rest per week and provides for premium pay for overtime. Most workers received a minimum of 12 days' annual leave. The labor commissioner conducted inspections in the formal sector; however, these inspections generally did not result in enforcement of the law. There were allegations that women who tried to take maternity leave were dismissed, that employers paid employees at casual or probationary wage scales regardless of their position or length of service, and that some supervisors physically abused employees. On August 25, the acting chief justice of the Court of Appeal ordered the Sun Taylon company to give a woman $2,064 (13,829 emalangeni) in damages, after a supervisor slapped the woman twice on the face on January 21.

The law provides for protection of workers' health and safety. The government set safety standards for industrial operations and encouraged private companies to develop accident prevention programs; however, the labor commissioner's office con-

ducted few safety inspections because of staffing deficiencies and an alleged desire not to "scare off foreign investors." Workers had no legal right to remove themselves from dangerous workplaces without jeopardizing their continued employment, nor did any collective bargaining agreements address the matter.

On February 15, several hundred workers at Welcome Textile rioted after a foreign employee hit a local employee. Her co-workers, thinking she had died, extensively damaged the workplace. There was at least one arrest, but no further information on the incident was available.

There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal, and these provisions frequently were invoked.

TANZANIA

The United Republic of Tanzania is a multiparty state led by the president of the union (consisting of the mainland and the Zanzibar archipelago) and had a population of approximately 37 million. Zanzibar, although integrated into the country's governmental and party structure, has its own president, court system, and parliament and continued to exercise considerable local autonomy. In the union's December 14 presidential and legislative elections, Jakaya Kikwete was elected by mainland and Zanzibari voters as president of the union—succeeding President Benjamin Mkapa—and the ruling Chama Cha Mapinduzi (CCM) party made significant gains in the National Assembly. Observers considered the union elections to be freer and fairer than previous elections, despite irregularities and politically motivated violence, mostly on Zanzibar. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The government's human rights record remained poor; however, there were several significant improvements in some key areas, although problems remained. The government demonstrated more respect for citizens' right to change their government peacefully. Government efforts helped reduce mob killings during the year. There were no longer reports that city police in Dar es Salaam used excessive force against or confiscated the goods of petty street traders. The government took more steps to address judicial inefficiency and corruption. During the year the number of newspapers, radio stations, and journalists grew, including on Zanzibar. Unlike in the previous year, there were no reports that police used force to disburse student demonstrators. In addition, as the government continued to use specialized agencies to fight corruption, citizens perceived less corruption than in 2004, although it continued to be a severe problem. Despite improvements, some problems increased during the year. For example government harassment of political opposition parties increased, especially prior to elections and particularly on Zanzibar. There was also a significant increase in reported killings of elderly individuals suspected of being witches. The following human rights problems were reported:

- unlawful killings by security forces
- societal killings of elderly persons accused of being witches
- torture, beatings, and other abuses of persons, particularly detainees and prisoners, by security forces
- impunity
- harsh and life-threatening prison conditions
- arbitrary arrest and detention of opposition politicians, members, and supporters
- prolonged pretrial detention
- infringement on citizens' privacy rights
- restrictions on freedoms of speech and the press, particularly on Zanzibar
- restrictions on freedoms of assembly and association, including the forcible dispersion of demonstrators
- limits on the right of asylum and restrictions on refugees' freedom of movement
- pervasive official corruption
- societal violence, including rape, and societal discrimination against women
- child abuse, including female genital mutilation (FGM)
- trafficking in persons
- child labor and forced labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the government or its agents; however, security forces continued to use excessive, lethal force against citizens.

During the year police killed several suspected criminals. On July 21, police shot and killed a man suspected of theft. No additional information was available at year's end.

In July Zanzibar police beat Selemani Juma Mpusa for allegedly trespassing in a police camp and refusing to answer questions. Mpusa died the following month due to ruptures of internal organs caused by the beatings. Relatives of the victim wrote to the union inspector general of police requesting action against the police officers responsible for the killing, but no action had been taken by year's end.

There were also two reported deaths in custody. In July, according to press reports, a prison warden beat to death an inmate in the Kisongo Prison in the region of Arusha. In a separate incident on July 16, authorities in Shinyanga region discovered the body of a dead man in a police cell in the Kagongwa district village of Kagongwa. In July police began an investigation to establish whether the individual committed suicide or was killed in custody, but no additional information was available at year's end.

There were no reported prosecutions of police who killed suspects in 2004 and 2003.

In September newspapers reported that bail had been granted for two policemen who were being prosecuted for killing a building inspector in Arusha Region in 2004.

No information was available on the investigation into the use of excessive force by police in November 2004, which resulted in the killing of a minor during the mainland's local elections.

In August the director of criminal investigations said that police had opened an official inquest into the December 2004 killing of a student and the wounding of two other persons by a paramilitary unit member in Pemba; the director said that initial tests had been completed and forwarded to the director of public prosecution for further action.

Following the government's public outreach campaign against mob violence during the year, there were fewer reported incidents in which mobs killed suspected thieves; however, deaths from stoning, beating, hacking with machetes, and burning continued. In April, a mob caught and killed a suspected thief in the Mbozi area of Mbeya. In addition, in October a mob in the region of Mwanza stoned, beat, and burned to death two individuals accused of robbing a woman.

Although the government sometimes prosecuted cases of mob violence in the past, government officials reported difficulties in prosecuting cases due to the unwillingness of witnesses to cooperate. There were no developments in the one case—originating in Zanzibar—that was pending in the courts at the end of 2004.

Unlike in the previous year, there were no reports that villagers killed refugees suspected of stealing or other crimes.

The widespread belief in witchcraft, particularly in Shinyanga region, led to the killing of numerous alleged witches by those claiming to be their victims, aggrieved relatives of their victims, or by mobs. At year's end the practice of killing alleged witches had reportedly spread to other regions.

On January 9, the *Sunday Citizen* newspaper reported that more than 6,680 elderly individuals were killed in 2004 in regions near Lake Victoria on suspicion of being witches, including 2,750 such killings in Shinyanga, 2,250 in Tabora, and 1,680 in Mwanza. Other regions cited for the killing of older women included Mara and Mbeya. In June neighbors of an elderly woman reportedly burned down her house in Dar es Salaam Region after accusing her of being a witch. In July unidentified individuals killed Kuhoka Paulo, a 70-year-old woman, in Shinyanga. In August the Swahili newspaper *Majira* reported that relatives killed a 70-year-old woman in Iringa Region for suspected witchcraft.

During the year there were no reports that the government prosecuted individuals accused of killing suspected witches, despite the government's 2004 denouncement of the practice. In September 2004 the government issued a statement promising to work together with Shinyanga regional authorities to fight the killings of elderly men and women.

There were no developments in the August 2004 mob killing of seven persons accused of practicing witchcraft in Makete in Iringa region.

In the regions of Iringa and Mbeya, there were many reports that individuals practicing witchcraft killed children and school students, allegedly to remove and

sell body parts and skin. During the year there were at least three convictions related to this practice.

b. Disappearance.—There were no reports of politically-motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there continued to be reports that police officers tortured, threatened, and otherwise mistreated suspected criminals and prisoners during the year. Beatings and floggings were the methods most commonly used. According to press reports, more police were prosecuted during the year for abusing prisoners than in the previous year.

By year's end there was no additional information available regarding the May 2004 accusation alleging that police in Shinyanga pulled a detainee's genitals.

In September the government formed a commission to investigate torture allegations involving senior prison officers in the Geita district of Mwanza region. The officers were accused of torturing, beating, and sodomizing two members of *sungusungu*, a traditional militia. No additional information was available at year's end.

Caning and other forms of corporal punishment were used in schools (see section 5). Local government officials and courts occasionally used caning as a punishment for both juvenile and adult offenders. For example in May a resident magistrate's court in Arusha sentenced a prominent businessman to prison and to receive 12 cane strokes for raping his house maid. Overall use of caning in schools and by courts continued to decline during the year following public outreach efforts by the government—particularly the Ministry of Education—and the press.

During the year a senior officer of the Tanzanian People's Defense Force (TPDF), speaking at a national ceremony, publicly warned soldiers not to beat civilians; however, there were a few reports that security forces beat civilians without cause. For example in August TPDF members attacked and beat street hawkers in the Magomeni suburb of Dar es Salaam, reportedly in response to a local theft; at least five youths were severely injured. At year's end there were no reports that official action had been taken against the responsible TPDF officers. In addition on October 3, People's Militia Field Force Unit (FFU) officers reportedly used iron rods to beat villagers in the Boko district of Dar es Salaam after the villagers resisted government attempts to demolish their houses. The villagers sustained deep cuts to their heads. At year's end there were no reports of official action taken against the officers responsible for the beatings.

There were no developments in the April 2004 beating of civilians by soldiers in Arusha.

During the year there were a few prosecutions of security forces members accused of using excessive force or inhuman treatment. For example on June 1, a court in the Ilala district of Dar es Salaam ruled that the case against two soldiers who were charged in 2002 with causing grievous harm to six individuals and undressing a woman in public in the Kariakoo market in Dar es Salaam region should go to trial. At year's end the case was pending.

Unlike in the previous year, there were no reports that Dar es Salaam police used excessive force against or confiscated the goods of petty street traders while attempting to relocate them. However, on Zanzibar, according to the opposition party Civic United Front (CUF) and the March 15 edition of daily newspaper *The Citizen*, more than 30 youths undergoing paramilitary training kidnapped three street hawkers, stripped them naked, beat them, and then sodomized them.

Security forces used excessive force to disperse demonstrations (see section 3).

During the year opposition party parliamentarians continued to denounce the use of excessive force by police.

There were reports that security forces sexually abused individuals in detention.

Unlike in the previous year, there were no bombings by unidentified individuals on Zanzibar.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life-threatening. The prisons, some of which were built during the colonial era, were designed to hold between 2 thousand and 2,700 persons; however, the prison population was estimated at 44 thousand. Three prisons—Maswa, Babati, and Kahama—were overcrowded by over 1,200 percent. Approximately 45 percent of all prisoners were awaiting trial.

The Community Services Act allows persons convicted of minor offenses to be sentenced to community service instead of prison time. During the year the government trained police and magistrates in the implementation of the act, but by year's end the act still had not been used.

Prisoners were subjected to poor living conditions. Authorities did not allow convicted prisoners to receive food from outside sources except for religious reasons. For

example during the month of Ramadan, Muslim prisoners were allowed to receive food from outside sources for their evening meal. Authorities often moved prisoners to different prisons without notifying prisoners' families. In violation of the law, some rural district courts forced detainees who were awaiting trial to pay for their upkeep and transport.

Prison dispensaries offered only limited medical treatment, and friends and family members of prisoners generally had to provide medication or the funds with which to purchase it. Diseases were common and resulted in numerous deaths in prisons. According to government officials, the leading causes of death in order of prevalence were tuberculosis, HIV/AIDS, HIV/AIDS combined with tuberculosis, and malaria.

There were reports that guards beat and sexually abused prisoners during the year. For example in September a prisons officer in Mwanza region reportedly ordered the arrest, detention, and torture of two traditional militiamen. On the order of the prisons officer, eight inmates beat and sexually molested the two men, who required hospitalization after the detention. A government commission created to investigate the incident interrogated the officer who ordered the abuse; by year's end the commission said it was in the final stages of compiling a report, but no official action had been taken.

The Prisons Act requires prisoners to be separated based on age and gender; in practice female prisoners were held separately from male prisoners, but juveniles frequently were not separated from adult prisoners during the day because there were very few juvenile detention facilities in the country. There was one separate youth prison. The Department of Social Welfare managed juvenile courts and juvenile remand homes. The government considered prisoners between the ages of 18 and 21 "young prisoners" and required prisons to separate them from the older adult prison population at night.

Pretrial detainees were held with convicted prisoners and were allowed to receive food from the outside. In October legal proceedings at a resident magistrate's court in Arusha were temporarily paralyzed following remandees' refusal to alight from a police van. The remandees, one of whom had been detained for 10 years without trial, complained of the slow pace of police investigation in their cases. The police chief blamed the delays on a lack of police officers and a large number of cases. The detainees agreed to be driven back to Kisongo prison after airing their grievances to the authorities.

By year's end there was no information available on 5 police officers charged in the 2002 case of 17 prisoners who suffocated to death in an overcrowded jail cell in Mbeya.

Local nongovernmental organizations (NGOs) and diplomatic observers were permitted to monitor prison conditions; however, international organizations did not request permission to monitor prison conditions during the year. The International Committee of the Red Cross visited prisoners at the International Criminal Tribunal for Rwanda, in Arusha. The government permitted the Office of the UN High Commissioner for Refugees (UNHCR) to visit prisons holding refugees in Dar es Salaam and in the west.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, both were problems.

Role of the Police and Security Apparatus.—The national police force, under the Ministry of Home Affairs, has primary responsibility for maintaining law and order. The FFU is a division of, and directly controlled by, the police force. Citizens' patrols known as sungusungu continued to support the police force, including in refugee camps. Police were not responsible for overseeing sungusungu, who worked with local government leaders. The TPDF is responsible for external security and had some domestic security responsibilities; it is overseen by the Ministry of Defense.

The police force was underfunded and inefficient. The use of excessive force, police corruption, and impunity were serious problems. There continued to be numerous reports in the press and complaints from civil society groups and citizens about police corruption during the year (see section 3). Citizens often complained that police were slow to investigate crimes and prosecute criminals. Although not lawyers, police acted as public prosecutors in the primary courts. Many judicial experts criticized this arrangement, saying that it allowed police to manipulate evidence in criminal cases and sometimes resulted in cases being thrown out of court. According to NGO reports, there were instances in which the police lost evidence, and suspects with sufficient means successfully avoided prosecution by bribing police officers. Police also used the threat of arbitrary arrest to extort money. Communities perceived a general lack of protection amid an increase in crimes committed by armed criminals. The general lack of trust in the police force and in the court system contributed to incidents of mob justice during the year (see section 1.a.). Internal mecha-

nisms within the police hierarchy were available to investigate violations committed by police.

During the year the police force held training seminars on expediting investigations, finalizing criminal cases, and handling opposition party members and leaders.

The People's Militia Laws grant legal status to the traditional sungusungu neighborhood and village anticrime groups. Local governments appoint the members with the help of individual households who decide which among them will join the sungusungu watch. The sungusungu remained active in rural areas such as Tabora, Shinyanga, and Mwanza regions as well as in refugee camps, but were not present in most urban areas. Sungusungu have the authority to arrest persons, but they do not have the authority to carry firearms and instead carried wooden clubs for protection. Sungusungu have been criticized in recent years for using excessive force, including the severe beating of suspects, which on occasion resulted in death. It was customary for residents of a neighborhood in which sungusungu operated to either donate a small sum to the sungusungu for patrols or, if they did not have money, to provide one person from their household to participate in patrols. In refugee camps, in addition to a regular police contingent, sungusungu groups composed of refugees acted as quasi-official security forces.

Arrest and Detention.—The law requires that a person arrested for a crime, other than a national security detainee (as defined under the Preventive Detention Act), be charged before a magistrate within 24 hours of arrest; however, in practice the police often failed to comply with this provision. Accused persons have the right to contact a lawyer or talk with family members but were sometimes denied these rights. Prompt access to counsel was limited by the lack of lawyers practicing in rural areas, the lack of communication systems and infrastructure, and illiteracy and poverty of the accused. Authorities promptly informed detainees of the charges against them. The government provided legal representation for indigent defendants as well as all suspects accused of murder or treason. The law does not allow the possibility of bail for some offences, such as murder and armed robbery, and imposes strict conditions on freedom of movement and association when bail is granted. In the primary and district courts, bribes sometimes determined whether bail was granted.

Under the Preventive Detention Act, the president may order the arrest and indefinite detention without bail of any person considered dangerous to the public order or national security. The act requires that the government release detainees within 15 days of detention or inform them of the reason for their detention; it also allows a detainee to challenge the grounds for detention at 90-day intervals. The government has additional broad detention powers under the law, which permit regional and district commissioners to arrest and detain for 48 hours persons who may "disturb public tranquility." The act was not used during the year.

Police use of arbitrary arrest against politicians, members, and supporters of the political opposition increased during the year (see section 3). For example, in October union police arrested CUF parliamentary candidate Ustapha Wandwi for allegedly participating in an illegal rally; however, CUF leaders denied the charge and said police were attempting to demoralize the political opposition. Wandwi was released after a few days.

On September 11, police arrested Abdul Rashid, a resident of Dar es Salaam, and charged him with destroying a CCM campaign poster. Rachid denied the charges; the case was pending in court at year's end.

Police arrested refugees for leaving refugee camps without permits (see section 2.d.).

Union security forces based in Zanzibar and the archipelago's own security forces, known as the *vikosi*, reportedly committed human rights violations during the year, including arrests, detentions, and harassment of CUF members (see section 3). There were continued allegations that CCM's Zanzibar chapter worked with the vikosi to recruit hundreds of members of the Janjaweed, an allegedly pro-CCM gang, to intimidate the political opposition. The CCM repeatedly denied the charge.

There were no available estimates of the number of political detainees.

Detainees charged with criminal matters waited several years for trial, due to the time required to complete police investigations, a lack of judges to hear cases, and an inadequate judicial budget. Detainees' lack of funds to bribe police and court officials also contributed to such delays. Observers estimated that approximately 5 percent of persons held in remand ultimately were convicted, and often those convicted already had served their full sentences before their trials were held. A government official estimated that it took up to five years for homicide cases to reach the high court. By year's end some suspects had spent as many as 10 years in prison without having their cases heard before a court.

Amnesty.—Prior to leaving office in December, former President Mkapa issued presidential pardons for 3,788 prisoners.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary remained underfunded, corrupt, inefficient, and subject to executive influence. Corruption was particularly rampant with the lower court officials and court clerks.

Independent observers continued to criticize the judiciary, particularly the lower levels, as corrupt and inefficient, and they questioned the system's ability to provide a defendant with an expeditious and fair trial. Court clerks took bribes to decide whether or not to open cases and to hide or misdirect the files of those accused of crimes. Magistrates of lower courts occasionally accepted bribes to determine guilt or innocence, pass sentences, or decide appeals of cases coming from the primary courts to district courts. In addition, despite government efforts to increase the number of courts by constructing new buildings, there were few courts available to citizens, and the cost of traveling to the nearest court was often prohibitive.

During the year the government took steps to address judicial inefficiency and corruption. The judiciary instituted a policy requiring all court clerks to have a certificate in law, all magistrates at primary and district courts to have a diploma in law, and all resident magistrates to be law graduates. In coordination with the president's office, the judiciary also organized seminars to educate magistrates and court clerks to the National Anticorruption Strategy Program. In addition the government doubled the judiciary's budget from the previous year.

The legal system is based on British common law and recognizes customary and Islamic law in civil cases. In criminal matters, both Christians and Muslims are governed by statutory or common law. In civil and family matters, Christians are governed by civil and customary law, which is composed of approximately 120 types of tribal law, unless they can prove to a judge that customary law does not apply to them (for example, if they have not been living in a traditional community or are foreigners). On Zanzibar, where Muslims comprise more than 95 percent of the population, Muslims are governed by Islamic law in marriage, divorce, child custody, and inheritance cases. However, on the mainland all persons—including Muslims—are subject to the Marriage Act of 1971, a consolidation of family law that recognizes Islamic and customary marriages but subjects them to state regulation and civil law protections for women. On the mainland civil law essentially governs all persons involved in cases of child custody and divorce. In inheritance cases, either civil, Islamic, or customary law could be applied, depending on certain factors. In family matters, the content and application of some customary laws and Islamic law were discriminatory towards women, both on the mainland and Zanzibar (see section 5).

The country has two judicial systems, one on the mainland and one on Zanzibar; both have their own courts, although the Court of Appeals of Tanzania (the country's highest court) has appellate jurisdiction over the mainland and Zanzibar in almost all circumstances. The country's five-tier court system consists of primary courts, district courts, resident magistrates' (regional) courts, two high courts (one in Zanzibar and another on the mainland), and the Court of Appeal of Tanzania. Primary courts, which are present in each administrative region, have jurisdiction for criminal matters, civil matters related to customary and Islamic law, civil suits, and Christian matrimonial suits. The Judicial Service Commission, which is chaired by the chief justice of the Court of Appeal of Tanzania, appointed all judges except those for the Court of Appeal and the high courts, who were appointed by the president. All courts, including Islamic courts, were staffed by civil servants.

Zanzibar has two court systems—the *kadhi* court system and a court system similar parallel to that of the mainland. The kadhi courts adjudicate civil cases that involve Muslims; concern family, divorce, or inheritance; and arise from Islamic law and custom. Kadhi courts also may adjudicate cases involving non-Muslims on matters of marriage if the marriage was governed by Islam. In order of increasing importance, there are district kadhi courts, a chief kadhi court, and a high court of Zanzibar. Unlike all other cases, cases in the kadhi system and cases examining the constitutionality of Zanzibar laws cannot be appealed to the Court of Appeal of Tanzania. Instead, those two types of cases can only be appealed to a special kadhi appellate court made up of appellate court chief justices, judges, and kadhis.

On Zanzibar the majority of judges were Muslim, but on the mainland there were few Muslim judges. Consequently, some Muslim groups complained that it was inappropriate for Christian judges on the mainland to continue administering Islamic law for Muslims in family matters without training in Islamic law.

Trial Procedures.—On the mainland and Zanzibar, criminal trials were open to the public and to the press; courts are required to give reasons on record for holding

secret proceedings. The Prevention of Terrorism Act excludes everyone except the interested parties from trials of terrorist suspects and suppresses information, reportedly to protect the identity of witnesses in those trials.

There is no trial by jury in any of the country's courts. The law provides for the presumption of innocence. All defendants charged with civil or criminal matters—except parties appearing before Zanzibar's kadhi court system and cases examining the constitutionality of Zanzibar laws—could appeal decisions to the high courts and the Court of Appeal of Tanzania. The law provides a right to defense counsel for defendants accused of murder and treason, as well as for indigent defendants. There were only a few hundred practicing lawyers in the country, although the number of lawyers and advocates practicing in the country increased significantly during the year. Most indigent defendants in rural areas charged with lesser crimes did not have legal counsel. Most defendants in urban areas who could not afford to hire a legal representative or lawyer represented themselves in court. The law prohibits advocates from appearing or defending clients in primary or district level courts.

There was one juvenile court for young offenders; however, this court was overburdened and handled cases only for offenders in Dar es Salaam, where it was located. Juvenile offenders in other regions were tried in adult courts.

The law also provides for commercial courts, land courts, housing tribunals, and military tribunals. Military tribunals do not try civilians. Defendants before military tribunals may appeal to the high court and the Court of Appeal of Tanzania.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law generally prohibits such actions without a search warrant; however, the government did not consistently respect these prohibitions in practice. The Prevention of Terrorism Act permits police of a certain rank to conduct searches without a warrant in certain urgent cases; there were no reports that the act has ever been implemented in practice.

Only courts can issue search warrants; however, the law also authorizes searches of persons and premises without a warrant, if necessary, to prevent the loss or destruction of evidence connected with an offense, or if circumstances are serious and urgent. In practice members of security forces rarely requested warrants and often searched private homes and businesses at will.

During the year there were reports that Zanzibari paramilitary groups looted houses, mosques, and shops and destroyed property in Piki village in Wete, Pemba.

The security forces reportedly monitored telephones and correspondence of some citizens and foreign residents.

During the year the government forcibly evicted or displaced individuals and demolished or repossessed their homes (see sections 1.c. and 2.a.).

In April the Human Rights and Good Governance Commission ruled in favor of approximately 135 villagers who in 2001 had been forcibly evicted from their land by district-level government officials, who also ordered the destruction of their properties. The commission gave the government 30 days to compensate and resettle the villagers and requested that a report be submitted on the matter by May 23. By June the government had not responded, so the commission—in cooperation with the Legal and Human Rights Center (LHRC), a domestic human rights group—filed two civil court cases against the government to enforce the commission's ruling.

The Spinsters, Widows, and Divorcees Protection Act of Zanzibar makes it a criminal offense for any woman to become pregnant out of wedlock and prescribes a prison term of up to two years. In theory, the law could also be applied to men; however, because DNA testing was not available on Zanzibar, only women have been sentenced under the law. During the year one woman was convicted under the act and served a suspended sentence. In January lawmakers on Zanzibar voted to replace the act with one that would reduce prison penalties for young women to community service; however, by year's end President Karume had not signed the act into law.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech, but does not expressly provide for freedom of the press; in practice the union government partially limited these rights, and the semi-autonomous Zanzibar government significantly limited these rights. The country's laws limit the media's ability to function effectively. The print media were subject to considerable government restrictions, including the enforcement of a code of ethics. Although the code is considered voluntary, the government has fined and suspended newspapers under this code. Libel laws that impose criminal penalties intimidated journalists, who practiced self-censorship. On the mainland the government allowed political opponents unrestricted access to the media.

Citizens on the mainland generally enjoyed the right to discuss political alternatives freely; however, freedom of speech was restricted. The law requires political parties to support the continuation of the union. Opposition political party members and others openly criticized the government and ruling party; however, under the law persons using "abusive language" against the country's leadership were subject to arrest. Harassment of opposition parties increased dramatically from the previous year.

Authorities occasionally restricted political and religious speech by Muslims during the year (see section 2.c.).

Registration of newspapers remained difficult and was at the discretion of the registrar. The mainland and Zanzibar have separate media policies. During the year the number of newspapers, radio stations, and journalists grew. On the mainland there were more than 537 registered newspapers, including 12 active dailies and more than 50 weeklies. Many of the mainland's newspapers were privately owned. There were a dozen periodicals in the country, some of which were owned or influenced by political parties, including CCM and CUF. Mainland publications, including one government-owned newspaper, regularly criticized the government.

Approximately 26 radio stations and 15 television stations broadcast in Dar es Salaam and in a few other urban areas on mainland. Many radio stations and all but one television station were privately owned. The government occasionally circumscribed activities of the broadcast media; for example radio stations could not broadcast in tribal languages. On Zanzibar the government controlled radio and television; however, many residents were able to receive mainland broadcasts.

According to the African Press Network for the 21st Century, during the year Zanzibar authorities licensed nine private electronic media and four private newspapers. Of those licensed during the year, two radio stations, two private cable television stations and one newspaper, *Zanzibar Wiki Hii*, began operations during the year. According to the Media Institute of Southern Africa (MISA), the increase of independent media in Zanzibar was "encouraging."

There were reports that government officials on the mainland beat members of the media during the year. On September 10, a group of prison wardens in Dar es Salaam—as well as prisoners acting on the wardens' orders—severely beat Mpoki Bukuku, chief photographer for the private newspaper *The Citizen*, in the Ukonga area of Dar es Salaam region. Bukuku was attempting to cover the eviction of families from houses that were being repossessed by the Tanzanian Prisons Department; the families had challenged the repossession in court on September 6, and the case was pending at year's end. Journalists and photographers had been officially ordered not to cover the event but defied the order. Guards and prisoners also clubbed and kicked Christopher Kidanka, information officer for the Dar es Salaam-based LHRC, as well as other bystanders, and attempted to confiscate cameras and notebooks from Bukuku and Kidanka. The home affairs minister defended the assault, saying that the wardens had used "reasonable" force; however, local media associations called for Home Affairs Minister Omary Mapuri Maura's resignation. On September 14, the police director of criminal investigations created a committee to investigate the assaults, which he described as "criminal," and two days later, Mapuri apologized publicly for his statements supporting the prison wardens. On September 20, nine prison wardens appeared before a magistrate's court in Dar es Salaam and plead not guilty to charges of assaulting and injuring dozens of individuals, including the two journalists. A magistrate released the nine defendants on bail and continued the case; the investigation was ongoing at year's end.

There were reports that security forces arrested, interrogated, and otherwise harassed journalists during the year. In June the Zanzibar police reportedly arrested Assah Mwambene, repoter and editor of the state-owned *Daily News*, and detained and interrogated him for several hours. The police charged that articles he wrote on the voter registration process and the potential for election sabotage endangered state security.

There were occasional reports that nongovernmental actors used violence against and harassed members of the media. For example during the year two CUF supporters assaulted journalists. On November 9, a Dar es Salaam court began hearing the case against the two individuals; there was no additional information at year's end.

During the year the Zanzibar government continued to use the Zanzibar News Act to harass journalists and limit freedom of the press. For example, in June Zanzibar authorities banned political columnist Jabir Idrissa, a writer for the weekly mainland newspaper *Rai*, from practicing journalism and accused him of working illegally. Director of Information Ali Mwinyikai said Idrissa had violated the Zanzibar News Act. The act allows Zanzibar's director of information to revoke a license at anytime; it also requires all journalists working on the island to obtain press accred-

itation from the government and to renew it annually, which Idrissa had not done. Idrissa, who held a press card issued by the union government, said he believed he was banned for criticizing the Zanzibar government for human rights abuses and bad governance. Local journalists said Zanzibar authorities were seeking to further muzzle the press in the run-up to general elections in October. In July Zanzibar authorities lifted the ban on Idrissa after he applied for and received press accreditation from the information ministry.

During the year media groups continued to call for the abolishment of what they deemed to be draconian legislative prohibitions. In addition they criticized the lack of legal protection for journalists' sources and whistle blowers. Journalists and NGOs belonging to the Media Law Reform Project continued to complain that the government deliberately weakened press freedom and limited information to the press through the Newspaper Registration Act—which grants the information minister wide discretion to suspend or close down newspapers—and the National Security and Broadcast Services acts. They also criticized the Prisons and Police acts, which prohibit journalists from writing about prisons or the police without obtaining prior permission from those organizations first.

In December the government ordered two local newspapers to temporarily cease publishing, accusing both of violating the 1976 Newspaper Act. The government also suspended the Swahili-language newspaper *Tanzania Daima* for three days for publishing a satirical picture and caption about the national debt, which was deemed offensive to President Mkapa; the newspaper was published by a media company associated with opposition presidential candidate Freeman Mbowe. In addition the government suspended the weekly tabloid *Amani* for 28 days due to alleged ethical violations in a November edition.

The government reportedly continued to pressure newspapers throughout the year to suppress or change unfavorable articles. There continued to be reports that the government withheld lucrative government advertising from newspapers deemed too critical of the administration. In addition, according to press freedom observers, the government attempted to weaken the media by maintaining prohibitively high taxes on newsprint and advertising.

Libel law, which imposes criminal penalties for defamation, intimidated journalists and caused many to practice self-censorship. While the law specifies that the plaintiff has the burden of proof for demonstrating malicious intent, many media observers criticized the courts for ignoring this provision, and for imposing heavy, politically motivated penalties on the media.

During the year the government cited public security as a pretext to suppress views that it found politically objectionable. On January 22, the independent Zanzibar newspaper *Dira*, which the Zanzibar government closed indefinitely in 2004, submitted another publishing license application to the Zanzibar government. At year's end *Dira* had not received a response to its application. In 2004 authorities said the license denial was necessary because the newspaper was a threat to national unity and had the potential to disrupt peace and solidarity in Zanzibar.

Lack of media access to government information remained a serious problem. Civil service regulations prohibit government workers from divulging government information to the media, effectively allowing only a handful of high-level government representatives to relay information to the media (see section 3).

During the year the Media Council operated with limited effectiveness as a mediator between the public and the media. It also sought to enforce the "voluntary" Code of Ethics of Media Practitioners and provided training through media clubs it supported, particularly on the laws of defamation and the implications of breaching such laws. It also sought to resolve defamation disputes before they reached a court of law.

According to MISA, freedom of the press continued to be threatened by lack of training, mediocrity, low salaries, and corruption in the profession of journalism.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of assembly, but the government limited this right in practice. Security forces interfered with citizens' rights to assemble peacefully, particularly for political rallies or demonstrations, on several occasions. To hold rallies, organizers are required to obtain police permission in advance. Police have the authority to deny permission on public safety or security grounds or if the permit seeker belongs to an unregistered organization or political party. During the year authorities arrested citizens for assembling without the appropriate permit.

The government prevented opposition parties from holding rallies during the year. In December police in Arusha used tear gas to disperse a campaign rally held by

Tanzania Labor Party presidential candidate Augustine Mrema. Police said the participants did not have a permit. Also in December police in Mara region shot tear gas and bullets in the air to disperse CUF supporters and prevent a demonstration. Several CUF supporters were injured and property was lost.

Prior to the Zanzabari elections, authorities on Zanzibar denied opposition parties access to the Donge constituency of Unguja island's Kaskazini region, as well as to Unguja's Ukuu constituency of Kusini region. In October the Zanzibar Electoral Commission (ZEC) rejected a CUF request to hold a campaign meeting in Donge constituency. During the confrontation in Mahonda that resulted from this denial, police fired tear gas and live bullets at CUF supporters, seriously injuring five persons.

Unlike in the previous year, there were no reports that the government banned individuals from addressing rallies.

Authorities forcibly dispersed religious gatherings during the year (see section 2.c.).

During the year the government maintained a ban on demonstrations by Uamsho (also known as the Islamic Revival or Center for Islamic Propagation), an umbrella organization for conservative Muslim organizations.

Unlike in the previous year, there were no reports that police used force to disburse student demonstrators.

Freedom of Association.—The constitution provides for freedom of association; however, the government limited this right in practice. The government sometimes denied the political opposition permits to hold rallies, imposed registration requirements for political parties, and unregistered parties were prohibited from fielding candidates (see section 3).

The registrar of political parties has sole authority to approve or deny the registration of any political party and is responsible for enforcing regulations on registered parties. Under the law citizens may not form new political parties independently but must comply with certain requirements to register them with the Office of the Registrar.

Parties granted provisional registration may hold public meetings and recruit members. Provisionally registered parties have 6 months to submit lists of at least 200 members in 10 of the country's 26 regions, including 2 of the 5 regions on Zanzibar, to secure full registration and to be eligible to field candidates for election.

During the year the government continued to implement the 2002 NGO Act, which requires all NGOs to register with a government-appointed NGO Coordination Unit (see section 4). Failure to register or meet any of the act's other requirements is a criminal offense. At year's end it was not known whether the Zanzibar Human Rights Association's registration request, which has been pending for several years; remained pending.

c. Freedom of Religion.—The law provides for freedom of religion; however, there were some limits on freedom of religion.

The government requires that religious organizations provide information to the registrar of societies at the Home Affairs Ministry. To register, religious organizations must have at least 10 followers and must provide a constitution, the resumes of their leaders, and a letter of recommendation from their district commissioner. Some Muslim groups claimed that they were still required to submit a letter of recommendation from the National Muslim Council of Tanzania. There were no reports that the government refused the registration of any group during the year.

The law prohibits preaching or distribution of materials that are considered inflammatory and represent a threat to the public order. During the year the government occasionally denied permission to religious groups seeking to hold demonstrations when there was a perceived likelihood that the gathering could become confrontational or inflame religious tensions. In May district authorities in Mbeya denied a permit to the Salvation Pentecost of Tanzania International, claiming that the group's recent evangelical public meetings had turned into abusive campaigns against Islam. In June Zanzibar police denied Uamsho permission to demonstrate against police beatings; the protest did not occur and no one was arrested.

In August police arrested two Christian women in Dar es Salaam for burning a copy of the Koran. Police charged them, but by year's end there was no further information on the progress of the case.

Unlike in the previous year, there were no reports that police used force or tear gas to disperse a demonstration by—or arrest members of—Uamsho.

At year's end the case of two Uamsho leaders facing charges in connection with demonstrating without a permit in 2004 was still pending.

The Zanzibar government continued to harass Islamic activist Sheikh Kurwa Shauri. In May Zanzibari authorities prevented Shauri from alighting after he flew

to the islands. In 2004 Zanzibari authorities deported Shauri to Dar es Salaam, in accordance with a 1993 government order by then President Salmin Amour, which banned Shauri from the islands after he was accused of disrupting the peace and fomenting inter-religious conflict.

During the year the government maintained a ban that has prohibited religious organizations from engaging in politics since the 1990s. In addition politicians were prohibited from using language intended to incite one religious group against another, or to encourage religious groups to vote for certain political parties. The law imposes fines and jail time on political parties that campaign in houses of worship or educational facilities. However, several religious leaders sought involvement in politics, and no sanctions were imposed during the year. In September Dar es Salaam Regional Commissioner Yusuf Makamba, a Muslim, warned Christians that churches should not be used to further the interests of any political parties.

Government policy forbids discrimination against any individual on the basis of religious beliefs or practices. However, some Muslim groups continued to charge that the government discriminated against them in government hiring, education, and law enforcement practices. The Muslim community claimed to be disadvantaged in terms of its representation in the civil service, government, and parastatal institutions.

Muslim leaders complained that the number of Muslim students invited to enroll in government-run schools was not equal to the number of Christian students. In response some Christian officials said that the preference of most Muslims to enroll their children in Muslim religious schools instead of mainstream government schools caused such societal inequities.

The Mufti Law authorizes the president of Zanzibar to appoint an Islamic leader, or *mufti*, who serves as a public employee of the Zanzibar government. On Zanzibar the mufti has the authority to approve or deny the registration of Islamic societies and supervise Zanzibari mosques. The Mufti Law is controversial because some Muslim groups believe it gives the Zanzibar Government undue influence in religious affairs.

Societal Abuses and Discrimination.—Religious societal violence occurred on occasion. On April 10, unidentified individuals burned down a Catholic church in the Mikese district of Morogoro region. Investigations were still pending at year's end. In September young Muslim men entered a Dar es Salaam church and beat a pastor and a deacon, who had to seek hospital treatment for his injuries. A few days after this incident, an unidentified person threw stones through the windows of the same church, breaking one window. Police were investigating this case at year's end. Also in September Muslim youths entered a primary school in the Temeke district of Dar es Salaam and beat a group of religion teachers for teaching Muslim students about Christianity.

During the year there were reports that at certain Muslim religious rallies in urban centers, some participants publicly criticized Christianity, which, on occasion, resulted in fighting. While Muslim-Christian relations remained generally stable in rural areas, tensions increased during the year in Zanzibar. In August CUF Secretary General Seif Sharif Hamad stated that Christians in Zanzibar were being oppressed by Muslims. The government made some efforts to resolve the tensions between Muslim and Christian communities. During the year Foreign Minister Jakaya Kikwete, a Muslim, attended fund raising events at the African Inland Church and at the Lutheran Church. In May Union President Mkapa called for religious toleration in the country.

There was one report of a religiously motivated act of vandalism. During the year unidentified persons burned down a church on the mainland. Members of the church continued to meet and worship at the site, and a few days after the fire individuals returned and threw stones at the church members.

There were signs of increasing tension between secular Muslims and conservative Muslims, as the latter believed that secular Muslims had joined with the government for monetary and other benefits. Some Muslim groups accused the government of being a Christian institution, and also accused the CCM presidential candidate of not being a real Muslim.

The Jewish population was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides for these rights, and the government generally respected them; however, bureaucratic inefficiency and corruption hindered compliance, and respect for the right of asylum deteriorated during the year.

Mainlanders were required to show identification to travel to Zanzibar, although the requirement largely was ignored. Zanzibaris needed no special identification to travel to the mainland. Mainlanders were not allowed to own land in the islands, except in partnership with foreign investors.

Police and the TPDF sometimes set up roadblocks in rural parts of the country and in Zanzibar. Government officials manning these roadblocks sometimes solicited bribes to allow passage.

Passports for foreign travel were difficult to obtain at times, mostly due to bureaucratic inefficiency and official demands for bribes.

The law does not permit the forced exile of citizens, and the government did not use forced exile in practice.

After the October 30 presidential election on Zanzibar, approximately 100 Zanzibaris claiming to be CUF members fled to Kenya, reportedly for fear of persecution by pro-CCM government forces.

During the year the LHRC alleged that the director of immigration continued to use the Citizenship Act to reject citizenship for reasons of personal prejudice.

The citizenship of Ali Nabwa, the managing editor of *Dira*, had not been restored by year's end; however, he had not been deported.

Protection of Refugees.—The law provides for the granting of refugee status and asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government frequently did not provide protection against *refoulement*, the return of persons to a country where they feared persecution.

During the year the government instituted a separate evaluation system for asylum-seekers from Burundi and the Democratic Republic of the Congo (DRC). Cases brought by Burundians and Congolese were reviewed by an ad hoc committee which included local officials from the immigration office and the minister of home affairs (MHA). The cases of asylum-seekers from countries other than the DRC and Burundi continued to be reviewed by the National Eligibility Committee. The final authority to determine refugee status rests with the MHA, who was authorized to accept or reject the decision of the NEC or an ad hoc committee regarding applications for asylum. The minister may also decide cases individually.

The MHA can declare any group of persons to be refugees by giving notice in the government gazette, and the government's prior determination that Burundians and Congolese are *prima facie*, or presumed, refugees was still on record. However, by year's end the government applied eligibility procedures to new arrivals from Burundi and DRC, casting doubt on the status of this prima facie determination.

During the year the government occasionally refused entry to Burundians and Congolese seeking asylum or refugee status at the border and failed to conduct an ad hoc committee evaluation. It also rejected the claims of some asylum seekers after they had entered the country and had had an evaluation by the NEC or the ad hoc committee, immediately giving custody of them to the immigration services for deportation; the rate of refusal for Burundian asylum seekers was notably higher than that of Congolese asylum seekers, raising the question of disparate treatment. For example on February 1, the UNHCR said the government forcibly repatriated nine asylum seekers to Burundi. In addition, in December the government denied asylum status to 200 Burundians whom the government returned after determining that they had immigrated due to food security issues caused by a drought and therefore were not entitled to refugee status. These individuals' cases were not reviewed by an ad hoc committee, but they did have the opportunity to meet with UNHCR officials after returning to Burundi. Based on interviews, UNHCR officials verified these individuals had immigrated due to drought and food insecurity; however, these interviews were conducted in these individuals' country of origin, leaving open the possibility that pressure prevented them from being completely candid.

The government did not always cooperate with the UNHCR during the year. For example on some occasions, the government did not allow the UNHCR to be present at screenings for refugees as they arrived at the border and did not inform the UNHCR about the arrival of new asylum seekers.

At year's end the number of UNHCR-assisted refugees in the country was approximately 350,590. The refugee population, which included approximately 195,377 from Burundi,and 150,112 from the DRC, resided in 14 UNHCR-assisted camps in the northwest. There were also approximately 200 thousand Burundian refugees who arrived prior to 1994 who were not being assisted by the UNHCR. In addition there were approximately 2,663 Somalis living in a coastal settlement camp receiving some UNHCR assistance. The Government agreed to review the Somali refugee cases for naturalization on an individual basis and granted naturalization for 182 Somali refugees.

Burundian refugees continued to return home under the perceived threat of refoulement. For example during the year the Kibondo District Commissioner repeatedly visited camps and urged refugees to return home. The UNHCR, with strong encouragement from the government, increased efforts to facilitate returns to designated areas in Burundi that were considered secure. In October the UNHCR also began voluntary repatriation of refugees to the DRC.

It is illegal for refugees to live outside of the camps or settlements, or to travel outside of their respective camps, although they are permitted to collect firewood within four kilometers of their camps. However, refugees often traveled more than 5 miles outside of camp to collect firewood because local supplies were inadequate. These refugees, usually women and children, were subject to theft, physical abuse, and rape. This restriction of movement, along with the discouragement of—and restriction of the possibilities for—self-reliance and local integration, had the result of encouraging repatriation. Refugees caught outside the designated areas were arrested and imprisoned for up to six months or made to pay a fine of approximately $43 (50 thousand shillings), a large sum for individuals who had a very meager or no source of income. These provisions were enforced rigorously. Refugees and asylum seekers found outside camps without permits have also been prosecuted for unlawful presence under the Immigration Act, under which violators could be deported immediately or, if charged and convicted, imprisoned for two years followed by deportation to the countries from which they sought refuge. The government's application of immigration laws to refugees instead of applying the Refugees Act continued to be a problem. Sentences under Immigration laws are more stringent than those under the Refugees Act. After serving their sentences under the Immigration Act, asylum seekers and refugees often were issued prohibited immigrant notices and deported. Relatives of the accused often were not notified of their detention.

There were reports that police based in refugee camps sexually exploited female refugees. Woman and children sometimes engaged in prostitution in the refugee camps.

The UNHCR, with government cooperation, continued to provide security for refugees; however, during the year crime—including killings, robberies, rapes, and domestic violence—was a serious problem in and around the refugee camps. The government did not adequately investigate, prosecute, or punish perpetrators of abuses in refugee camps and often attributed any crime committed near a refugee camp to the presence of the camp in the area, regardless of any involvement by refugees. There were mediation councils in the refugee camps and police patrols in the camps, but many cases were not referred to local authorities. National courts did not adequately prosecute most cases involving refugees, including rape and murder cases. Refugee camps were affected by delays and limited access to courts, common problems facing the Tanzanian nationals as well.

Government officials blamed refugees for crime in the area surrounding the camps; however, it was unclear who was responsible for the crimes. According to Refugees International, during the year several refugees complained repeatedly about the inaction of police and refugee security guards and their lack of capacity to prevent violence and provide protection.

There were reports that some refugees engaged in vigilante justice within camps, occasionally beating other refugees. There was significant hostility and resentment against Burundian refugees during the year and continuing concern regarding violence allegedly perpetrated by some armed Burundian and Rwandan refugees. Local officials reported incidents of banditry, armed robbery, and violent crime in the areas surrounding refugee camps, and alleged that refugees were the perpetrators. On June 19, a police officer and a refugee were reported dead in the Mtendeli camp; no additional information was available at year's end.

Antirefugee sentiment among the 2 million citizens living in refugee-affected areas of the country was high due to pressure on local resources; the belief that refugees were responsible for an increase in crime, small arms trafficking, HIV/AIDS, and environmental degradation; and the provision of goods and services for refugees that were not available to the local population. However, many services offered by the UNHCR, NGOs, and international organizations, in particular health care and road improvement projects, were available to the local population.

Section 3. Respect for Political Rights: Citizens' Right to Change Their Government

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in elections on the mainland and in Zanzibar. However, legal and financial provisions that favored the ruling CCM party, electoral irregularities, and political violence limited the effectiveness of the electoral process.

Elections and Political Participation.—Separate elections are held on the mainland and on Zanzibar, though they may be held on the same day. All citizens of Tanzania elect local officials, members of the national parliament and a *union* (national) president. In addition Zanzibaris elect a president of Zanzibar and members of the Zanzibar House of Representatives in polls that are not open to mainlanders.

On December 14, Jakaya Kikwete, the CCM candidate, was elected president of the Union with 82 percent of the vote in an election widely considered by observers as freer and fairer than previous elections; the election was originally scheduled for October 30, but was postponed due to the death of one of the vice presidential candidates. In National Assembly elections, the CCM won 206 out of 233 elected seats in the union parliament, while the CUF won 19.

On October 30, voters in the semi-autonomous archipelago of Zanzibar elected a president, legislators, and local representatives for the archipelago. CCM candidate Amani Karume, the incumbent president, won the Zanzibari presidency with 53 percent of the vote in an election marred by irregularities. Seif Sharif Hamad, the CUF presidential candidate garnered 46 percent of the vote. In elections for Zanzibar's 50-seat House of Representatives, the CCM won 30 seats while the CUF won 19.

While international observers of the October 30 Zanzibari elections noted improvements in the election process compared to previous years, some international observers called for an independent investigation, citing serious irregularities, including the failure of the ZEC to release the permanent voters register (PVR) until the day before the polling day; inaccuracies in the PVR; incidents of underage and multiple voting; incidents of registered voters being turned away from the polls; and the cancellation of election results for the Dole voting district due to a shortage of ballot papers. CUF leaders also called for an investigation, charging that there was intimidation, fraud, and mismanagement at the polls. They accused the government of transporting pro-CCM voters—often from the mainland—into pro-CUF voting districts, where they allegedly were allowed to vote multiple times. They also accused the ZEC of disenfranchising 47 thousand voters and failing to disclose names on the PVR.

While the December 14 union elections were generally peaceful on the mainland, the campaigns preceding them were marked by violence in some regions. In October there were reports of political violence on the mainland between CCM supporters and opposition supporters from UDP, Chadema, and CUF. For example in Bukoba region at least 35 residents reportedly suffered injuries when supporters of CCM and CUF beat each other. Also in October, police in Bariadi, Shinyanga, arrested several CCM members, including the wife of a prominent government official, for assaulting UDP opposition party members. On October 30, CUF members in Tanga region beat a CCM member after the individual allegedly walked into a CUF campaign meeting wearing a CCM T-shirt and cap.

In November police in Mwanza arrested two individuals for assaulting CCM presidential candidate Jakaya Kikwete during a rally in Mwanza. At year's end the case was pending in court. Also in November the Shinyanga regional commissioner told the press he had issued a warning to political party leaders in his region following a spate of violent skirmishes at some campaign meetings in several districts.

In Zanzibar both the Zanzabari and the national elections were marred by violence. At some registration sites, there were violent confrontations between paramilitary forces and citizens, one of which resulted in death (see section 1.a.). In addition, during the December 14 union elections, approximately 20 persons were injured, some seriously, in violence in Zanzibar. There also were instances of violence near polling centers between locally registered voters and non-locals who were allegedly trying to cast votes where they were not registered to vote. For example a member of the Janjaweed, an allegedly progovernment gang, stabbed a man in Stone Town who was trying to prevent voting and election interference by non-locals.

After polling day for union elections, Zanzibar police accused supporters of the CUF of instigating the violence and arrested at least 46 individuals. There was no information available regarding whether these individuals had been released by year's end.

Unlike in the previous year, there were no reports that the youth wings of the CCM and CUF parties attacked political leaders or vandalized property.

The government restricted political opponents by denying their permit requests to hold rallies, harassing them, and detaining them for short periods of time (see section 1.d.). For example on July 18, Dar es Salaam police detained for a few hours and interrogated Professor Ibrahim Lipumba, CUF's presidential candidate in the December 14 elections, for making statements on the mainland that were "disturbing." In addition Zanzibari police traveled to Dar es Salam and interrogated him separately the same day.

Police beat individuals and used tear gas to disperse campaign rallies conducted by opposition parties (see sections 1.c. and 2.b.).

Individuals and parties could freely declare their candidacy and stand for election; however, there were government restrictions on political opponents. The law prohibits independent candidates who are not representing a registered political party, requires all registered political parties to support the union with Zanzibar, and forbids parties based on ethnic, regional, or religious affiliation.

CCM's candidates have been elected repeatedly since the country's first multiparty election. Its political dominance has been due partly to restrictions on the political opposition. In addition the election law provides for outgoing parliamentarians to receive 17 thousand dollars (20 million shillings) as a "gratuity," which incumbents used in campaigns to facilitate their reelection. Several NGOs and opposition parties criticized this provision, saying that it made it extremely difficult for aspiring parliamentary candidates from the opposition parties to mount an effective and fair competition.

The law requires that women occupy at least 30 percent of seats in parliament. Women are appointed by their respective political parties to serve in 75 special seats. There were 91 women in the 320-seat parliament at year's end. Women occupied 18 seats in the 81-seat Zanzibar House of Representatives and held 4 positions in the cabinet of the Zanzibar government. During the year one woman served as a justice of the Court of Appeal of Tanzania.

Government Corruption and Transparency.—Despite significant changes in the past decade, corruption remained a pervasive problem throughout the government. There was a strong public perception of corruption in the executive and legislative branches.

There was little accountability in most government entities. The Ministry of Finance estimated that 20 percent of the government's budget in each fiscal year is lost to corruption, including theft, fraud, and fake purchasing transactions. According to the controller auditor general's annual report, the Ministry of Health could not account for more than half of its budget in 2004. Transparency International reported in its 2005 Corruption Perceptions Index that citizens perceived slightly less corruption than in 2004 but considered corruption to be a "severe" problem.

Corruption was especially rampant during the election campaign period. Human rights observers, members of the political opposition, and legal experts continued to accuse the CCM of engaging in corruption during elections. The groups based their accusations on CCM's use of election law provisions that allow candidates to offer hospitality, gifts, and favors—known as *takrima*—to constituents during campaigns. The law does not define limits on the form, amount, or duration of the hospitality that can be provided, which critics said provided a significant "loophole for corruption," particularly because the CCM received significantly greater government subsidies under the law than other parties. During the year's debate on the ethical nature of takrima, some political figures said the law permitting takrima promoted the African tradition of providing hospitality and encouraged citizen participation in the electoral process; however, many observers expressed concern that the practice of takrima gave the ruling party undue influence.

During the electoral campaign, there were reports that aspirants distributed cash, mobile phones, and other rewards to voters. Some citizens accused the Prevention of Corruption Bureau (PCB), the government's lead anticorruption entity, of being ineffective in combating corrupt practices. CCM Secretary General Philip Mangula criticized the PCB for failing to curb corruption in the electoral process and said the word "takrima" had become a euphemism for corruption.

The government continued to use specialized agencies to fight corruption during the year. The Good Governance Coordination Unit (GGCU) is charged with implementing anticorruption legislation, coordinating anticorruption efforts, and collecting information from all the ministries for publication in quarterly reports; however, this three-person unit continued to be severely under-resourced.

The PCB is responsible for investigating cases of corruption on the mainland and referring them to the courts for prosecution. The PCB does not operate on Zanzibar, lacks constitutional recognition, and is under the authority of the office of the president. These factors hindered its ability to resist political pressures and prosecute high-level corruption cases. The PCB's director general serves at the pleasure of the president and had no security of tenure. During the year the PCB continued to refer cases to the director of public prosecution (DPP); however, the prosecution of corruption cases remained slow and inefficient. The PCB usually required two years to investigate a case of corruption. If the PCB referred the case, the DPP typically required an additional two years to review the case's merits and decide whether to prosecute it. Only about 5 percent of corruption cases reported to the PCB's regional offices during the last five years have been heard by a court of law. Anticorruption

activists criticized the government for not providing the PCB with the capacity to monitor the implementation of recommendations that the PCB made to institutions.

Between 1995 and June 2004, the PCB received 10,319 reports of corruption and investigated 9,507 of them. Of the cases investigated, 357 were prosecuted, resulting in 48 convictions. According to the PCB, most corruption-related complaints involved mining, land matters (particularly title deed fraud), energy, and investment. According to anticorruption NGOs, most allegations of corruption involved the Tanzania Revenue Authority, local government officials, licensing authorities, hospital workers, and the media.

The government continued its efforts to curb corruption. During the year the government investigated and prosecuted some cases of corruption; however, no high-level government leaders were tried on corruption charges during the year. Several primary court magistrates also were arrested for corruption, and the cases were pending at year's end. In 2004 the government raised the wages of civil servants to reduce the temptation to commit corruption and provided for an average of 100 new investigators to join the PCB each year.

There was no additional information on the case against a Mbulu district magistrate arrested on charges of bribery in July 2004, or the case against two members of the Iringa Crimes Office, arrested for bribery charges in November 2004.

The case of a top administrator of Zanzibar's Joint Presidential Supervisory Commission accused of embezzling donor funding in 2004 remained pending at year's end.

The Zanzibari House of Representatives denied the request of the Union government's Ethics Secretariat to open an office on the isles because it was in the process of establishing its own secretariat. An office of the Commission for Human Rights and Good Governance existed on the isles, but at year's end it had not received a permit from the Zanzibar government to investigate corruption cases.

During the year the government amended the constitution to provide for access to information; although the amendment makes no explicit mention of information that is held by the government. In practice citizens' access to government information remained very limited. Government officials estimated that 90 percent of all government documents were classified, including administrative forms. According to access to information advocates, the National Security, Broadcasting Service, Newspaper, Prisons', and Police acts blocked public access to government information (see section 2.a.). There was no mechanism for appealing denials, and many citizens continued to call for the amendment of these laws.

By law, persons holding certain public offices must make a formal declaration of their wealth to the Public Leaders' Ethics Secretariat, but the declaration forms were not made public, and it remained difficult for members of the public or journalists to gain access to this information. Persons seeking to access a form were required to pay a fee of about $3 (3 thousand shillings) and provide written justification for the request. Some of the forms were shared with the PCB during the year.

Parliament continued to use the Parliamentary Online Information System (POLIS) to increase access to government information. POLIS was intended to make politics and policy-making more understandable and accessible to the public. By year's end POLIS' reach remained limited, since only about 300 thousand of the country's 37 million citizens had Internet access.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to the views of NGOs; however, the government-mandated registration process has been used to limit NGO activities. Many human rights organizations reported the government did not respond or was slow to respond to requests for information. The government of Zanzibar reportedly interpreted the existence and actions of NGOs as antigovernment. In addition there were reports that many parliamentarians harbored mistrust towards NGOs and believed they existed solely to make money.

Active domestic human rights NGOs included the Center for Human Rights Promotion, the LHRC, Tanzania Media Women's Association (TAMWA), and Tanzania Women Lawyers' Association. There were also many smaller local human rights NGOs based outside of Dar es Salaam. The Zanzibar Legal Services Center was one of the few active human rights organizations on Zanzibar. All of these organizations were independent of the government.

Government representatives met with domestic human rights NGOs, and participated in training seminars on subjects including international humanitarian law, FGM, child labor, trafficking in persons, and women's rights.

The 2002 NGO Act, which does not apply to Zanzibar, requires all NGOs to register with a government-appointed NGO Coordination Unit within the Vice President's office (see section 2.b.). Before the act was implemented, NGOs expected that it would be used to limit their operations, and that the government could use the denial of registration as a political tool. However, since implementation of the act, many NGOs have said they viewed the act as beneficial. From February through December, more than 500 NGOs (some new and some pre-existing) registered with the NGO Coordination Unit.

The government of Zanzibar has not responded to requests for registration by the African Human Rights and Justice Protections Network, which has been pending since 1994.

On September 8, the Ministry of Education and Culture banned Haki Elimu, a domestic NGO, from publishing articles or studies on schools and directed school inspectors to take stern measure against any school or college which did not adhere to the directives. The government claimed the NGO disparaged the education system and failed to conform to ministry directives. Other NGOs called for the government to lift the ban, reminding the government of its stated commitment to transparency and accountability in the education sector.

The Prevention of Terrorism Act, which imposes strong sanctions on NGOs suspected of ties to terrorism, was in the process of being implemented at year's end; however, Muslims believed it unfairly targeted their religiously affiliated NGOs.

There were a few reports that human rights NGO workers were victims of crime, but the attacks were not a result of their work with NGOs. The government took steps to investigate these matters.

There were no developments in the May 2004 killing of an NGO worker in Ngara district by unidentified armed assailants.

During the year journalists began the process of registering the Human Rights Press Club, which was created in 2004, as an NGO and changed the name to Human Rights Media Action. The group met several times during the year to research, monitor, investigate, and report on relevant human rights problems. At year's end the group was in the final stages of registering as an NGO.

Relations between the government and the UNHCR, which maintained a sizable presence for the operation of the country's 13 refugee camps, were occasionally strained during the year (see section 2.d.).

The Commission for Human Rights and Good Governance operated with the government's cooperation; however, the commission was underfunded, understaffed, and overburdened by a caseload of unresolved complaints. The commission conducted investigations into human rights abuses committed by the government, companies, and individuals. The commission is also mandated to act as a plaintiff in a trial; however, it does not have judicial powers. Furthermore, it has no jurisdiction over matters pending before a court or other tribunal (the commission can recommend remedies but courts must decide on them), any dispute that involves the president of the country or president of Zanzibar, or relations between the government and a foreign state or international organization. The commission had no legal mandate to operate in Zanzibar but retained an office there.

The government continued to host the International Criminal Tribunal for Rwanda War Crimes (ICTR) in Arusha, and the government was supportive of and cooperated with the ICTR.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on nationality, ethnicity, political affiliation, race, or religion; however, the government did not always effectively enforce these prohibitions. Discrimination based on sex, age, or disability was not prohibited specifically by law but was discouraged publicly in official statements and by government policies. Discrimination against women, refugees, minorities, and persons with HIV/AIDS persisted; and societal ethnic tensions continued to be a problem.

Women.—Domestic violence against women remained widespread. The law does not specifically prohibit spousal battery. Cultural, family, and social pressures prevented many women from reporting abuses to authorities, and action rarely was taken against perpetrators of physical abuse of women. Police often had biases against pursuing domestic abuse cases. There was no available information about the number of domestic abusers prosecuted or convicted.

Traditional customs that subordinated women remained strong in both urban and rural areas, and local magistrates often upheld such practices. Wife-beating was an acceptable practice and occurred at all levels of society. Some women were punished by their husbands for not bearing children. TAMWA estimated that as many as 50 percent of women were beaten by their husbands. The courts recognize domestic vio-

lence as grounds for divorce, and women who sought advice from mainland legal aid clinics most commonly cited domestic abuse as the reason for wanting a divorce. Generally women tolerated domestic abuse for a long time before seeking a divorce.

The law provides for life imprisonment for persons convicted of rape; however, rape continued to be a serious problem. Several persons were prosecuted and convicted for rape and battery under the law during the year. Sexual and gender-based violence continued to be a problem in the refugee camps (see section 2.d.).

There was no available information on the prevalence of rape. One official estimated in 2003 that the majority of rape cases went unreported, and only 5 percent of actual rape cases were filed in a court of law. According to a Zanzibar high court judge, courts often rejected cases due to a lack of evidence. Some police reportedly advised rape victims to clean themselves before going to hospitals for examinations, which contributed to the removal of important evidence. During the year Zanzibar's Ugunja island had one hospital that conducted post-rape examinations. This hospital was private, and the law requires post-rape examinations to be conducted at government hospitals. In addition, since rape victims had to wait for as long as six days for examinations, much crucial evidence was lost. The only public hospital on Pemba Island continued to conduct post-rape examinations only once a week. Rape and sexual abuse of girls and women with disabilities reportedly was prevalent during the year.

The law partially criminalizes FGM by prohibiting its practice on any female younger than 18 years of age; however, enforcement continued to be lax. At the beginning of the year an estimated 18 percent of the country's female population, about 4 million women, had undergone FGM. Data from anti-FGM activists suggested that the prevalence of the procedure was declining, but also suggested that the average age of victims had decreased to less than 10 years old, with some newborns reportedly undergoing FGM. In Singida region, FGM was often performed on infants who had become sick with malaria or other diseases so that any deleterious effects resulting from the procedure would not raise suspicion among neighbors and relatives. FGM was practiced by approximately 20 of the country's 130 tribes and was most prevalent in 11 mainland regions, including Arusha, Singida, Kilimanjaro, Morogoro and Dar es Salaam. In the rest of the country, FGM was practiced by less than 5 percent of the population. The most common types of FGM were the excision of the clitoris and labia minora; however, infibulation, the most severe form of mutilation, was also practiced, mainly in the northern highlands and the central zone.

Penalties for practicing FGM on females under 18 range from 5 to 15 years of imprisonment, or a fine not exceeding $277 (300 thousand shillings), or both. The law does not establish a minimum fine and does not provide legal protection for women 18 years of age or older. The law was largely perceived to target the parents or relatives of the victim; it was not widely perceived to target the practitioners, or *ngaribas*, hired to perform FGM.

There were reports of at least two FGM-related arrests and prosecutions during the year, and at year's end those cases were pending. Enforcement of the anti-FGM law was difficult because many police officers and many communities were not aware of the law; police did not have adequate resources to protect victims; and victims were often reluctant to testify against family members and neighbors who forced them to undergo FGM. Some witnesses feared reprisals from supporters of FGM.

Corruption also made it difficult to enforce the anti-FGM law. Some villagers reportedly have given local leaders sums as great as $277 (300 thousand shillings) to be allowed to have their daughters circumcised without fear of arrest or prosecution. In addition most cases have been dismissed from courts under the pretense of lack of evidence, often despite strong evidence from the victims and even confessions from their parents or guardians, or the FGM practitioners.

The government continued to implement the National Plan of Action for the Elimination of FGM, a five-year strategy to eradicate the procedure by involving the practitioners, community leaders, men, and women. However, anti-FGM activists continued to criticize the central government for its lack of commitment to hold some members of parliament and local government officials accountable for failing to enforce the anti-FGM law.

During the year the government and NGOs made some progress in reducing the practice of FGM. In September and October, two traditional healers, including one who banned FGM among his tribe, said they would stop performing FGM and fight the practice. They also discussed alternative sources of income. During the year the Anti-Female Genital Mutilation Network (AFNET) and a coalition of anti-FGM NGOs engaged in awareness-raising activities and conducted research on FGM.

During the year anti-FGM groups continued to sensitize the ngaribas about the harmful effects of FGM and to train them for other occupations.

Reducing the practice of FGM remained difficult because some regional government officials favored or profited from the practice, or feared speaking out against it because of the perceived political consequences of opposing FGM and the power of traditional leaders who supported FGM. Some communities that were aware of the law prohibiting FGM viewed it as an unjust threat to a cultural tradition. A lack of medical information on the harmful and long-term health effects of FGM remained a problem. Many communities believed FGM increased fertility, reduced sexual desires leading to prostitution, and reduced infant mortality. Many fathers believed they would receive higher "bride prices" for daughters who had undergone FGM. In addition practitioners of FGM, ngaribas, relied on the practice for income. Cash payments usually varied between $1 (1 thousand shillings) and $5 (5 thousand shillings), which were considerable amounts since the gross national income per year was $330; non-cash payments have involved one goat per circumcision performed.

The law prohibits prostitution; however, prostitution, including child prostitution, remained common. Poor rural woman and young girls immigrating to urban areas were most at risk. There were reports during the year that female refugees engaged in prostitution.

The law prohibits sexual harassment against women in the workplace. Male colleagues sometimes harassed women seeking higher education, and the authorities largely ignored the practice. The extent of the problem was unknown.

The law provides for equality of woman; however, inheritance, marriage, and land laws do not consistently support full equality, and in practice women's rights often were not respected. The Ministry of Community Development, Women, and Children and the Ministry of Justice were responsible for protecting the legal rights of women. Women generally were not discouraged from seeking employment outside the home; however, in the public sector, which employed 80 percent of the salaried labor force, certain statutes restricted women's access to some jobs or hours of employment (see section 6.e.). While progress on women's rights was more noticeable in urban areas, strong traditional norms still divided labor along gender lines and placed women in a subordinate position. Discrimination against women was most acute in rural areas, where women were relegated to farming and raising children and had almost no opportunity for wage employment.

Civil society activists reported widespread discrimination against women in matters of inheritance. The Land Act and the Village Land Act provide individuals, regardless of gender, the right to use, transfer, and own land. A right of occupancy may be acquired by tranfer or application for purchase and provides the basis for a court action if property is taken. The land courts that hear these cases were established by year's end. Women's rights of co-occupancy were recognized by the law; however, this provision was not enforced in practice, and married women whose unions had not been legalized under customary, Hindu, Muslim, Christian, or civil marriage laws were particularly vulnerable when they divorced or their husbands died. In July Zawadiel Mchome, the Singida regional administrative secretary, said that robbing widows of property left by their husbands had become common in the region.

The country's immigration laws discriminate against women by penalizing women who marry foreigners. If a Tanzanian woman marries a foreign man, the foreign man is not eligible to apply for citizenship or a residency permit. Since the government does not recognize dual citizenship, the Tanzanian woman who marries a foreign man may have difficulty residing legally in the country, and in practice the woman may be forced to give up her Tanzanian citizenship. This increasingly was a problem in the refugee camps for women who married Burundian men.

Women in Zanzibar and on many parts of the mainland faced discriminatory restrictions on inheritance and ownership of land and other property because of concessions by the government and courts to customary and Islamic law (see section 1.e.). For example many of the regional tribal laws that compose the country's customary law completely prohibit widows from inheriting land from their deceased husbands, even when land is marital property, and subject the widows to being inherited by men from her husband's family. While provisions of the Marriage Act provide for certain inheritance and property rights for women residing on the mainland, the act is not applicable in Zanzibar. In addition the application of customary, Islamic, or statutory law depended on the lifestyle and stated intentions of the male head of household. The courts have upheld discriminatory inheritance claims, primarily in rural areas.

Under Zanzibar law, unmarried women under the age of 21 who become pregnant were subject to two years' imprisonment (see section 1.f.).

Several NGOs organized workshops and seminars, and some ran legal aid clinics, addressing a wide range of women's rights issues.

Children.—The government's commitment to children's rights and welfare was evidenced by increased funding of programs for children's welfare during the year. The government made some constructive efforts to address children's welfare, including working closely with the UN Children's Fund (UNICEF) and other international and local organizations to improve the well being of neglected children and of the country's estimated two million orphans.

The law provides for 7 years of compulsory education through the age of 15. Primary education was compulsory, free, and universal on both the mainland and Zanzibar; however, there were inadequate numbers of schools, teachers, books, and other educational materials to meet the demand. In 2004 fees were charged for enrollment beyond form two, the equivalent of the second year of high school; as a result some children were denied an education. During the year the government reduced school fees by half and provided subsidies to cover the remaining fees through a secondary school development program. In some cases parents had to pay for books and uniforms, and some children were unable to attend school because poorly paid teachers demanded money to enroll them, or because teachers were absent.

UNICEF stated that the net primary school attendance rate was 47 percent for boys and 51 percent for girls. In a few regions the rate of enrollment in school for girls generally declined with each additional year of schooling, largely because girls often had to care for younger siblings, do household work, and enter early marriages, often at the behest of parents. Only 2 percent of boys and 3 percent of girls attended secondary school. The practice of forcing pregnant girls out of school continued.

On March 11, the Ministry of Education inaugurated a special education fund. The fund's purpose was to increase children's access to education and address the gender imbalance among secondary- and tertiary-level students, which disadvantaged girls. During the year the fund facilitated the creation of a number of child-friendly schools with better facilities, the refurbishment of infrastructure, and the provision of lunch to primary school students.

Corporal punishment in schools was a problem.

During the year children up to five years of age had access to healthcare in government hospitals. A government program provided free pregnancy treatment and delivery services for expectant mothers. The program was hampered in many cases by a lack of implements. NGOs worked together with the government to provide affordable health services.

During the year several NGOs, including UNICEF and World Vision, had HIV/AIDS awareness programs for children.

Child abuse remained a problem. There were many convictions during the year for the sexual abuse of children. Most of the convicted persons were given the maximum sentence of 30 years.

FGM was performed on girls (see section 5, Women).

Under the law sexual intercourse with a child under 18 years is considered rape regardless of consent; however, the law was not effectively enforced. In an apparent contradiction, the law provided for girls as young as 15 to be considered adults for the purposes of marriage and sexual intercourse. In order to marry, a female who had not attained the apparent age of 18 years was required to obtain the consent of her father, mother, or guardian. An orphaned girl with no guardian who desired to get married at 15, 16 or 17 needed no consent. The courts had discretion to allow the marriages of parties who were 14 years old if they were satisfied that there were special circumstances which made the proposed marriage desirable. Additionally, the law allows marriage for African-Asian girls as young as 12 so long as the marriage is not consummated until she reaches the age of 15.

During the year the government imposed the Penalties for Persons who Marry or Impregnate School Girls Regulations under the Education Act, which was intended to stop the practice of early marriages and pregnancies among youths. Although there were many attempts to prosecute such cases, the courts were rarely able to convict suspects due to lack of evidence and the hesitation of girls and their parents to convict the father of the unborn child.

The law criminalizes child prostitution, and sexual exploitation and trafficking in persons, including children, were problems. There were cases in which children engaged in prostitution for economic survival with the involvement and knowledge of family members (see section 5, Trafficking).

Unlike in the previous year, there were no reports that children were recruited from the country's refugee camps for use as child soldiers.

Child labor was a problem (see section 6.d.).

During the year the press reported many cases of the infanticide of both male and female children. The government prosecuted many females during the year for discarding the bodies of new-born babies, including two mothers who received 16-year prison sentences.

UNICEF estimated there were two million child orphans, most of them orphaned by AIDS. There were significant numbers of street children in both Dar es Salaam and Arusha. Street children had limited access to health and education services because they lacked a fixed address and money to purchase medicines, school uniforms, or books. They were also subject to sexual abuse by older street children and persons without a fixed residence. In the refugee camps, orphans were generally absorbed into other families and those who were not absorbed generally qualified as extremely vulnerable individuals and received additional support and counseling.

Trafficking in Persons.—The law does not prohibit all forms of trafficking, and there were reports that women and children were trafficked to, from, and within the country for the purposes of forced labor and sexual exploitation. The Sexual Offences Special Provisions Act prohibits internal and cross-border trafficking for sexual exploitation, the constitution prohibits forced labor, and the Employment and Labor Relations Act of 2004—which became a law during the year—specifically prohibits forced labor by children. Trafficking was punishable by 10 to 20 years' imprisonment or a fine of between $100 (100 thousand shillings) and $300 (300 thousand shillings). Other laws could be used to prosecute trafficking, such as labor laws against forced and bonded labor. The Ministry of Labor, Youth Development, and Sport; the Ministry of Community Development, Women's Affairs, and Children; and the police share responsibility for combating trafficking.

The government's antitrafficking law enforcement efforts progressed during the year. According to the Ministry of Home Affairs, two cases of trafficking were reported during the year. Of the six trafficking cases reported between 2001 and March, four cases were pending in courts at year's end. The remaining two cases were under investigation.

There was no evidence of institutional involvement in trafficking by government agencies; however, there were reports that government officials or their relatives engaged in trafficking. There were also isolated reports that some police officials accepted bribes to ignore commercial sexual exploitation. During the year the government took no action against government officials engaged in trafficking.

Most victims were trafficked internally; boys were trafficked for exploitative work on farms, in mines, and in the large informal sector, while girls from rural areas were trafficked to the towns for involuntary domestic labor. Many of these domestic workers have fled abusive employers and turned to prostitution for survival. Most victims came from the regions of Iringa, Mwanza, Dodoma Kigoma, Dar es Salaam, and Arusha. Girls were reportedly trafficked to South Africa, Saudi Arabia, the United Kingdom, and possibly other European countries for forced domestic labor. Indian women—who entered the country legally to work as musicians, singers, and dancers in restaurants and nightclubs—were at times exploited as prostitutes after arrival. On Zanzibar some hotels sponsored girls—for hotel work—who then become prostitutes; hotels were used by traffickers for prostitution activities.

Children in low-income families were at significant risk of being trafficked, and girls were more vulnerable than boys since girls were considered more of an economic burden on their families. Girls who completed primary school but did not enter secondary school were at particularly high risk. The country was also experiencing a boom in the number of child-headed households as more adults succumbed to HIV/AIDS-related disease and death, leaving their dependents at very high risk for child labor and trafficking.

Trafficking methods varied. Some trafficking victims left their homes with assistance from their family; some left on their own to escape life in rural areas; and some were transported by someone who had offered to help them find city work, legitimate or otherwise. There were reports that men recruited village girls who had completed primary school but were not entering secondary school. The men offered the girls money and employment and promised the girls a better life if they accompanied them to urban areas; however, these girls reportedly ended up in prostitution or domestic labor. Another method of trafficking involved low-income parents entrusting a child to a wealthier relative or respected member of the community, who was charged with caring for the child as one of his or her own. Some persons took advantage of this traditional practice and placed the child in a situation where he or she was at risk of being exploited or abused. Sometimes placement and transport to households was organized by small-scale freelance agents who recruited children from rural villages.

During the year the government took steps to protect trafficking victims, within the limits of its resources. Local police and officials from the Social Welfare Depart-

ment identified and informally referred child trafficking victims to NGOs that worked with street children and child prostitutes, provided small donations of food and other goods to these NGOs, and identified land available for building new shelters. The government cooperated with the International Organization for Migration's plans for a rehabilitation center between Dar es Salaam and Bagamoyo, which opened in November. There were no government or NGO media campaigns to inform the public about the dangers of trafficking specifically, but it continued its nationwide awareness campaign on the worst forms of child labor.

Local government officials participated in district committees that identified children vulnerable to or involved in the worst forms of child labor, including prostitution and forced domestic labor. From January 2002 through June, more than 26 thousand children were prevented or withdrawn from the worst forms of child labor in mining, domestic labor, commercial agriculture, and commercial sex. These children were referred for protection services offered by the International Labor Organization (ILO), including rehabilitation, education, and alternative training. During the year 60 out of 90 labor officers nationwide received intensive 3-month training on the new labor laws and application of child labor provisions, as well as on recognizing the worst forms of child labor such as prostitution and forced labor. The Ministry of Home Affairs coordinated an inter-ministerial committee on trafficking, but it met only once during the year.

Persons with Disabilities.—Although there was no official discrimination against persons with disabilities, but in practice persons with physical disabilities effectively were restricted in employment, education, access to health care and other state services due to physical barriers and a very limited budget. The government did not mandate access to public buildings, transportation, or government services for persons with disabilities, and the government provided only limited funding for special facilities and programs. The Ministry of Education, the Ministry of Justice, and the Ministry of Labor were responsible for enforcing the protection of rights of persons with disabilities for education, legal claims, and labor rights, respectively. The Department of Social Welfare has responsibility for coordinating disabilities matters. A few local NGOs also tried to highlight the plight of persons with disabilities in society.

According to the NGO Disabled Aids and General Engineering (DAGE), most private commuter buses would not stop for physically disabled persons. DAGE called on the government to look into ways of helping the disabled community move about safely and conveniently in urban centers.

In March the Ministry of Education inaugurated a special fund to increase access to education, particularly access by persons with disabilities and other disadvantaged members of the community.

There were reports of students with disabilities dropping out of school because of a lack of facilities. For example the families of blind students were not able to provide them with expensive brail paper and tape recorders.

On September 8, the Ministry of Education barred a local NGO, Haki Elimu, from undertaking or publishing any studies regarding government schools; in one of several TV advertisements critical of the government, the NGO highlighted the fact that government schools had no proper facilities for visually impaired students and students without limbs (see section 4).

During the year the ruling party CCM amended its election manifesto to allocate one of its special women's seat in parliament for persons with disabilities. CCM had so allocated one of its special women's seats previously, so this resulted in the allocation of two seats to women with disabilities. CCM decided that one such seat should be filled from Zanzibar and one from the mainland.

The law provides that a voter with a disability such as blindness may ask a person of his own choice—other than the poll workers—to assist in casting his vote.

Rape and sexual abuse of girls and women with disabilities reportedly was prevalent. In addition women who were visually impaired and living in remote rural communities cited lack of easy access to vaccines as a contributing factor to their disabilities.

Cultural practices and beliefs in some areas contributed to feelings of discrimination among persons with disabilities.

National/Racial/Ethnic Minorities.—There were no laws or official policies that discriminated against Asians; however, many African citizens viewed the approximately 1.5 million Asians in the country unfavorably. High-ranking government officials in the ruling party publicly emphasized on many occasions that it would not tolerate racist sentiments or bias of any kind. However, as the government continued to place more emphasis on market-oriented policies and privatization, public concern regarding the Asian minority's economic role increased. In October, prior to

the national elections, three opposition parties emphasized that, if elected, they would "take back" control of the national wealth and resources from foreign investors and the Asian population, and would redistribute it to persons of African and Arab descent who the parties considered to be true Tanzanians.

During the year there were reports of sporadic violent clashes between two pastoralist tribes and agriculturalists, but none resulted in death. In May local government officials criticized the district government in Tarime, in the Mara region, for not taking serious steps to mediate a 13-year-old land dispute between different clans of the Wakurya tribe; sporadic fighting among the groups had resulted in disability and loss of life over the years. In a June 9 report, the commissioner of the Kondoa district of Dodoma region gave members of the Masai and Barbaig tribes an ultimatum to settle their differences over cattle rustling. The commissioner also banned meetings of both tribes, saying that their youth had displayed dangerous weapons that were a threat to the stability of the area.

Indigenous People.—Pastoralist tribes experienced discrimination in schools for wearing traditional dress or ornaments. Government policy requires all children attending schools to wear uniforms.

The Barabaig and other nomadic persons in the north continued to seek compensation for past government discrimination, which included government efforts to make them adopt a more modern lifestyle and efforts to restrict their access to pastoral lands that were turned into large government wheat farms.

Other Societal Abuses and Discrimination.—In Zanzibar the law outlaws homosexuality and lesbianism. The law establishes a penalty of up to 25 years of imprisonment for men who engage in homosexual relationships, and 7 years for women in lesbian relationships. By year's end there were no reports that anyone was punished under the law; however, homosexuals faced societal discrimination.

During the year the Tanzania Parliamentarians' AIDS Coalition addressed discrimination against persons infected with HIV/AIDS. However, there were reports that discrimination in housing, healthcare, and education continued to occur against the estimated 3.5 million persons in the country living with HIV/AIDS. There were isolated reports that private employers fired or did not hire persons based on the perception that they had HIV/AIDS. The government, working with NGOs, continued to sensitize the public about HIV/AIDS-related discrimination.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions without prior authorization; however, in practice many private sector employers adopted antiunion policies or tactics that limited this right. All workers, including those classified as essential service workers, were permitted to join unions. The Union and Zanzibar governments do not share the same labor laws, and they enforce them separately. The labor law of the mainland applies to both public and private sector workers. The mainland's law requires a trade union for employees to consist of at least 20 members.

By year's end the 2004 Labor Relations Act was partly operational with the Labor, Economic, and Social Council in place. Efforts to launch the Commission for Mediation and Arbitration and the labor court were nearly complete at year's end. Implementing regulations and institutions were still in progress.

The labor law in Zanzibar applies only to private sector workers. Zanzibar workers were not allowed to join mainland-based labor unions. In addition the Zanzibar labor law requires that a union consist of 50 members to be registered, and it stipulates that trade union officers must possess a sufficiently high literacy level.

The sole labor federation, the Trade Union Congress of Tanzania (TUCTA), had 317 thousand members, which constituted less than 2 percent of the total workforce of 18 million. Approximately 27 percent of the workforce that is engaged in paid, "formal sector" employment was unionized. In the agricultural sector, which was the country's single largest employer, an estimated 5 to 8 percent of the work force was unionized.

The 2004 Labor Relations Act provided for the reduction of the power of the Registrar of Trade Unions, Employers' Associations and Federations. The act, which applies to the mainland but not to Zanzibar, requires a trade union or employers' association to register within six months of its establishment. Failure to register is a criminal offense and is subject to sanctions imposed by the lower courts. The registrar may apply to the labor courts for what it deems to be an appropriate order or remedy of a civil infraction. Unlike the previous law, the 2004 Employment and Labor Relations Act does not permit the registrar to deregister the smaller of two trade unions when more than one existed in an industry; to suspend a trade union for contravening the law or the union's own rules; or to invalidate a union's international trade union affiliation if certain internal union procedures are not followed.

In any given mainland trade union, only one union leader may be legally occupied full time in carrying out his trade union functions. All others must work full time in the enterprise or industrial sector in which they have been elected.

On the Zanzibar isles, particularly on the island of Pemba, political opposition members claimed that the government discriminated against them in hiring. The government was the largest employer on the isles.

On the mainland the Security of Employment Act prohibits discriminatory activities by an employer against union members; however, during the year there were several reports of antiunion discrimination in the formal private sector. Employers found guilty of antiunion activities were required under the law to reinstate workers. The Warioba Commission found that bribes often determined whether a worker dismissed from his job was actually reinstated.

Most labor unions reported that private sector employers, particularly those attracted to the country by privatization and economic reforms, practiced antiunion discrimination. Some of these investors reportedly threatened to terminate or lay off employees who want to join trade unions. Some employers also did not allow unions to call for and hold recruitment meetings at their work places.

The labor law in Zanzibar does not protect trade union members from antiunion discrimination, and there were several reports of such discrimination during the year.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct activities without interference, and the government generally protected this right in practice. The law provides for collective bargaining, and workers and employers practiced it freely during the year; however, the law does not apply to the public sector. The government set wages administratively for employees of the government and state-owned organizations, the employees of which constituted less than 5 percent of the work force.

On Zanzibar the law prohibits all workers from striking. On the mainland workers had the legal right to strike after complying with certain legal requirements. During the year the enactment of the 2004 Employment and Labor Relations Act provided for the general right to strike and the reduction of the complicated and protracted mediation and conciliation procedures that a union is required to complete before it is allowed to legally strike.

If a strike is not in compliance with the act, a labor court can intervene to issue an injunction or order the payment of a fine However, the act eliminated the significant penalties prescribed under the previous law for participating in an illegal strike.

On the mainland the Industrial Court Act remained in effect pending the implementation of the 2004 Employment and Labor Relations Act. Therefore, during the year a union that is not satisfied with the decision of the Industrial Court could conduct a legal strike if, in a vote taken in the presence of a government labor officer, a minimum of two-thirds of its members voted in favor of striking. Some labor rights observers said this requirement served as an intimidating factor to union members in the public sector. The mediation and conciliation procedures can prolong a dispute for months without resolving it. However, this provision will cease to be in effect upon the implementation of the new labor law.

On the mainland there were no laws prohibiting retribution against legal strikers.

With the new labor laws in place, any disputes arising under collective bargaining shall be referred to the Commission for Mediation and Arbitration and, if the mediation fails, then to the labor court for a decision.

Some labor rights observers, such as the LHRC, raised concerns that language in the new labor law may make striking more difficult in practice for workers in some sectors. The act restricts the right to strike when to do so would endanger the life and health of the population and thereby increases by about 50 percent the number of workers that are considered "essential," and, therefore, not allowed to strike. Workers in certain sectors (water and sanitation, electricity, health services and associated laboratory services, firefighting, air traffic control, and civil aviation telecommunications) are restricted from striking and workers in other sectors may be deemed to be subject to this limitation either temporarily or permanently after a process involving investigation, notice, presentation, public hearing and publication. Under the new law the category of essential workers was expanded to include certain transportation workers required for provision of services the deprivation of which would endanger the life and health of the population.

There are two export processing zones (EPZ) on Zanzibar and three on the mainland. Labor law protections applied to EPZ workers. EPZ working conditions on the mainland were comparable to those in other areas; however, on Zanzibar there were unconfirmed reports of labor abuses.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and labor laws passed during the year specifically prohibit forced labor by children and closed loopholes in the constitutional ban on such labor. However, there continued to be reports that forced and compulsory labor by children occurred (see sections 5 and 6.d.).

Although enforcement remained weak, the government implemented some measures, including increasing the number of labor inspectors.

In rural areas villagers normally participate voluntarily without pay in the village community activities like gardening and repairing small roads along their properties.

According to a 2004 survey of the mining company GGM, 85 percent of workers interviewed reported they were forced to work overtime under perceived threat of termination.

The Prisons Act allows for prisoners to work without pay on projects within the prison, such as on agriculture so that the prison could be self-sufficient. Prisoners were used to do forced labor on projects outside of the prison, such as road repair and government construction projects.

d. Prohibition of Child Labor and Minimum Age for Employment.—In 2004 the mainland government passed the Employment and Labor relations Act and the 2004 Labor Institutions Act, both of which provide for the protection of children from exploitation in the workplace and prohibit forced or compulsory labor. Enforcement of child labor laws was weak; however, the government hired additional inspectors during the year to improve enforcement. Nevertheless, child labor remained a problem.

The law establishes 14 years as the minimum age for contractual employment, in which children can only be employed to do light work unlikely to be harmful to their health and development. The minimum employment age was inconsistent with the age for completing educational requirements (see section 5.). The law stipulates that children under 18 years shall not crew on a ship or be employed in a mine, factory or any other worksite, including nonformal settings and agriculture, where work conditions may be considered hazardous.

The new labor laws prohibit the employment of children under the age of 14 years on the mainland except for light work that is not likely to be harmful to the child's health and development and that does not prejudice the child's attendance at school. Unlike the previous law, the new labor laws establish a criminal punishment for employers of child labor as well as forced labor; violators can be fined for an amount not exceeding $4,600 (5 million shillings), imprisonment for a term of one year, or both. The new laws also prohibit children under the age of 18 from being employed in a mine, factory, ship, or other worksite that the minister of labor deems to be hazardous (the worst forms of child labor).

The ILO and UNICEF reported that children who left home to work as domestic laborers in other towns or villages often were subjected to commercial sexual exploitation. According to the Conservation Hotel, Domestic, and Allied Workers Union (CHODAWU), and the ILO, the majority of domestic child laborers in the country were girls, mostly between the ages of 13 and 15. Most of them worked between 12 and 14 hours each day, 7 days a week, without rest or being compensated for the extra time worked; sometimes they worked under abusive and exploitative conditions. According to a 2003 survey by the TAMWA, almost 60 percent of a sample of house girls said they had been pressured into having sex or were forced to have sex with the males in the families they served.

The ILO estimated that three thousand to five thousand children engaged in seasonal employment on commercial farms, sometimes under hazardous conditions. In mining regions between 1,500 and 3 thousand children worked in unregulated gemstone mines as "snake boys," working with explosives and crawling through narrow tunnels to help position mining equipment. Children were found working in various jobs, including as fishermen, barmaids, street vendors, car washers, and garbage scavengers. They also worked in semi-skilled crafts such as carpentry and auto repair. Girls as young as seven years old, and increasingly boys, were involved in prostitution within the country and were sometimes trafficked (see section 5).

Child labor in Zanzibar was widespread, and children were used in fishing, clove picking, domestic labor, petty business such as selling cakes, and commercial sexual exploitation near tourist attractions.

The Ministry of Labor remained responsible for enforcement of labor laws along with two new institutions established under the Labor Institutions Act: the Commission for Mediation and Arbitration and the Labor Court. During the year an additional 40 officers and inspectors were recruited and trained, increasing the national labor inspection force to 145. The government provided orientation to its officers to increase their capacity to monitor violations under the new labor laws; how-

ever, meager salaries continued to be a challenge. Further training and orientation were provided to the members of the police force investigating cases and to the magistrates presiding over trials.

District or community level child labor coordinating committees and subcommittees identified and monitored cases of child labor, but they did so with varying degrees of effectiveness. Representatives of the ILO, UNICEF, and local NGOs stated these problems were due to a lack of resources and not a lack of political will to fight child labor.

Several government ministries, including the Ministry of Labor, Youth Development, and Sports, have special child labor units. The government continued to implement, in collaboration with the ILO, a "Timebound Program to Eliminate the Worst Forms of Child Labor." The program sought to eliminate child labor in commercial agriculture, mining, domestic work, and prostitution in 11 districts by 2010. With the support of the ILO, the government under the Timebound Program tracked the number of children prevented from entering, and the number withdrawn from the worst forms of child labor in eleven districts. From January 2002 through June, over 20 thousand children were prevented or withdrawn from the worst forms of child labor in mining (2,081 prevented/1,466 withdrawn) domestic labor (3,292/2,701), commercial agriculture (2,813/1,408) and commercial sex (2,992/4,045). The numbers for the mining and commercial sex sectors exceeded the targets established for those arenas.

Under the Timebound Program, several local NGOs continued to identify and withdraw children from exploitative child labor. The Kiota Women's Health and Development Organization worked to rehabilitate exploited girls who work as prostitutes or domestic servants. Another organization, CHODAWU, established village-level inspections to identify cases of exploitative labor. CHODAWU also coordinates with grassroots child labor committees to withdraw children from exploitative situations.

e. Acceptable Conditions of Work.—The legal minimum wage for employment in the formal sector was $53 (48 thousand shillings) per month. Even when supplemented with various benefits such as housing, transport allowances, and food subsidies, the minimum rate did not always provide a decent standard of living for a worker and family, and workers depended on their extended family or on a second or third job. Despite the minimum wage, most workers, particularly in the growing informal sector, were paid much less. For example domestic workers reportedly earned approximately $6.50 (7 thousand shillings) per month.

There were many reports that employers regularly fired employees shortly after hiring them to avoid having to adhere to a law requiring them to provide certain benefits and salary minimums to employees employed for more than three months.

There was no standard legal workweek for private sector workers; however, a 5-day, 40-hour workweek was in effect for government workers. Most private employers retained a 6-day, 44- to 48-hour workweek. In general women could not be employed between 10 p.m. and 6 a.m., although this restriction was usually ignored.

Several laws regulate safety in the workplace. The Ministry of Labor, Youth, and Sports Development managed an inspection system; however, its effectiveness was limited. Labor standards were not enforced in the informal sector, and a large percentage of the workforce was employed in the informal sector.

Workers could sue an employer if their working conditions did not comply with the Ministry of Labor's health and environmental standards. Through the union, a worker may file a labor complaint before a labor officer, who convenes a hearing where the employer and employee state their cases. The employee or employer may appeal that decision to the minister of labor. Some labor officers accepted bribes from employers not to accept or certify these complaints. There were no reports that workers who lodged and won such complaints faced retribution; however, workers did not have the right to remove themselves from dangerous situations without jeopardizing their employment if they lodged a complaint and lost.

TOGO

Togo is a republic governed by newly elected President Faure Gnassingbe, son of former Gnassingbe Eyadema, who died on February 5, after 38 years in power. Eyadema and his party Rally of the Togolese Persons (RPT), strongly backed by the armed forces, dominated politics and maintained firm control over all levels of the country's highly centralized government until his death. Following some constitutional changes in the National Assembly and quick action by the military, Faure Gnassingbe was installed as the new president. Faure eventually bowed to sus-

tained international pressure and stepped down to allow presidential elections. On April 24, Faure was declared president in an election marred by severe irregularities. The civilian authorities generally did not maintain effective control of the security forces.

Before Eyadema's death, the government made some progress in improving its human rights record; however, following Eyadema's death, the government's human rights record deteriorated significantly. The unjust election and its violent aftermath had a significant negative impact on the human rights situation. Nevertheless, the new government under President Faure has shown a willingness to improve the country's human rights record through the adoption of a long-pending antitrafficking law and official recognition of the country's oldest human rights organization. The following human rights problems were reported:

- inability of citizens to change their government
- politically motivated killings, disappearances, rape, and other abuses by security forces
- violent acts committed by both pro-regime and opposition militants during the election period
- government impunity
- harsh prison conditions
- an increase in arbitrary arrest, particularly around election time and secret arrests
- prolonged pretrial detention
- executive control of the judiciary
- frequent infringement of citizens' privacy rights
- severe restrictions on the press, including closing media outlets
- restrictions on freedom of assembly and violent dispersals of demonstrations
- restrictions on freedom of movement
- harassment of human rights workers
- female genital mutilation (FGM), and violence against women
- discrimination against women and ethnic minorities
- trafficking in persons, especially children
- child labor
- lack of worker's rights in export procession zones (EPZs)

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—There were reports during the year that the government and its agents committed politically motivated killings. There were frequent reports that security officers committed arbitrary or unlawful killings during the year, particularly during the presidential election.

On April 26, just after the announcement that Faure won the election, several cities erupted in violence. The government deployed security forces to quell demonstrations. Security forces fired tear gas indiscriminately into crowds. After dispersing large crowds, they began a house-by-house campaign of violence against supposed opposition supporters in reprisal for protesting alleged electoral fraud. Security forces targeted neighborhoods thought to be opposition strongholds, killing persons in their houses and shooting at those who tried to flee. These attacks resulted in many deaths throughout the country in the opposition strongholds of Aneho, Atakpame, Sotouboua, Sokode, and especially the capital Lome. Amnesty International (AI) reported that a young man from Lome witnessed his mother's death on April 26 as she fled soldiers entering their house. AI also provided an account of a woman who watched soldiers beat her husband to death with cudgels on April 27 in Lome.

In September the UN Office of the High Commissioner on Human Rights (UNHCHR) released a report concerning human rights violations committed in the country after Eyadema death and the end of the election period. The report described the killings of two young men in the main city of the Central Region, Sokode, one shot by the Presidential Election Security Force (FOSEP) and the other beaten to death by the gendarmes, also on April 26. The same day, in an effort to subdue a demonstration, security forces fired into a crowd and killed Late Lawson, a nephew of the king of Aneho. After protesters retaliated by laying siege to the police station, a helicopter appeared carrying reinforcements, which shot at the pro-

testers. At least, 20 persons died from election-related violence in Aneho on April 26 and 27.

There were reports of nightly raids by government security forces after the elections. While no exact figure of deaths can be attributed to these nighttime security forces attacks, it was believed that they caused a substantial portion of election-related deaths. A UN Development Program (UNDP) Humanitarian Assessment published in May reported that about 100 persons died following the April 24 presidential elections. The coalition of opposition parties reported that between February and May, more than 500 persons died for political reasons. The September UNHCHR report attributed 400 to 500 deaths to post-election violence.

High-ranking officials of the security forces admitted that they lost control of some of the troops dispatched to handle demonstrations. They also acknowledged that some men had abused their power, but refused to disclose their identities or state whether they had been disciplined.

The UN report indicated that summary executions had occurred in the country but offered no other details. The UN delegation also heard accounts of army commandos tasked with clearing demonstration sites of debris and corpses to impede efforts to help victims and assess damage. Reports of the creation of mass graves also circulated. The opposition coalition reported that military personnel transported more than 100 unidentified dead bodies to unknown destinations.

Following the death of President Eyadema, security forces clashed with and killed demonstrators (see section 2.b).

There were numerous reports of killings perpetrated by militias, both those affiliated with the ruling party and those aligned with the opposition. AI and the opposition coalition reported that the RPT militia aided security forces throughout the election turmoil. Several witnesses saw them shooting at demonstrators, raiding houses, and killing persons, and assaulting persons with cudgels, knives, and cutlasses. The RPT caught a young man singing the opposition rally cry and beat him at the RPT headquarters until he died. They left his body in a ditch behind the building.

Just after the announcement of the election results, on April 26, militant opposition members took to the streets throughout the country, erecting barricades, burning tires and attacking RPT sympathizers. Militants, unhappy with the results and armed with machetes, killed 12 persons. The militants targeted foreigners, setting fire to eight Malians, who were suspected of practicing voodoo, the same day mobs killed four persons from Niger. At year's end, the gendarmerie had not released the results of its investigation into these incidents.

On April 26 and 27, the marshal of the Kpele-Adeta prefecture and the sub-brigadier of the attorney general's office died as a result of being attacked by unknown assailants.

On May 25, the government created a Special Independent Investigation Commission to probe the violence and vandalism that occurred before, during, and after election-day. On November 10, the commission released its report. The commission held security forces, the ruling party, and opposition party members responsible for the violence related to the elections. The report also criticized the election commission for running a shoddy election. The private media also shared the blame for inciting violence and fomenting fear, according to the report. The commission recommended that individuals involved in the violence be prosecuted.

There were no developments in the of Kouma Tengue, who died while in police custody. In September, the Togolese League of Human Rights (LTDH) reported that Kouma Tengue's body, which bore signs of being beaten, was still at the Lome morgue, awaiting an official autopsy.

The government took no action against the security force members who killed three civilians in two separate clashes related to the 2003 presidential election.

b. Disappearance.—There were reports of politically motivated disappearances. Many persons reported that security forces forcibly took away family members involved with the opposition. The LTDH also reported that Police Commissioner Emile Kodjovi Dadji was detained in an unknown location. The reason for his detention was unknown.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits torture and physical abuse of prisoners and detainees, there were reports such practices occurred. The intense circumstances of the election period resulted in an increased incidence of arrest, which in turn produced many more reports of torture than in the previous year. Some former prisoners credibly claimed that security forces beat them during detention. There were reports that soldiers flogged the genitals of male prisoners. Impunity remained a problem, and the government did not publicly prosecute any officials for these abuses.

Security forces arrested and detained opposition members during the year (see section 1.d.).

Following the election, military personnel systematically raped women, often in view of the woman's children and husband. Opposition supporters were most frequently targeted, and approximately two thousand citizens fled the country after the elections (see section 3).

Prison and Detention Center Conditions.—Prison conditions remained very harsh, with serious overcrowding, poor sanitation, and unhealthy food. At year's end Lome's central prison, meant to hold 500 prisoners, held 1,193 inmates, including 40 women prisoners. Almost 90 percent of the inmates were pretrial detainees. Medical facilities were inadequate, and disease and drug abuse were widespread. Sick prisoners reportedly had to pay approximately $2.75 (1,500 CFA francs) to guards before being allowed to visit the infirmary. There were reports that prison security officials sometimes withheld medical treatment from prisoners. Lawyers and journalists reported that prison guards charged prisoners a small fee to shower, use the toilet, or have a place to sleep.

The children of convicted women were often incarcerated with their mothers, who were held separately from the male prisoners. Unlike in previous years, juvenile detainees were not held separately from adults. Pretrial detainees were not held separately from convicted prisoners.

On July 8, Lieutenant Denan, 1 of 14 officers arrested in 2003 along with putative coup plotter Lieutenant Colonel Kouma Bitenewe, died in prison after inexplicably falling into a coma. Denan and the others had been detained in Lome until they were accused of having led a mutiny in Lome's prison in February and were then transferred to Kara. Since being incarcerated, 3 of the original 14 have died.

Local NGOs were allowed access to all prisons in the country. In June, the delegation of the UNHCHR investigating election violence visited prisons to research allegations of violence and human rights violations that occurred between February 5 and May 5. The delegation was allowed to meet with certain prisoners in private to conduct interviews. Diplomatic representatives were given access to their detained citizens.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government generally disregarded these prohibitions.

Role of the Police and Security Apparatus.—The security forces are consist of the army, navy, air force, the national security service (including the national police and investigation bureau), and the gendarmerie. The police are under the direction of the Ministry of Security, while the Ministry of Defense oversees the gendarmes and military. Legally, the police and gendarmes are responsible for law enforcement and maintenance of order within the country. However, the army, charged with external security by law, was truly in command of domestic security. Approximately 75 percent of the army's officers and soldiers are from the late President Eyadema's Kabye ethnic group.

The government established a special authority—FOSEP—composed primarily of police officers, to ensure security during the vote.

Police were generally ineffective and corrupt, and impunity was a problem. The government in general did not investigate or punish effectively those who committed abuses, nor did it prosecute persons responsible in previous years for unlawful killings and disappearances. During the year, the government recruited 615 new police personnel, who had started duty at year's end. The police failed to prevent societal violence after the April election, although it was their responsibility to ensure internal security.

Arrest and Detention.—The law authorizes judges, senior police officials, prefects, and mayors to issue arrest warrants; however, especially after the election, persons were detained arbitrarily and secretly. Although detainees have the right to be informed of the charges against them, police sometimes ignored this right. The law allows authorities to hold arrested persons incommunicado without charge for 48 hours, with an additional 48-hour extension in cases deemed serious or complex. Family members and attorneys officially had access to a detainee after 48 or 96 hours of detention, but authorities often delayed, and sometimes denied access. Minors detained since the election have not had access to a lawyer. The law stipulates that a special judge conduct a pretrial investigation to examine the adequacy of evidence and decide on bail; however, in practice detainees often were held without bail for lengthy periods with or without the approval of a judge.

The government at times resorted to false charges of common crimes to arrest, detain, and intimidate opponents. For example on April 27, soldiers forcibly entered the home of the Guin traditional leader of Aneho, King Togbe Ahuawoto Savado Zankli Lawson VIII, taking him and his nephew into custody. The soldiers detained

the two men at the gendarmerie. The king overheard the soldiers referring to a police officer who had disappeared the day before. The king told them that the officer in question had sought refuge at his palace the night before, unable to return home due to barricades on the roads. The gendarmes released the king and his nephew several hours later at the order of the chief of the general staff of the armed forces. Later, the king learned that he had been charged with sequestering the police officer, possession of firearms, and inciting trouble. At year's end the charges against the king were still pending.

In June the UN delegation visited Lome Prison and interviewed a woman detained without charge since 1998 for her political convictions.

After forcibly dispersing demonstrations during the year, members of the security forces arrested and detained participants, sometimes without bringing formal charges (see section 2.b.).

The government denied the existence of political detainees; however, several persons arrested after the election and affiliated with the opposition, were being held in a prison near Kara, an area of strong RPT support. AI reported that dozens of persons were in detention following the elections. After the announcement of election results, security forces sometimes moved political detainees to informal detention centers under the control of the military or RPT militia. Because the government did not acknowledge any political detainees, it did not permit any organizations access to them. On July 12, the government released the remaining military officers accused, but never convicted, of plotting a coup in 2003 (see section 1.c.).

In July two opposition members and four former military officers were arrested for suspicion of plotting a coup, according to credible reports. The group, including Kossi Tudzi of the Union of Forces for Change (UFC) and Hermes Woamede Da Silveira of the Alliance of Patriots for Unity and Action, was accused of recruiting and training mercenaries and acquisitioning illegal weapons in order to attack the government. At year's end, they remain incarcerated in Lome Prison without a trial scheduled. No further information was available.

Three members of the UFC were arrested in September for allegedly bombing a post office in Lome. Gendarmes took Anate Andre Abbey, Kossi Jomo Azonledzi, and Koffi Adodo Akoumey into custody and held them at the Lome Prison, where they reportedly remained at year's end. No further information is available.

In June the government released former prefect Hemou Kpatcha who was incarcerated in October 2004 for providing Togolese identification documents to former prime minister and regime critic Agbeyome Kodjo in the 1980s.

A shortage of judges and other qualified personnel, as well as official inaction, resulted in lengthy pretrial detention—in some cases several years—and confinement of prisoners for periods exceeding the time they would have served if tried and convicted. Official figures from the government indicate that pretrial detainees constituted 90 percent of the prison population. (see section 1.c.).

On July 9, the government released more than 200 persons in Lome, Aneho, Tabligbo and Vogan. Most of the incarcerated had been arrested following the election and were still pending trial at the time of their release. On July 18 and 20, the government released 80 more pretrial detainees who had been taken into custody following the election. According to the government, 77 persons involved in election violence were still imprisoned and awaiting trial at year's end (see section 1.e.).

Amnesty.—On November 2, the Minister of Justice released 460 prisoners from Lome Prison. The minister was prompted to discharge these prisoners to relieve the overcrowding at Lome Prison and released those who had either already served half of their original sentences or committed merely minor infractions.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the executive branch continued to exert control over the judiciary.

There were three associations of magistrates in the country: the Union of Magistrates of Togo (SMT), the National Association of Magistrates (ANM), and the Professional Association of Magistrates of Togo (APMT). A majority of the APMT members were supporters of the late President Eyadema. Judges who belonged to the pro-Eyadema APMT reportedly received the most prestigious assignments, while judges who advocated an independent judiciary and belonged to the ANM and SMT often were assigned to second-tier positions. For example, in Lome, the presidents of the Constitutional Court, Supreme Court, Court of Appeals, and Court of First Instance were members of the APMT as were the public prosecutor and the attorney general. In Kara, the president of the Court of Appeals and the president of the Court of First Instance were members of the APMT.

In August a change occurred in the membership of the Supreme Council of Magistrates, the body that nominates judges to their positions, in order to be more rep-

resentative of all of the magistrates associations. Previously, APMT judges dominated the council. This move was meant to equalize the assignments among the different associations; however, at year's end, all judgeships remained unchanged, so that APMT affiliates still occupy prime positions.

The Constitutional Court stands at the apex of the court system. The civil judiciary system includes the Supreme Court, appeals courts, and court of first instance. A military tribunal exists for crimes committed by security forces; its proceedings are closed. The court system remained overburdened and understaffed.

Trial Procedures.—The judicial system employs both traditional law and the Napoleonic Code in trying criminal and civil cases. Trials are open to the public, juries were used, and judicial procedures generally were respected. Defendants have the right to counsel and to appeal. The Bar Association provides attorneys for the indigent. Defendants may confront witnesses and present evidence on their own behalf.

In rural areas, the village chief or council of elders is authorized to try minor criminal and civil cases. Those who reject the traditional authority can take their cases to the regular court system, which is the starting point for cases in urban areas.

Political Prisoners.—During the year, the government continued to report that there were no political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such practices, but security forces often infringed on these rights. In criminal cases, a judge or senior police official may authorize searches of private residences, and in political and national security cases the security forces need no prior authorization. Security forces entered houses by force and without warrants, beating persons. In reaction to a demonstration in March, security forces pursued opposition supporters and threw tear gas canisters inside houses in the Be district. From April until August, security forces throughout the country entered houses by force, searching for opposition sympathizers (see section 1.a.). Togolese refugees in Ghana and Benin and numerous persons interviewed in Lome and the opposition stronghold of Aneho described nightly raids by government security forces after the April elections. These extrajudicial incursions into private homes remained a common occurrence until August and generally targeted suspected opposition sympathizers.

On April 24, a group of armed and masked members of the security forces broke through the doors of the Multi Media Line computer center while an opposition group was tallying election results. The intruders took the center's computer equipment and personal effects belonging to the group.

On April 27, security forces scaled the walls of and rammed open the doors to the palace of the king of Aneho, Togbe Ahuawoto Savado Zankli Lawson VIII (see section 1.d.).

In 2003 gendarmes confiscated documents during a search of a private residence. The items included identity documents of Dahuku Pere, a former RPT member turned voice of opposition, and his family. In June 2004 Pere addressed a letter to the government requesting the return of the documents. The government returned the documents in March.

Citizens believed that the government monitored telephones and correspondence, although such surveillance was not confirmed.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, while the government made some improvements in the media environment during the year, its respect for freedom of speech and the press worsened. The government harassed and intimidated journalists. Unlike in the previous year, independent newspapers were permitted to circulate in Kara. The government frequently interfered with radio stations during the year, particularly after Eyadema's death. Journalists and radio and television broadcasters practiced self-censorship.

Though the government did not censor individual expression, most persons practiced self-censorship because of past violent reprisals at the hands of government agents.

There was a lively independent press, most of which was heavily politicized, and some of which was highly critical of the government. More than 15 privately owned newspapers were published with some regularity. The only daily newspaper, *Togo-Presse*, was government owned and controlled. There were several independent newspapers that published on weekly and bi-weekly schedules. The official media heavily slanted their content in favor of the government.

Radio remained the most important medium of mass communication. Some private radio stations broadcast domestic news; however, they offered little of the polit-

ical commentary and criticism of the government that was widespread in the print media.

The government-owned *Togo Television* was the only major television station in the country. Four smaller television stations operated during the year but their broadcasts were limited to certain geographic areas. TV–2, RTDS, and TV7 carried France-based TV–5's international news programming, and TV-Zion's content was of a primarily religious nature. TV7 also carried weekly political debates through the program Seven on Seven, a weekly political forum where governing and opposition party leaders, human rights organizations, and other observers participated in discussions on political issues and expressed criticism or support for the government.

The law established the High Authority of Audiovisual and Communications (HAAC) to provide for the freedom of the press, ensure ethical standards, and allocate frequencies to private television and radio stations. Although nominally independent, in practice the HAAC operated as an arm of the government.

In September the Council of Ministers appointed nine professionals of the media sector to the HAAC. The pro-regime national legislature elected five members and the president nominated the other four. Only one appointee comes from the independent media while the others are affiliated with government-owned media outlets.

After some positive steps during the previous year, the government intensified its harassment of the private media after the death of President Eyadema. In February the government released reports in *Togo-Presse* accusing international and local media of broadcasting rumor and misinformation detrimental to the peace.

Following Eyadema's death in February, the president of HAAC repeatedly threatened to stop or did stop radio programs discussing the political events in the country and opposition viewpoints. Stations affected included Nana FM and Kanal FM.

Beginning on February 6, the Voice of America (VOA) affiliate in the northern city of Sokode, Radio Tchaoudjo, had its power cut just before each VOA news segment. Power was always restored 30 minutes after the scheduled start of the thrice-daily broadcasts. This disruption of power continued for several weeks.

On February 7, Minister of Communications Pitang Tchalla, summoned journalists of the international media to express alarm at their reporting and to request they cover the unfolding political situation with impartiality. He also accused Radio France International (RFI) of fomenting fear and social unrest through its reporting and ordered it to suspend broadcasting from the morning of February 8 through the morning of February 10. On February 8, immigration officials at the border with Benin denied an entry visa to an RFI special correspondent.

On February 7, the president of HAAC, ordered Radio Nostalgie to cease all transmissions concerning political events. The following day, two armed gendarmes forcibly entered the station and threatened broadcasters and guests who were on air discussing the political developments in the country. After spending two hours at the station, the gendarmes finally left after persuasion from media association leaders and police officers.

On February 10, in retaliation for airing a segment with opposition figures, the military commander of Aneho, the local prefect, and a military detachment seized Radio Lumiere's transmitter and all broadcasting equipment. Eventually, the radio station's director fled to self-exile, and Radio Lumiere remained closed at year's end.

On February 11, the government ordered the closure of Kanal FM, Nana FM, Radio Nostalgie, and television station TV7, citing the failure to pay overdue taxes as the reason for closure. All stations also suffered disruption in telephone service. A total of 11 radio stations were eventually shut down, for reasons as specious as engaging in "tribalism." By February 24, all radio stations were back on the air.

On February 12, security forces briefly detained a journalist and two accompanying photographers for taking pictures of violent demonstrations.

On April 15, nine days prior to the election, the HAAC, in contravention of the electoral code, banned independent newspapers and television and radio stations from covering the presidential campaign and from "broadcasting partisan, defamatory, and insulting news or inciting violence." The HAAC also ordered private media to refrain from organizing any programs featuring the candidates. The military, under orders from the minister of communications, closed media outlets that defied the directive. Kanal FM was suspended for one month because it aired an editorial considered critical of the government. Radio Maria, Radio Nostalgie, and TV7 were shut down for one month for broadcasting "false information that could frighten the population" after mistakenly reporting a curfew. Several radio stations in the country ceased transmission to avoid harassment by the military.

On April 27, during an interview with a surgeon at Aneho hospital, security forces arrested 12 journalists. They were subsequently released and ordered to leave Aneho.

On October 9, masked men with clubs severely beat Jean-Baptiste Dzilan, also known as Dimas Dzikodo, the country most outspoken journalist and publisher of the independent newspaper *Forum de la Semaine*. Although the government stated it would investigate the incident, no official statement had been announced by year's end.

On November 9, RFI resumed broadcasting in Lome and Kara, on the same day 250 journalists from around the world visited the country to participate in a Francophone press conference. The radio station had been closed since April 26. There were reports that RFI agreed to a provision that required the station to refrain from transmitting inflammatory broadcasts.

In November the HAAC issued a decree banning all political programs on local and religious radio and television stations. Private stations are still permitted to air political programming, but because most radio stations in the interior of the country and several stations in Lome are classified as local stations, they have been affected. The HAAC approached only Radio Maria specifically to require cessation of political broadcasts.

There was no prepublication censorship of print media in law or practice; however, journalists practiced varying degrees of self-censorship.

Unlike in the previous year, there were no reports that the government blocked access to opposition Web sites. There were no reports that the government restricted access to the Internet.

The government did not restrict academic freedom, although security forces maintained a presence at the University of Lome. According to students and professors, a government informer system continued to exist and gendarmes went undercover on campus and attended classes.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government often restricted this right in practice. Government officials prohibited, and security forces forcibly dispersed, political gatherings.

A political party wishing to hold a demonstration or rally on public property is required to notify the minister of territorial administration and decentralization. If a political party intends to hold a rally on private property, notification is legally not required.

On February 7, the government banned all street demonstrations for two months in observance of a national mourning period for the late president Eyadema. Several impromptu marches occurred on this day in Lome and other major cities to voice quiet disapproval of the recent extra-constitutional maneuvers. In some cities, the security forces forcibly dispersed the protestors. On February 18, the government lifted the demonstration ban.

On February 9, military personnel beat students in Lome when they walked out of classes to show support for an opposition-led civil boycott.

On February 11, approximately 300 protesters gathered in Lome in response to an opposition call for a rally. Soldiers quickly surrounded the neighborhood and fired tear gas into the crowd.

On February 12, security forces dispersed an opposition demonstration in Lome, using batons and belts to beat protesters and firing bullets into the crowd, resulting in five civilian casualties.

On February 27, security forces forcefully dispersed a peaceful women's march, beating persons with batons and firing tear gas into crowds. Five persons were killed in the course of this demonstration. The bodies were found the following day; three were found in a lagoon and two in an opposition stronghold neighborhood in Lome. All of the bodies had contusions consistent with having suffered beatings from batons. The government promised to investigate the deaths, but at year's end there were no known investigations.

On April 26 and 27, demonstrations took place throughout the country following the announcement of the election results. Some began peacefully and ended with security forces tossing tear gas at the protestors and beating them. In some areas, demonstrators attacked regime supporters and security forces reacted with more violence. All major cities saw clashes that resulted in several deaths (see section 1.a.).

Unlike in the previous year, there were no student demonstrations during the year.

Freedom of Association.—Under the law, citizens have the right to organize associations and political parties; while there were improvements in this area, the government denied official recognition to some associations, including some human

rights groups. In October the government provided the country's first independent human rights group, LTDH, its certification documents after it denied the organization official accreditation for 15 years.

There were many non-governmental organizations (NGOs); they were required to register with the government. The government established requirements for recognition of associations and NGOs. The Ministry of Territorial Administration and Decentralization issues official recognition documents. Upon filing with the ministry, associations are given a receipt allowing them to begin operations. The Civil Security Division enforces the regulations and is the agency responsible for handling problems or complaints concerning an association or an organization. If an application provides insufficient information for recognition to be granted, the application remains open indefinitely. Members of groups that are not officially recognized could organize activities but do not have legal standing.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The government recognizes three main faiths as state religions: Roman Catholicism, Protestantism, and Islam. Other religions, such as animism, Mormonism, and Jehovah's Witness, were required to register as associations. Official recognition as an association affords the same rights as the official religions.

Societal Abuses and Discrimination.—The Jewish population of the country is negligible, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—Although the law provides for these rights, the government restricted them in practice. Armed security checkpoints and arbitrary searches of vehicles and individuals were common and increased following Eyadema's death and during the election period. Undisciplined acts of some soldiers manning roadblocks, such as frequent demands for bribes before allowing citizens to pass, impeded free movement within the country.

Twice during the year the government closed all land borders and air access to the country. First, on February 5, immediately after President Eyadema's death, the government restricted all entry to and departure from the country. As a result, the plane carrying the designated interim president, Speaker of the National Assembly Fambare Natchaba was forced to reroute to neighboring country Benin. Thereafter, the government prevented Natchaba from returning to the country until borders reopened on February 8.

The second border closure occurred on April 22, prior to the election. The government also banned all intercity travel. The government reopened the borders and lifted the travel ban on April 25.

In March the government returned all identity documents, confiscated in 2003, to former National Assembly president and regime critic Dahuku Pere. The government also issued a passport and identity card to his son for the first time. In September the government returned previously seized documents to former prime minister Agbeyome Kodjo and delivered new passports to his children

Unlike in previous years, the government did not restrict opposition members from leaving or entering the country.

The law prohibits exile, and the government did not employ it. However, several opposition and human rights workers remained in self-imposed exile because they feared arrest. Former army chief of staff, Lieutenant Colonel Kouma Bitenewe, who fled to Benin in 2003 returned to the country in June.

After the elections approximately 40 thousand citizens, mostly affiliated with the opposition, fled to neighboring Ghana or Benin as a result of the abuses committed by security forces.

Internally Displaced Persons (IDPs).—Large numbers of persons fled their homes following Eyadema's death and the presidential election. The February 5 closure of borders and subsequent illegitimate transfer of power created panic in the country, prompting persons to leave their homes in the cities and seek refuge in smaller villages.

Violent demonstrations and the ensuing security forces reaction after the April 26 announcement of election results caused 10 thousand persons to leave their cities of residence. Since security forces targeted areas considered opposition strongholds, most IDPs fled those areas in Lome and Sokode. Ethnic Kabyes abandoned Atakpame for Kara, fearing reprisals from opposition supporters.

On June 8, the government created the High Commission for Repatriates and Humanitarian Action to assist and protect repatriates. There were no reports that the government targeted IDPs or forcibly returned them.

Protection of Refugees.—Although the law does not provide for the granting of refugee status and asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, in practice, the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum.

An estimated 40 thousand Togolese fled to Ghana and Benin as refugees following election-related violence. Despite urgings from the government, most did not return home by year's end because of fear for their security.

A voluntary repatriation program for 508 Ghanaian refugees was still not implemented because of continuing unrest and instability in Ghana along the Togo-Ghana border. These refugees have been integrated into society and no longer qualify for assistance. According to the government, there were approximately 800 refugees (mostly from Rwanda and the Democratic Republic of the Congo) registered in Lome and approximately 1,200 additional refugees living in rural villages.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 100 persons during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides for the right of citizens to change their government peacefully; however, the government restricted this right in practice. The government and the state remained highly centralized. The national government appoints officials and controls the budgets of all subnational government entities, including prefectures and municipalities, and influences the selection of traditional chiefs. The National Assembly exercised no real oversight of the executive branch of the government.

Elections and Political Participation.—On February 5, the government announced the death of president Eyadema. The constitution prohibits any revision of the document in the case of a presidential vacancy. Nevertheless, on February 6, the National Assembly held an extraordinary session to amend the constitution and Electoral Code, dismiss Speaker Fambare Ouattara Natchaba, and elect Eyadema's son Faure Gnassingbe as the new speaker, allowing him constitutionally to step into the presidency. In a ceremony in the middle of the night, the armed forces installed Faure Gnassingbe as the new president. On February 7, the Constitutional Court, vested with guaranteeing respect of the law, swore Faure in as president. On February 22, Faure resigned the presidency due to international and internal pressure. The National Assembly elected a new speaker, Abass Bonfoh, who then became interim president.

Although the law requires holding elections within 60 days of a vacancy in the presidency, the international community and local opposition contended that the election timeframe, culminating with elections on April 24, was not sufficient to ensure a free and fair election.

Numerous irregularities marked the election preparation period. Some registration centers required, in accordance with the law, only the national identity card while others demanded several other documents. Although names of citizens eligible to vote did not appear on voter lists, those of deceased persons did appear. While voter registration cards were readily available in the ruling party-dominated Kara region, the government severely limited access for opposition supporters. The interior ministry released figures before the election showing an 80 to 100 percent rate of registration in ruling party regions and between 20 to 30 percent in opposition strongholds.

On April 22, in an unannounced 2 a.m. press conference, the interior minister, who is responsible for conducting elections, appealed for the postponement of the elections, saying that conditions for a credible election had not been met and that the potential for a civil war was enormous. The interim president denounced the interior minister's statement and removed him from office. The elections were held as planned on April 24.

Accredited international election observers noted massive irregularities during the election itself. For example, observers noted the presence of armed soldiers at polling stations. Also, many polling stations opened late, did not have the voter lists, or did not have ballots. A number of polling places closed on time despite starting late and despite not accommodating all who wanted to vote. Representatives of the opposition, legally permitted to be present inside the voting station, were prevented from doing so. Observers witnessed several underage children voting. There were re-

ports that some ballot boxes arrived already filled with ballots. There were numerous reports of election officials adding ballots to the boxes during the course of election day. There were several claims that ruling party delegates had given voters money and pre-marked ballots to cast.

At the end of election day, FOSEP entered polling stations to take the ballot boxes. According to election observers and an AI report released in July, FOSEP fired shots into the polling stations and took the ballot boxes. Witnesses also reported the same scene being played out with the Presidential Guard Force taking the boxes.

Four persons were killed in Mango on election day when security forces opened fire on opposition supporters who tried to prevent security forces from removing ballot boxes from a polling site.

On April 26, the Electoral Commission announced Faure had received 60 percent of the vote and declared him president. An opposition candidate filed a complaint with the Constitutional Court based on flaws in the voting procedures. The court certified the results without an investigation.

There were no developments in the government's commitment to the European Union to organize fair and transparent legislative elections, to hold local elections within 12 months of April 2004, or to organize a national dialogue with the main opposition parties.

There were five female members in the 81-member National Assembly, and there were four female ministers in the president's 30-member Cabinet. Members of the southern ethnic groups were underrepresented in the government, especially the military, relative to their percentage of the general population.

Government Corruption and Transparency.—Official corruption was a problem and there was widespread public perception of corruption in both the executive and legislative branch. The Anti-Corruption Commission (CAC) was generally ineffective. While it continued to investigate current relatively low-level and former high-level officials, it did not use fair and transparent procedures to deal with allegations of corruption. In 2004 the CAC proposed prosecuting two former officials and high-ranking party members; however, no action had been taken by year's end.

The CAC allowed most senior government officials accused of corruption to continue in their positions and did not investigate allegations made against them. For example, the CAC levied allegations of corruption against the director general of the Social Security Agency, yet he remained in his position.

According to the government's official poverty reduction strategic paper, prepared in conjunction with the World Bank and UNDP, corruption and lack of transparency in the management of public funds was a problem throughout the government. The law provides for the creation of a court of accounts to oversee public expenditures; however, the government failed to initiate its creation.

There were reports of executive branch interference in the judiciary. A 2004 UNDP diagnosis of the country's justice system revealed that lawyers often bribed judges to influence the outcome of cases.

In August the government embarked on a judicial reform process. This five-year program aims to modernize the judiciary and insulate it from executive branch interference.

Although the press code provides for public access to government information, the government did not permit access to either citizens or noncitizens, including foreign media.

Section 4. Government Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government generally allowed domestic and international groups to operate without restriction, investigating, and publishing alleged violations of human rights; however, the government occasionally threatened or hindered the activities of human rights activists and was inconsistent in following up on investigations of abuses.

There were several domestic private human rights groups, including the LTDH, the Center for Observation and Promotion of the Rule of Law, and the Togolese Association for the Defense and Protection of Human Rights. Years of government threats and intimidation of human rights leaders, combined with a lack of results from human rights initiatives, have led some human rights groups to become inactive. A few groups such as the Togolese Movement for the Defense of Liberties and Human Rights, the African Committee for the Promotion and Support of Human Rights, and the African Center for the Rehabilitation of Victims of Torture and Repression served as apologists for the government by making public statements explaining the behavior of the government in favorable way.

The government sometimes withheld official accreditation from human rights groups. The lack of official recognition made it harder for some human rights groups to acquire technical and financial support from international organizations. LTDH, the first independent human rights group in the country, was only able to acquire official recognition in October.

The government met with some domestic NGOs that monitor human rights but took no action in response to their recommendations.

The government at times restricted the activities of domestic NGOs. For example the government did not allow any domestic groups to participate as observers during the elections. There also were reports that the government harassed, threatened, and targeted workers of independent human rights NGOs. On May 31, the LTDH reported that its board members and staff were in hiding because they received death threats through anonymous telephone calls and because individuals followed them and maintained surveillance of their houses. The government used the HAAC and the RPT youth organization to suppress criticism of its human rights policies.

The government generally did not impede the work of international NGOs during the year. However, prior to the election, the minister of interior refused to allow the National Democratic Institute (NDI) to train presidential candidate representatives who would be present at polling stations. He later allowed NDI to conduct the training session.

The government denied a regional group, the West African Civil Society Forum, the opportunity to observe the election even though the organization complied with all the requirements to participate. After the denial, security personnel followed the team wherever they went.

Envoys from Economic Community of West African States (ECOWAS) traveled to the country before the April 24 election to consult with the government regarding procedures to hold free elections. ECOWAS representatives also acted as election observers during the vote, and the government fully cooperated with them. On April 27, ECOWAS announced that the "irregularities and shortcomings," though regrettable, were not sufficient to "call into question the proper administration and credibility" of the election.

From June 13 through 24, a delegation from the UNHCHR visited the country to investigate allegations of violence and human rights violations that occurred in the country between February 5 and May 5. The government cooperated with the representatives during the visit.

On September 26, the UN mission released its findings, which revealed that approximately 500 persons died and that the government was responsible for significant human rights violations (see section 1.a). The government issued a response emphasizing the portion of the report that cast the government's responsibility for some violence on opposition leaders and supporters. There were reports that the government interfered with the drafting of the report and demanded certain segments be excluded.

On September 28, the president of the International Federation of Human Rights Organizations visited the country to investigate violations of human rights and the government also cooperated with him.

Supporters of the president continued to dominate the National Commission for Human Rights.

A permanent human rights committee exists within the National Assembly, but it did not play any significant role in policy-making and was not independent of the government.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these provisions effectively. Violence and discrimination against women, FGM, trafficking in persons, discrimination against ethnic minorities and individuals with HIV/AIDS were problems.

Women.—Domestic violence against women continued to be a problem. The law does not specifically prohibit domestic violence. Police generally did not intervene in abusive situations, and women were not made aware of the formal judicial mechanisms that would give them protection. According to an indigenous women's rights NGO, wife beating was estimated to affect approximately 6 percent of married women.

The law criminalizes rape and provides for prison terms of 5 to 10 years for anyone found guilty of rape. The law does not specifically penalize spousal rape. Although the government was diligent in investigating and prosecuting instances of rape, reports were rare because of the social stigma associated with being raped.

FGM continued to be practiced on approximately 12 percent of girls. The most commonly practiced form of FGM was excision, which usually was performed on girls a few months after birth. Most of the larger ethnic groups did not practice FGM. FGM is illegal and penalties for practitioners ranged from two months to five years in prison as well as substantial fines. The law was rarely applied because most FGM cases occurred in rural areas where neither the victims nor the police understood the law. Traditional customs often superseded the legal system among certain ethnic groups. The government continued to sponsor seminars to educate and campaign against FGM. Several NGOs, with international assistance, organized educational campaigns to inform women of their rights and how to care for victims of FGM.

The law prohibits prostitution, including running a brothel, and provides for fines of up to $2 thousand (1.09 million CFA francs) for brothel owners and panderers. Prostitution in Lome was fairly widespread since economic opportunities for women were severely limited. Several prostitutes in Lome reported that they had to pay security forces to pass through certain parts of town; this payment most often took the form of sex. Members of the security force raped them prostitutes who protested the payment. The government has not acted to stop this pratice.

A presidential decree prohibits sexual harassment and specifically targeted harassment of female students, although the authorities did not enforce the law.

Although the law declares women equal under the law, women continued to experience discrimination, especially in education, pension benefits, and inheritance as a consequence of traditional law. A husband legally could restrict his wife's freedom to work or control her earnings. In urban areas women and girls dominated market activities and commerce; however, harsh economic conditions in rural areas, where most of the population lived, left women with little time for activities other than domestic tasks and agricultural fieldwork. The Labor Code, which regulated labor practices, requires equal pay for equal work, regardless of gender, but this provision generally was observed only in the formal sector. Under traditional law, which applied to the vast majority of women, a wife has no maintenance or child support rights in the event of divorce or separation and no inheritance rights upon the death of her husband. Polygyny was practiced. Women can own property with no special restrictions.

The Ministry of Population, Social Affairs, and Promotion of Women, along with independent women's groups and related NGOs, continued to campaign actively during the year to inform women of their rights.

Children.—Although the law and family code laws provide for the protection of children's rights, in practice government programs often suffered from a lack of money, materials, and enforcement. There were many practices that discriminated against children, especially girls.

The government provided education in state schools, and school attendance is compulsory for both boys and girls until the age of 15. According to a September UN Children's Fund (UNICEF) report, approximately 79 percent of children aged 5 to 11, mostly boys, attended school. In that age group, approximately 83 percent of boys and 74 percent of girls started primary school, but only an estimated 51 percent of boys and 22 percent of girls reached secondary school. The General Directorate of Education Planning in the Ministry of Education estimated one-third of the national budget was spent on education.

Orphans and other needy children received some aid from extended families or private organizations but little from the government. There were social programs to provide free health care for poor children. In rural areas, traditionally the best food was reserved for adults, principally the father.

FGM was performed on approximately 12 percent of girls (see section 5, Women).

Statutory rape is illegal and punishable by up to 5 years of imprisonment and up to 10 years if violence was involved. If a victim is a child under 14; was gang-raped; or if the rape results in pregnancy, disease, or incapacitation lasting more than six weeks, the prison term is 20 years. Although the law explicitly prohibits sexual exploitation of children and child prostitution, the government did not effectively enforce the prohibitions. (see section 5, Trafficking).

There were reports of trafficking in children (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in children but not adults; however, there were reports that persons were trafficked to, from, or within the country. On August 2, the government passed the "Law for the Repression of Child Trafficking." The law provides for prison sentences and fines for anyone who recruits, transports, hosts, or receives trafficked children and prison sentences for parents who willingly facilitate the trafficking of their children. The law provides from

3 months to 10-year prison sentences and fines ranging from $2 thousand to $20 thousand (1 to 10 million CFA francs) for traffickers of children and/or their accomplices. Anybody who assists and/or provides information, arms, or transportation to facilitate the trafficking is considered an accomplice. Although approximately 10 people have been arrested under the new law, none had been prosecuted by year's end.

Local committees were voluntarily set up in every region, and without financial or legal support, these committees investigated reports of trafficking. The government had little or no funding to investigate traffickers or trafficking rings. The police had limited success in intercepting victims of trafficking, and prosecution of traffickers was rare. Most persons that security forces arrested or detained for trafficking ultimately were released for lack of evidence. No records were available of the number of individual traffickers who were prosecuted during the year.

Government agencies involved in antitrafficking efforts included the Ministry of Population, Social Affairs, and Protection of Women; the Ministry of Health; the Ministry of Security; the Ministry of Justice; the Ministry of Labor; and the security forces (especially police, army, and customs units). The government cooperated with the governments of Ghana, Benin, and Nigeria under a quadripartite law allowing for expedited extradition among those countries.

The country remained a country of origin, transit, and destination for trafficking in persons, primarily children. More young girls than boys were the victims of trafficking. Trafficking in women for the purpose of prostitution or nonconsensual labor as domestic servants occurred.

While official statistics for trafficked persons were not available, trafficking occurred throughout the country. The majority of the country's trafficking victims were children from the poorest rural areas, particularly those of Kotocoli, Tchamba, Ewe, Kabye, and Akposso ethnicities and mainly from the Maritime, Plateau, and Central regions. Adult victims usually were lured with phony job offers. Children were often trafficked abroad by parents misled by false information. Sometimes parents sold their children to traffickers for bicycles, radios, or clothing, and signed parental authorizations transferring their children into the custody of the trafficker.

Children were trafficked into indentured and exploitative servitude, which amounted at times to slavery. Most trafficking occurred internally, with children trafficked from rural areas to cities, primarily Lome, to work as domestics, produce porters, or roadside sellers. Victims were trafficked elsewhere in West Africa and to Central Africa, particularly Cote d'Ivoire, Gabon, and Nigeria; in Europe, primarily France and Germany; and in the Middle East, including Lebanon and Saudi Arabia. Children were trafficked to Benin for indentured servitude and to Cote d'Ivoire and Ghana for domestic servitude. Boys were trafficked for agricultural work in Cote d'Ivoire and domestic servitude and street labor in Gabon. They were fed poorly, clothed crudely, cared for inadequately, given drugs to work longer hours, and not educated or permitted to learn a trade. There were reports that young girls were trafficked to Nigeria for prostitution.

The country was a transit point for children trafficked from Burkina Faso, Ghana, Cote d'Ivoire, and Nigeria. There were credible reports that Nigerian women and children were trafficked through the country to Europe (particularly Italy and the Netherlands) for the purpose of prostitution.

The International Labor Organization/International Program for the Elimination of Child Labor (ILO/IPEC) office in Lome reported that from September 2003 to August 2004, local committees and security forces intercepted 1,837 children aged 6 to 17 in the process of being trafficked. The National Committee for the Reception and Social Reinsertion of Trafficked Children reported that 2,458 children ranging from ages 5 to 17 were repatriated to the country between 2002 and 2004.

Traffickers were believed to be men and women of Togolese, Beninese, and Nigerian nationalities.

There were no reports that governmental authorities or individual members of government forces facilitated or condoned trafficking in persons. There were no reports that customs, border guards, immigration officials, labor inspectors, or local police received bribes from traffickers, although it was possible given the high level of corruption in the country.

The government provided only limited assistance for victims, primarily because of a lack of resources. The NGO Terre des Hommes assisted recovered children until their parents or next-of-kin could be notified. Assistance was also available from a government-funded Social Center for Abandoned Children. CARE International-Togo worked with three NGOs—Terre des Hommes, La Colombe, and Ahuefa—on reinsertion of trafficked children, awareness campaigns for parents and communities, keeping children in schools, and supporting women's income-generating ac-

tivities. During the year, ILO/IPEC worked with other NGOs to increase awareness of the trafficking problem.

During the year, local government officials worked closely with NGOs to conduct public awareness campaigns. ILO/IPEC assisted the government in organizing and training regional and local committees, and in sensitizing and educating parents on the dangers of child trafficking and labor throughout the country.

Persons with Disabilities.—A new law enacted in November prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, but the government did not effectively enforce these provisions. There was no overt state discrimination against persons with disabilities and some held government positions, but there was societal discrimination against persons with disabilities. It was not clear whether persons with disabilities would have meaningful recourse against private sector or societal discrimination with the new law. The government does not mandate accessibility to public or private facilities for persons with disabilities. Although the law nominally obliged the government to aid persons with disabilities and shelter them from social injustice, the government provided only limited assistance.

National/Racial/Ethnic Minorities.—The population included members of approximately 40 ethnic groups that generally spoke distinct primary languages and were concentrated regionally in rural areas. Major ethnic groups included the Ewe (between 20 and 25 percent of the population), the Kabye (between 10 and 15 percent), the Kotokoli (between 10 and 15 percent), the Moba (between 10 to 15 percent), and the Mina (approximately 5 percent). The Ewe and Mina were the largest ethnic groups in the southern region and the Kabye was the largest group in the less prosperous northern region.

Although prohibited by law, members of all ethnic groups routinely practiced societal favoritism on the basis of ethnicity. In particular, favoritism by southerners for southerners and by northerners for northerners was evident in private sector hiring.

The relative predominance in private sector commerce and professions by members of southern ethnic groups, and the relative prevalence in the public sector and especially the security forces of members of late president Eyadema's Kabye group and other northern groups, were sources of political tension. Political parties tended to have readily identifiable ethnic and regional bases: the RPT party was more represented among northern ethnic groups than among southern groups; the reverse was true of the UFC and Action Committee for Renewal opposition parties.

In addition, due to the congruence of political divisions and ethnic and regional divisions, human rights abuses motivated by politics at times had ethnic and regional overtones.

Other Societal Abuses and Discrimination.—Although the government passed a law prohibiting discrimination against them in November, persons infected with HIV/AIDS faced significant societal discrimination.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers, except security forces, including firefighters and police, with the right to join unions, and they exercised this right in practice. The Ministry of Economy and Finance and Privatization estimated that the country's total workforce was approximately 1.6 million out of an estimated working population of 2.3 million persons. Approximately 72 percent of the working population was in the agriculture sector where employment was not stable and wages were low. The informal sector provided for an estimated 22 percent of total employment. Approximately 60 to 70 percent of the formal sector work force was union members or supporters.

b. The Right to Organize and Bargain Collectively.—The Labor Code nominally provides workers with the right to organize and bargain collectively; however, the government limited collective bargaining to producing a single nationwide agreement that had to be negotiated and endorsed by representatives of the government, labor unions, and employers. All formal sector employees were covered by the collective bargaining agreement that set nationwide wage standards for all formal sector workers. The government participated in this process both as a labor-management mediator and as the largest employer in the formal sector, managing numerous state-owned firms that monopolized many sectors of the formal economy. The collective bargaining process did not occur for several years under the late President Eyadema. Individual groups in the formal sector could attempt to negotiate agreements more favorable to labor through sector-specific or firm-specific collective bargaining, but this option was rarely used.

The law provides most workers the right to strike, but security forces and government health workers did not have this right. There is no specific law prohibiting

retribution against strikers by employers, and the Ministry of Labor failed to enforce the prohibition on antiunion discrimination. There were no strikes during the year.

The law allows the establishment of export processing zones (EPZs). Many companies had EPZ status, and approximately 70 were in operation. The EPZ law provides exemptions from some provisions of the Labor Code, notably the regulations on hiring and firing. Employees of EPZ firms did not enjoy the same protection against antiunion discrimination as did other workers. Workers in the EPZs were prevented from exercising their freedom of association because unions did not have free access to EPZs or the freedom to organize workers.

c. Prohibition of Forced or Compulsory Labor.—The law does not specifically prohibit forced compulsory labor, including by children, and there were reports such practice occurred (see sections 5 and 6.d.). Children sometimes were subjected to forced labor, primarily as domestic servants.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Labor Code prohibits the employment of children under the age of 14 in any enterprise; however, child labor was a problem, and many children worked on family farms. Some children started working as young as age five. These children routinely missed at least two-thirds of the school year. In some cases children worked in factories.

For some types of industrial and technical employment, the minimum age is 18. Inspectors from the Ministry of Labor enforced these age requirements but only in the formal sector in urban areas. In both urban and rural areas, particularly in farming and small scale trading, very young children traditionally assisted in their families' work. In rural areas, parents sometimes placed young children into domestic work in other households in exchange for one-time fees as low as $25 to $35 (12,500 to 17,500 CFA francs).

Trafficking in children was a problem (see section 5).

The Ministry of Population, Social Affairs, and Promotion of Women was responsible for enforcing the prohibition of the worst forms of child labor, but few resources were allotted for its implementation, and enforcement was weak. In November, this ministry, in conjunction with several NGOs and UNICEF, embarked on a campaign to improve the lives of children. These groups initiated this campaign to raise awareness of issues such as child labor and trafficking in the hopes of eradicating them.

e. Acceptable Conditions of Work.—The government sets minimum wages for different labor categories, ranging from unskilled through professional positions. In practice less than the official minimum wage often was paid, mostly to unskilled workers. Official monthly minimum wages ranged from approximately $20 to $33 (10 thousand to 16 thousand CFA francs) and did not provide a decent standard of living for a worker and family. Many workers supplemented their incomes through second jobs or subsistence farming. The Ministry of Labor was responsible for enforcement of the minimum wage system but did not enforce the law in practice.

Working hours of all employees in any enterprise, except for the agricultural sector, normally are not to exceed 72 hours per week; at least one 24-hour rest period per week is compulsory, and workers are expected to receive 30 days of paid leave each year. The law requires overtime compensation, and there are restrictions on excessive overtime work; however, the Ministry of Labor's enforcement was weak, and employers often ignored these provisions.

A technical consulting committee in the Ministry of Labor set workplace health and safety standards. It may levy penalties on employers who do not meet the standards, and employees have the right to complain to labor inspectors of unhealthy or unsafe conditions without penalty. In practice, the ministry's enforcement of the various provisions of the Labor Code was limited. Large enterprises are obliged by law to provide medical services for their employees and usually attempted to respect occupational health and safety rules, but smaller firms often did not. Although workers have the legal right to remove themselves from unsafe conditions without fear of losing their jobs, in practice some could not do so. Labor laws do not provide protection for legal foreign workers.

UGANDA

Uganda, with a population of 26.4 million, is a republic led by President Yoweri Museveni, who continued to dominate the government. The 2001 presidential and parliamentary elections generally reflected the will of the electorate; however, both were marred by serious irregularities. The government continued its 19-year war

against rebels of the Lord's Resistance Army (LRA) in the northern and eastern portions of the country and in southern Sudan. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently of government authority.

The government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The following human rights problems were reported:

- restrictions on opposition party activity
- unlawful killings by security forces
- disappearances
- security forces' use of torture and abuse of suspects
- vigilante justice
- harsh prison conditions
- official impunity
- arbitrary arrest, incommunicado detention, and lengthy pretrial detention
- restricted right to a fair trial
- infringement of privacy rights
- restrictions on freedom of speech, the press, association, and assembly
- limited freedom of religion
- abuse of internally displaced persons (IDPs)
- government corruption
- violence and discrimination against women
- female genital mutilation (FGM)
- violence and abuse of children, particularly sexual abuse
- trafficking in persons, particularly children
- violence and discrimination against persons with disabilities
- forced labor, including by children
- child labor

The government took significant steps to improve human and workers' rights during the year. In October the parliament passed a series of reforms that allow political parties to participate in government and compete in elections. These reforms followed the July referendum in which citizens voted to adopt a multiparty system of government. The government proposed an employment law to eliminate burdensome requirements to form a union and the Constitutional Court overturned a provision that restricted the number of national trade union associations.

The LRA, led by Joseph Kony, committed numerous, serious abuses and atrocities, including the abduction, rape, maiming, and killing of civilians, including children. The LRA used children as soldiers, held children and others in slave-like conditions, and subjected female captives to rape and other forms of severe sexual exploitation. For much of the year approximately 30,000 children known as "night commuters traveled from conflict areas or internally displaced persons (IDP) camps each night to urban centers in order to avoid abduction by the LRA.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces committed unlawful killings during the year and were responsible for deaths as a result of torture.

On March 23, Alex Okullo, a member of the Local Defense Unit (LDU) militia in Kitgum District, killed two civilians. Police arrested Okullo; there was no further information available by year's end.

On March 31, in Gulu District, Private Tony Eremo of the Uganda People's Defense Forces (UPDF), killed high school student Francis Ocaya Okot. Private Eremo suspected the student was an LRA rebel because he was walking in public after dark. On April 8, military police arrested Eremo and charged him for the killing. He was awaiting trial at year's end.

In August UPDF Privates Lazarus Avil Kwasigwee and Johnson Asiimwe killed businessman Sam Abol in Pader District. Authorities suspected that the soldiers conspired with a lodge owner to kill the businessman in order to rob him. In Sep-

tember the suspects and several others were arrested; charges were still pending at year's end.

On December 26, UPDF Private Joel Lubangakene killed 18-year-old Ojok Ojara after they had a personal dispute at Gulu District dance club. The military arrested Lubangakene, and he was awaiting trial at year's end. On the day of the killing an angry crowd of civilians marched on the local UPDF barracks to protest the killing. The UPDF fired on the mob and killed seven civilians. According to the army, the UPDF acted in self defense.

There were no developments in any of the unlawful killings committed by security forces in 2004 or 2003.

There were a number of deaths in custody, some due to torture.

On January 3, Noah Katungi died in police custody after being arrested for theft. On February 2, police officers Stephen Kasiba, Hannington Opio, and Julius Oboch were charged with the killing; they were awaiting trial at year's end.

On August 30, the Uganda Human Rights Commission (UHRC) ordered the government to pay approximately $16,000 (30 million shillings) in compensation to the family of the late Patrick Owomugisha Mamenero, who died in July 2002 in custody of the Chieftancy of Military Intelligence (CMI).

On September 2, John Atwine, a key suspect in a high-profile killing, died in Luzira Upper Prison under mysterious circumstances. Authorities investigated the death, but no arrests were made by year's end.

There were no reports of any action taken against security forces responsible for torture-related deaths in 2004 or 2003.

Use of excessive force by security forces while pursuing suspected criminals resulted in deaths. On February 5, police in Busia District killed Abdallah Mumiro when they opened fire on a group of Muslims who resisted an inspection of sanitary facilities. A police investigation determined that the death was accidental.

On June 23, Special Police Constables Joel Adrama and Dickson Anguyo in Arua District beat to death Zacharia Ocitia, who allegedly insulted the constables. On July 5, the constables were charged with the killing, and awaited trial at year's end.

On August 25, security force personnel in Ntungamo District killed suspected robbers Edson Sajabi, Charles Mworozi, and Benon Kankiriho during a crackdown on criminals. There were no reports of action taken against any security personnel.

There were no developments in 2004 or 2003 security force killings of criminals as a result of excessive force.

During the year security forces killed numerous civilians during anti-LRA operations (see section 1.g.).

LRA attacks continued during the year and resulted in hundreds of deaths (see section 1.g.).

Unlike in the previous year, there were no reports that LRA landmines resulted in deaths and injuries.

During the year raids by armed cattle rustlers of the Karamojong ethnic group continued in Katakwi, Nakapiripirit, Moroto, Sironko, Kitgum and Kapchorwa Districts. These raids resulted in the deaths of more than 200 civilians and the displacement of thousands. The government continued its Karamoja disarmament program during the year (see section 5). UPDF forces killed numerous persons during clashes with armed Karamojong warriors.

The war in the north and violence in Karamoja resulted in significant numbers of deaths due to interethnic violence (see section 5).

Incidents of vigilante justice were reported frequently during the year. There were numerous instances in which mobs killed individuals suspected of committing crimes. On January 18, family members in Lira District beat to death a man suspected of raping a four-year-old girl. On May 20, residents in Mukono District lynched a suspected cannibal. On June 14, Makerere University students in Kampala burned to death a person who tried to break into a women's hostel on campus. There were no charges in either of these cases.

Unlike in the previous year, there were no reports of the ritual killings of children.

Ethnic Pokot warriors killed civilians and security forces during the year. On August 11, two Pokot warriors killed two civilians in Kapchorwa District while stealing cattle. On September 23, Pokot warriors from Kenya killed four police officers after rustling cattle in the country. The warriors retreated to Kenya and remained at large at year's end.

b. Disappearance.—There was one report of a disappearance due to incommunicado detention by government forces. In addition, there continued to be other reports of disappearances during the year.

On March 11, relatives of Esther Luggya, a former member of the opposition party Reform Agenda, reported her missing since December 2004. There were no further developments in the case by year's end.

On May 21, six armed men in military uniform kidnapped three persons including local government official Geoffrey Mwebase during a raid on Bukinda village in Hoima District. The incident was reportedly related to a land dispute. There were no further developments in the case during the year.

On November 15, Achikulo Abuko, Amir Yahaya, Kesia Yasin, and Zacharia Obba were transferred from Luzira prison to incommunicado detention. The four men were charged along with opposition leader Kizza Besigye with treason. Prison officials said they were transferred to another prison to alleviate overcrowding. The suspects' lawyers were unable to verify the transfer or meet with them by year's end.

The whereabouts of 10 members of the opposition party Uganda People's Congress (UPC) arrested by the CMI in July 2004 were still unknown at year's end. The 10 members were arrested with 5 others who were charged in July 2004 and released on bail.

The whereabouts of James Kashaija, who was apprehended by armed men in uniform in October 2004, was still unknown at year's end.

Despite a February 2004 high court order to produce Captain Robert Ruteinama, the UPDF did not relinquish custody. Ruteinama was believed to be held in incommunicado detention since 2003.

According to the UN Children's Fund (UNICEF), rebel groups have abducted approximately 38,000 persons since 1986. The LRA continued to abduct hundreds of civilians for training as guerrillas; most victims were children and young adults whom the LRA forced into virtual slavery as laborers, soldiers, guards, and sex slaves (see sections 1.g. and 5).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were credible reports that security forces tortured and beat suspects. Many of these incidents occurred in unregistered detention facilities and were intended to force confessions. The UHRC received approximately 58 complaints of torture during the year, which was less than half the number of complaints received in 2004. The UHRC conducted human rights training for the police and military throughout the year.

On April 21, UPDF Private William Bisogo allegedly tied up Opiyo Ajonga in a painful and unauthorized manner. In May authorities arrested Bisogo for torture; there was no further information available at year's end.

On May 4, John Barigye Bakirahi and Peter Agom, UPDF soldiers charged with spying for the Rwandan government, claimed they were tortured throughout their detention in CMI custody. The suspects were admitted to Mbuya military hospital to treat injuries apparently sustained as a result of torture. On September 6, their lawyer stated in a court martial that the suspects' testicles were tied to big stones to extract confessions.

In May the UN Committee Against Torture (UNCAT) reviewed the country's compliance with the UN Convention Against Torture. The UNCAT noted its concern of continued allegations of torture and the apparent impunity of its perpetrators. On May 10, Human Rights Watch and the Foundation for Human Rights Initiative released a joint report citing examples of torture such as caning, severe beating, and inflicting pain to the genitals carried out by security forces in the last two years. The government response noted that action was taken against 13 police officers over torture allegations since 2003. Security units involved in torture included the police, the UPDF, the CMI, and the Violent Crimes Crack Unit (VCCU); on occasion, such torture resulted in death (see section 1.a.).

Police and security forces harassed and detained opposition activists (see sections 1.d. and 2.b.).

There were reports that UPDF soldiers raped persons, particularly in conflict areas and in or near IDP camps (see sections 1.g. and 5).

On June 25, the UHRC revealed that the government owed approximately $425,000 (790 million shillings) awarded by the tribunal to approximately 60 persons. The UHRC Tribunal confirmed approximately 22 torture complaints and ordered the government to compensate the victims. However, many complainants had not received compensation by year's end.

On January 19, the UHRC awarded approximately $8,175 (15 million shillings) to Idrisi Kasekedde for torture suffered while in prison in 1998. On February 25, the UHRC awarded approximately $545 (1 million shillings) to Wilson Kimuli for being tortured while in prison in 2000. On April 5, the UHRC awarded approximately $1,090 (2 million shillings) to Gregory Babukika for being tortured by prison wardens in 2001.

No action was taken during the year against security organizations that reportedly tortured prisoners in Kigo Prison or CMI personnel who were illegally arresting and torturing persons to force them to pay their financial debts; in July 2003, the UHRC testified of such incidents before the Legal and Parliamentary Affairs Committee. No action was taken against VCCU officers responsible for the 2003 torture of Bumali Mubiri and Sam Okiring.

There were no developments in the December 2004 torture of Sam Aniga or the 2003 torture of prisoners at Makindye military barracks.

During the year civilians were killed, injured, and displaced as a result of security force operations against the LRA (see section 1.g.).

During the year the LRA continued to commit numerous atrocities, including the killing, torture, sexual abuse, and kidnapping of civilians, primarily children (see section 1.g.).

There were numerous instances in which mobs attacked suspected thieves and other persons known or suspected to have committed crimes (see section 1.a). Motivated in part by distrust or misunderstanding of the formal judicial system, these mobs engaged in beatings, lynchings, and other forms of mistreatment.

Prison and Detention Center Conditions.—Prison conditions remained harsh and frequently life threatening, primarily as a result of the government's severely inadequate funding of prison facilities. In addition, there were several reports that security forces and guards tortured inmates. Prison conditions came closest to meeting international standards in Kampala, where prisons provided medical care, running water, and sanitation; however, these prisons also were among the most overcrowded. There were an estimated 19,258 inmates in the country's prisons and police cells. By one estimate, the country's prisons held approximately three times their planned capacity. Severe overcrowding also was a problem at juvenile detention facilities and in women's wings of prisons. The remand home in Kampala, designed for 45 inmates, held more than 123 children. The reception center, designed for 30 children, held 73 juveniles under the age of 12.

A Lira District prison official admitted in August that food shortages prevented 500 inmates from receiving regular meals. The central prison system continued to work with NGOs and the donor community to improve prison buildings, water and sanitation systems, food, and the provision of uniforms; however, progress was minimal during the year. Although the law provides for access to prisoners by their families, ignorance of this right and fear of prison authorities often limited family visits. Prisoners held on treason charges complained that security officers kept files on and harassed their visitors. Opposition leader Kizza Besigye claimed prison authorities restricted access to his lawyers and prevented them from having private meetings to prepare a defense.

The UHRC reported that it received allegations that officers in charge of prisons sometimes demanded bribes to allow visits. There were no investigations conducted during the year. On July 25, the government gave 59 senior prison officers the powers of magistrates to try inmates and prison staff suspected of committing offenses.

Inmates at most prisons grew maize, millet, and vegetables; however, the UHRC accused prison farms of overworking inmates and prisoners as young as 12 performed manual labor from dawn until dusk (see section 6.c.).

The Community Service Act seeks to reduce prison congestion by allowing minor offenders to do community service in lieu of imprisonment. Since 2001 2,953 offenders have been sentenced to community service. In July the high court also launched "Operation Open Gate" to reduce congestion of pretrial detainees. The operation created special court sessions to fine and release petty criminals who were willing to plead guilty.

Prisons were believed to have high mortality rates from overcrowding, malnutrition, diseases spread by unsanitary conditions, HIV/AIDS, and lack of medical care; however, accurate estimates were unavailable. According to the prisons department, 272 inmates died in custody during the year. Approximately 60 percent of these deaths were due to HIV/AIDS-related diseases.

Although there were no available statistics, there were reports of deaths in custody due to neglect and adverse conditions such as denial of medical attention.

Due to lack of space in juvenile facilities, juveniles often were held in prisons with adults. In Kampala jails, pretrial detainees were separated from convicted prisoners; however, in the rest of the country, due to financial constraints, pretrial detainees and convicted prisoners sometimes were held together.

During the year the government permitted access to prisons by the International Committee of the Red Cross (ICRC), foreign diplomats, and local nongovernmental organizations (NGOs), principally the Foundation for Human Rights Initiative (FHRI) and the Uganda Prisoners' Aid Foundation. The UHRC visited numerous prisons and reported on its findings publicly. There was no government action on

the UHRC findings by year's end. Prison authorities required advance notification of visits, a process that was sometimes subject to administrative delays.

d. Arbitrary Arrest or Detention.—The law prohibits such practices; however, members of the security forces arrested and detained citizens arbitrarily during the year.

Role of the Police and Security Apparatus.—The Uganda Police Force (UPF), under the Ministry of Internal Affairs, has the primary responsibility for law enforcement and maintenance of order in the country. The UPDF is the key security force and has partial responsibility for maintaining order in the north, where it was deployed to protect civilian IDPs from rebel attacks. The Internal Security Organization (ISO), under the direct authority of the President, is a domestic intelligence-gathering body. ISO force personnel occasionally detained civilians. The External Security Organization (ESO), which also reports to the President, also gathered intelligence and occasionally detained civilians. The CMI, under UPDF control, detained civilians suspected of rebel and terrorist activity. Local leaders formed LDUs to reinforce government efforts to protect civilians from LRA attacks. In some cases LDUs also participated in offensive military operations and carried out police functions. The UDPF consolidated command and organization of the LDUs under its authority during the year.

The police force continued to be constrained by limited resources, including low pay and lack of vehicles, equipment, and training. Police committed numerous abuses, and impunity was a problem. Corruption resulted in the dismissal of some local police officials during the year. In conjunction with the UHRC, the UPDF continued a training program to educate military officers on internationally recognized human rights standards. In addition, the police, UPDF, and the prisons department used human rights manuals in their training programs. The UPDF made attempts to improve relations between soldiers and civilians. The Police Human Rights Desk, charged with investigating police abuses, received 330 allegations of police abuse and reported that approximately 117 complaints had been resolved by year's end.

Arrest and Detention.—The law requires search warrants issued by competent judges or prosecutors to make arrests; however, in practice suspects often were taken into custody without warrants. Despite a provision that suspects must be charged within 48 hours of arrest, many persons were detained longer without being charged. Suspects must be brought to trial or released on bail within 120 days (360 days for a capital offense); however, if the case is presented to the court before the expiration of this period, there is no limit on pretrial detention. Detainees must be informed immediately of the reasons for their detention, although authorities did not always enforce these procedural protections in practice. The law provides for bail, except in capital cases and cases of treason, and bail was provided in practice.

Suspects must have access to a lawyer; however, there was no provision ensuring family visitation. By law, indigent suspects are provided a lawyer; however, this was not enforced in practice due to resource constraints of the government. Incommunicado detention was a problem during the year.

The Anti-Terrorism Act permits suspects to be held for more than 48 hours without charge and states that persons convicted of terrorist acts that "directly result in the death of any person" shall be sentenced to death. The UPDF General Court Martial charged opposition leader Kizza Besigye and 22 others with the crime of terrorism as defined by the act. The suspects remained in detention awaiting court martial proceedings at year's end, despite being granted bail by the High Court for similar charges pending in the civilian court system.

Security forces arbitrarily arrested political activists during the year. On February 3, security force personnel in Arua District arrested Joseph Agupio, a former district mobilizer for opposition party leader and presidential candidate Kizza Besigye. Agupio was still in detention at Arua military barracks at year's end.

On March 7, UPDF soldiers in Gulu District arrested Otim Orach in Pabbo IDP camp and took him to the Gulu Military barracks, where they allegedly told him that he would not be released until he swore allegiance to President Museveni's ruling party, the Movement. There was no further information on Orach by year's end.

On March 16, Rukungiri District security force personnel arrested Christopher Turyarugayo, an opposition party district coordinator, for wearing an opposition party T-shirt. Turyagayo remained in detention pending police charges at year's end.

On April 20, police arrested members of parliament (MPs) Ronald Reagan Okumu and Michael Ocula for the 2002 killing of Alfred Bongomin, a former local government chairman of Pabbo Sub-County in Gulu District. On March 9, UPDF soldiers arrested three other suspects—David Ochieng, Ochan Lalyang and Stephen Otim—for the same crime. On April 22, the UPDF transferred all five suspects to Kampala

and charged them. On May 17, Okumu and Ocula were released on bail; on August 19 the others were released on bail. The trial began on November 20; the state withdrew charges on December 9 against Ochieng and Lalyang. The trial for the remaining three defendants was ongoing at year's end.

On November 15, police arrested 44 supporters of the Forum for Democratic Change (FDC) for "causing chaos during protests over the jailing of opposition leader Kizza Besigye. On December 13, a Kampala court dismissed the charges against them. Police arrested journalists during the year (see section 2.a.).

Mass arrests during police sweeps for criminals remained a problem. On January 3, police arrested approximately four hundred persons in Mukono during an operation to check whether residents had paid taxes. On January 31, police arrested 60 people in Kampala for being idle and disorderly.

During the year, the UHRC received 29 complaints from persons claiming to have been arbitrarily arrested. The UHRC tribunal confirmed that 28 of the complaints were cases of arbitrary arrest and awarded compensation; the government made no disbursements during the year.

No action was taken during the year against the UPDF officer who ordered the illegal 2003 arrest of Gulu State Attorney Sydney Asubo.

There were reports of political detainees, and the government continued to arrest persons for treason; however, the government failed to bring any treason case to trial. Opposition parties claimed that approximately 60 supporters were arrested during the year for political reasons. The ICRC registered approximately 200 detainees held for offenses against the security of the state. The government permitted access to political detainees by international humanitarian organizations.

Treason suspects were subject to numerous abuses, such as detention without charge, detention in unregistered and unofficial locations, and mistreatment, including torture (see section 1.c.).

On April 22, authorities charged Patrick Ochola, Mike Musiluwa, Johnson Otim and Sula Serumbi with treason. The three, who were arrested in 2004 for allegedly plotting to overthrow the government, were members of the unregistered political party Citizen Multiparty Democracy.

On July 5, the high court ordered the release of Charles Ekemu and Francis Ogwang Olebe after prosecutors withdrew treason charges. Both suspects were local politicians and had been held since 2003.

On August 12, the high court granted bail to 12 persons charged with treason for collaborating with the rebel group People's Redemption Army (PRA). The suspects had been detained since 2003.

On November 15, authorities charged opposition leader Kizza Besigye and 22 others with treason for terrorism and weapons possession in the UPDF General Court Martial. Some suspects had been arrested in November and December 2004. The High Court granted bail to 15 of the accused, including Besigye, but the military forced all of them to remain in prison and they awaited trial at year's end.

Patrick Biryomumaisho Kirasha and four others accused in 2003 of recruiting for the PRA rebel group remained in detention at year's end.

Legal and human rights groups criticized the excessive length of detention prior to trial, which in many cases amounted to several years; such lengthy pretrial detentions both violated the constitutional rights of the detainees and contributed substantially to prison overcrowding (see section 1.c.). The average time in pretrial detention was between two and three years. Pretrial detainees comprised 60 percent of the prison population. During the year, the UHRC heard several cases brought by prisoners challenging the length of their detention.

There were reports that civilians were detained in military barracks and unregistered detention facilities known as safe houses. There were credible allegations that the CMI ordered detainees held incommunicado at police stations or in so-called safe houses.

There was no further information on the whereabouts of Titus Kiwannuka, who had been detained in March 2004. The military transferred Kiwannuka to Kigo Prison on orders from the High Court; however, Kigo Prison officials had stated that he was no longer at the prison facility.

Amnesty.—The government has offered a blanket amnesty to former combatants since 2000 as a means to induce defection and surrender of LRA rebels and members of other rebel groups. During the year, 691 former LRA combatants applied for and received amnesty.

On March 25, police released George William Mugisha Kyalimanya after he was granted amnesty. Kyalimanya was arrested in November 2004 on suspicion of collaborating with the PRA.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the president has extensive legal powers of judicial appointment. The president appoints supreme court, high court, and court of appeal judges with the approval of parliament. The president also nominates, for the approval of parliament, members of the Judicial Service Commission, who make recommendations on appointments to the judiciary. The judiciary ruled against the government on several high-profile cases during the year; however, judicial corruption was a common problem. The lower courts remained understaffed, weak, and inefficient.

The highest court is the Supreme Court, followed by the court of appeal, which also functions as the constitutional court; the high court; the chief magistrate's court; local council (LC) sub county courts, LC parish courts; and LC village courts.

The constitutional court ruled against the government on several cases during the year, including a June 9 decision that found unconstitutional the mandatory death penalty attached to capital crimes, and death penalties that were not carried out within three years of sentencing. On June 20, the court found that a law restricting the number of national trade union associations was unconstitutional.

The LC courts have the authority to settle civil disputes, including land ownership and debt cases, and criminal cases involving children. These courts, often the only ones available to villagers, reportedly exceeded their authority by hearing criminal cases. LC court decisions can be appealed to magistrates' courts; however, there often were no records made at the village level, and some defendants were not aware of their right to appeal.

Trial Procedures.—An inadequate system of judicial administration and a lack of resources, resulting in a serious backlog of cases, limited the right to a fair trial. All nonmilitary trials are public, but without juries. Defendants have the right to be present and to consult with an attorney in a timely manner. The law requires that the government provide an attorney for indigent defendants accused of capital offenses, but there rarely was enough money to retain adequate counsel. By law defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have limited access to government-held evidence relevant to their cases. There is a presumption of innocence and defendants have the right of appeal.

Specialized courts also exist. The industrial court adjudicates labor disputes. Commercial courts resolve commercial disputes; they have significantly improved commercial justice and reduced case backlogs.

The military court system often did not assure the right to a fair trial. Although the accused has the right to legal counsel, some military defense attorneys were untrained and could be assigned by the military command, which also appoints the prosecutor and the adjudicating officer. The law establishes a court martial appeals process; however, a sentence passed by a military court, including the death penalty, could be appealed only to the senior leadership of the UPDF. Under circumstances deemed exigent, a field court martial could be convened at the scene of the crime. The law does not permit appeal of a conviction under a field court martial. The Military General Court Martial can try civilians charged with crimes listed under the UPDF Act.

On May 30, the UPDF General Court Martial charged Brigadier General Henry Tumukunde with two counts of conduct prejudicial to good order and discipline and two counts of spreading harmful propaganda. The charges were based on his statements that he had been prevented from retiring from the army and that he would not join President Museveni's political party after retirement. Tumukunde was awaiting trial at year's end.

The VCCU arrested 1,100 suspects on various counts during the year, including aggravated robbery, killing, illegal possession of firearms, and desertion. The VCCU used military courts to try by court martial civilians found in possession of military property.

Political Prisoners.—Bright Gabula Africa, whose death sentence for treason was upheld by the Supreme Court in 1995, remained imprisoned pending the outcome of his appeal to the Advisory Committee on the Prerogative of Mercy, a largely autonomous constitutional body. There were no confirmed visits to Gabula Africa by international humanitarian groups during the year.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions with some exceptions. At times police did not obtain search warrants, as required by law, to enter private homes and offices. On July 20, two local government officials searched and confiscated items without a warrant from the home of Juliet

Mukasa, a women's rights activist and chairperson of the NGO Sexual Minorities in Uganda.

The Anti-Terrorism Act authorizes certain law enforcement officials to intercept communication to detect and prevent terrorist activities. There were no reports of such interceptions during the year.

There were reports that the government punished family members of suspected criminals and political opposition members (see section 1.g.).

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Security forces tortured and abused civilians suspected of collaborating with the LRA; however, unlike in previous years, there were no reports that security forces killed suspected collaborators. UPDF soldiers reportedly tortured suspected rebels and raped civilians living in IDP camps.

During the year security forces killed and injured numerous civilians, including noncombatant children abducted by the LRA, during anti-LRA operations in the northern and eastern parts of the country. Some observers charged that UPDF tactics, including extensive use of helicopter gunships, resulted in deaths and injuries to such children and that the UPDF failed to protect noncombatants during engagements with the LRA. The UPDF denied such allegations, noting that more than 80 percent of LRA fighters were child soldiers, which made it difficult to distinguish between combatants and noncombatants during engagements with the LRA.

On April 1, UPDF soldiers in Pader District killed Cecilia Aryemo and Marietta Anying, both residents of Pajule IDP camp, during an operation against the LRA rebels. There were no reports of action taken against the soldiers.

On April 18, UPDF soldiers on patrol in Kitgum District killed five civilian women and injured four others who were fishing in a river near their IDP camp. A UPDF spokesperson said that the soldiers mistook the women for rebels when the women fled as the soldiers approached them.

In August, a UPDF soldier killed Ben Oketta and his wife Donica Ajok as they worked in their garden at Olwal IDP camp. There were no reports of action taken against the soldier.

There were no new developments in the following 2003 killings by UPDF forces: the February killing of a Sudanese national; the July 22 and 24 killings of 21 civilians by UPDF helicopter gunships; and the October 2003 killings of 2 civilians by a UPDF soldiers in Gulu.

There was no action taken against soldiers in the 309 Brigade for firing a mortar in April 2004 in an IDP camp that killed five people.

Security forces tortured and abused civilians suspected of collaborating with the LRA. On February 17, UPDF soldiers reportedly tortured a farmer working on his home outside an IDP camp. Accused of working for the rebels, the farmer was held for one day in the army barracks where soldiers caned him and pulled on his testicles using a rope. There was no further information on the incident by year's end.

Security forces were implicated in reports of rape and sexual violence against women and girls. In some instances, perpetrators were arrested after victims complained. However, most incidents went unpunished, in part because the procedures for making complaints were not widely known.

On March 25, the UPDF arrested four LDU soldiers for raping four women in an IDP camp in Kitgum District. On April 19, Prime Minister Apollo Nsibambi ordered an investigation into the incident after MP Jane Akwero Odwong alleged that more women were raped. There was no further information on the investigation by year's end.

On May 15, four UPDF soldiers were arrested by Kumi District authorities following the rape of two young girls. There were no further developments in the incident by year's end.

There were credible reports that security forces and some government officials provided material support to armed groups operating in the eastern Democratic Republic of Congo (DRC). Militia fighting resulted in the deaths of hundreds of civilians in the DRC.

As in the previous year, the UPDF defended civilians against many LRA attacks but was unable to bring the conflict to an end. LRA attacks continued during the year, and there were numerous atrocities. Civilians were summarily executed, often by gruesome methods, to terrorize local populations or as retribution for violating various LRA edicts, such as the prohibition on riding bicycles. LRA rebels also attacked private homes, schools, and IDP camps in which persons were killed, injured, raped, mutilated, or abducted. During the year LRA attacks resulted in the deaths of hundreds of persons, including children, numerous injuries, and the destruction of homes and property.

On February 23, LRA rebels killed 14 civilians and injured 20 more when they ambushed a passenger vehicle in Gulu. On the following day, a separate band of LRA rebels cut off the lips of seven women in Kitgum district.

On May 6, LRA rebels attacked Koch-Goma IDP camp in Gulu district and killed 20 people.

On May 30, LRA rebels abducted 13 persons when they attacked Abwoch village in Gulu district.

On July 14, LRA rebels killed 14 traders during an ambush in Kitgum District.

On July 23, LRA rebels abducted 20 villagers when they raided Apala village in Lira district.

On August 11, LRA rebels killed 17 persons during an ambush in southern Sudan.

No action was taken against LRA rebels who were responsible for numerous killings in 2004 and 2003.

The LRA continued to abduct thousands of civilians for training as guerrillas; most victims were children and young adults whom the LRA forced into virtual slavery as laborers, soldiers, guards, and sex slaves (see Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government at times restricted these rights in practice. In addition, the law criminalizes offenses committed by the media and limited the media's ability to function effectively. The government at times harassed and intimidated journalists and journalists continued to practice self-censorship.

In February 2004 the Uganda Law Council upheld the regulation prohibiting lawyers from making public statements on legal matters that were before the court; however, the ban continued to be widely disregarded without penalty.

Private media were generally free and outspoken. There were many privately owned publications and broadcasts. The *New Vision*, a government-owned daily newspaper, sometimes included reporting that was critical of the government. The *Monitor*, the country's largest independent daily newspaper, consistently criticized the government. The *East African*, a Kenya-based weekly publication that provided extensive reporting on the country, continued to circulate without government hindrance. During the year, two new independent weekly newspapers began publication.

The government continued to operate Radio Uganda, the only national radio station, and Uganda Television (UTV), whose reporting was not considered to be independent. There were at least 120 private radio stations in operation. Several independent media outlets broadcast daily or weekly political talk shows, including recorded off-site radio public debates called *ekimeeza* (table talk), which were often very critical of the government. In August the government announced that existing FM radio stations were being technically mismanaged and stopped licensing new stations. By year's end, the government ban on new stations had not been lifted.

In November 2004 Minister of Information James Nsaba Buturo instructed the Uganda Broadcasting Council to revoke the licenses of those stations that "abuse the president or use offensive language and fail to correct the behavior." Buturo also announced that no additional licenses would be issued for stations seeking to broadcast in Kampala; in 2003, the Broadcasting Council proposed regulations that would limit the number of FM radio stations, allegedly to prevent overburdening the airwaves and adversely affecting the quality of broadcasting. Critics charged that the restrictions targeted independent radio, which was the primary news source for 80 percent of the population.

On August 10, President Museveni threatened to close any press organization that threatened the country's national security. On August 11, the Uganda Broadcasting Council closed KFM radio station on grounds that it breached a national security provision in the electronic media law. One of KFM's talk show hosts, Andrew Mwenda, made comments critical of the government and the president's handling of the helicopter crash that killed Sudanese Vice President John Garang. On August 18, the council reopened the station, but ordered that the producer of Mwenda's talk show be fired.

On November 23, Minister Buturo announced a new ban on media coverage of the trial of opposition leader Kizza Besigye. Buturo said the Media Council would revoke the license of any media outlet that provided a forum for discussion or debate on the trial.

There were four local private television stations and numerous private television stations available via satellite.

Security forces arrested and harassed journalists who criticized the government. The leader of a press association, William Rwebembera, publicly criticized the increased intimidation and harassment of journalists by politicians during the year.

On June 21, police in Soroti arrested David Enyaku, a *New Vision* freelance journalist, for allegedly entering an office of the district town clerk with the intent to "annoy" him. Enyaku was released after paying a fine of approximately $27 (50 thousand shillings).

On September 10, Major General Kahinda Otafiire, Minister of Water, Lands and Environment, pointed a gun at Mike Odongkara, a photojournalist with the *Daily Monitor*, who was taking pictures at the scene of a minor accident involving Otafiire. Odongakara pressed charges against Otafiire; however police had not investigated the incident by year's end.

On November 29, security officials locked journalists out of the High Court premises when opposition leader Kizza Besigye was re-apprehended on orders from the Military Court Martial after being granted bail by the High Court. Journalists were permitted to cover all civilian court proceedings before and after the incident.

Vincent Matovu, who was arrested in 2003, was released from detention in February after prosecutors withdrew sedition charges against him.

Media laws require that journalists be licensed and meet certain standards, such as possessing a university degree in journalism or the equivalent. A 1994 law also provides for a Media Council with the power to suspend newspapers and deny journalists access to state information.

The government made several statements that encouraged self-censorship. On August 10, President Museveni publicly claimed several journalists irresponsibly disregarded national security interests in the course of their reporting. In the same speech, Museveni threatened to arrest journalists and close down media outlets that continued this pattern of irresponsible journalism. The Minister of State for Information, James Buturo, reminded journalists during the year that even when facts were true, their reporting must be informed by an imperative to preserve national interests.

During the year the government arrested and sued critical journalists, citing national security. On June 1, the government sued the chief editor and two staff reporters of the independent *Weekly Observer* newspaper for publishing confidential material prejudicial to the security of the state. The government claimed that the newspaper unlawfully published documents from the High Command Committee of Inquiry investigating the existence of "ghost soldiers" in the UPDF.

On August 12, police arrested popular radio talk show host Andrew Mwenda on grounds of sedition. The charges were based on his criticism of President Museveni's leadership and his blame of the government for the helicopter crash that killed Sudanese Vice President John Garang. The government claimed these remarks threatened national security, relations with country's neighbors, and the security of its citizens abroad. Mwenda was released on bail and awaited trial at year's end.

In March 2003 the UPDF warned that media outlets that published or broadcast classified information or abetted soldiers in leaking information would be subject to punishment, including the possibility of court martial.

The 2003 ban that prevents the media from reporting the declarations of assets and liabilities made by the country's political leaders continued; however, no action was taken against journalists who published such information during the year.

There were no government restrictions on the Internet or academic freedom; however the government censored cultural events during the year. On February 15, the Media Council banned a production of the "Vagina Monologues" in Kampala on grounds that it promoted "unnatural sex acts, homosexuality, and prostitution." The cabinet also endorsed the ban the next day.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law restricts freedom of assembly, particularly for political groups, although some restrictions were lifted in October when parliament amended relevant laws to open the political system to multiple political parties (see section 3).

For groups legally authorized to operate, permits were not required for public meetings; however, groups were required to notify the police prior to such gatherings.

On March 29, Minister of Internal Affairs Ruhukana Rugunda banned all demonstrations related to parliament's efforts to eliminate term limits.

Police denied permission to hold public rallies to several opposition political groups during the year, blocked public meetings organized by opposition parties, and, on several occasions, disrupted or forcibly dispersed opposition meetings and other events.

The government forcibly broke up several demonstrations during the year. At times police sprayed tear gas and water cannons in large urban centers, which resulted in injuries to bystanders.

On March 31, police in Kampala enforced Rugunda's ban by breaking up a protest opposing the elimination of term limits. The police fired teargas canisters and water cannons to disperse the protestors and arrested 17 persons. Six of the protestors were released on the same day. On April 1, a court charged the remaining 11 protestors with rioting and released them on bail. A trial was pending at year's end.

On May 12, police in Kampala blocked a demonstration organized by opposition MP Ken Lukyamuzi over increased electrical power tariffs and fuel prices.

On June 28, police in Kampala broke up another attempted protest against the abolition of presidential term limits and arrested five persons. Riot police fired tear gas and water cannons to disperse hundreds of demonstrators. Many bystanders were also sprayed with tear gas. On June 30, a court charged the suspects with holding an unlawful assembly and released them on bond. A trial was still pending at year's end.

On July 12, police in Kampala dispersed 20 demonstrators who were protesting against a third term for President Museveni.

On August 6, police in Ntungamo District dispersed a Uganda People's Congress (UPC) rally organized by Yona Kanyomozi, a member of the East African Legislative Assembly.

On November 22, Rugunda banned all demonstrations, public meetings, and seminars related to opposition leader Kizza Besigye's trial. Rugunda said that public meetings would prejudice the court process and undermine the right to a fair trial.

There were no further developments in the following 2004 incidents:

In February 2004 police in Kampala arrested two members of Uganda Young Democrats, affiliated with the opposition Democratic Party (DP), for organizing an illegal assembly. In March 2004 the two were released with a case pending trial at year's end.

In March 2004, government supporters in Jinja dispersed a political meeting organized by the Parliamentary Advocacy Forum (PAFO); several persons were injured, including an MP with disabilities who was pushed through a ground-floor window. A December 2004 report by a parliamentary select committee charged two local officials with primary responsibility for the incident, but recommended that all those responsible be prosecuted.

In June 2004, police in Kyotera, Masaka District arrested and detained 17 activists from the Popular Resistance to a Life Presidency (PRALP) for attempting to hold an illegal assembly. The activists were released after one week and did not appear for their October 2004 court hearing. In December 2004, police issued an arrest warrant for all of them.

In August 2004, police accidentally shot and killed a secondary student during a street battle between Muslims and Christians in Kyazanga Town, Masaka District. Several others were injured in the incident.

Freedom of Association.—The constitution provides for freedom of association; however, the government restricted this right in practice, particularly for opposition political parties and organizations (see section 3). On January 23, the army blocked opposition party leaders Major General Mugisha Muntu of the FDC and MP Cecilia Ogwal of the UPC from attending a fundraising function at Aromo IDP camp in Lira District.

On February 20, Tororo district MP Yeri Ofwono blocked members of the FDC from holding a consultative meeting in his district by locking the gates of the meeting venue, and he reportedly offered bribes to deter attendance.

On March 8 police in Mpigi district blocked female supporters of the FDC from attending the national celebrations marking International Women's Day.

On June 10 a joint force of police and UPDF soldiers blocked an FDC welcome rally for MPs Ronald Reagan Okumu and Michael Ocula at Kaunda grounds in Gulu. The two MPs were returning to their constituency after being released from prison on bail from murder charges. Gulu police authorities stated that the MPs had not sought permission to hold the rally.

On July 1 police in Nakapiripirit District ordered local promoters for the FDC not to hold a rally; however, the promoters defied the order. No action was taken against the organizers of the rally.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice with some minor restrictions. The law requires religious groups and foreign missionaries to register with the government; failure to register is a criminal offense.

The government continued to refuse registration to the World Last Message Warning Church due to continuing suspicions arising from the killings of more than 1,000 citizens in Kanungu in 2000. There were some reports that the government refused to grant registration to other self-proclaimed religious groups on the grounds that the groups were not legitimate religious organizations. Several religious groups shut down by police as suspected "cults" in previous years, remained inactive at year's end.

In addition, bans against nighttime prayer meetings by evangelical churches, reportedly for security and noise abatement reasons, were still in effect in residential areas of several districts.

In March 2004, antiterrorism police in Kampala arrested two Muslim religious leaders and five other suspects on treason charges. The Muslim leaders claimed they were arrested for their religious beliefs, but the government insisted they were arrested for recruiting for the Allied Democratic Forces. The men were in detention awaiting trial at year's end.

On June 1, a court in Arua District charged six suspects with the March 2004 killings of two American missionaries. The suspects were awaiting trail at year's end.

Muslims occupied positions of authority in local and central government; however, some Muslim leaders claimed that the number of positions did not reflect their percentage of the population.

During the year the government arrested leaders of unregistered religious organizations. On February 25, police in Gulu arrested Severino Lukoya, the father of former rebel leader Alice Lakwena, and three other pastors for operating the unregistered New Melta Jerusalem Church. The government refused to register the organization for security reasons. On February 28, police released the four pastors with a warning.

On May 1, police in Mubende District arrested Prophet Ssali Kilimba Mwaka for conducting an illegal society, practicing witchcraft, and being in possession of articles used in witchcraft; Mwaka was later released on bail. On September 21, a court acquitted Mwaka on all charges.

Unlike in the previous year, there were no reports of LRA attacks on religious institutions. In 2003 LRA leader Joseph Kony ordered the LRA to "destroy all church missions and kill all priests in northern Uganda."

No action was taken against LRA rebels responsible for killing, injuring, and abducting religious workers in 2004 and 2003.

Societal Abuses and Discrimination.—Some religious leaders denounced local tribal customs as witchcraft. In one case, a Catholic priest in Mukono District launched a campaign to search and destroy traditional shrines. The government did not take any action against the priest. Four local traditional healers claimed they lost business as a result of the campaign.

The Jewish community represents less than 1 percent of the population. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government at times limited them in practice. A married woman must obtain her husband's written permission on her passport application if children are to be listed on her passport.

Unlike in the previous year, there were no reports that government agents seized passports of opposition party members or blocked their travel.

There was no information on whether the law permits or prohibits forced exile. However, the government did not use forced exile during the year.

Internally Displaced Persons (IDPs).—Continued attacks by the LRA and Karamojong warriors caused many ethnic Acholis and Iteso to leave their homes for urban centers, IDP camps, and villages guarded by the UPDF and LDUs. According to the UN Office of the Coordinator for Humanitarian Affairs, there were more than 1.4 million registered IDPs as a result of this violence. At year's end the number of IDPs per affected district was: Gulu, 462,580; Kitgum, 310,140; Pader, 319,506; and Lira, 349,156.

UPDF soldiers reportedly raped women and girls and security forces detained and mistreated suspected LRA collaborators in the camps (see section 1.g). Security forces severely restricted the freedom of movement of IDPs and imposed nighttime curfews in many camps.

During the year, the LRA killed and injured numerous persons during attacks on IDP camps (see section 1.g.). In the north, security forces continued their policy of

maintaining UPDF detachments at IDP camps as a means of protecting civilians and denying support to the LRA.

Although domestic and international humanitarian organizations provided assistance to the estimated 200 IDP camps, health and living conditions remained precarious, and several were the targets of large-scale rebel attacks (see Section 1.g.). IDPs sometimes traveled outside the camps to farm, hunt, and gather wood and water.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the definition of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. More than 70 percent of the approximately 238,000 refugees in the country were from southern Sudan; there also were refugees from the DRC, Rwanda, and other countries.

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and 1967 protocol and also provided land for temporary resettlement to citizens from neighboring countries.

The government generally cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. There were no reports of refugee abuse or discrimination by government authorities.

Unlike in the previous year, there were no LRA attacks against Sudanese refugee settlements.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government; however, the ruling party's domination of the government and some restrictive constitutional and statutory provisions limited citizens' effective exercise of this right.

Elections and Political Participation.—In 2001 six candidates competed in the presidential elections, including President Museveni and Kizza Besigye. President Museveni was reelected with 69.3 percent of the vote. The presidential election generally reflected the will of the population; however, there were many complaints of irregularities prior to and on day of the election, particularly regarding the voting process. There also were numerous reports of election-related violence and intimidation by both the government and the opposition.

In 2001 elections were held for the 214 directly elected parliamentary seats. The elections generally reflected the will of the population; however, there were numerous instances of election-related intimidation and violence. The number of opposition MPs increased from 12 to 35, including 9 UPC MPs and approximately 6 MPs from the DP. Others were affiliated loosely with the DP, and the affiliation of several other MPs was unclear. There were 230 MPs elected from the Movement party, giving it a clear majority; however, a number of moderate Movement MPs kept their seats in spite of President Museveni's active campaigning for their opponents.

On July 28, citizens voted in a national referendum to adopt a multiparty system of government. On October 24, the parliament amended the electoral laws to formally include opposition party participation in elections and in government. There were approximately 25 opposition parties registered by the end of the year. However, before the multiparty system was formally adopted the government restricted non-Movement political gatherings and dispersed numerous political meetings not sanctioned by the Movement (see section 2.b.).

On June 2, the parliament approved a controversial amendment to eliminate presidential term limits, clearing the way for president Museveni to seek a third term in office.

On October 26, FDC leader Kizza Besigye returned from self-imposed exile and was elected as the party's presidential candidate on October 29. On November 14, police arrested Besigye and the next day he and 22 other individual were charged with treason for allegedly organizing the rebel group PRA. Besigye was also charged the same day with rape that reportedly occurred in 1997.

On November 16, an armed paramilitary group, the Black Mambas, surrounded the High Court to prevent the release of 14 of the co-defendants. Although the High Court granted them bail, the suspects returned to prison to avoid military arrest.

On November 24, the Military General Court Martial charged Besigye with terrorism and possession of firearms. The court martial had charged all 22 of his co-defendants with the same offenses on November 18. Defense lawyers filed suit with the constitutional court arguing that the military court martial violated the principle of double jeopardy. The constitutional suit was pending at year's end.

On November 29, Besigye was granted bail and also forced to return to prison by military officials. Judicial officials, human rights organizations, and the opposition parties denounced the interference of the military. All 23 suspects, including Besigye, remained in prison awaiting trial at year's end.

The ruling Movement regularly held rallies, conducted political activities, and in 2003 registered the National Resistance Movement-Organization, a political party that generally operated without restriction. Approximately 25 new parties were allowed to function, as have political parties that existed in 1986, when the Movement assumed power.

Opposition parties opened offices and registered new members during the year. After the July 28 referendum, opposition parties conducted elections among registered members at the grassroots level for delegates to attend the party conference to select a presidential candidate.

The law requires elections through electoral colleges for the 81 seats reserved for special interest groups in parliament: 56 seats were reserved for women; 5 for organized labor; 5 for persons with disabilities; 5 for youth; and 10 for the army, which were selected by the UPDF High Command, chaired by President Museveni.

There were 72 women in the 305-member parliament, and 16 female ministers in the 60-member cabinet. One woman served as deputy speaker, and another as deputy chief justice of the Supreme Court. Women also headed the Inspectorate General of government and the Criminal Investigation Division of the national police.

The law allocates 56 parliamentary seats to women, 5 seats to workers, 5 seats to persons with disabilities, and 5 to the youth. In addition, 16 women, 1 worker, and 1 person with disabilities were members of the cabinet.

Government Corruption and Transparency.—Corruption continued to be a major problem. Despite credible evidence of wrongdoing, there were no prosecutions of senior officials accused of corruption. The law requires the declaration of wealth by government officials and their family members, and the government enforced the law during the year.

In March an International Monetary Fund (IMF) report charged that the government ordered the Central Bank to release $10 million (18.5 billion shillings) to pay the creditors of a prominent businessman, Hassan Basajjabalaba. The IMF noted that nontransparent government support to certain companies reinforced perceptions of corruption.

On February 23, the government charged Emmanual Katto with corruption for offering a bribe to the president's half-brother, Salim Saleh, during the sale of helicopters to the government. A 2003 Judicial Commission report implicated Katto and Saleh in the bribery scheme. However, on June 7, Katto was acquitted and the public prosecutor decided not to pursue an indictment against Saleh.

On August 23, the Global Fund to Fight AIDS, Tuberculosis, and Malaria suspended grants worth $201 million (362 billion shillings) to the country after an investigation uncovered evidence of serious mismanagement of funds. On August 26, the government suspended all officers who had been managing the funds, and instituted an independent probe commission to investigate the incident. The commission started work on September 21 and was ongoing at year's end.

The 2003 court martial of army officials suspected of maintaining under strength units and pocketing salary payments for so-called "ghost soldiers was ongoing at year's end.

The law provides for public access to government information, and the government provided such access in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were receptive to their views. Active independent domestic groups included: the FHRI, Uganda Association of Women Lawyers (FIDA–U), Human Rights Focus, the National Association of Women's Organizations of Uganda, the International Federation of Human Rights, and the Human Rights and Peace Center of Makerere University. Government officials continued to attend conferences and seminars hosted by NGOs on social problems and cooperated with NGOs on legal and prison reforms.

No action was taken on the government's 2003 call for a code of NGO conduct to minimize corruption.

The government allowed visits by the ICRC, UNHCR, and several international human rights NGOs, including Amnesty International, Human Rights Watch (HRW), and the International Justice Mission. During the year the ICRC continued its visits to prisons, police stations, and military detention facilities. In September

the ICRC signed a new agreement with the government to permit ICRC visits for the next three years.

The law establishes the UHRC as a permanent independent body with quasi-judicial powers. The president appoints the UHRC's eight-member board. Under the law the UHRC may subpoena information, order the release of detainees, and order the payment of compensation for abuses. In several cases during the year, the UHRC Tribunal awarded compensation to complainants who proved their allegations against the government (see sections 1.c. and 1.d.). The UHRC continued to pursue suspected human rights abusers, including high-level officials in the government and military, and had branches countrywide. The UHRC did not have adequate resources to investigate all complaints it received. The UHRC Tribunal headquarters in Kampala received 267 new cases (compared to 1,080 in 2004), including some against senior government leaders and military and police officials. The UHRC Tribunal opened proceedings for 108 new cases and 143 cases from previous years; it rendered judgment in 63 cases during the year.

A January report by a UN Security Council panel implicated the government for violating a UN-imposed arms embargo in the Democratic Republic of Congo (DRC) by funneling weapons, including land mines, and military support into the DRC to the *Forces Armees du Peuple Congolais* (FAPC), an Ituri-based militia group. The government denied the report's claims.

On December 19, the International Court of Justice issued its judgment that the armed activities of the government in the DRC between August 1998 and June 2003 violated the international prohibition against aggressive use of force, international human rights, and international humanitarian law. The ruling determined that the government should pay reparations to the DRC.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not enforce the law in matters of locally or culturally accepted discrimination against women, children, persons with disabilities, or certain ethnic groups. Continued instability in the northern region led to violations of the rights of some Acholi, an ethnic group that comprises a significant part of the population; LRA rebels, although predominantly Acholi themselves, were responsible for the most serious human rights violations.

Women.—Violence against women, including rape, remained common. A 2003 Johns Hopkins University study indicated that one in three women living in surveyed rural areas experienced verbal or physical threats from their partners, and 55 percent sustained physical injuries as a result of domestic abuse. According to a September survey conducted by police and civil society at selected police stations, the police received 30 percent more reports of domestic violence than in the previous year. The law prohibits assault, battery, and rape; however, there were no laws that specifically protected women from spousal abuse. Many law enforcement officials continued to view wife beating as a husband's prerogative and rarely intervened in cases of domestic violence. Women remained more likely to sue for divorce than to file rape or assault charges against their husbands.

A 2003 HRW report concluded that married women were particularly vulnerable to HIV/AIDS infection as a result of forced sex in marriage by husbands with multiple partners or wives. HRW's report identified numerous social and legal obstacles to women's ability to protect themselves against HIV/AIDS infection in abusive relationships.

According to a June 15 UNICEF study on sexual and gender based violence at a northern IDP camp, 469 cases were reported to police in Gulu District in 2004. The study revealed that the three most common forms of gender-based violence were rape, child sexual abuse, and physical assault. Teenage girls, and then young women, were the most common victims of gender-based violence.

The law requires that bride prices be nonrefundable gifts to the parents of the bride. The constitutional amendments approved by parliament did not include a provision to abolish bride prices, despite 2003 recommendations to do so from civil society groups.

Rape is illegal. Although the government arrested, prosecuted, and convicted persons for rape during the year, there were reports that some cases were not investigated. Thousands of women were victims of abduction and rape by rebel forces. There also were reports that members of the UPDF raped women (see section 1.c.).

There was no law against FGM, which was practiced by the Sabiny ethnic group, located in rural Kapchorwa District, and the Pokot ethnic group along the northeastern border with Kenya. The government, women's groups, and international organizations continued programs to combat the practice through education. These

programs, which received some support from local leaders, emphasized close cooperation with traditional authority figures and peer counseling.

Prostitution was illegal; however, it was common. There were no credible statistics available on the occurrence of prostitution, including child prostitution, during the year.

There were reports of trafficking in women (see section 5, Trafficking).

Sexual harassment is prohibited by law, but was a common problem, and the government did not effectively enforce the law. On February 16, the Makerere University Appointments Board dismissed Dr. Julius C. Enon, a lecturer at the Department of Educational Psychology, after investigations showed that he sexually harassed female students.

Unlike in the previous year, the parliament did not register complaints from women asked for sexual favors during job interviews.

Traditional and widespread societal discrimination against women continued, especially in rural areas. Many customary laws discriminate against women in the areas of adoption, marriage, divorce, and inheritance. Under local customary law in many areas, women can not own or inherit property or retain custody of their children. Traditional divorce law in many areas requires women to meet stricter evidentiary standards than men to prove adultery. Polygyny is legal under both customary and Islamic law. In some ethnic groups, men can "inherit the widows of their deceased brothers. Women did most of the agricultural work but owned only 7 percent of the agricultural land. A May 18 World Bank report estimated that 80 percent of all unpaid workers were women. Employers in the private sector frequently failed to apply the statutory provision that provides women with maternity leave.

There were limits on a married woman's ability to travel abroad with her children (see section 2.d.).

Numerous NGOs sponsored conferences and training programs on women's rights throughout the country. There were several active women's rights groups in the country.

Children.—The government demonstrated a commitment to improving children's welfare. Education received the largest percentage of the national budget. The government did not enforce effectively the Children's Statute, which outlines broad protections for children, due to the large proportion of children in the population (56 percent of the population was under the age of 18), staffing and fiscal constraints on the judiciary, and cultural norms. The law stipulates parents' responsibilities and provides extensive protection for children in a wide variety of areas, including financial support, foster care placement, adoption, determination of parentage, and treatment of children charged with offenses. The law also prohibits children from taking part in any activity likely to injure the child's health, education, or mental, physical, and moral development; however, the government often did not enforce these prohibitions.

The government's Universal Primary Education (UPE) program provided free education through the seventh grade; however, education was not compulsory. The UPE program made education more accessible financially; however, parents still had to pay for school supplies and some school costs. The UPE increased funding for education, provided additional skills training for teachers, and reduced the student to textbook ratio. Strained finances, corruption, instability, infrastructure problems, and inadequate teacher training prevented full implementation. Teachers were rarely paid on time, and many did not show up for work when the government was late in paying their wages. On June 23, teachers conducted a nationwide one-day strike to protest low wages (see section 6.b.). On June 25, the Minister of Finance announced the government would seek additional funds within the budget to supplement teachers' wages. The government, however, did not disburse any additional money by year's end.

According to the 2002 census, the country's primary school enrollment rate was 84 percent for boys and 83 percent for girls. Girls and boys theoretically had equal access to education in the lower grades; however, the proportion of girls in higher grades remained low because families traditionally favored boys when making educational decisions. Boys also were more likely to finish primary school and performed better on examinations for admission into secondary school. The government continued several programs to promote a national plan for the education of girls.

The government provided subsidized health care through a national health care program, and boys and girls had equal access. However, health clinics did not have adequate resources to provide comprehensive care or treatment.

Child abuse remained a serious problem, particularly rape and other sexual abuse of girls known as "defilement." Defilement applied to all cases of sexual contact outside of marriage with girls younger than 18 years of age, regardless of consent or

the age of the perpetrator. The perpetrators of defilement often were family members, neighbors, or teachers. A Save the Children survey of 1400 children conducted during the year found that 46 percent of girls were sexually abused and 20 percent were raped. During the year 985 persons were convicted of defilement, and 3,771 suspects were awaiting trial at year's end. Defilement carried a maximum sentence of death; however, in practice defilement cases often were settled by a payment to the girl's parents.

During the year teachers were arrested and charged for defilement. On July 1, a court in Kampala charged Hussein Kiberu, a primary school teacher, with defiling a 13-year-old student in 2004. On September 6, police arrested Deo Habarurema, a primary school teacher in Kyenjojo district, for defiling a 16-year-old student.

There were no developments in the February 2004 arrest of two traditional healers for reportedly attempting to kill an 11-year-old boy. There were no developments in the 2003 cases of ritual killings of children.

FGM was performed on girls in the Sabiny and Pokot ethnic groups (see section 5, Women).

The legal age for marriage is 18 years, but the marriage of young girls by parental arrangements was common, particularly in rural areas. According to the 2002 census, 36 thousand girls and 29,031 boys entered into marriage below the age of 15.

Child prostitution and trafficking were problems (see section 5, Trafficking).

The law prohibits service in the military by persons under 18 years of age; however, persons below the age of 18 occasionally enlisted, sometimes with the collusion of local officials. During the year there were reports that individuals under the age of 18 enlisted in the army and that others enlisted in local militias. The UPDF denied that it had actively recruited child soldiers, but stated some might have joined through deception or oversight.

Since December 2004 approximately 70 candidates were rejected by UPDF recruitment officers for being underage. Other reports indicated that the UPDF detained some former LRA child combatants for unacceptably long periods, and in some cases used them on intelligence and reconnaissance missions.

There were an estimated two million children who had lost one or both parents. This large number of orphans resulted from wars and other instability, population dislocation, and HIV/AIDS. The government supported two programs to assist children affected by HIV/AIDS and conflict in the north.

Child labor was a problem (see Section 6.d.).

According to UNICEF estimates, the LRA has abducted approximately 12 thousand children since 2002, and continued to abduct children during the year. The LRA forced children into virtual slavery as laborers, soldiers, guards, and sex slaves. In addition to being beaten, raped, and forced to march until exhausted, abducted children were forced to participate in the killing of other children who attempted to escape. More than 85 percent of LRA captives were made up of children whom the LRA abducted and forced to fight as rebels; most LRA rebels were between the ages of 11 and 16.

During the year the UPDF rescued 563 children from LRA captivity. The UPDF's Child Protection Unit provided treatment to returned abductees upon arrival at military facilities. The unit also escorted former abductees to NGO facilities, which provided assistance and counseling to the children and their families. The government also worked closely with NGOs in the north to facilitate their assistance programs for amnesty seekers and rescued children; however, these programs were primarily financed by donors.

Approximately 35 thousand children, known as "night commuters", traveled from conflict areas or IDP camps each night to urban centers to avoid abduction by the LRA. In September the UN estimated that nearly 9 thousand children commuted nightly into Gulu town and 10,847 commuted in Kitgum. During the year the government cooperated with NGOs to establish shelters for such children in tented dormitories and other semi-permanent structures; in other cases children slept under balconies or on the grounds of schools, churches, and hospitals. Conditions ranged from harsh to adequate. There were credible reports that many displaced girls became involved in prostitution.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, the law does prohibit trafficking-related offenses. There were reports that persons were trafficked to, from, and within the country. There were no available statistics on the extent of trafficking in persons. The maximum penalty for the procurement of women for purposes of prostitution or detention with sexual intent is 7 years' imprisonment; the maximum penalty for trading in slaves is 10 years' imprisonment.

The national police force is responsible for investigating trafficking-related crimes and maintains a special Child and Family Protection Unit to train local police on women and children's rights. The UPDF is responsible for capturing, disarming, or eliminating LRA combatants who perpetrate human trafficking crimes in the north.

In addition to trafficking related to LRA abductions (see section 1.b.), adults and children were trafficked internally for labor, commercial sexual exploitation, and criminal activities. Trafficking in persons primarily occurred internally: the LRA abducted children to be soldiers, sex slaves, and porters; freelance operators, including taxi drivers and hotel/bar operators, conducted the commercial sex trafficking.

Victims of internal trafficking were subjected to hazardous working conditions, and commercial sex victims were subjected to physical abuse and the risk of contracting sexually transmitted diseases. Victims of commercial sex trafficking in urban centers often came from small rural villages.

The government did not prosecute or fine any victims of trafficking.

The government, through the military and civilian agencies, continued efforts to combat LRA trafficking in persons. The government began "Operation Iron Fist" in 2002 to eradicate the LRA threat and has continued to offer amnesty to former rebels, providing resettlement packages with educational benefits and vocational training. The government also established protected camps garrisoned by the UPDF and LDUs that have helped to prevent abductions (see sections 1.b. and 2.d.).

In March the government began participating in a national working group to combat anti-trafficking. The working group was mandated to support efforts to write a new antitrafficking law, coordinate NGO activities to prevent trafficking, assist victims, and oversee an initiative to conduct pilot prosecutions of trafficking-related crimes.

Persons with Disabilities.—The law provides protection for persons with disabilities from discrimination in employment, education, or the provision of other state services; however, the government did not enforce the law effectively. There was widespread discrimination by society, and employers limited job and educational opportunities for persons with disabilities. There was no statutory requirement that buildings be accessible to persons with disabilities. Five seats in parliament were reserved for representatives of persons with disabilities. Government agencies responsible for protecting the rights of persons with disabilities included the Ministry of State for Disabled Persons and the Ministry of Gender, Labor, and Social Development (MGLSD), but both ministries lacked sufficient funding to undertake or support any significant initiatives.

The law requires that children with disabilities be given necessary special facilities; however, in practice inadequate funding hampered enforcement of this provision.

National/Racial/Ethnic Minorities.—Civil strife in the north and east led to the violation of the rights of members of the Acholi, Langi, and Ateso ethnic groups, who primarily resided in the districts of Gulu, Kitgum, Pader, Lira, Apac, and Soroti. LRA rebels, who themselves largely were Acholi, committed abuses against ethnic Acholi and other ethnic groups. The LRA in particular was implicated in the killing and kidnapping of Acholi and other tribe members (see section 1.g.). During the year the UPDF committed abuses against ethnic Acholi during combat operations against the LRA.

Unlike in the previous year, there were no reports of interethnic violence between the Langi and Acholi ethnic groups.

During the year raids by armed Karamojong warriors in Katakwi, Kotido, and Kapchorwa Districts in the northeast resulted in approximately 200 deaths. The raids reportedly exacerbated ethnic tensions in the northeast (see section 1.a.). The government's mandatory disarmament program for Karamoja, which has caused confrontations between the UPDF and the Karamojong, continued along with negotiations for a Karamojong-led solution. The UPDF and police continued efforts to improve security conditions by arresting cattle rustlers and preventing cross-border incursions.

Other Societal Abuses and Discrimination.—Homosexuals faced widespread discrimination and legal restrictions. It is against the law for homosexuals to engage in sexual acts, based on a legal provision that criminalizes carnal acts against the "order of nature" with a penalty of life imprisonment.

In January the *Anti-Homophobie Africaine*, a local NGO whose aim is to protect and promote the rights of persons with a minority sexual orientation, applied for registration with the NGO Board; the registration had not been granted by year's end.

On July 6, parliament amended Article 31 of the constitution to prohibit homosexual marriage.

Persons with HIV/AIDS continued to face discrimination among local communities and employers. International and local NGOs, in cooperation with the government, sponsored public awareness campaigns that aimed to eliminate the stigma of HIV/AIDS. Counseling and testing for HIV/AIDS was free and available at health centers and local NGOs across the country. Counselors encouraged patients to be tested with their partners and family so that they all received information about living with HIV/AIDS. Persons living with HIV/AIDS formed support groups to promote awareness in their local communities.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers, except many "essential" government employees, including police, army, and management-level officials, to form and to join unions of their choice; however, union membership is restricted by law. On June 24, the Constitutional Court overturned a provision that restricted the number of national trade union associations. Union officials estimated that 500,000 workers were unionized, representing approximately 5 percent of working age citizens. The government failed to enforce the rights of some employees to join unions in newly privatized industries and factories.

The law allows unionization if 51 percent or more of the work force support it and if the proposed union represents at least one thousand employees. These requirements effectively prevented workers in important parts of the private sector from forming unions, especially in the textile, hotel, and construction sectors.

The law does not prohibit antiunion discrimination by employers, and union activists were not protected from retribution for union activities. However, there were no reported incidents of government harassment of union officials. There were reports that several private companies urged workers not to take part in unionization efforts.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, but the government did not protect this right in practice.

The law provides for the right of workers to bargain collectively; however, it was not freely practiced. Some employers ignored the legal requirement to enter into collective bargaining agreements with registered unions.

The law provides for the right to strike; however, the government seldom protected this right, and government policy required labor and management to make "every effort to reconcile labor disputes before resorting to strike action. During the year there were three strikes held by civil servants, teachers, and railway workers protesting unpaid salaries or benefits and one strike held by commercial vehicle operators protesting high taxes.

There were no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5).

Prison officials hired out prisoners to work on private farms and construction sites, where the prisoners often were overworked. Throughout the country, prison officials routinely supplemented their meager wages with cash crops grown by prisoners on the prison grounds (see section 1.c.). Male prisoners performed arduous physical labor while female prisoners produced marketable handicrafts such as woven basketry. Juvenile prisoners performed manual labor, often for 12 hours per day. Compensation, when paid, generally was very low.

Unlike in the previous year, there were no reports that the UPDF forced ethnic Acholi citizens to clear roadways in the war-affected north.

Forced labor by children occurred during the year (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits employers from hiring workers below the age of 18; however, child labor was common, especially in the informal sector. Demographics contributed to the problem of child labor; more than half of the population was under 18 years of age. Many children left school and went into agricultural or domestic work to help meet expenses or perform the work of absent or infirm parents, a situation common throughout the country (see Section 5). The problem was particularly acute among the large orphan population. A joint International Labor Organization and MGLSD survey, released in July, estimated that approximately 2.7 million children were employed as workers.

In urban areas children sold small items on the streets, were involved in the commercial sex industry, worked in shops, or begged for money (see Section 5). Children were also employed in the tea-harvesting sector.

According to statutory orders issued by the Ministry of Labor, children between the ages of 12 and 18 can be employed in jobs that involve light work.

The law prohibits forced and bonded labor by children; however, a lack of resources prevented the government from enforcing this prohibition effectively. There were reports that the UPDF used former LRA child soldiers on reconnaissance and intelligence missions (see section 5).

The LRA often forced abducted children into virtual slavery as guards, laborers, soldiers, and sex slaves (see section 5).

The MGLSD enforced the law on child labor; however, financial constraints limited its efforts. On June 16, the MGLSD launched the Orphans and Vulnerable Children Policy, which extended social services to children working in the worst forms of child labor and other target groups. The government also coordinated its efforts to stop child labor through the National Steering Committee on Child Labor, which included representatives of the MGLSD, the Ministry of Education and Sports, the Ministry of Local Government, the Federation of Uganda Employers, the National Organization of Trade Unions, NGOs, journalists, and academics. The government organized a number of child labor awareness workshops, disseminated printed information, and sponsored radio and television discussions to educate the public on child labor issues. Several human rights NGOs continued programs to remove children from hazardous work situations.

The government also cooperated with the ILO, foreign governments, and NGOs in several initiatives to combat child labor, including the education and reintegration of children into their communities.

e. Acceptable Conditions of Work.—The minimum legal wage was $3.50 (6 thousand shillings) per month, a rate set in 1984, which did not provide a decent standard of living for a worker and family. The government and the private sector negotiated a new rate in 2003; however, no minimum wage legislation had been passed by year's end.

In industries that employed workers on an hourly basis, the normal workweek was 40 hours. There was no legal maximum workweek; however, employers were supposed to pay a time-and-a-half rate for each additional hour worked beyond a 48-hour workweek. Many industries paid workers incrementally to avoid overtime and circumvent the prohibition on child labor. Many companies employed workers as "casual laborers" or "contract workers" to avoid providing benefits. The law requires employers to give workers a continuous period of 24 hours of rest per work week. Compulsory overtime is not prohibited by law.

The law establishes some occupational health and safety standards. The Workers' Compensation Act provides compensation, based on monthly salaries, for workers injured or killed at work. The MGLSD's Department of Occupational Health was responsible for enforcement of occupational safety regulations. In practice inspections were rare, primarily due to the lack of vehicles and funding for inspection trips. There were fatal accidents at several construction projects. The limited occupational safety regulations under the law did not prevent the dismissal of workers who refused to perform dangerous work; however, strong unions in certain dangerous industries protected such workers.

ZAMBIA

Zambia is a republic governed by a president and a unicameral national assembly with a population of 10.4 million. Movement for Multi-Party Democracy (MMD) candidate Levy Mwanawasa was elected president in 2001, and the MMD won 69 out of 150 elected seats in the National Assembly. Domestic and international observer groups noted general transparency during the voting; however, they cited several irregularities. Opposition parties challenged the election results in court and on February 16, the Supreme Court ruled that the 2001 election was valid. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, although there were some improvements in a few areas, serious problems remained. The following human rights problems were reported:

- election irregularities and government corruption
- unlawful killings, torture, beatings, and abuse of criminal suspects and detainees by security forces
- impunity was a problem
- poor and life-threatening prisons conditions

- arbitrary arrests, prolonged detention, and long delays in trials
- infringement on citizens' privacy rights
- restrictions on speech and press freedom
- intimidation of journalists
- forcible dispersal of demonstrations and obstruction of rallies of the political opposition, labor unions, and civil society groups
- violence and discrimination against women
- child abuse, trafficking in persons, and discrimination against persons with disabilities
- limited enforcement of workers' rights and child labor laws

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any political killings; however, security forces committed numerous unlawful killings during the year. The Legal Resources Foundation (LRF), an independent human rights organization that counseled victims' families and represented them in actions against the government, consistently investigated and publicized such incidents.

Police killed several persons during apprehension and in custody. For example, on March 7, police arrested six Drug Enforcement Commission officers and charged them with the murder of a 44-year-old man. Police said that the officers tortured and then killed the man after they detained him for selling drugs in Kafue. The case was ongoing at year's end.

On April 3, police in Kitwe detained Danny Phiri on unnamed charges. On April 4, police told Phiri's father that his son needed to be hospitalized. On April 5, police told the older Phiri that his son had died. Police promised to request an autopsy but never did. Phiri was buried on April 8. Investigators later confirmed that Phiri died in police custody but said they could not determine the cause of death. LRF applied to have the body exhumed in order to conduct an autopsy. A decision on the LRF application was pending at year's end.

On July 14, police in Chipata arrested Joseph Nyirenda for stealing a bicycle and construction materials. The following day Nyirenda's wife and father found him hanging in his cell. Police claimed that Nyirenda committed suicide; however, Nyirenda's wife noted that the chair with which police said he had used to hang himself was from the police reception area. The case was under investigation at year's end.

There were no developments in the following 2004 cases: the killing of Michael Kulunga and David Mwape, the killing of Fridah Mulenga, or the accidental police shooting of Lydia Monga.

Police forcibly dispersed demonstrations during the year; at least one person was killed (see section 2.b.).

The case based on a 2003 compliant filed by the Chirambo family against two police officers, Nyirenda and Machilika, was ongoing at year's end.

There were reports of mob violence, which targeted suspected criminals, witches, or persons suspected of sexual impropriety, resulted in killings during the year. For example, on October 29, a mob in Chingola fatally beat a man who was suspected of stabbing another man to death. On November 25, a mob in Kitwe beat a man to death and attacked a woman with an axe for practicing witchcraft. The elderly are often suspected of witchcraft. On December 8, a group of people in Kasempa beat 81-year-old Mwanaute Kamanga to death after they accused him of being a witch.

Mobs also attacked police officers. On November 30, a group of bus drivers and conductors in Lusaka attacked a police officer after he ordered them to report to the police station because their buses were not in safe condition. On September 27, a mob in Lusaka damaged a police substation and threatened to the lynch police officers inside following the suspicious death of a suspect in custody. The officers were forced to abandon the substation, allowing 16 suspects to escape from custody.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, police frequently used excessive force when apprehending, interrogating, and detaining criminal suspects or illegal immigrants, and there were reports of torture. Authorities detained, interrogated, and physically abused family members or associates of criminal suspects in attempts to identify or locate suspects (see section 1.f.). Officers who tortured, beat, or otherwise

abused suspects generally were not disciplined or arrested for such acts, although local human rights organizations, particularly LRF, were active in pressing for such action.

Langton Sakala reported that Lusaka police beat and tortured him from December 21, 2004 to January 19, following his detention on charges of theft. Sakala said that police beat him with a baton and put him on the "kampelwa," to force a confession. The kampelwa involves using a rope or handcuffs to bind a suspect by the hands and feet, or sometimes just the feet, and hanging the suspect upside down from a rod and beating him. Sakala filed a civil suit against the officers, which was still pending at year's end.

In December 2004 police officers accused Terry Bilumba of taking part in an armed robbery and brought him to the Livingstone Central Police Station where they beat him. After releasing Bilumba, police detained him for questioning again on January 8. Bilumba was later released without charges.

On June 7, police arrested Ben Chola on firearms charges. Chola said that police beat him repeatedly with a steel rod and suspended him in the kampelwa until his father paid approximately $25 (100 thousand kwacha) for his unconditional release on June 16.

The January 2004 case of torture of Nkumbwa Daniel Jones was referred to the Police Public Complaints Authority (PPCA) and was under investigation at year's end.

In the case of the March 2004 beating and paralysis of Aliyele Sakala, he has reportedly moved to another village and LRF has not been able to pursue his case.

At year's end there was no new information in the case of the March 2004 beating of Adam Simukwai.

Victims of state-sponsored torture following the 1997 coup attempt were still awaiting compensation recommended in 2000 by a special commission appointed to investigate allegations of torture. The civil case against former Drug Enforcement Commission Deputy Commissioner Teddy Nondo, former Commissioner of Police Emmanuel Lukonde, and Attorney General George Kunda was still pending at year's end; Commissioner Lukonde died during the year.

Unlike in previous years, there were no reports that traditional rulers used corporal punishment. During the year the 2004 case against Chief Mushili for assaulting and extorting from his subjects was referred for mediation, which subsequently failed. The case was back in court and ongoing at year's end.

According to human rights groups, police occasionally demanded sex from female detainees as a condition for their release. There also were reports that police officers raped women. For example, on April 7, police beat and then raped a woman in Kalomo. When the woman's husband went to the local police station to file a complaint, the station inspector refused to take action. The husband complained to LRF who referred him to the Livingstone Criminal Investigations Officer. The police Victim Support Unit (VSU) was investigating the complaint at year's end.

There were no further developments in the 2003 cases of police beatings or rapes.

On November 25, mobs in Lusaka and Kanyama Township attempted to destroy buildings belonging to the Universal Church of the Kingdom of God because they believed that the church was engaging in satanic practices.

Prison and Detention Center Conditions.—Prison conditions were harsh and life threatening. The country's prisons, which were built to hold 5,500 inmates, held nearly 15 thousand prisoners; inmates in Lusaka Central Prison were forced to sleep sitting upright. During the year the magistrates' strike delayed court proceedings, exacerbating prison overcrowding (see section 1.e.). At one point during the year, Lusaka Central Prison, designed to accommodate 240 prisoners, held 1,278 inmates. In Mazabuka Prison officials revealed that 260 prisoners were being housed in a cell designed to hold 60 persons. Severe overcrowding, poor sanitation, inadequate medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of disease, including dysentery, cholera, and tuberculosis. Prisoners routinely complained that authorities denied them access to medical care, as provided for by law. Failure to remove or quarantine sick prisoners from the general population resulted in the spread of airborne illnesses such as tuberculosis, leading to prisoner deaths. Most prisons did not have infirmaries to isolate sick or contagious inmates. Drugs to combat tuberculosis were available in prisons but supply was erratic. Patients who received treatment for tuberculosis were frequently housed with inmates who were not being treated, leading to re-infection.

The HIV/AIDS prevalence rate in prisons was estimated at 17 percent. In 2004, 449 inmates died of AIDS or AIDS-related illnesses. In addition, 114 prison officers, of a total staff of 1,800, died of the disease, placing added strain on the prison system. Anti-retroviral treatment (ART) was available to some prisoners with HIV/AIDS; however, poor nutrition often rendered ART ineffective.

Juveniles often were not held separately from adults. Infants and young children of incarcerated women were held along with their mothers. Pretrial detainees were not held separately from convicted prisoners. Prisoners with mental disabilities were not held separately from the general prison population.

The government permitted prison visits by both domestic and international nongovernmental organizations (NGOs) and by resident foreign diplomats during the year. Provincial human rights committees periodically inspected prison conditions; LRF continued its prison visits during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government did not respect these prohibitions. Criminal suspects were arrested on the basis of insubstantial evidence or uncorroborated accusations. For instance, in February Lemon Mulambo filed a civil suit against police officers who arrested him in 2003 on charges that he murdered Kelvin Mudenda. According to the complaint, officers arrested Mulambo after a villager reported that he had dreamed that Mulambo hired two people to kill Mudenda. Mulambo and the two men he was alleged to have hired to kill Mudenda were acquitted of the charges in 2004 after a trial court found that the government had presented insufficient evidence in the case. Mulambo's civil suit was pending at year's end.

Role of the Police and Security Apparatus.—The police, divided into regular and paramilitary units under the Ministry of Home Affairs, have primary responsibility for maintaining law and order. The Zambia Security Intelligence Service, under the Office of the president, is responsible for intelligence and internal security. Police posts in towns throughout the country reported to one of nine provincial police stations, which in turn reported to the central police command in Lusaka. Although the government has identified a need for 27 thousand police officers, only 13 thousand were employed.

Lack of professionalism, investigatory skills, and discipline in the police force remained serious problems. Human rights training during the year raised police awareness of human rights; however, the use of excessive force continued, and corruption was widespread. Low salaries and substandard government housing exacerbated police corruption, as did poor working conditions.

Police used their authority to extort money, released prisoners in exchange for bribes, or required "document processing fees" or "gas money" to commence investigations. For example, prisoners in Mumbwa Central Prison complained that Zambia Wildlife Authority officers and police in Lusaka promised them work at a lodge. Instead authorities brought the job seekers to large commercial farms and then threatened to arrest them for trespassing unless they paid a fine. Police arrested those who were unwilling or unable to pay the fine and then charged the unwitting farm owners for police assistance in removing the trespassers.

Police stations frequently became "debt collection centers," where police officers acting on unofficial complaints detained debtors without charge until they paid the complainants; in return, the police received a percentage of the payments. Officers found engaging in this practice reportedly were disciplined. There were no developments in the 2004 case of police corruption reported to the Anti-Corruption Commission (ACC) by Bernard Mulendema.

The government took some steps to address these problems. The PPCA received 367 complaints of police misconduct. According to its procedures, the PPCA meets in each of the country's nine provinces at least once a year to review complaints that cannot be resolved though internal police channels. Due to technical issues, the PPCA convened only once during the year, in April, when it reviewed approximately 50 cases from Lusaka Province. Following the April session, the PPCA directed the police inspector general (IG) to dismiss three officers; the IG had not responded to the PPCA directions at year's end.

Some police officers arrested on corruption or abuse charges were convicted and sentenced to prison, but most went unpunished unless an NGO took up the case on behalf of the victim. Punishment, if any, usually came years after the abuse was committed, and the accused officers often remained on duty in the interim.

Arrest and Detention.—The law requires that authorities obtain a warrant before arresting a person for some offenses, but other offenses had no such requirement. Suspects being arrested were informed of their rights, including the immediate right to an attorney. The law requires that suspects appear before a magistrate within 24 hours of their arrest; however, detainees were frequently held for longer periods because prosecutors routinely required that officers collect additional evidence before presenting cases to a magistrate. There was a functioning bail system; however, prisons were overcrowded in part because of the numerous offenses for which bail is not granted, including treason, murder, aggravated robbery, and violations of nar-

cotics laws. Parliament repealed a law that made motor vehicle theft a nonbailable offense.

Indigent detainees and defendants rarely had the means to post bail. The government's legal aid office, which employed only 14 attorneys, was responsible for providing representation for indigent detainees and defendants in criminal or civil cases, but in practice, few received assistance. For example, on July 22, President Mwanawasa ordered police to arrest, detain, and prosecute Patriotic Front (PF) President Michael Sata for inciting riots at the Konkola Copper Mines. Police summoned Sata to the Lusaka Central Police station for questioning on July 23 but released him the same day. The following day, the president ordered more than 40 armed police officers to arrest Sata at his home; he remained in custody for 15 days before the High Court granted him bail. The government appealed the High Court's decision, claiming that Sata's offense was "unbailable." The inspector general of police, Nzunga Siakalima, was later dismissed for allowing Sata to be released on July 23, contrary to the president's order that he be held in custody. The government's appeal was still pending at year's end.

Police frequently arrested individuals as a pretext for stealing their property or extorting bribes; however, there were fewer reports of such incidents than in previous years.

Police arbitrarily arrested family members of criminal suspects (see section 1.f.).

Authorities detained at least four journalists during the year (see section 2.a.).

Unlike in the previous year, the government did not threaten to arrest the members of the Oasis Forum, which it claimed was unregistered (see section 2.b.).

There were no reports of political detainees.

Pretrial detention often was prolonged. In criminal cases detainees must be charged and brought before a magistrate within 24 hours; in practice police held most detainees for more than 1 month from the time of detention to the first appearance before a magistrate. In some cases defendants were awaiting trial for as long as 2 to 3 years. Approximately one-third of the 14,427 people incarcerated in prisons had not yet received a trial in their case and had not been convicted of a crime. On May 10, high court judge Christopher Mushabati publicly expressed concern that suspects arrested in early 2002 had not yet appeared before the High Court for trial. Broad rules of procedure give wide latitude to prosecutors and defense attorneys to request delays or adjournments. Other factors contributing to long delays were inadequate resources, inefficiency, lack of trained personnel and labor unrest (see section 1.e.). Attorneys and family members were permitted access to pretrial detainees.

In February 2004 police in the Lusaka suburb of Chilenje arrested five men on suspicion of aggravated robbery. The suspects were tried and acquitted of the charges. In March police released Moses Banda from detention after holding him for two years without trial on charges of possession of stolen property. Banda had appeared in court on several occasions but was always returned to jail after being informed that prosecutors were not ready to proceed because they could not locate his court record. On March 22, the High Court in Kabwe acquitted Peter Chasanga on murder charges after he had spent more than seven years in custody. In 1998 police in Kasama had arrested Chasanga and four other men for a 1997 murder. Three of the men accused with Chasanga died in custody; charges against the other man were dropped.

There were no developments in the government's appeal of the May 2004 Lusaka High Court ruling that the government was liable for holding Crispin Samulula in custody from 1996 to 2001 without trial.

There were no developments in the lawsuit brought by United Party for National Development (UPND) treasurer general Tiens Kahenya against the government for damages resulting from his imprisonment from December 2002 to April 2003.

During the year the government took some steps to reduce the length of pretrial detentions. On July 23, the government opened a new court complex near Lusaka Central Prison to accelerate the judicial process.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and while the courts continued to act independently and at times made judgments and rulings critical of the government, the judicial system was hampered by inefficiency, corruption, and the lack of resources. Government officials used their offices to circumvent standard police and judicial procedures.

A February 16 Supreme Court ruling that upheld the 2001 presidential elections was highly critical of the performance of the Electoral Commission of Zambia (ECZ) (see section 3).

The Supreme Court has appellate jurisdiction for all legal and constitutional disputes. The high court, which held regular sessions in all nine provincial capitals, has authority to hear criminal and civil cases and appeals from lower courts. Mag-

istrate courts have original jurisdiction in some criminal and civil cases; local, or customary, courts handled most civil and petty criminal cases in rural areas.

Trial Procedures.—Trials in magistrate courts were public, but the legal system does not provide for jury trials. Defendants had the opportunity to confront their accusers and present witnesses; however, many defendants lacked the resources to retain a lawyer, and the limited resources of the government's legal aid department meant that legal aid was unavailable for many citizens. Defendants and their attorneys have the right to access government-held evidence related to their cases. Defendants enjoy a presumption of innocence and have the right to appeal.

Courts were congested, and there were significant delays in trials while the accused remained in custody (see section 1.d.). In many cases, at least six months elapsed before a magistrate committed the defendant to the High Court for trial. Following committal, preparation of the magistrate court record for transmittal to the High Court took months, or, in some cases, as long as a year. Once a case reached the High Court for trial, court proceedings lasted an average of six months.

Poor working conditions caused many magistrates to leave their jobs. Fully qualified attorneys filled approximately 19 magistrate positions during the year, down from 30 in 2004; lay magistrates filled the rest. During the year magistrates frequently did not appear at court as scheduled; reports indicated that the no-shows were designed to pressure the government for better conditions of service for magistrates. On March 18, magistrates went on strike for three weeks to demand higher salaries and better working conditions. The strike was settled after the government agreed to provide the magistrates with a raise in pay for an undisclosed amount, rent-free housing, and low interest car loans.

Local courts employ the principles of customary law, which vary widely throughout the country. Lawyers are barred from participating in proceedings in such courts, and there are few formal rules of procedure. Presiding judges, who usually were prominent local citizens, have substantial power to invoke customary law, render judgments regarding marriages, divorces, inheritances, and other civil proceedings, and rule on minor criminal matters. Judgments often were not in accordance with the penal code; for example, they tended to discriminate against women in matters of inheritance (see section 5).

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government frequently did not respect these prohibitions in practice. The law requires a search or arrest warrant before police may enter a home, except during a state of emergency. Police routinely ignored this requirement and often arrested alleged criminals at their homes without an arrest warrant.

The law grants the Drug Enforcement Commission and the ZSIS authority to wiretap telephones for probable cause.

Authorities sometimes detained, interrogated, and physically abused family members of criminal suspects to obtain their cooperation in identifying or locating suspects. For example, on April 26, police in Livingstone accused Catherine Mubiana of harboring her brother, an escaped fugitive, and beat and whipped her as they demanded that she reveal her brother's whereabouts. Police then forcibly took Mubiana to the homes of her relatives in the neighborhood as they searched for her brother, before taking her to the Livingstone jail. She was later released without charges. LRF was preparing to file a civil suit on Mubiana's behalf at year's end.

On July 2, police detained Theresa Chinama after they were unable to locate her husband, Andrew Chinama, who owed another man $90 (360 thousand kwacha). Police told Chinama that they would not release his wife until he acknowledged in writing that he was liable for the debt.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government at times restricted these rights in practice. The law includes provisions that may be interpreted broadly to restrict these freedoms. Journalists in the government-owned media generally practiced self-censorship; the private print media routinely criticized the government.

A number of privately owned newspapers questioned government actions and policies, and these generally circulated without government interference.

The government-controlled *Times of Zambia* and *Zambia Daily Mail* were two of the most widely circulated newspapers.

In addition to the government-controlled radio station, there were numerous private radio stations. A Catholic radio network, Radio Yatsani, gained permission to broadcast two 30-minute programs live from Vatican Radio twice per day. The Min-

istry of Information had previously prohibited the station from broadcasting live programs, arguing that to do so would be in violation of the station's license. The station also used excerpts from the BBC for news. The 2004 Ministry of Information and Broadcasting Services (MIBS) order that Breeze FM, a commercial radio station in Chipata, stop relaying BBC broadcasts was still in effect at year's end. MIBS claimed that Breeze FM's license permitted local and regional broadcasts only. The station, however, remained a partner station of the BBC and was allowed to rebroadcast a selection of BBC programs.

The government-owned ZNBC was the principal local-content television station, and opposition political parties and civil society groups complained that government control of the station and of two major newspapers limited their access to mass communication.

Several private television stations, including foreign media, broadcast locally. A new station, MUVI TV, broadcast local news three times a day. Multichoice, a telecommunications company based in South Africa, and CASAT provided satellite and analog wireless subscribers with television services. Broadcasts of foreign news sources were available in the country.

On June 15, cadres suspected to be acting on orders from the ruling MMD party attacked vendors of the independent newspaper *The Post*. The *Post* is consistently critical of the president and his administration. At the time of the attacks, the newspaper had been reporting some government leaders' attempts to shield former health permanent secretary, Dr. Kashiwa Bulaya, from prosecution on corruption charges (see section 3).

The police harassed and arrested journalists during the year. For example, on June 14, police detained Anthony Mukwita, a freelance journalist and host of a public phone-in radio program. Police questioned Mukwita regarding a fax from an unidentified listener critical of President Mwanawasa that Mukwita read on the air June 10. On June 22, police served Mukwita with a "warn and caution" statement, informing him that he was under investigation for sedition. Mukwita was released pending the outcome of the investigation. Police also summoned and interrogated Evangelical Fellowship of Zambia executive director, Bishop Paul Mususu, who was Mukwita's guest on the program at the time he read the fax. Radio Phoenix Managing Director, Elizabeth Pemba, terminated Mukwita's contract soon after police visited the radio station, claiming that he had exaggerated the episode. Following the termination of Mukwita's contract with Radio Phoenix, The Media Institute of Southern Africa (MISA) Zambia Chapter hired him to host the program *Face the Media*, which MISA broadcasts on Radio Phoenix. Mukwita was still hosting the program at year's end.

On July 21, police and MMD officials detained freelance journalist Owen Miyanza for selling politically themed videotapes critical of the president at the MMD national convention. Police released Miyanza after holding him for one night but did not return the confiscated videotapes.

On July 25, police summoned three journalists from *The Post* to Lusaka Central Police station as part of their investigation of opposition leader Michael Sata (see section 1.d.). The journalists were released after questioning, but *The Post* protested that the police summons constituted intimidation of journalists who were merely carrying out their duties.

The government exercised considerable influence over the government-owned media, including reviewing articles prior to publication and censuring individuals responsible for published articles or programs deemed offensive by the government. As a result journalists in the government-owned media generally practiced self-censorship, and the government-owned media continued to be supportive of the government.

On August 11, parliament security officials prevented *Post* journalist McDonald Chipenzi from entering parliament to cover deliberations pertaining to the selection of the chairperson of the ECZ. The security officers stated that they were acting on directives from above. Later National Assembly chief research officer, Chikomeni Banda, explained that parliament was not happy with Chipenzi's reporting in *The Post*, which had been critical of a potential appointee to the ECZ position.

In response to headlines and stories alleging official corruption, those accused and others brought libel suits against the media. During the year the libel suit brought by Deputy Minister Geoffrey Samukonga against the *Zambia Daily Mail* went to trial. The court ruled in Samukonga's favor and ordered the *Mail* to run a front-page apology to Samukonga in addition to paying $2,500 (10 million Kwacha) in legal fees after the newspaper failed to produce any witnesses at trial. Samukonga was later reported to have assaulted journalists from ZNBC, the *Zambia Daily Mail*, and *Times of Zambia* over their alleged biased and negative reporting. The journalists filed criminal charges against Samukonga. President Mwanawasa intervened

and asked that the case be dropped, promising to take disciplinary action against the deputy minister. On November 4, Samukonga was dismissed from his post.

During the year there were defamation suits filed by political leaders. On November 9, police in Lusaka arrested Fred M'membe, editor of *The Post*, and charged him with defamation of the president. The charges stemmed from an editorial published in *The Post* that questioned the president's honesty and integrity. M'membe was released on bail pending prosecution of the case. On June 29, police had detained and issued a formal warning to M'membe in relation to articles and opinions published in *The Post* that accused the president of interfering in a closely watched corruption prosecution.

During the year there were no developments in Michael Sata's and George Chulumanda's appeals of court orders for defamation damages.

The law provides that investigative tribunals can call as witnesses, journalists and media managers who print allegations of parliamentary misconduct. Failure to cooperate with a tribunal can result in charges of contempt punishable by up to six months in jail. The media criticized these provisions as clear infringements of freedom of the press and as a means for parliamentarians to bypass the court system.

There were no government restrictions on the Internet or academic freedom. Although the law gives the University Council a mandate to address faculty concerns, the Minister of Education was empowered to appoint the members of the Council; some academics criticized this provision as an infringement of academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government interfered with this right in practice.

During the year government officials, opposition leaders, and NGOs continued to criticize the Public Order Act (POA), which requires rally organizers to notify police seven days in advance of a rally. Although the POA does not require rally organizers to obtain a permit, police incorrectly warned prospective demonstrators they would be violating the law if they assembled without one.

In March police erroneously insisted that the opposition PF party required a permit to hold a demonstration at the Canadian High Commission. The PF members wanted to protest an incident in which they alleged that Canadian-owned Mopani Copper Mine prevented PF members from voting in a by-election won by the ruling MMD. Police said that they could not issue a permit because they did not have sufficient personnel to monitor the demonstration, and the demonstration did not take place. However, the police inspector general did grant the Oasis Forum permission to organize demonstrations in support of constitutional reform. On November 1, the peaceful demonstrations, which protested the government's position on the constitution, took place in Lusaka without police interference. However, also on November 1, police in Mongu prevented people from demonstrating on the constitutional issue at the city's community hall and protesters were diverted to the grounds of the Catholic Church. There were also reports that government authorities threatened civil servants with dismissal if they participated in the protests and that a state intelligence officer asked several demonstrators to provide their names. A December 10 demonstration that the Oasis Forum organized in Lusaka to demand constitutional reform was carried out peacefully and without police or government interference.

In December 2004 police briefly detained and released on bond 11 opposition members of parliament (MPs), four journalists, and 53 other persons demonstrating against the government's method and timing of adopting a new constitution; police charged that the organizers had failed to adhere to POA notification requirements. The government dropped the case against the four journalists and the minister of information apologized for the police abuse of at least one journalist, who was injured in the arrest. The journalists filed civil claims against the police for wrongful detention. The case had not been heard in court at year's end. The remaining defendants filed an appeal with the High Court challenging the constitutionality of the POA. The High Court had not ruled on the appeal at year's end.

During the year police forcibly dispersed demonstrations, which resulted in one death. On January 13, a police officer in Samfya shot and killed Kapya Bombeck in the belief that he was part of a group of demonstrators protesting police involvement in the deaths of two fishermen. The local hospital refused to perform an autopsy, allegedly on instructions from provincial police headquarters. Disciplinary action was taken against the police officer.

The results of the investigation into the September 2004 shooting death of a high school student during a demonstration were not released by year's end.

Unlike in the previous year, there were no reports that police failed to intervene during violent demonstrations.

Freedom of Association.—The law provides for freedom of association, but the government placed some limits on this right in practice. All organizations must formally apply for registration to the registrar of societies. In most cases, authorities routinely approved these applications.

In November 2004 then Home Affairs Minister Ronnie Shikapwasha ordered the immediate deregistration of the Southern African Center for Constructive Resolution of Disputes, alleging that the NGO had conducted "activities which are inimical and a danger to state security." In December 2004 the Lusaka High Court overturned Shikapwasha's decision. The government announced that it would appeal the decision to the Supreme Court, but had no done so at year's end.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. Although the constitution declared the country a Christian nation, in practice the government generally respected the right of all faiths to worship freely.

The government required the registration of religious groups and approved all applications for registration from religious groups without discrimination.

On November 29, Ministry of Home Affairs' permanent secretary Peter Mumba announced that the government would deregister the Universal Church of the Kingdom of God, in effect banning church operations, while it investigated allegations that the church had engaged in satanic practices. The government deregistration of the Church followed rioting in Lusaka that damaged church structures (see section 1.c.). On December 29, High Court judge Tamula Kakusa issued a ruling that allowed the church to resume operations pending judicial review of the deregistration.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts. There were approximately 80 persons in the Jewish community.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, at times the government limited them in practice. Home Affairs Deputy Minister Justin Chilfuya announced in March that the use of police roadblocks would be reduced as a result of complaints of widespread abuse. Although the roadblocks were reduced in number, police continued to man numerous roadblocks around the country to control criminal activity, enforce customs and immigration regulations, check drivers' licenses, and inspect vehicles for safety compliance. Police at times extorted money and goods from motorists at these roadblocks.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law does not provide for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 UN convention and the 1967 protocol.

According to the UNHCR, no Congolese or Rwandan refugees were deported during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

In July the Constitutional Review Commission (CRC) released its interim draft constitution and began a 90-day period for public comment, which was extended to enable people in outlying areas to access and review the interim report and draft constitution. In October the government announced that it did not accept a number of key recommendations contained in the CRC draft constitution, including a provision that would require the president to be elected by a majority vote. Members of civil society and the political opposition criticized the CRC and demanded that it transmit its recommendations directly to a constituent assembly rather than to the president. These groups were concerned that the government was attempting to delay constitutional reform until after the 2006 presidential election. The CRC concluded its final draft of the constitution on December 31; however, the draft had not been made available to the public by year's end.

Elections and Political Participation.—In 2001 11 political parties contested the presidential elections. Levy Mwanawasa, the MMD presidential candidate, was elected with 29 percent of the vote; runner-up Anderson Mazoka, the UPND candidate, won 27 percent of the vote. The remaining 44 percent was divided among the other nine opposition candidates. The MMD won 69 out of 150 elected parliamentary seats, leaving it slightly short of a majority; the remaining 81 elected seats were divided among several opposition parties and 1 independent member. Although noting general transparency during the voting, domestic and international observer groups and opposition parties cited irregularities in the registration process, problems in the tabulation of the election results, significant vote rigging, and the MMD's use of government resources during campaigns, including the government-owned media.

Following a challenge of the election results, on February 16, the Supreme Court ruled that the 2001 election was valid. In its 300 page decision, the court rejected the attorney general's argument that the constitution did not give the court authority to nullify a presidential election but found that the petitioners had not presented evidence sufficient to overturn the election. Even as it upheld the election, the Court said that the petitioners' evidence had raised serious concerns about the effectiveness of the ECZ, opposition parties' access to the media, and abuse of government resources in election campaigns. The court singled out the ECZ for particularly harsh criticism, accusing its officials of gross negligence and incompetence, but maintained that the ECZ's failures had affected all candidates equally.

In the five by-elections held during the year, there were numerous reports of vote buying, in which the electorate was offered money or goods such as food, clothing, or fertilizers that may have significantly influenced voting patterns. There were also reports that ruling party members used government resources such as transport and other logistics not available to opposition candidates to facilitate their electoral campaigns.

For example, there were reports that in the run-up to the March 4 Kasempa by-election, President Mwanawasa promised that the government would award Kasempa with development projects if the MMD candidate won. In addition, the government ensured the availability of fertilizer in the area and repaired roads to gain favor with voters.

Prior to the March 4 Kankoyo by-election, the government said that it would sell former mine township houses to tenants at very favorable prices. In the days prior to the by-election, government officers from the lands department carried out survey demarcations of the residential plots in preparation for the sale.

Prior to the March 4 Sinjembela by-election, the government began construction on a one-hundred-bed district hospital.

The campaigns leading up to the June 9 by-elections in Copperbelt and Southern provinces were marked by violence, intimidation, and corruption, although the election day itself was calm. Virtually all of the parties that contested the elections were guilty of violence, which was perpetrated mainly by supporters that parties brought in from outside the local areas. The Foundation for Democratic Processes a civil society group, noted that the ruling MMD party took advantage of state resources, intimidated civil servants, used relief assistance to buy votes, housed campaign workers, and interfered with the police.

In August the Electoral Reform Technical Committee (ERTC) published its final report, which recommended changes to election law that addressed many of the problems that hampered the 2001 election; however, it was unlikely that the government would adopt the ERTC recommendations before the 2006 election.

Constitutional amendments barring citizens of partial or full foreign ancestry from the presidency violated the prohibition on discrimination based on place of origin. These amendments also prohibit traditional chiefs from running for political office unless they resign from their chieftainships.

There were 18 women in the 158-seat parliament (150 members were elected, while 8 others were appointed by the president),

There were 2 elected ethnic Asians in the 158-seat parliament.

Government Corruption and Transparency.—The anticorruption campaign the government launched in 2002 continued during the year. Trials of former government officials charged with abuse of office and theft proceeded, but none were completed. The government continued its collaboration with the international community to improve its capacity to investigate and prevent corruption. Parliamentary committees sustained their scrutiny of executive branch operations. The ACC increased its prosecution and public educational activities. On November 10, Mark Chona was removed from his position as Chairman of the Task Force on Corruption. On November 28, Maxwell Nkole, a former investigator with the Rwanda War Crimes Tribunal, was appointed as the new chairman.

Despite these efforts, there remained a widespread public perception that corruption was pervasive in almost all government institutions. Controls over government funds and property were often weak, investigative units often lacked authority and personnel, and officials dealing with the public frequently demanded illicit payments with impunity.

During the year the government continued to investigate and prosecute senior officials allegedly involved in corruption during the administration of former president Chiluba. In November 2004 the government began its prosecution of Chiluba himself in magistrate court. The prosecution was ongoing at year's end.

In 2004 the government also filed corruption charges against several officials of the current administration and former military commanders, including: Lieutenant Generals Wilford Funjika, Sande Kayumba, and Geojago Musengule, who were charged in separate cases of procurement fraud; and Samuel Musonda, the former managing director of a government-owned bank, who was accused of abuse of office. Their trials were ongoing in civilian courts at year's end.

On May 17 the Director of Public Prosecutions (DPP) entered a "no prosecution" motion in the corruption trial of former Ministry of Health official Kashiwa Bulaya. The DPP did not consult the trial court prosecutor before announcing that the case against Bulaya would be dropped and there were allegations that the order came from higher levels of government. On June 14, public outcry led to the reinstatement of charges against Bulaya. His trial was ongoing at year's end.

The law does not provide for public access to government information; however, in practice, the government provided information to media and interested parties on an ad hoc basis. With the exception of information related to the defense and security forces, the government was generally forthcoming with information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with such groups. Unlike in the previous year, there were no reports that the government attempted to deregister organizations.

Some domestic human rights organizations continued to press for a more transparent democratic electoral system. Human rights, development, and election NGOs monitored by-elections during the year and organized civic education activities to improve voter participation and information.

The Permanent Human Rights Commission (PHRC) oversaw human rights committees in all provincial capitals, interceded on behalf of persons whose rights it believed were denied by the government, and spoke on behalf of detainees and prisoners. Independent human rights groups complained that the PHRC was understaffed, underfinanced, and lacked sufficient authority to enforce its recommendations.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, tribe, gender, place of origin, marital status, political opinion, color, or creed; however, violence and discrimination against women and persons with disabilities remained a problem.

Women.—Domestic violence against women was a serious problem, and wife beating and rape were widespread. There is no specific law for domestic violence, and cases of domestic violence were prosecuted under the general assault statutes. Penalties imposed for assault vary, depending on the severity of injury and whether a weapon is used. In 2003 the police VSU recorded 2,841 cases of assault. There were 599 convictions and 71 acquittals in assault cases, but the actual crimes may have taken place in 2002 or earlier. The VSU was responsible for handling problems of domestic assault, wife beating, mistreatment of widows by the deceased husband's relatives, and "property grabbing"; however, in practice, the police often were reluctant to pursue reports of domestic violence and preferred to encourage reconciliation.

The law prohibits rape, and courts generally sentenced rapists to hard labor; there were 642 reported cases of rape in 2003. In 2004 the VSU recorded 289 cases of rape. There were also 1,374 cases of defilement, which includes forced or unforced sex with a minor who has not reached the age of consent. The penal code does not specifically prohibit marital rape and statutes that criminalize rape cannot be practically used to prosecute cases of rape in marriage. To date courts have not tried a case involving marital rape, although the crime was known to be common.

Due to traditional and cultural inhibitions, many cases of violence against women and children remained unreported. The VSU reported that it was difficult to pros-

ecute cases of abuse against women because victims often refused to cooperate and there was a lack of forensic equipment needed to develop evidence. The government and NGOs expressed continued concern about violence against women.

Prostitution is illegal, and police routinely arrested street prostitutes for loitering. There were no reliable statistics on the number of prostitutes in the country.

Trafficking in women was a problem (see section 5, Trafficking).

An amendment to the penal code enacted in September prohibits the sexual harassment of children but there were no laws that specifically prohibited sexual harassment of adults, and sexual harassment in the workplace was common.

The law entitles women to equality with men in most areas; however, in practice, women were severely disadvantaged in formal employment and education. Married women who were employed often suffered from discriminatory conditions of service. Women had little independent access to credit facilities; in most cases, they remained dependent on their husbands, who were required to co-sign for loans. As a result few women owned their own homes. Some small financial institutions allowed women to sign independently for loans.

Customary law and practice also place women in a subordinate status with respect to property, inheritance, and marriage, despite constitutional and legal protections. Polygyny is permitted if the first wife agrees to it at the time of her wedding. Under the law a deceased man's children equally share 50 percent of an estate; the widow receives 20 percent; the man's parents receive 20 percent; and other relatives receive 10 percent. The widow's share must be divided equally with any other women who can prove a marital relationship with the deceased man, thus granting inheritance rights to other wives, mistresses, and concubines. However, under the traditional customs prevalent in most ethnic groups, all rights to inherit property rest with the deceased man's family. Property grabbing by the relatives of the deceased man remained widespread, although increased training of local court officials may have resulted in a slight decrease in the practice. Many widows were ignorant of the law, and as a result, received little or nothing from the estate. The fines that the law mandates for property grabbing were extremely low. The police, through its VSU, treated instances of property grabbing as criminal offenses.

The common traditional practice of "sexual cleansing," under which a widow had sex with her late husband's relatives as part of a cleansing ritual continued to happen; however, some traditional leaders have banned it. In September an amendment to the penal code makes it illegal for any person to engage in a harmful cultural practice such as sexual cleansing, or to encourage another person to engage in the practice.

NGOs that predominantly represented women's interests were particularly active as lobbying organizations. The NGO Coordinating Committee, an umbrella organization for women's NGOs, was influential in the Oasis Forum, which continued to conduct civic education programs on the issue of constitutional reform.

Children.—The government sought to improve the welfare of children, but scarce resources and ineffective implementation of social programs continued to adversely affect the welfare of children. Several ministries shared responsibility for improving child welfare.

Government policy provided for free basic education for the first nine years of elementary school; however, education was not compulsory, and many children did not attend school. The government has eliminated school fees and mandatory uniforms for primary education students to increase school attendance by children, but many teachers and school administrators still required students purchase uniforms or pay a fee before they would allow them to attend classes. The net enrollment ratio for children of primary school age increased from 66 percent in 1999 to 72 percent by 2004. Inadequate educational facilities and a scarcity of educational materials were problems. Some areas have established community schools; however, these schools had fewer resources than public schools and required contributions from parents.

The number of girls and boys in primary school was approximately equal; however, fewer girls attended secondary school. There were reports that teachers sexually abused female students. The United Nations International Children's Emergency Fund (UNICEF) officials noted that sexual abuse in schools discouraged or prevented many girls from attending classes. The government continued its collaboration with UNICEF on the Program for the Advancement of Girls' Education to work with families and community leaders to keep girls in school and to bring back those that have left.

There were approximately 1 million children under the age of 15 in the country who were orphaned, approximately 750 thousand of these as a result of HIV/AIDS. These children faced greater risks of child abuse, sexual abuse, and child labor. Approximately 75 percent of all households were caring for at least one orphan, and children headed approximately 7 percent of households due to the death of both par-

ents. The government instituted programs to increase public awareness of HIV/AIDS.

Child abuse was a problem. Approximately 1,400 cases of child sexual abuse were reported in 2004, according to police statistics.

Early marriage was a problem. There are no laws against early marriage, and it is permitted under customary law. A few traditional leaders spoke against early marriage and took steps to discourage it, but the majority of traditional leaders condoned the practice. Courts intervened in cases of gross abuse. For example, on August 10, a local court justice in Kasempa, North-Western Province terminated a marriage between a 91-year-old man and a 15-year-old girl. The court ordered the girl to return to school and fined the man $50 (200 thousand kwacha). The girl's father was fined $125 (500 thousand kwacha). The girl said that her father forced her into early marriage in return for a $3.75 (15 thousand kwacha) dowry.

There are laws that criminalize child prostitution; however, the law was not enforced effectively, and child prostitution was widespread. The presence of an estimated 30 thousand street children in Lusaka contributed to the proliferation of street begging and prostitution. The laws against pornography and the sexual exploitation of children under the age of 21 were sporadically enforced.

Trafficking of children for sexual exploitation occurred (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

During the year the government continued implementation of a strategy to provide shelter and protection to street children, including prostitutes. The Ministry of Labor reported that the majority of the five thousand children removed from child labor during the year were street children (see section 6. d).

Trafficking in Persons.—The September amendment to the penal code prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country.

The law prohibits the trafficking of any person for any purpose but it does not define trafficking. Persons convicted of trafficking were subject to a term of imprisonment from 20 years to life. The law had not been used to prosecute a case of trafficking at year's end. Convictions of the crimes of abduction, assault, or seeking to have sex with a minor could be punished with sentences up to life imprisonment with hard labor.

Nevertheless, traffickers were not effectively prosecuted under the law. For example, on April 30, immigration officers arrested a Congolese national as she attempted to leave the country with 16 Congolese children. Although the woman was attempting to take the children out of the country, the law did not specifically prohibit her conduct. The woman eventually pleaded guilty to charges of forgery and obtaining false documents for altering the children's passports and then attempting to use the altered documents at the border. She was fined and returned to the Democratic Republic of the Congo.

The 2004 cases against Bangu Kasenge and Delphine Bakuna Chibwabwa related to trafficking in persons were ongoing at year's end.

The government did not have programs that specifically targeted trafficking, although law enforcement officers attended training courses that raised awareness of the problem. A government interagency committee on human trafficking, chaired by the Ministry of Home Affairs, also met during the year to promote coordination and information sharing among agencies. Government agencies responsible for combating trafficking include the police, immigration authorities, and the ministries of justice, labor, and education.

The government did not collect or maintain data on the extent or nature of trafficking in the country.

Women from the country were trafficked within the country and to other parts of Africa and to Europe, and the country was used as a transit point for regional trafficking of women for prostitution. Traffickers fraudulently obtained Zambian travel documents for their victims before proceeding to other destinations. During the year there were reliable reports that women were trafficked to the country for commercial sex work.

The government did not keep data on trafficking cases and the law did not define the crime of trafficking, making it difficult to profile the typical trafficker. A 2004 survey of service providers, community members, and children located in four cities indicated that traffickers come from a variety of backgrounds and include family members, truck drivers, prostitutes, and business persons. Foreign traffickers were said to have come from Asia, Europe, and North America as well as from countries in the region.

Traffickers often use promises of employment to entice young girls and women to leave their homes and families and then force them into prostitution.

There was no evidence the government authorities facilitated or condoned trafficking or were complicit in trafficking.

Through its social welfare agencies, the government provided counseling, shelter, and protection to victims of child prostitution or refers victims to NGOs that can provide such services. There is no formal screening or referral process. In some cases victims have been placed in protective custody at rehabilitation centers or victim support shelters operated by NGOs.

When government officials understand that individuals are victims of trafficking, they do not treat victims as criminals. In identified cases, victims have not been detained, jailed, deported, or prosecuted for violations of other laws. When trafficking investigations have substantiated allegations, the government has encouraged victims to assist with investigation and prosecution. The government does not have its own means of protecting victims and witnesses. The government can and does arrange for protective custody and security protection through facilities operated by NGOs.

Persons with Disabilities.—The law prohibits discrimination in general but there is no law that specifically prohibits discrimination against persons with physical and mental health disabilities in employment, education, or access to health care. Persons with disabilities faced significant societal discrimination in employment and education. Public buildings, schools and hospitals did not have facilities to accommodate persons with disabilities. The government did not legislate or otherwise mandate accessibility to public buildings and services for persons with disabilities.

Other Societal Abuses and Discrimination.—The law prohibits "carnal knowledge of any person against the order of nature", but it does not specifically outlaw homosexuality. There was societal discrimination against homosexuals.

The government actively discouraged societal discrimination against those living with HIV/AIDS; however, there was strong societal discrimination against such individuals, and much of the population believed that persons infected with HIV/AIDS should not be allowed to work.

Section 6. Worker Rights

a. The Right of Association.—The law recognizes the right of workers to form and belong to trade unions, and workers exercised these rights in practice. Police officers were not permitted to form unions and remained nonunionized at year's end. Only 11 percent of the eligible workforce was employed in the formal sector; approximately 60 percent of the formal sector was unionized.

The Industrial and Labor Relations Act (IRA) establishes burdensome registration procedures. For example, no organization could be registered unless it had at least 100 members, and with some exceptions, no trade union could be registered if it claimed to represent a class of employees already represented by an existing trade union. Unions may be deregistered under certain circumstances; however, the IRA provides for notice, reconsideration, and right of appeal to an industrial relations court.

The law prohibits discrimination by employers against union members and organizers; however, the law was not always enforced.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The right to collective bargaining, without government interference, is protected in law and freely practiced.

The law provides for the right to strike, except for those engaged in "essential services"; however, there has not been a legal strike since 1993. In addition to the Zambia Defense Force, the judiciary, the police, the prison service, and the Security Intelligence Service, the law defines "essential services" as any activity relating to the generation, supply, or distribution of electricity; the supply and distribution of water; sewerage; fire departments; and the maintenance of safe and sound conditions in underground working environments such as shafts and machinery in the mining sector. The law permits strikes only after all other legal recourse has been exhausted, a cumbersome process. The law prohibits employers from retribution against employees engaged in legal union activities; workers engaged in illegal strikes did not enjoy this protection.

In July miners at Konkola Copper Mines (KCM), the country's largest mining company, went on strike demanding a 100 percent pay raise. The strike, which was illegal, lasted more than one week and cost several million dollars in lost production. Striking miners rioted, destroyed company property, and, in at least one instance, detonated explosives. Police arrested four persons in connection with the strike and riots (see section 1.d.), but released them after holding them for 15 days

after the human rights commission and unions protested that they were being held without charge. The miners received a 30 percent increase in pay.

Unlike in the previous year, the government did not respond to striking civil servants with threats of mass firing and arrests, and revocation of rally permits.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see section 5). The law authorizes the government to call upon citizens to perform labor in specific instances, such as during national emergencies or disasters. The government also may require citizens to perform labor that was associated with traditional civil or communal obligations, as when a traditional leader or other dignitary called upon all members of a village to assist in preparing for a visit; however, there were no reports of such activities during the year.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Employment of Children and Young Persons Act as amended in 2004 prohibits employment of children in any commercial, agricultural or domestic worksite. The act also prohibits engaging a child in the worst forms of child labor as defined in international conventions. The minimum age for employment is 18 or, with the consent of a parent or guardian, a child may be employed at the age of 16. Nevertheless, child labor was a problem in subsistence agriculture, domestic service, and informal sectors, where children under the age of 16 often were employed, and the law was not enforced. The Labor Commissioner effectively enforced minimum age requirements in the industrial sector where there was little demand for child labor.

Approximately 600 thousand children were in the work force, of whom approximately 87 percent worked in the agricultural sector. During the year children, often orphans who had lost both parents to HIV/AIDS, continued to migrate to urban areas where they lived as street children. In urban areas children commonly engaged in street vending.

Child labor was most concentrated in the hotel and catering industries, construction, farming, transportation, prostitution, and household work.

In 2004 the president signed into law comprehensive child labor legislation that prohibits all forms of slavery and procuring or offering a child for illicit activities, including prostitution. The Ministry of Labor and Social Security (MLSS) is responsible for the implementation and enforcement of child labor laws and regulations. The MLSS can bring charges that provide for penalties ranging from a fine to imprisonment for violations. Labor inspectors may also enter family homesteads and agricultural fields to check for child labor violations.

During the year the government allocated only $72,500 (300 million kwacha) for MLSS to investigate child labor issues, almost half of what was allocated in 2004. In January, despite budget reductions, the MLSS Child Labor Unit hired 49 new labor officers, inspectors and prosecutors responsible for enforcement of child labor laws. During the year the MLSS continued to recruit labor officers, which it required to be university graduates. The MLSS projected that it would need to hire an additional 27 labor officers in order to be fully staffed.

Because more than 80 percent of child labor in the country occurred in the agricultural sector, most often with the consent of families, the MLSS labor inspectors focused on counseling and educating families that engaged children in child labor and did not refer any cases for prosecution during the year. The MLSS also reported that inadequate resources hampered its enforcement efforts. There were a total of only two vehicles available to labor inspectors and none of the labor inspection field stations had a vehicle making it difficult to conduct inspections in vast rural areas. The MLSS removed five thousand children from child labor. The children, mainly orphans who were found in urban settings, were placed in formal and transitional classes, while others were given vocational skills training (see section 5).

The government continued to provide awareness and training activities for officials charged with enforcing child labor laws. Using funds provided by the International Labor Organization's (ILO) International Program on the Elimination of Child Labor (IPEC), the government began to develop training manuals for labor officers. In addition, ILO–IPEC funds were used to develop data and record keeping systems for use by inspectors and investigators.

e. Acceptable Conditions of Work.—The minimum wage for nonunionized workers, whose wages and conditions of employment were not regulated through collective bargaining, was determined by category of employment. Based on a 48-hour workweek, the legal maximum for nonunionized workers, a general worker earning the minimum wage would receive $16.50 (83,200 kwacha) per month. The minimum wage did not provide a worker and family with a decent standard of living; most

minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on the extended family.

For unionized workers, wage scales and maximum workweek limits were established through collective bargaining. In practice, almost all unionized workers received salaries considerably higher than the nonunionized minimum wage. The minimum workweek for full-time employment was 40 hours, which was the normal workweek. The law requires two days of annual leave per month of service. The law provides for overtime pay. Employers must pay employees who work more than 48 hours (45 hours in some categories) in one week at a rate of one and a half times their hourly rate. Workers receive double the rate of their hourly pay for work done on a Sunday or public holiday. The government effectively enforced these standards.

The law also regulates minimum health standards in industry, and city and district councils were responsible for enforcement. The inspector of factories under the minister of labor handled factory safety; staffing shortages limited enforcement effectiveness. The law protects the right of workers to remove themselves from work situations that endangered health or safety without jeopardy to their continued employment, but workers did not exercise this right in practice. The government has acted when well-known occupational health problems existed, such as by requiring underground mine workers to receive annual medical examinations.

ZIMBABWE

Zimbabwe, with a population of approximately 12.7 million, is constitutionally a republic, but the government, dominated by President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU–PF) since independence, was not freely elected and is authoritarian. The last two national elections, the presidential election in 2002 and the parliamentary elections in March, were not free and fair. There were reports of fraud and improper participation of security forces in counting and tabulation of ballots, restrictions on access to voter education, irregularities in voter registration, limitations on the opposition's ability to campaign, and continued restrictions on speech, press, and assembly. Although the constitution allows for multiple parties, the ruling party and security forces intimidated and committed abuses against opposition parties and their supporters—both perceived and actual—and obstructed their activities. The Movement for Democratic Change (MDC) was the country's principal opposition party; it held 41 of 120 elected parliamentary seats at year's end. The civilian authorities generally maintained control of the security forces, but often used them to control opposition to the ruling party.

The government's human rights record remained very poor. While violence during the election campaign period was lower than in previous elections, the government continued to interfere with campaign activities of the opposition. The ruling party's two-thirds parliamentary majority enabled it to amend the constitution without a referendum or broad consultation. Constitutional amendments passed by parliament and signed by President Mugabe granted the government the ability to restrict exit from the country for reasons of public interest, transferred title to the government to all land reassigned in the land acquisition program, and removed the right to challenge land acquisitions in court. The government's Operation Restore Order campaign to demolish allegedly illegal housing and businesses displaced or destroyed the livelihoods of over 700 thousand persons and further strained the country's poor and depressed economic activity. Many of the displaced lost access to education, treatment for HIV/AIDS, other medical care, and their livelihoods. The economy continued to decline, with hyperinflation and widespread shortages, primarily due to the government's command and control economic policies. The following human rights and societal problems were reported:

- inability of citizens to change their government
- politically motivated killings and kidnappings
- torture, rape, and abuse of persons perceived to be opposition supporters by security forces, government-sanctioned youth militia, and ruling party supporters
- harassment of properly elected local officials from the MDC
- official impunity
- harsh and life-threatening prison conditions
- repeated arbitrary arrest and detention and lengthy pretrial detention
- executive influence and interference in the judiciary

- passing a constitutional amendment that removed the right to judicial appeal in land reform cases
- government distribution of land on a partisan basis, with numerous senior ruling party officials holding multiple farms
- restrictions on freedom of speech, press, academic freedom, peaceful assembly, association, and movement
- widespread government corruption
- harassment of human rights and humanitarian nongovernmental organizations (NGOs) and obstruction of their activities
- violence and discrimination against women
- child labor and prostitution
- discrimination against persons with disabilities and ethnic minorities
- an increase in the number of HIV/AIDS orphans and child-headed households
- harassment and interference with labor organizations critical of government policies and attempts to supplant legitimate labor leaders with hand-picked supporters

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were reports of three political killings during the year by the government or ruling party supporters and one killing by opposition supporters. Individuals targeted for harassment, torture, and killing tended to be active members of the opposition or high-level ZANU–PF members in disfavor with the ruling party. The government routinely used selective violence to achieve its political objectives. Army and police units participated in or provided logistical support to perpetrators of political violence and generally permitted their activities.

On March 3, Gift Chimbandi, a war veteran, was burned to death in a fire at his farm, reportedly as the result of a dispute with other war veterans on the farm, who were suspected of being politically motivated MDC supporters. Veterans of the liberation war, both actual and so-called, led the invasions of commercial farms that began in 2000. The matter was reported to the police, but no official action was taken by year's end.

On April 13, five men assaulted eight settlers of Kimcote Farm and raped four of them, reportedly for being suspected MDC supporters. One of the victims, a 70-year-old grandmother, died from the assault. At year's end officials had taken no action.

On April 28, Elifas Gora and Newman Zifodya, ZANU–PF supporters, beat Ebrahim Mofat to death at Gora's house after a group of war veterans and ZANU–PF supporters abducted and tortured him. Police had arrested Mofat on allegations that he burned houses belonging to ZANU–PF supporters and detained him for three days before releasing him. He was abducted soon after his release. Mofat's family reported the murder and police arrested Gora and Zifodya but later released them on bail. By year's end there were no developments in the case.

On May 2, Godwin Ganda, a Marondera war veteran believed to have spearheaded the first farm occupation in the country in 1998, was found dead near his farm. Prior to the March parliamentary elections, Ganda received multiple threats on his life and told his brother that he was constantly under surveillance and in danger from "political rivals." Witnesses found Ganda bound and strangled in the manner of the murder of another prominent war veteran. There were no developments in the case at year's end.

In mid-September a magistrate sentenced three Lupane war veterans, Seith Themba Jubane, Nicholas Minenhle Ncube, and Patrick Ndlovu, to four years in jail for kidnapping and assaulting MDC member of parliament (MP) David Mpala, who later died of complications from injuries sustained during the attack in 2003.

There were no developments in the following killings from 2004: the January killing of MDC supporter Alexander Chigega; the February killing of Shemi Chimbarara, a farm worker on former MDC MP Roy Bennett's farm; and the March killing of Francis Chinozvina by Minister without Portfolio and ZANU–PF Commissar Elliot Manyika.

There were no further developments in the reported 2003 killings.

Harsh prison conditions and a high incidence of HIV/AIDS were widely acknowledged to have contributed to a large number of deaths in prison; however, some deaths in custody and prison may have been due to abuse by prison officials or guards as well as from other causes (see section 1.c.).

b. Disappearance.—During the year there were multiple reports of politically motivated kidnapping committed by ZANU–PF supporters and one reported kidnapping committed by MDC supporters. Domestic human rights organizations believed that there were disappearances in rural areas that were not reported due to fear of retribution by progovernment factions. Abductees were often tortured. The government often did not investigate abductions and torture of MDC supporters.

On February 11, ZANU–PF supporters abducted MDC candidate for Hurungwe West, Godfrey Gumbo, as well as the district chairperson and organizing secretary. The abductors took them to the Harare police headquarters and beat them severely in the presence of the police. By year's end no official action had been taken.

In early April ZANU–PF youths and war veterans kidnapped and severely beat Wilson Mushonga, the son of the MDC candidate in Mazowe East, and a group of his colleagues. He and his colleagues were hospitalized as a result of the attack. By year's end there was no official action against the attackers.

There were no developments in the 2004 kidnappings of an MDC supporter in Dzivaresekwa, abducted by ZANU–PF youths; ZANU–PF supporter Elias Musavi, abducted by MDC supporters; or Bob Makone, abducted by ZANU–PF youths.

There were no further developments in the reported 2003 abductions.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution prohibits such practices, security forces tortured, raped, and otherwise abused persons. There continued to be reports that police used excessive force in apprehending and detaining criminal suspects. Government supporters continued to torture suspected opposition members and farm laborers.

Human rights groups reported physical and psychological torture perpetrated by government supporters. The Zimbabwe Human Rights NGO Forum reported 135 cases of torture during the first 11 months of the year. National youth training camps were a source of ruling party-directed youth militia forces, which were deployed to harass and intimidate suspected MDC supporters with impunity. There were reports of indoctrination against political opposition (see section 5).

Security forces were involved in incidents of political violence, including instances where soldiers and persons in military uniforms beat civilians, particularly in areas suspected of heavy support for the opposition.

On February 26, unidentified persons abducted and tortured a Guruve man believed to be an MDC supporter. The perpetrators tied his hands, suspended him from a tree by his neck, and beat his face and body with a stick. No official action was taken against the attackers by year's end.

On April 7, MDC MP-elect for Kuwadzana constituency, Nelson Chamisa, was arrested and detained for three days for allegedly inciting violence. Police denied Chamisa food while he was detained. Police officers removed him from the police station in the middle of the night, beat him, and removed him from the police vehicle and forced him to march in leg irons alongside the vehicle. On April 8, Chamisa's attorney officially complained to police officers in charge of the first police station, but there was no official action by year's end.

In December 2004 police arrested Kenny Karidza, the ZANU–PF deputy director of security, on charges of breaching the Official Secrets Act by allegedly selling state secrets to foreign governments. Karidza claimed police detained him at a police station for 14 days in underground cells and tortured him repeatedly. Subsequently, he was blindfolded and moved to a military camp. Karidza claimed he signed a written confession to end the torture. At year's end his trial had not yet begun.

Although there was less violence associated with the March parliamentary elections than in previous elections, throughout the year persons perceived as supporting the opposition, including teachers, civil servants, health workers, and laborers, continued to be singled out for assault or intimidation by ruling party supporters. There were some reports of retribution against MDC supporters after the March elections. In most cases, the national police did not halt acts of political intimidation or violence, arrest the perpetrators, or investigate political crimes.

In April there were multiple reports that ZANU–PF candidates and MPs-elect led attacks on suspected MDC supporters in areas where the MDC garnered the most votes or where the race was close. The attacks included beatings and home burnings. For example, in Karoi ZANU–PF supporters beat MDC supporters and reportedly threatened to intensify attacks once international observers had left the country. There were similar reports from around the country. In all of the cases, police took no action.

In early May several ZANU–PF youths surrounded two schools in Marondera, a rural town near Harare. The youths accused several teachers of supporting the MDC and ordered them to leave their posts. The teachers did not report the incident to the police but requested reassignment by the Education Ministry because they feared for their safety.

There were no developments in the following 2004 cases: the violent looting, beating of farm workers, and occupation of Roy Bennett's farm in Chimanimani; the attack by ZANU–PF supporters on MDC supporters at a colleague's memorial service; the kidnapping and beating of Zimbabwe National Students Union president Philani Zamchiya; attacks by youth militia on MDC supporters in connection with the Zengeza by-elections; the assault on three pregnant women by ZANU–PF supporters; the investigation of security officers in the kidnapping and torture of ZANU–PF youths mistaken as MDC supporters; and arrest of ZANU–PF MPs for inciting or participating in intraparty violence.

There were no developments in the reported 2003 cases of torture and beating.

In May during Operation Restore Order (see section 1.f.), hundreds of thousands of persons lost their homes, property, and livelihoods without compensation or provision for alternative accommodation that would allow relocation without destitution. During the operation security forces intimidated those being relocated and beat many of them.

War veterans and ZANU–PF supporters continued to harass, intimidate, and abuse journalists considered to be sympathetic to the opposition (see section 2.a.).

Security forces repeatedly used force to disperse nonviolent gatherings and demonstrations; security forces also beat participants and demonstrators (see section 2.b.).

Zimbabwe Human Rights NGO Forum reported that at least four politically motivated rapes were committed during the year but noted that the figure likely was grossly underreported due to cultural taboos. The attacks targeted MDC supporters and their families (see section 1.a.).

Unlike in previous years, there were no reports of rape at national youth service training camps (see section 5).

There were no developments in the 2004 rape of a farm worker by a war veteran on Roy Bennett's farm in Chimanimani.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. The government's 47 prisons were designed for a capacity of 16 thousand prisoners but held approximately 25 thousand at the end of 2003. In December 2004 the Law Society of Zimbabwe conducted a prison inspection at Khami Maximum Prison in Bulawayo that revealed the prison, built to accommodate 650 prisoners, had 1,167 inmates. Based on this review and another prison inspection, the law society concluded that overcrowding increased in 2004 and believed that it probably continued to increase during the year.

In September an official from the Justice, Legal, and Parliamentary Affairs Ministry acknowledged in a report in the state-controlled newspaper *The Herald* that "prisons were in a deplorable state." There were shortages of food, water, electricity, clothing, soap, and other toiletries. During the year there were reports that prisoners at a holding cell in Norton, a town near Harare, went for three days without eating as prison officials stated there was no money to buy food. Poor sanitary conditions persisted, which aggravated outbreaks of cholera, diarrhea, measles, tuberculosis, and HIV/AIDS-related illnesses. One NGO estimated that HIV prevalence among prisoners was as high as 50 percent and reported that AIDS was a major cause of death in detention.

In April a local NGO, Zimbabwe Lawyers for Human Rights, together with Wellington Chibebe, the secretary general of the Zimbabwe Congress of Trade Unions, and Nancy Kachingwe, a member of a regional development NGO, filed a constitutional challenge to the conditions of remand prisons and police holding cells. Chibebe and Kachingwe, who had once been incarcerated at Matapi police station in Mbare and Highlands police station respectively, argued that conditions in the cells amounted to inhuman and degrading treatment, in contravention of the constitution. Despite supporting evidence, in July the supreme court ruled that, although conditions in these cells did not "comply with internationally accepted minimum standards," those two cells could not be used as a general yardstick for all holding cells in the country. Subsequently, the government did not improve conditions.

Juveniles were not held separately from adults. Pretrial detainees generally were held in group cells until their bail hearings. Once charged, if detainees were refused bail, they were held in a separate remand prison.

In May officials transferred Roy Bennett, the MDC MP for Chimanimani who was imprisoned for assaulting a cabinet minister in parliament (see section 1.d.), from a rural minimal security prison to a congested maximum-security prison. He then was held under the same conditions as violent offenders. Officials denied Bennett clean clothing, forcing him to wear filthy, revealing garments.

The law provides that international human rights monitors have the right to visit prisons, but government procedures and requirements made it very difficult to do

so. Permission was required from the commissioner of prisons and the minister of justice, which sometimes was not granted or took a month or longer to obtain. The government granted local NGOs access on a number of occasions during the year. Unlike previous years, there were no reports of any group denied access.

d. Arbitrary Arrest or Detention.—The constitution prohibits arbitrary arrest and detention; however, some laws effectively weakened this prohibition, and security forces arbitrarily arrested and detained persons repeatedly.

Role of the Police and Security Apparatus.—The Zimbabwe Republic Police (ZRP) is responsible for maintaining law and order. Although the ZRP officially is under the authority of the Ministry of Home Affairs, in practice the President's Office controlled some roles and missions, and the ZRP has become increasingly politicized. The Zimbabwe National Army and Air Force under the Defense Ministry are responsible for external security; however, there were cases in which the government called upon them for domestic operations. The Central Intelligence Organization (CIO), under the minister of state for national security in the president's office, is responsible for internal and external security.

The police are centrally controlled, with the command center in Harare. The police are further divided with provincial headquarters overseeing two to three district headquarters, each of which supervises up to seven stations. Decreased resources, both human and material, especially fuel, further reduced police effectiveness during the year. It was difficult for police to remain impartial due to continued politicization within the force's upper echelons, which further lowered their professionalism. There were also reports that untrained or unqualified personnel were placed in the lower levels solely because of their support for ZANU–PF. Corruption increased, due, in large part, to low salaries.

Security forces rarely are held accountable for abuses.

Arrest and Detention.—Arrests require court-issued warrants. The law requires that police inform an arrested person of the charges before taking the individual into custody. Although the law requires a preliminary hearing before a magistrate within 48 hours of an arrest (or 96 hours over a weekend), authorities disregarded the law if a person did not have legal representation. Police typically arrested individuals accused of political crimes on Friday, which permitted legal detention until Monday. In several cases police claimed not to know where they were holding a detained individual, which delayed a hearing on bail release.

Although the Criminal Procedures and Evidence Act substantially reduced the power of magistrates to grant bail without the consent of the attorney general or his agents, in practice a circular issued by the attorney general giving a general authority to grant bail lessened the negative effect of the law. High court judges granted bail independently. In 2004 parliament amended the act to allow the police to hold persons suspected of committing economic crimes for up to four weeks without bail. In April 2004 Finance Minister Christopher Kuruneri was arrested on charges of dealing illegally in foreign currency. Authorities repeatedly deferred or denied his applications for bail. After 18 months in prison, he was granted bail in July, and on September 14, authorities suspended his trial citing his ill health; at year's end the trial had not resumed.

Authorities often did not allow detainees prompt or regular access to their lawyers and often informed lawyers who attempted to visit their clients that detainees were "not available" (see section 1.e.). Family members sometimes were denied access unless accompanied by an attorney. Detainees, particularly those from rural areas without legal representation, sometimes were held incommunicado. Family members and attorneys often could not verify that a person had been detained until the detainee appeared in court.

There was a continuing problem, particularly in rural areas, of victims or witnesses of crimes being detained or charged with a crime after reporting a crime to the police. On March 3, ZANU–PF supporters led by a war veteran known as Kangachepi abducted and tortured MDC parliamentary candidate for Zvimba North, Prince Chibanda, and several members of his campaign team. Several of the abducted persons escaped and reported the incident to the police. Police arrested Kangachepi but also took Chibanda and one of his campaigners, Paidamoyo Muzulu, to the Chinhoyi police station and detained them for the night. Officials had taken no further action by year's end.

No action was taken in the May 2004 case where MDC activists were beaten by ZANU–PF supporters and, subsequently, arrested by police after reporting the attack.

The Official Secrets Act and the Public Order and Security Act (POSA) grant the government a wide range of legal powers and give extensive powers to the police,

the minister of home affairs, and the president to prosecute persons for political and security crimes that are not clearly defined.

Unlike in previous years, there were no reports that police detained farmers in connection with seizing their land despite court orders confirming their title; however, authorities and ZANU–PF supporters continued farm invasions, beatings, and intimidation of farm owners and workers (see section 1.c.).

Police arbitrarily arrested journalists and religious leaders during the year (see sections 2.a. and 2.c.).

Police arrested persons holding meetings and during the forcible dispersal of gatherings (see section 2.b.).

There were numerous reports of political detainees throughout the year, including opposition officials, their supporters, and civil society activists. Most were held for one or two days and released. At year's end there were no political detainees in police custody.

During the year police arrested several MDC MPs (Thokozani Khupe, Nelson Chamisa, Gift Chimanikire, and Gilbert Shoko), candidates, and their supporters. Unlike in previous years, police did not arrest ZANU–PF MPs. Former ZANU–PF MP Chris Kuruneri and former MDC MP Roy Bennett remained in detention for part of the year.

There were no developments in the arrest cases reported in 2003 and 2004.

Prolonged pretrial detention remained a problem, and some detainees were incarcerated as long as four years before trial because of a critical shortage of magistrates and court interpreters. One prominent NGO estimated the courts would require at least two years to address the backlog of cases.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; the judiciary was under intense pressure to conform to government policies, and the government repeatedly refused to abide by judicial decisions.

The law provides for a unitary court system, consisting of headmen's courts, chiefs' courts, magistrates' courts, the high court, and the supreme court. Civil and customary law cases may be heard at all levels of the judiciary, including the supreme court.

Magistrates, who are part of the civil service rather than the judiciary, heard the vast majority of cases. Legal experts said that increasingly defendants in politically sensitive cases were more likely to receive a fair hearing in magistrates' lower courts than in higher courts where justices were more likely to make political decisions. Other judicial officers such as prosecutors and private attorneys also faced political pressure.

The government and police routinely failed to enforce court decisions that went against their interests. Furthermore, the government routinely continued to delay payment of court costs or judgments awarded against it.

Judges are appointed to serve until the age of 65 and may extend their terms until the age of 70 if they remain in good physical and mental health. The constitution provides that they may be removed from the bench only for gross misconduct and that they cannot be discharged or transferred for political reasons.

Justice Benjamin Paradza was charged in 2003 with obstruction of justice for trying to influence a fellow judge in a murder case. Paradza maintained that his consultations with his colleague were common among judges and were not improper. A tribunal of judges from the region was to try Paradza in 2004 to determine if he should be removed as a judge, but the proceedings were postponed when Paradza challenged the appointments of judges. In August the supreme court ruled that the composition of the tribunal was constitutional, but the tribunal was postponed pending a criminal trial, which began in August and was ongoing on year's end.

Trial Procedures.—The constitution provides for the right to a fair trial; however, this right frequently was compromised due to political pressures. Trials were held by judges without juries and were open to the public, except in certain security cases. Every defendant has the right to a lawyer of his choosing, but a local attorney reported that most defendants in magistrates' courts did not have legal representation. In criminal cases an indigent defendant may apply to have the government provide an attorney, but this was rarely granted except in capital cases where the government provided an attorney for all defendants unable to afford one. Litigants in civil cases can request legal assistance from the NGO Legal Resources Foundation or Zimbabwe Lawyers for Human Rights.

Attorneys sometimes were denied access to their clients. For example, on March 31, police arrested dozens of Women of Zimbabwe Arise! (WOZA) members who were holding a prayer vigil on election day. Police beat some women and refused them medical treatment. All the women were held in an open courtyard and denied access to lawyers. Police told them that they could pay a fine and admit guilt or spend

the weekend in jail and be charged under POSA. Fearing further abuse and without the benefit of legal representation, the women paid the fines.

Defendants enjoy a presumption of innocence, the right to present witnesses, and the right to question witnesses against them; however, these rights were not always observed in practice. A prominent local NGO reported there were several cases when the government denied these rights for political motives. Defendants and their attorneys generally had access to government-held evidence relevant to their cases. Some defendants were denied the right to wear civilian attire to court. For example, on May 26, Roy Bennett was forced to appear in court in a prison uniform for a hearing to seek early release from prison. The right to appeal exists in all cases and is automatic in cases in which the death penalty is imposed.

In October 2004 the high court found MDC President Morgan Tsvangirai not guilty of plotting a coup and assassination of President Mugabe. On August 2, the government withdrew its second treason charge against Tsvangirai.

The Zimbabwe Women's Lawyers Association (ZWLA) reported that some magistrates in the country were not aware of some of the contents of the Sexual Offenses Act (SOA), that the law was in effect, or lacked complete understanding of how to apply it. ZWLA's research illustrated that many magistrates continued to make judgments based on old laws.

There was a large volume of rape cases in the Harare victim-friendly courts, special courts created to accommodate children and sexual offense victims, with specially trained magistrates and prosecutors and equipment that allows the victims to testify without being seen. These courts were understaffed, in part because many magistrates left the country seeking to improve their circumstances.

Military courts deal with courts-martial and disciplinary proceedings only for military personnel. Police courts, which can sentence a police officer to confinement in a camp or demotion, handle disciplinary and misconduct cases. Defendants in these courts have the right to appeal to the supreme court.

Political Prisoners.—There was one political prisoner, Roy Bennett, who was sentenced to prison in 2004 for an incident in which he pushed a cabinet minister, an offense that normally would be punished by a fine. He was released on June 28 for good behavior. He was permitted to see his wife for 20 minutes every other week. There were no reports that international humanitarian organizations gained access to him during his imprisonment. There were no other reported political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, but the government did not respect these provisions. Security forces searched homes and offices without warrants; the government was believed to monitor some private correspondence and telephones, particularly international communications; and the government forcibly dispersed persons from their homes. In April ZANU–PF supporters reportedly burned the house of Richmond Zitha, the MDC campaign manager in Lupane, a district in Matabeleland where there was government-sponsored violence associated with the parliamentary by-elections in 2004. Zitha reported the arson to the police, who stated they were investigating; however, at year's end there was no further official action.

The law permits the government to monitor and intercept e-mails entering and leaving the country. Security services reportedly continued to monitor e-mail and Internet activity and acquired new technology to do so; however, the extent of monitoring was unknown.

On March 15, suspected ZANU–PF supporters burned an MDC supporter's home after they broke into the house and held an unauthorized meeting.

On May 19, without prior notice the government embarked on Operation Restore Order, in which over 700 thousand persons lost their homes, their means of livelihood, or both. The government's stated reason for the operation was to curb illegal economic activities and crime in slums and illegal settlements, but it made no provision for the affected before beginning the operation. Police, security forces, and some local authorities demolished, or required the victims to demolish, their homes and businesses. Police and security forces beat some residents and market vendors and arrested thousands of informal traders.

Residents were sometimes fined or threatened with fines for not demolishing their houses. Government or security officials also destroyed or confiscated goods and furniture, as well as destroying homes, buildings including HIV/AIDS clinics, orphanages, and places of worship. International NGOs and the UN confirmed that several persons were killed by falling debris during the demolition. Most of the operation's activities occurred in June and July, at the height of the country's winter.

Thousands of those evicted from their homes were forcibly moved to transit camps. The UN special envoy's report stated that five thousand persons were held at Caledonia Camp and two thousand persons at Hopely Camp. Transit camps did

not consistently have basic necessities such as shelter, water, and hygiene facilities, and the government in some instances blocked humanitarian aid to the camps. Reportedly, police instructed the displaced to return to their rural areas; officials also published statements to this effect in the government-sponsored media.

On July 20 and 21, police sent trucks to collect displaced persons staying at churches in Bulawayo and moved them to a transit camp. This occurred despite cooperation from the churches and NGOs in setting up a camp with appropriate facilities and despite earlier agreement by the police not to move anyone forcibly or before the camp was ready. Officials initially allowed the local Red Cross to set up tents for displaced persons at a sports field in Mutare; however, they subsequently forced the Red Cross to dismantle the tents in anticipation of the visit by the UN special envoy. In September the government forcibly dismantled tents that the International Organization for Migration had erected in Headlands to house some of the displaced, further displacing those persons.

In early October police and municipal authorities ordered victims of Operation Restore Order, who had been living in temporary shelters in the Harare suburb of Mbare since the demolition of their homes, to vacate the area by October 14. On October 10, a high court judge ordered a temporary stay of eviction in response to a Zimbabwe Lawyers for Human Rights application. On November 14, in violation of the court order, police moved these persons to Hopely Camp, where living conditions remained poor at year's end.

Also in October police launched Operation No Turning Back against the reestablished informal sector and arrested approximately 14 thousand vendors. Police fined and quickly released most of those arrested.

In addition to severely curtailing employment opportunities in the informal sector, disruptions associated with the displacements also cost many working in the formal sector their employment. Some displaced families joined others in already cramped and inadequate housing. Those who returned to rural areas often faced unemployment, food shortages, and other economic and social stresses. Persons born outside the country or whose parents were born outside the country usually had no rural home to which they could return. Furthermore, lacking ties in their country of origin, they were particularly disadvantaged by the displacements. Such individuals numbered in the thousands.

Many displaced children could not continue to attend school and were unable to take their winter term exams. The Child Protection Working Group (CPWG) of UN Children's Fund (UNICEF) reported that an estimated 300 thousand children lost access to education as a result of displacement. CPWG also reported that some children in transit camps were physically and sexually abused and subjected to forced labor.

The operation disrupted medical care, particularly for HIV/AIDS patients. Those on antiretroviral therapy could no longer obtain these drugs, while patients receiving other medical services, including home-based care, lost access to them. In many cases clinics and day centers for orphans could not locate their former clients. There were reports that one AIDS orphanage was destroyed in the Harare suburb of Hatcliffe. Dismantling urban markets contributed to food insecurity, which exacerbated health problems.

One international NGO estimated that, prior to the operation, at least two million persons were on waiting lists for approved housing, a factor that prompted creation of the informal settlements the government subsequently demolished. Similarly, with 80 percent formal sector unemployment, informal businesses and markets were a major source of income and consumer goods for the majority of the population. In many cases the areas demolished were housing cooperatives that the government had encouraged, where residents were paying for public utilities. In some cases, the government demolished homes for which the owners held title and all necessary permits. At year's end the government had not compensated any owners.

In June the UN secretary general sent special envoy on human settlements issues in Zimbabwe, Anna Tibaijuka (head of UN-Habitat) to assess the effects of the operation. The special envoy's report, issued on July 22, criticized the government for beginning the operation without warning, without adequate alternative shelter for those affected or alternative means for them to set up legal businesses, and in a manner that caused human suffering. The report also criticized the government's plan to move the displaced to rural areas violating their right to choose where to live. The report concluded that the operation had been "carried out in an indiscriminate and unjustified manner, with indifference to human suffering," and recommended holding accountable those government officials responsible for the operation. The government dismissed the report as biased. The government blocked the activities of an African Union (AU) envoy sent to survey the situation (see section 5).

In July the government announced a new operation, *Garikai*, (Shona for "live well") supposedly to provide housing plots for new homes and to set up new vending sites for those who lost homes or businesses; the program proceeded slowly. There were credible reports that civil servants, military, and ruling party supporters were the main beneficiaries of the plots and vending sites. To apply for a housing plot or vending site, applicants had to pay large application and permit fees, prove employment, submit fingerprints, and undergo a police check. The MDC claimed that the government used this vetting process to assure that MDC supporters did not receive any plots or vending sites. A local human rights NGO stated that those who had received new plots did not have any legal title to them and were thus vulnerable to a similar operation in the future.

Some of the approximately 300 remaining white commercial farmers lost their farms as the government continued to list farms for compulsory acquisition. The new constitutional amendment (see section 3) transferred title to the state of all land previously acquired, prohibited court challenges to the acquisitions, and allowed the government to acquire any agricultural land (undefined in the text of the amendment) for any purpose simply by publishing a notice of acquisition.

Land invasions and seizures of property continued and were sometimes violent. In September CIO, police, and ZANU–PF militia invaded farms in Manicaland. On September 21, a gang led by senior CIO official Joseph Chiminya invaded Ashanti Farm in Chipinge and severely beat the farm manager, Allen Warner, and co-owner, David Wilding-Davies. Warner said Chiminya pointed a firearm at him and tried to fire, but the weapon jammed. At year's end no action had been taken against the attackers. Armed gangs led by security forces and government officials invaded several other farms in Chipinge and Nyazura; they beat and intimidated farm workers. The farm invaders also confiscated farm equipment from at least one farm, despite a court order prohibiting such confiscation. When the farm owner contacted police, the police did not respond. In November in Masvingo Province, police assisted in one case of unlawful seizure of farm equipment, despite a court order against the person confiscating the equipment.

In September and October 2004, the government evicted and burned the homes of thousands of families accused of squatting on farms acquired by the government in Mashonaland West, Mashonaland East, and Manicaland. The government blocked international organizations from assisting these displaced farmers. Many of the affected were displaced again during Operation Restore Order.

There was no action taken, nor was any anticipated, in the reported 2003 or 2004 cases of arbitrary interference with citizens' homes.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of expression, but legislation limits this freedom in the "interest of defense, public safety, public order, state economic interests, public morality, and public health." The government restricted this right in practice. The government closed an independent weekly during the year, and three newspapers closed in 2003 and 2004 remained closed. Security forces arbitrarily detained and harassed journalists. Journalists practiced self-censorship.

The government continued to restrict freedom of speech, particularly by independent sources or those making or publicizing comments critical of President Mugabe. Using POSA authority, the government arrested individuals for criticizing Mugabe in public; they were usually fined and released.

The ministry for information and publicity controlled the state-run media. The government controlled two daily newspapers, the *Chronicle* and the *Herald*. The news coverage in these newspapers generally focused on the activities of government officials, negatively portrayed opposition parties and other antigovernment groups, and downplayed events or information that reflected adversely on the government. The government-controlled media generally portrayed President Mugabe and the government favorably. *The Daily Mirror*, a daily semi-independent newspaper owned by ZANU–PF-aligned interests, continued some critical coverage of government policy and ruling party interests and aired the views of the opposition and critics of the government, although its editorial pages were firmly pro-ZANU–PF. There were allegations that the CIO owned or controlled the *Daily Mirror*.

There were two independent major weeklies (the *Independent* and the *Standard*) and a semi-independent weekly (the *Financial Gazette*) that continued to operate despite threats and pressure from the government. The major independent newspapers continued to criticize the government and ruling party; however, most also continued to exercise some self-censorship due to government intimidation and the continuing prospect of prosecution under criminal libel and security laws.

Radio remained the most important medium of public communication, particularly for the majority of the population living in rural areas. The government controlled all domestic radio broadcasting stations through the state-owned Zimbabwe Broadcasting Corporation (ZBC), supervised by the information and publicity ministry. There were credible reports that the deputy minister of information routinely reviewed ZBC news and repeatedly excised reports on the activities of groups and organizations opposed to or critical of the government.

There were independent short-wave radio broadcasts to the country during the year; however, they were not widely heard because few citizens had access to short-wave radios. Voice of America broadcast a program daily on short wave and AM featuring interviews with local opinion makers on a range of topics in English, Shona, and Ndebele. Short Wave Radio Africa broadcast daily from the United Kingdom, using local sources and reporters. On May 31, the station switched to medium-wave since the government had interfered with its short-wave broadcasts, forcing the station to broadcast on multiple frequencies, a financially unsustainable course. Short Wave Radio Africa continued to broadcast 24 hours a day from its Web site. Voice of the People (VOP) broadcasts daily from the Netherlands.

On December 15, police raided the VOP Harare offices, confiscated equipment and files, and arrested three administrative staff. On December 19, the government initially charged the staff in court for operating a broadcast service without a government license and working as journalists without accreditation; however, they were released after the attorney general determined that they were neither journalists nor owners of the station and, therefore, could not be prosecuted. Also on December 19, police arrested VOP executive director John Masuku and held him without charge until December 23, beyond the 48-hour maximum. On December 23, Masuku was charged with operating a radio station without a license and released on bail. His trial was scheduled for January 2006. Police demanded that VOP's trustees surrender; however, at year's end, they remained in hiding.

The government controlled all domestically based television broadcasting stations, and the ZBC owned and operated television broadcasting facilities. ZBC banned most international programs in favor of programs produced locally or by Africans.

International television broadcasts were available freely through private satellite firms, but their expense and the requirement for payment exclusively in foreign currency made them unavailable to most citizens. In June there were reports in the independent media that police questioned satellite subscribers on their sources of foreign currency used to pay the subscriptions.

Journalists were arrested during the year. The government arrested and prosecuted editors and journalists who contributed to published stories critical of government policies or security force operations.

On February 14 and 15, police raided the offices of freelance journalists Angus Shaw, Jan Raath, and Brian Latham. Police confiscated computer equipment and questioned the journalists for several hours on multiple occasions. Initially the journalists fled the country due to fear of arrest; however, Raath and Shaw subsequently returned, while Latham remained out of the country.

On February 25, police in Chimanimani detained Netsai Kembo, a reporter for the local newspaper *The Daily Mirror*, when he attempted to cover President Mugabe's rally. Police accused Kembo of working for the foreign press and questioned him for over two hours before releasing him without charge.

On August 4, police arrested Desmond Kwande, chief photographer of *The Daily Mirror* newspaper, for taking photos of police rounding up destitute individuals in Harare's city center. Kwande claimed to have sought and received permission to take the photos. Police confiscated his press card and camera and released him the same day after he paid a fine admitting guilt.

During the year, police arrested several other journalists and editors covering activities associated with Operation Restore Order and the March parliamentary elections.

There were no new developments in the other reported 2003 and 2004 cases of harassment, abuse, and detention of journalists.

On February 25, the Media and Information Commission (MIC), the government body charged with registering and regulating media outlets and journalists, suspended the operating license of independent regional weekly, *The Weekly Times*, ostensibly for misrepresenting information on its license application. According to the newspaper's editors, the government threatened to ban the paper after its first issue for publishing political and economic stories, claiming the newspaper was licensed only to report on social issues.

On July 13, the MIC announced that it refused an operating license to the semi-independent weekly *Tribune* newspaper, which had ceased publication in June 2004 after the MIC suspended its license. The MIC rejected the *Tribune*'s application to

resume publishing because it lacked sufficient capital, and its publisher, Kindness Paradza, (who had been suspended from ZANU–PF in 2004), reportedly told the MIC that he planned to publish the newspaper from home. The *Tribune* had become increasingly critical of the government in the months before it was closed.

On July 19, the MIC also denied an operating license to the independent daily, *The Daily News*. The MIC closed *The Daily News* in 2003 for challenging the Access to Information and Protection of Privacy Act (AIPPA) in court and refusing to apply for a license. The MIC then denied *The Daily News* a license when it applied. In March the supreme court ruled the MIC must consider a new application for a license. The MIC cited its violations of AIPPA as the reason for the new refusal. However, *The Daily News* and its journalists have never been convicted of violating AIPPA. The Associated Newspapers of Zimbabwe, publisher of *The Daily News*, was to appeal its decision on September 22, but the court postponed the hearing indefinitely, and at year's end, the appeal had not been heard. At year's end *The Daily News* only published an online edition from South Africa, with a smaller staff.

On October 3, the board of *The Daily Mirror* suspended Ibbo Mandaza, the newspaper's chief executive and editor. Mandaza immediately filed a suit to overturn the suspension, alleging that his ouster was illegal and engineered by the CIO. On December 6, a court ruled the suspension null and void, but the board immediately issued a new suspension. Mandaza filed a complaint with the court, claiming the board had violated the court order to reinstate him. On December 19, the court issued an order nullifying the re-suspension pending the conclusion of a suit to determine control of the newspaper.

On December 1, the *Financial Gazette* published a story that the MIC had voted to approve an operating license for *The Daily News* and *The Daily News on Sunday* but that the CIO had vetoed the decision. The story cited court papers filed by a former MIC commissioner and other unnamed sources. On December 2, the MIC ordered the *Financial Gazette* to retract its story or face charges under AIPPA. The paper refused to publish the retraction, and at year's end the MIC had taken no additional action.

On December 7, immigration officials confiscated the passport of Trevor Ncube, the owner of the *Independent* and *Standard* newspapers, after he landed in Bulawayo. Ncube successfully pleaded in court for the return of his passport, claiming the government targeted him because of his press connections (see section 2.d.).

The Broadcasting Services Act, which parliament's legal committee found to be unconstitutional but was still in force, gives the minister of information final authority to issue and revoke broadcasting licenses. The act allows for one independent radio broadcaster and one independent television broadcaster but requires them to broadcast with a government-controlled signal carrier. Throughout the year legal rights groups criticized the act for limiting free speech.

In November 2004 the Broadcasting Authority of Zimbabwe (BAZ) invited applications for an independent radio and television station. One television station and four radio stations submitted applications, but BAZ denied all five applications. The television application was denied on the basis that it owed money to the state-owned Zimbabwe Broadcasting Holdings and the four radio stations for reportedly not meeting license requirements. The government did not issue a new call for applications.

On February 16, the government published rules for political parties' access to the media during the campaign prior to the March parliamentary elections. Although MDC received more coverage of its campaign rallies and interviews of its top leaders than in the past, the government-controlled media often rejected MDC advertisements, and coverage of MDC was slight or negative in comparison to that given to ZANU–PF.

POSA makes it an offense to publish or communicate false statements prejudicial to the state. Legal experts have criticized this section saying that it imposes limits on freedom of expression beyond those permitted by the constitution. An extremely broad Official Secrets Act makes it a crime to divulge any information acquired in the course of official duties. In addition, antidefamation laws criminalize libel of both public and private persons.

On January 12, the government dropped criminal defamation charges against *Zimbabwe Independent* editor Iden Wetherell, news editor Vincent Kahiya, and reporters Dumisani Muleya and Itai Dzamera for publishing a story that President Mugabe commandeered an Air Zimbabwe plane for travel on personal business.

On August 3, the trial of Willie Mponda, editor of a community weekly, began. Mponda denied publishing falsehoods in a June 10 article reporting that a Gweru woman committed suicide after police destroyed her business during Operation Restore Order (see section 1.f.). The prosecution stated that police did not destroy the

woman's shops and that no woman in Gweru committed suicide as a result of Operation Restore Order.

Under AIPPA mass media companies and journalists must register for accreditation. Companies must pay burdensome application fees, and journalists were required to pay application fees in US dollars, which were difficult to obtain. In November 2004 parliament amended AIPPA to impose penalties, including jail sentences, on journalists operating without accreditation. Under the new law, which entered into force on June 2, the penalty for publishing falsehoods is as much as 20 years in prison.

In early June police served summons on charges of practicing journalism without accreditation on eight journalists who had worked for *The Daily News*. Police reportedly also attempted to serve summons on other former *The Daily News* journalists but could not locate their residences. Their trial was scheduled for October 12, but it was postponed due to continued police inability to serve all summons. Another *Daily News* journalist, Kelvin Jakachira, was acquitted of similar charges on August 31.

The government regularly denied visas to foreign correspondents during the year. Some of the more than 100 foreign journalists who applied for accreditation to cover the March parliamentary elections were reportedly denied visas. On March 31, the date of the parliamentary elections, two British journalists, Julian Simmonds and Tony Harden of the *Sunday Telegraph*, were arrested for reporting on the elections without accreditation and for overstaying their visas. They were acquitted of the charges on April 14 and 15, respectively. The court granted them bail during the trial, but police defied the court order and continued to hold the journalists until their acquittal.

The government continued to ban the satirical play *Super Patriots and Morons*, about an intolerant dictator.

There were no government restrictions on the Internet; however, the law permits the government to monitor all international e-mail messages entering and leaving the country (see section 1.f.).

The government restricted academic freedom. The University of Zimbabwe Amendment Act and the National Council for Higher Education Act restricts the independence of universities, subjecting them to government influence, and extends the disciplinary powers of the university authorities against staff and students. The higher education and technology ministry controlled the state universities and appointed their chancellors and vice chancellors; the ministry also appoints the deans of faculty, and most members of the university council.

CIO personnel took faculty and other positions and posed as students at the University of Zimbabwe to intimidate and gather intelligence on students who might protest government actions. Approximately five students were suspended or expelled during the year for political activity (see section 2.b.).

Police and CIO harassed teachers perceived to be opposition supporters. On September 20, two CIO personnel kidnapped Henry Taruva, a high school teacher in Gweru, interrogated and tortured him for teaching opposition views to his students. Unlike previous years, there were no reports of schoolteachers whose contracts of employment were cancelled because they supported the MDC.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of assembly; however, the government restricted this right in practice through laws such as POSA, which many legal experts believed were unconstitutional. POSA does not require permits for meetings or processions, but it requires that organizers notify the police of their intentions to hold a public gathering seven days in advance. Failure to do so results in criminal prosecution as well as civil liability. Although most groups that conducted meetings did not seek permits, some groups informed the police of their planned events and were denied permission, or their requests went unanswered. Police insisted that their permission was required to hold public gatherings and sometimes approved requests; however, they disrupted many events whether or not permission was sought. Police personnel attended many political meetings without invitation, ostensibly to protect attendees from potential violence by unruly persons. The CIO also routinely sent personnel undercover to monitor meetings perceived as being potentially antigovernment.

Despite a more open campaign environment than in previous elections, police sometimes refused to permit MDC campaign activities, especially in military and police facilities and certain "no-go" rural areas where government officials and ruling party supporters do not allow the opposition to operate.

On January 26, riot police arrested MDC MP Thokozani Khupe and 80 supporters during a campaign rally. Khupe was charged under POSA, released, and appeared

at hearings in August, October, and December, but the trial was postponed each time in a tactic deliberately designed to inconvenience the defendant.

On January 23, police arrested MDC candidate Goodrich Chimbaira for allegedly violating POSA by holding a meeting with constituents in his home. He was detained overnight and released without charge.

On February 16, police prevented the MDC from training 120 parliamentary candidates and arrested Ian Makone, the party's election director. Police released Makone the same day without filing charges.

There was no further action on the 2004 cases in which opposition political figures were harassed or arrested by government authorities.

The police repeatedly used force to break up nonviolent demonstrations by critics of the government and erected roadblocks in urban areas to prevent public gatherings from taking place. Police also arrested numerous demonstrators during the year. For example, in January police in Harare arrested 11 members of WOZA for demonstrating against declining education standards. Police released the women without charges on the same day. In February police arrested more than 50 members of WOZA in Bulawayo during the group's annual Valentine's Day demonstration; the women were all quickly released. On the same day, police in Harare dispersed a group of more than 100 women who planned to march.

On April 27, Police arrested six Zimbabwe Congress of Trade Union (ZCTU) activists in Mutare ahead of the May Day celebration despite POSA's exemption for labor activities (see section 6.a.). Police released all six the same day without charge. On April 28, police arrested six additional ZCTU members in Harare for participating in a government-organized march to commemorate World Day for Safety and Health at Work. ZCTU had been invited by a government agency, the National Social Security Authority (NSSA), to take part in the march. The police released all six without charge the same day.

On July 21, police armed with truncheons and tear gas and accompanied by dogs dispersed a demonstration organized by the National Constitutional Assembly to protest government plans to amend the constitution. Police beat and arrested 33 members, and a woman was mauled severely by the police dogs.

On October 19, the police arrested two University of Zimbabwe students for organizing a demonstration. Police charged them with inciting public violence and released them three days later. University officials suspended them and two others and expelled the four from their school residence for their political activity.

In November the National Constitutional Assembly (NCA) and the ZCTU staged protests; the NCA called for a new constitution, and ZCTU protested the government's economic policies. After the NCA protests in several cities on November 8, which the NCA said were largely uninterrupted by police, police arrested Chairman Lovemore Madhuku, NCA official Bernard Dube, and the mayor of the heavily populated suburb Chitungwiza, Misheck Shoko, for their roles in the protests. On November 9, ZCTU planned to stage protests in several cities, but police disrupted the protest in Harare and prevented activity in other cities by cordoning off areas in some cities and arresting ZCTU officials before the protests in others. Police arrested over 100 ZCTU activists, including President Lovemore Matombo and General Secretary Wellington Chibebe. Police charged all with POSA violations and released them by November 11. At year's end their trials had not taken place.

On December 1, police arrested five AIDS activists at an event in Harare commemorating World AIDS Day, despite police clearance for the event. The attorney general's office agreed there was no basis for the arrests, but police detained the activists until the following day when police released them without charge.

There was no action taken against police who used excessive force to disperse a number of demonstrations and rallies in 2003 or 2004.

Freedom of Association.—Although the constitution provides for freedom of association, the government restricted this right in practice for political organizations. Organizations generally were free of governmental interference as long as the government viewed their activities as nonpolitical. ZANU–PF supporters, sometimes with government support or acquiescence, intimidated and abused persons perceived to be associated with the opposition (see section 1.c.). The government harassed some NGOs it believed opposed government policies with raids on their offices, inquiries into their activities, and obstacles for renewing work permits of foreign employees (see section 4).

The formation of political parties and unions was not restricted; however, the government interfered with activities of political parties and unions during the year (see sections 1.c., 6.a., and 6.b.).

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice. However, a law that criminal-

izes purporting to practice witchcraft reportedly was viewed as restrictive by some practitioners of indigenous religions.

The government and the religious communities historically have had good relations; however, the government continued to criticize and harass religious leaders who spoke out against the government's human rights abuses. Church leaders and members who criticized the government faced arrest, detention, and, in the case of foreigners, possible deportation.

In the course of Operation Restore Order (see section 1.f.), the government tore down or forced congregants to dismantle some places of worship.

On June 14, police destroyed a mosque serving approximately 100 families in Hatcliffe Extension. According to reports, the local Muslim community had an opportunity to remove religious articles and other items prior to the mosque's destruction.

On July 26, in the process of removing Porta Farm residents who returned after the first demolitions in the area, ZRP officers destroyed a church and a mosque on Porta Farm. The police had spared the church and mosque during the initial Porta Farm demolitions.

In March 2004 the government charged the Catholic diocese of Hwange and the Catholic Mater Dei Hospital in Bulawayo for allegedly exchanging foreign currency illegally. The government's intention appeared to have been to use these charges to put pressure on the church to desist from criticizing the Mugabe regime. Subsequently, the government and the church settled the problem out of court.

Religious organizations that operate schools or medical facilities are required to register those specific institutions with the appropriate ministry regulating their activities.

Witchcraft—widely understood to encompass attempts to harm others not only by magic but also by covert means of established efficacy such as poisons—traditionally has been a common explanation for otherwise unexplainable diseases. Although traditional indigenous religions generally included or accommodated belief in the efficacy of witchcraft, they generally approved of harmful witchcraft only for defensive or retaliatory purposes and purported to offer protection against it.

The 2004 Criminal Law (Codification and Reform) Act criminalizes purporting to practice witchcraft. The law defines witchcraft as "the use of charms and any other means or devices adopted in the practice of sorcery," and provides punishments for intending to cause disease or injury to any person or animal through the use of witchcraft. At year's end there were no new or previously outstanding cases under the witchcraft law. Attacks on individuals in witchcraft-related cases appear to be prosecuted under laws for assault, murder, or other crimes.

There was tension between the government and individual indigenous African churches because of the preference of the latter for prayer over science-based medical practices that have reduced avoidable childhood diseases and deaths in those communities. Some members of indigenous churches and groups believed in healing through prayer only and refused to have their children vaccinated. The ministry of health had limited success in vaccinating children against communicable childhood diseases in these religious communities. Human rights activists also criticized these indigenous churches for sanctioning marriages for underage girls.

Muslims complained of discrimination by private employers who refused to allow them sufficient time to worship at their mosques on Fridays.

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination against members of religious groups, including interreligious and intrareligious incidents.

According to a prominent member of the Jewish community, there are approximately 300 Jews in the country—200 in Harare and 100 in Bulawayo. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides for these rights; however, the government restricted them in practice.

During the year police continued routinely to erect roadblocks staffed with armed police in and around cities and rural districts, especially during election periods and before demonstrations and opposition meetings. Police claimed that they were looking for criminals, smuggled goods and food, or illegal weapons, but legal rights groups asserted that it was a measure designed to discourage or limit opposition organizing. Roadblocks established by the Zimbabwe Revenue Authority along the main highways from South Africa and Botswana to search for foreign currency re-

mained in place. Police also searched for and confiscated smuggled maize at roadblocks on major roads.

The Constitutional Amendment (17) Law, signed by President Mugabe in September, allows the government to restrict foreign travel for reasons of national security and public order. In public statements on multiple occasions, government officials indicated their intention to revoke passports of human rights defenders and key opposition leaders. On December 7, immigration officials confiscated the passport of Trevor Ncube, the owner of the *Independent* and *Standard* newspapers, after he landed in Bulawayo. On December 12, Ncube filed a court case to get his passport back, arguing the confiscation violated his basic rights (see section 2.a.). On December 8, immigration officials confiscated the passport of MDC official Paul Themba Nyathi. On December 14, immigration returned both passports after the attorney general determined that officials could not confiscate passports without specific enabling legislation.

On December 14, immigration officials seized the passport of Raymond Majongwe, secretary general of the Progressive Teacher's Union, upon his return to the country after attending an International Labor Organization (ILO) conference in Nigeria. The independent press reported that 64 civil society and opposition members were on a list of those whose passports were revoked.

During the year travel bans on a variety of persons remained in effect, including British government officials, members of the British parliament, a foreign human rights activist, and journalists. Foreign correspondents were denied visas during the year.

The constitution prohibits forced exile, and there were no reports that the government employed forced exile. A number of persons, including former government officials and prominent businessmen and human rights lawyers left the country and remained in self-imposed exile at year's end.

Internally Displaced Persons (IDPs).—Following Operation Restore Order (see section 1.f.), the number of internally displaced persons increased dramatically. The UN special envoy's report estimated at least 700 thousand persons lost their homes or businesses. The government forcibly relocated some of the displaced; others stayed near their demolished homes with limited or no shelter. The action again displaced some of the approximately 500 thousand former farm workers who sought refuge in cities and towns following government resettlement policies in 2004. The government prevented international organizations from assisting IDPs on some occasions.

There continued to be reports of MDC supporters displaced internally, most of them as part of Operation Restore Order. The government condoned and even encouraged an environment of lawlessness that permitted war veterans and other ruling party supporters to force opposition members and supporters from their homes without consequences for the perpetrators (see section 1.f.). In most cases police did not intervene.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government generally cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided temporary protection to certain individuals who did not qualify as refugees under the 1951 convention and its 1967 protocol and was providing it to six persons in at year's end, according to UNHCR.

According to UNHCR, there were 13,850 refugees and asylum seekers registered in the country during the year, although refugee experts believed many refugees had migrated to neighboring countries. The largest groups of refugees and asylum seekers continued to be from the Democratic Republic of the Congo, Rwanda, and Burundi.

According to law refugees must live at Tongogara refugee camp, but the camp only had a capacity for two thousand persons and affords no means of earning a livelihood. Most other refugees lived in urban areas without the permission of the government. In some cases, the government permitted refugees with special needs to live in urban centers. The government granted work permits to very few refugees, primarily to those with special skills. During Operation Restore Order, the government relocated refugees that had been living in urban areas and who lost their homes in the operation to the Tongogara refugee camp. The UNHCR reported that the number of refugees and asylum seekers in the camp temporarily increased to

2,500, exceeding the camp's capacity. By the end of the year, most of those originally taken to the camp during Operation Restore Order had relocated to urban areas.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully; however, this right was restricted in practice because the political process continued to be tilted heavily in favor of ZANU–PF, which has ruled continuously since independence in 1980.

Elections and Political Participation.—In January the Zimbabwe Electoral Commission (ZEC) Act went into effect. The law established an electoral commission, largely appointed by the president, and regulates the provision of voter education. However, the electoral supervisory committee (ESC), which remained in operation through the March parliamentary elections, generally was hampered by an insufficient budget and an overburdened staff seconded from the ministry of justice. It also lacked authority to order the correction of irregularities, including of the voters' roll, which contained a large number of redundancies and errors. The government invested immense powers in the presidency through the Electoral Act, including full control of voters' rolls and registration, and the ability to change district lines without notice on the eve of an election. Electoral officers often did not operate in a fully open and transparent manner.

The government manipulated the electoral process the effect of which was to disenfranchise voters and to skew elections in favor of ruling party candidates. The ruling ZANU–PF party distorted the political campaign and manipulated voter registration rolls and vote tallies to ensure its large margin of victory in the March 31 parliamentary elections. ZANU–PF captured 78 out of the 120 contested seats. Western observers declared the elections fundamentally flawed. The delimitation commission gerrymandered three constituencies in historically MDC-controlled areas, diluting them with additional voters from nearby rural traditional ZANU–PF areas. The government undertook a vigorous voter registration drive targeting likely ruling party voters in rural areas, while much of the country remained off limits to the opposition until after registration closed. The Electoral Act, passed by parliament in December 2004 and signed into law in January, requires citizens to be resident in a designated constituency to vote, thus preventing citizens living outside the country from voting. Absentee ballots were only provided for diplomats and armed forces. On March 17, the supreme court upheld this provision of the new law.

The government's partisan disbursement of food and other material assistance to perpetuate public dependence on the ruling party further bolstered support for ZANU–PF and subverted electoral processes. The government held ruling party campaign rallies in conjunction with government food distributions. In some areas a ZANU–PF card was required to obtain food. There were credible reports of known MDC supporters forced to leave food distribution lines or to turn in MDC party cards and T-shirts in exchange for food. In the constituency of Gwanda where ZANU–PF won in March amid allegations of fraud, there were credible reports that MDC supporters were not allowed to purchase grain from the Grain Marketing Board. Partisan food distribution made it more difficult and expensive for those denied to find food.

On October 17, Judge Nicholas Ndou of the electoral court ruled that ZANU–PF had politicized food distribution and used violence in the rural constituency of Insiza, but it did not affect the result. He upheld the victory by ZANU–PF candidate Andrew Langa despite witness accounts of Langa firing at MDC supporters and threatening villagers with withdrawal of food if they voted MDC. On October 18, Judge Rita Makarau made a similar determination regarding the election in the rural constituency of Makoni North, upholding the victory of ZANU–PF's Didymus Mutasa despite politicization of food. Witnesses said MDC supporters were forced to turn in MDC items such as T-shirts in exchange for food distributions.

Pre-election violence was lower in March than in past election campaign periods in 2000 and 2002, but there was violence and intimidation of MDC supporters.

On February 21, ZANU–PF supporters severely beat an MDC activist and his wife for posting campaign rally notices in Hurungwe East. Reportedly acting under orders, police refused to investigate the incident and did not arrest ruling party supporters engaged in acts of violence.

On February 25, ZANU–PF militants attacked MDC activists as they campaigned west of Harare. The militants severely beat the MDC activists and took their campaign materials. The MDC candidate for the area reported the incident to police, but officials took no action.

Approximately 10 percent of would-be voters were turned away from the polls, especially in opposition areas. In all, more than 100 thousand potential voters appear

to have been turned away. Most voters were rejected because they tried to vote in the wrong constituency due to inadequately publicized redistricting, and no longer appeared on the voter rolls. Rejected potential voters were likely to be disproportionately opposition voters because the demographics matched those of MDC supporters. Critics noted the process for registering and ensuring a voter was registered was legal but confusing and some voters may have been excluded from the voters roll intentionally. The office of the registrar general, which maintains the voters roll, is not independent from the government.

Election observers also noted voter intimidation at polling stations. Some polling stations were located in areas regarded as intimidating to voters such as at a police station or next to a local ZANU–PF headquarters. At some stations, police officers and other unidentified individuals recorded the names of those who voted, a procedure intimidating to some voters. Some chiefs also reportedly pressured villagers to vote for the ruling party. There were reports that voters in some districts had been told that the translucent ballot boxes would be used to note how individuals voted.

On election day, March 31, ZANU–PF candidate for Insiza, Andrew Langa, threatened to shoot MDC polling agents at Silalatshani Business Center as they were being deployed in readiness for the election. The MDC polling agents reported the incident to the Gwanda police station, but police took no action to prevent intimidation. Consequently, the polling station opened without MDC polling agents.

Observers at numerous polling stations reported that in many cases police, rather than election officials, communicated vote counts to the tabulation centers, which exceeded the role of the police in maintaining order. Observers also reported that opposition party agents and observers were not allowed to witness the vote tabulation in key districts. Contrary to the Electoral Act, many polling stations did not post their results.

These reports and conflicting election results issued by the ZEC, the first only hours after the poll closed and the second a few days later, suggested that the final toll was manipulated. Discrepancies heavily favored the ruling party; of the 19 constituencies where the final results differed by more than 5 thousand from the initial reports, ZANU–PF candidates won 18. The number of rejected potential voters combined with the discrepancies in the government's announced tallies exceeded the candidate's margin of victory in 24 constituencies, 20 of them won by ZANU–PF.

In September the government used its two-thirds majority in parliament to pass a constitutional amendment that established a 66-member senate. The government was widely criticized for creating the senate, widely seen as a vehicle for patronage and a useless and expensive body. It will sit for a single five-year term and has no independent political authority.

The MDC's president called for a boycott of the elections. However, several other MDC leaders opposed the boycott decision. Twenty-six candidates ran under the MDC banner despite a decision by the party's senior policy organ to boycott the elections.

Of the 50 elected seats, ZANU–PF won 19 unopposed and an additional 24 on election day; MDC candidates won 7. However, the boycott appeared to have been successful, as turnout was historically low, at only 19 percent of eligible voters. In addition President Mugabe appointed 6 seats, and the ruling party-controlled council of chiefs appointed 10, giving ZANU–PF an overwhelming majority of seats.

There were few regional and no international observers. Domestically, the Zimbabwe Election Support Network (ZESN) mounted a small observation effort. However, ZESN observed that at some polling stations there were much larger numbers of voters than at most stations, a possible indication of fraud, and that the circumstances remained heavily tilted toward the ruling party.

On July 29, police raided the home of MDC election expert Topper Whitehead and confiscated three computers and other information that the MDC planned to use in its continuing legal challenge to the 2002 presidential election. On August 8, police returned the items after a judge so ordered, but some of the computer files had been damaged.

During the year the government refused to turn over ballot boxes to the MDC for use in its legal challenge to the 2002 presidential vote. On May 27, a court sentenced the country's registrar general, Tobaiwa Mudede, to a two-month suspended jail term for refusing to surrender the ballot boxes.

In June 2004 the high court dismissed without explanation the first phase of the MDC's legal challenge seeking nullification of the 2002 election results. The second phase, involving factual evidence and witness testimony regarding the election's conduct, had not begun by year's end.

The Constitutional Amendment (17) Act, published in the *Government Gazette* on September 14, abolished the ESC and established the ZEC as the only constitutional body in charge of elections. The MDC and human rights NGOs supported the con-

solidation of these two organizations but said the ZEC was not truly independent and that a separate, ruling party-aligned registrar general remained.

The president may unilaterally declare a state of public emergency for a period of up to 14 days; has sole power to dissolve parliament and to appoint or remove a vice president and any minister or deputy minister; and directly appoints 20 of the 150 MPs, including 12 nonconstituency MPs and 8 provincial governors who sit in parliament and directly appoints 6 senators. The president also exerts great influence on the process by which the country's chiefs (traditional rulers) select 10 of their number to sit as MPs and 10 as senators. All 30 of the appointed MPs have been consistent ZANU–PF supporters.

The legislature, which traditionally has been subordinate to the executive branch, had a viable opposition that called on the government to be accountable and transparent. However, after the March 31 parliamentary elections, ZANU–PF used its two-thirds majority to limit question time and debate.

There were reports that the government removed from the civil service and the military persons who were perceived as opposition supporters. Additionally, there were reports that the government assigned soldiers and graduates of ZANU–PF's national youth service training centers to work in government ministries.

The government routinely interfered with MDC-led local governments. On July 23, Minister of Local Government Ignatius Chombo suspended Mutare Mayor Misheck Kagurabadza and three other senior city officials, officially for mishandling the city's finances. Chombo announced the suspension immediately after Kagurabadza showed the UN special envoy the effects of Operation Restore Order (see section 1.f.), leading the mayor to conclude that his cooperation with the UN envoy was the true reason for the suspension. On December 29, Chombo suspended the remaining MDC councilors for mismanagement. Also on December 29, Chombo suspended Chitungwiza Mayor Misheck Shoko for failing to maintain city services. According to Shoko, the government made service delivery in Chitungwiza difficult, including diverting approximately the then equivalent of $1.25 million (Z$5 billion) of the town's money to the ruling party's parliamentary election campaigns.

In April 2004 Chombo fired the elected MDC mayor of Harare, Elias Mudzuri, and subsequently fired 19 MDC councilors. Although legally an election must be held within 90 days of a mayor vacating the office, a commission appointed by Chombo continued to run the city at year's end.

The ruling party's candidates continued to benefit from the ZANU–PF's control of the state-owned firms that dominated the country's economy and from its control of the state-monopolized broadcast media (see section 2.a.).

The Citizenship Act requires all citizens with a claim to dual citizenship to renounce their claim to foreign citizenship under the laws of the foreign country by January 2002 to retain their citizenship and the right to vote. The act also revokes the citizenship of persons who fail to return to the country in any five-year period; however, there were no reported cases of persons losing their citizenship under this provision during the year. Legal rights groups described the legislation and regulations as a government attempt to disenfranchise citizens of perceived opposition leanings; the more than 500 thousand commercial farm workers, many of whom have origins in neighboring countries; and the approximately 30 thousand mostly white dual nationals. Persons with dual citizenship experienced difficulty complying with the regulations because many other countries do not provide procedures for repudiating citizenship. The 2003 Citizenship of Zimbabwe Amendment Act removes the renunciation requirement for persons born in the country with parents from the Southern African Development Community (SADC) countries or who were born in SADC countries with parents from Zimbabwe.

There were 22 women in the 150-seat parliament. There were 20 women in the senate, including the president of the senate. There were seven women in the highest ranks in the executive branch: the vice president, three ministers, a deputy minister, and two governors. Women participated in politics without legal restriction, although according to local women's groups, husbands, particularly in rural areas, commonly directed their wives to vote for the husband's preferred candidates. The ZANU–PF congress allotted women one-third of party positions and reserved 50 positions for women on the party's 180-member central committee, which was one of the party's most powerful organizations.

There were 10 members of minority groups in the cabinet, including Vice President Joseph Msika. There were 36 members of minority groups in the 150-seat parliament, including 30 Ndebele, 2 whites, and 4 Tonga.

Government Corruption and Transparency.—There was widespread corruption in government. Implementation of the government's ongoing redistribution of expropriated, white-owned, commercial farms substantially favored the ruling party elite and continued to lack transparency. Top ruling party officials continued to hand-

pick multiple farms and register them in the names of family members to evade the government's one-farm policy. The government continued to allow individuals aligned with top officials to invade and seize land not designated for acquisition.

Top ruling party officials and businessmen supporting the ruling party received priority in distribution of the country's resources, including priority access to limited foreign exchange and fuel. There were credible reports that the government's campaign to provide housing plots and vending sites for victims of Operation Restore Order (see section 1.f.) mostly benefited civil servants, security forces, and ruling party supporters.

There were new government efforts to combat corruption, but they were ineffective. In January the government enacted an Anti-Corruption Act, which established a government-appointed Anti-Corruption Commission. It included no members from civil society or the private sector. Also in January the government established the Ministry of State Enterprises, Antimonopolies, and Anticorruption to investigate and raise awareness about corruption.

Prosecutions for corruption continued but were selective and generally seen as politically motivated. The government targeted persons who had fallen out of favor with the ruling party, including senior ZANU–PF Central Committee member James Makamba and former finance minister Christopher Kuruneri. Prosecutions were often for externalizing foreign currency, which was a common practice among the political and business elites (see section 1.d.).

The government stated that the AIPPA was intended to improve public access to government information; however, the law contains provisions that restrict freedom of speech and press, and these elements of the law were the ones the government enforced most vigorously (see section 2.a.). One NGO reported that it made several requests information under AIPPA, but at year's end the government had not provided any information. The NGO said it had taken the government to court in several cases but the courts had not ruled in its favor.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operated in the country, investigating and publishing their findings on human rights cases; however, they were subject to government restrictions, interference, and harassment. The government monitored their activities closely and was generally unresponsive to their concerns.

Domestic NGOs worked on human rights and democracy issues, including lobbying for revision of POSA and AIPPA; increasing poor women's access to the courts; constitutional and electoral reform; raising awareness of the abuse of children; conducting voter education; preserving the independence of the judiciary; and eliminating torture, arbitrary detention, and restrictions on freedom of the press and assembly. Major local human rights NGOs included the Zimbabwe Human Rights NGO Forum, Zimbabwe Lawyers for Human Rights, Zimbabwe Peace Project, and Amani Trust.

During the year police arrested or detained NGO members, often in connection with demonstrations or marches (see section 2.b.). On July 12, police arrested a worker from Action Aid for taking photographs of a woman's organization distributing assistance to individuals affected by Operation Restore Order.

The government harassed some NGOs it believed opposed government policies with raids on their offices, investigations into their activities, and obstacles to renewing work permits of foreign employees. For example, in March security officers raided a local NGO dealing with girls victimized by rape or abuse. Officials searched the organization's offices, shelters for rape and abuse victims, and the home of the organization's head. Officials claimed to be looking for subversive materials.

In April the government directed raids on the offices of at least a dozen NGOs, reportedly those that criticized government policies. A team of officials from various ministries led by the Ministry of Public Service but including police and CIO officials conducted the raids. Officials reviewed the NGOs' documents for information on their registration, sources of funding, and activities; however, the government did not prosecute NGOs or their staff as a result of these raids.

At year's end the president had not signed the controversial Nongovernmental Organizations Bill, passed by parliament in December 2004, within the time required, and the NGO community did not expect the government to introduce a new bill. However, on December 10, the ruling party adopted a report that recommended the government take action against NGOs perceived to be aligned with the opposition.

The government continued to obstruct the activities of organizations involved in humanitarian activities. NGOs continued to report difficulties in carrying out their programs in rural areas. For most of the year, the government restricted feeding

programs to specific targets such as school feeding or home-based care programs. During and after Operation Restore Order, the government blocked some efforts by local and international NGOs to provide humanitarian relief to those affected by the operation (see section 1.f.).

In March the Ministry of Social Welfare threatened to close dozens of NGOs for misspending donor funds, claiming that the NGOs had instead used the money to fund the opposition. At year's end no NGOs had been closed.

In October the Ministry of Labor and social welfare announced new operational guidelines for NGOs. The guidelines require each NGO to obtain clearance in each district and each province as a condition of operation wherever it operates.

The government declined to issue a formal request to the World Food Program (WFP) for food assistance, despite estimates that up to half of the country's population would require emergency relief by the end of the year. In October the government permitted WFP to resume vulnerable group feeding, which targets families in need and, in the last week of November, it signed an memorandum of understanding with the organization for further food assistance.

International NGOs had continued difficulties renewing temporary employment permits for their international staff. The government refused readmission to the director of one NGO whose permit renewal was pending when he left the country for a trip and deported him from the airport. Subsequently, he returned and received his permit.

The government cooperated with a UN special envoy who visited to survey the effects of Operation Restore Order but attempted to limit her access to victims and claimed bias when her team's report criticized the government (see section 1.f.). Also in June the chairman of the AU Commission sent Balame Tom Nyanduga, rapporteur on refugees for the African Commission on Human and People's Rights (ACHPR), to survey the effect of Operation Restore Order. The government claimed that the AU did not inform it of Nyanduga's visit until he was traveling to the country. Despite AU efforts to persuade the government to allow Nyanduga to carry out his assessment, the government restricted him to a hotel and insisted on his recall. Nyanduga left without visiting any of the areas affected by the operation, and the AU did not send another envoy. Although confined to his hotel, Nyanduga met with human rights and humanitarian NGOs as well as some victims of Operation Restore Order.

In February the AU released a report by the ACHPR, which reports to the AU, based on a human rights fact-finding mission the ACHPR performed in the country in June 2002. Although originally scheduled for presentation to the AU Executive Council in July 2004, the AU suppressed the report when then foreign minister Stan Mudenge objected that the government had not been given the opportunity to review the report. The report contained allegations of government complicity in or acquiescence to a wide range of rights abuses, including torture and arbitrary arrest of opposition MPs and human rights lawyers. The government criticized the fact-finding mission and rejected its conclusions.

In December the ACHPR passed a resolution condemning human rights abuses in the country, especially in connection with Operation Restore Order.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides that no person can be deprived of fundamental rights, such as right to life, liberty, and security of person, based on his race, tribe, place of origin, political opinions, color, creed, sex, or disability; however, the constitution allows for discrimination, primarily against women, on the grounds of "customary law." Discrimination against women and persons with disabilities remained problems. The government and ruling party infringed on rights to due process, citizenship, and property ownership in ways that affected the white minority disproportionately.

Women.—Domestic violence against women, especially wife beating, continued to be a serious problem and crossed racial, ethnic, and economic lines. No legislation specifically addresses domestic abuse. However, the government conducted a public awareness campaign in the state media, and prominent officials, including Vice President Joyce Mujuru, made several statements during the year in support of women's rights and against domestic violence. Musasa Project, a local NGO that sought to protect and empower victimized women, reported that treatment of victimized women varied but authorities generally did not consider domestic violence to be a private matter and would arrest an offender for assault if there was evidence of abuse. Systemic problems and lack of education often meant that police did not respond to women's reports or requests for assistance. Musasa Project worked with law enforcement and provided training and literature on domestic violence as well as providing shelters and counseling for women. Women were reluctant to pursue

cases in court, and there were few successful prosecutions during the year. During the year there were newspaper reports of wife killings; however, there was no specific record of prosecutions or convictions for such crimes.

The SOA defines sexual offenses as rape, sodomy, incest, indecent assault, or immoral or indecent act with a child or person with mental disabilities. The act makes nonconsensual sex between married partners a crime. It provides penalties for up to 10 years in prison for sexual crimes. The SOA also makes it a crime to infect anyone knowingly with HIV/AIDS, and the government prosecuted some individuals for the crime.

There were continued reports of rape, incest, and sexual abuse of women. Approximately 1,100 rapes were reported in Harare in 2002. Although the government refused to supply figures subsequently, the rate reportedly increased. In many cases the women knew their rapist. Few cases of rape, especially spousal rape, were reported to authorities, because women were unaware spousal rape was a crime and, particularly in rural areas, feared losing the support of their families. Musasa Project reported that most women initially came to the organization for other counseling, and information about the rape only came to light after several sessions. During the year there were reports of women raped and murdered as part of witchcraft rituals. Human Rights NGO Forum reported four politically motivated rapes (see section 1.c.) although Musasa Project reported that cases of political rape were no longer common. There was no evidence that authorities took action to address rapes at national youth service camps.

Prostitution is illegal, and during the year there were numerous media reports regarding concerted efforts by police to halt prostitution in the Harare city center. Police arrested both prostitutes and their clients, and the government-sponsored *Herald* newspaper published the names of arrestees. Prostitution reportedly increased. A local NGO reported that most prostitutes operated independently of pimps but that a growing number of minors were using pimps for protection. There were some reports that women and children were sexually exploited in towns along the border with South Africa (see section 5, Trafficking).

Labor legislation prohibits sexual harassment in the workplace, and there were no reports of any prosecutions during the year. However, women commonly faced workplace sexual harassment.

There are laws aimed at enhancing women's rights and countering certain traditional practices that discriminate against women; however, women remained disadvantaged in society. Economic dependency and prevailing social norms prevented rural women in particular from combating societal discrimination. Despite legal prohibitions, women still were vulnerable to entrenched customary practices, including the practice of pledging a young woman to marriage with a partner not of her choosing and the custom of forcing a widow to marry her late husband's brother.

On September 18, the Union for the Development of Apostolic Churches in Zimbabwe Africa announced a resolution to ban polygamy in order to combat the spread of HIV.

The law recognizes women's right to own property independently of their husbands or fathers. Many women continued to be unaware of their property rights. The Administration of Estates Amendment Act makes inheritance laws more favorable to widows; however, in 1997, shortly before the amended law was passed, the supreme court ruled that, according to customary law, women's rights to inheritance, ownership of property, and custody of children were inferior to men's. The court case was prominent, and, despite the change in law, many women still believed their rights were restricted by the court decision and often relinquished property without understanding their rights. Divorce and maintenance laws were favorable to women, but women generally lacked awareness of their rights.

Women and children were particularly affected by Operation Restore Order (see section 1.f.). Many widows who earned their income in the informal economy or by renting out cottages on their property lost income when their market stalls or cottages were destroyed. Widows faced particular difficulties when forced to relocate to rural areas. Traditionally, women joined their husband's family when married and were considered an unwanted burden by their childhood families. Likewise, they were sometimes unwelcome in their husband's family in rural areas where resources were already strained.

The Ministry of Youth Development, Gender, and Employment did little to advance the cause of women beyond a public information campaign. The government gave qualified women access to training in the military and national service. Although there have been advances for women within the armed forces, they continued to occupy primarily administrative positions. According to the 2004 Zimbabwe Millennium Development Goals Progress Report, women represented 30 percent of the civil service in 2002. A local NGO reported that in recent years women pro-

gressed in health and education but in general were concentrated in the lower echelons of the workforce, especially in the financial industry.

Several active women's rights groups concentrated on improving women's knowledge of their legal rights, increasing their economic power, combating domestic violence, and protecting women against domestic violence and sexual transmission of HIV/AIDS.

Children.—The government's commitment to children's rights and welfare remained weak. The government has a National Plan of Action for Orphans and Vulnerable Children (NPA for OVC), which was completed in 2004 but has not been fully implemented. It is designed to ensure that orphans and vulnerable children are able to access education, food, health services, and birth registration and are protected from abuse and exploitation, but activities set out in the plan were insufficiently funded. Children, especially those in the rural areas but also an increasing number of urban dwellers, suffered greatly. Although legislation existed to protect children's rights, it was difficult to administer and enforce.

There was no compulsory education, and schooling was not free. School fees increased dramatically during the year, and enrollment declined. According to one company's inflation analysis, school costs for low-income families increased nearly 900 percent from December 2004 through November. Many families could not afford to send all of their children to school. According to the 2002 census data and age-specific population distributions, roughly 72 percent of school-age children attended school. In September President Mugabe claimed that 97 percent of primary school-age children attended school in 2004. The highest level achieved by most students was primary level education.

Operation Restore Order displaced many children, disrupted school attendance, and forced many to drop out of school (see section 1.f.).

In most regions of the country, fewer girls than boys attended secondary schools. According to the 2004 Zimbabwe Millennium Development Goals Progress Report, 42 percent of secondary school-age boys and 40 percent of girls attended school. Of these 82 percent of the boys and 73 percent of the girls completed secondary school. If a family was unable to pay tuition costs, it most often was female children who left school.

Child abuse, including incest, infanticide, child abandonment, and rape continued to be problems during the year. The local NGO GCN reported that, in some rural communities, young girls were pressured to submit to virginity tests, after which they were given a virginity certificate if the test was successful. Girls known as virgins were at risk for rape due to the belief among some that having sex with a virgin would cure men of HIV and AIDS. This belief and its practice contributed to the spread of HIV and AIDS among children.

GCN reported that, in a study of 3 of its 16 administrative areas in 2004, it tracked a daily average of 3 child sexual abuse cases. Using these figures and police records of reported rapes in the high-density suburb of Chitungwiza, near Harare, GCN estimated that an average of 3,500 girls were abused each year nationally. A local NGO reported that a relative or someone who lived with the child was the most likely abuser. The NGO believed that since Operation Restore Order, child sexual abuse cases increased because the number of relatives in the same house increased due to family members losing their homes in the operation.

In April police arrested a handyman, James Sangarwe, for abusing students at Macheke Primary school, a boarding school in the East. During his trial in May, officials discovered evidence of further abuses of at least 53 pupils, and the government closed the school in July, a week before the school term ended. The school reopened when the new school term started in September with an entirely new staff. The government prosecuted some staff members and transferred staff not implicated in the abuse to other schools. In addition to Sangarwe, the government charged temporary teacher Edward Chiripamberi, handyman Only Musengi, and handyman Josphat Chitema. A judge postponed announcement of his judgment twice in Sangarwe's trial, because the prison at which he was held did not have enough fuel to drive him to court. Chiripamberi's trial opened on December 7, but, at year's end, Musengi's trial had not begun. On December 14, Chitema died of encephalitis while awaiting trial.

Incidents of witchcraft-related child deaths and mutilations continued during the year. Newspapers reported several instances of missing children found murdered with body parts missing, which led police to suspect the murders were related to witchcraft.

The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued during the year. Arranged marriage of young girls also continued. The legal age for a civil marriage is 16 for girls and 18 for boys. Customary marriage, recognized under the Customary Marriages Act, does not pro-

vide for a minimum marriage age for either boys or girls; however, the SOA prohibits sexual relations with anyone younger than 16 years of age. Child welfare NGOs reported that they occasionally saw evidence of underage marriages, particularly in isolated religious communities or among HIV/AIDS orphans but lacked meaningful statistics on its prevalence. Musasa Project reported an increase in instances where families pledged girls in marriage and even unborn babies in exchange for economic protection. Such girls often "married" well before the age of 12.

Local and regional NGOs reported instances of trafficking of children and child prostitution (see section 5, Trafficking).

The government gave preference to national youth service graduates among those entering and those seeking employment in the civil service, especially in the security forces. In May the government announced its intention to make national service compulsory for all students, starting in primary school, but there were no reports that the government implemented this requirement. The stated purpose of the training camps was to instill national pride in the youths, highlight the history of the struggle for independence, and develop employment skills; however, news reports quoted deserters as saying that the camps subjected trainees to racist and partisan political indoctrination and military training. There were credible reports that graduates were used for political violence.

Unlike in previous years, there were no reports of rape at the government's national youth service training camps.

Child labor was a problem (see section 6.d.).

There were an estimated 1.3 million HIV/AIDS orphans by year's end, and the number was increasing. The number of AIDs orphans (including children who lost one as well as both parents) was about 10 percent of the country's population. Many grandparents were left to care for the young, and, in some cases, children or adolescents headed families and were forced to work to survive. AIDS orphans and foster children were at high risk for child abuse. Some children were forced to turn to prostitution as a means of income. According to local custom, other family members inherit before children, leaving many children destitute. Many such children were unable to obtain birth certificates, which then prevented them from obtaining social services.

During Operation Restore Order (see section 1.f.), the government detained many street children and took them to transit camps or juvenile detention centers. At year's end NGOs were uncertain how the operation affected the number of children living on the streets, which in previous years had risen dramatically.

The government, with support from civil society, donors, and the private sector, established a national secretariat to implement the NPA for OVC. Both donors and government contributed to OVC activities, but most programs were not adequately funded to reach the large number of OVCs in the country. Among the projects designed to assist OVCs and other needy children were the basic education assistance module (BEAM), which paid school fees, and the Children in Difficult Circumstances program (CDC), which paid other related fees. In May the government announced an expanded budget for BEAM; however, at year's end the actual budget, number of children benefiting, and amount of the benefit were unknown. There were also reports that favoritism and corruption affected the beneficiary selection process.

NGOs operated training centers and homes for street children and orphans, and government officials sometimes referred children to these centers.

Trafficking in Persons.—No laws specifically address trafficking in persons, and there continued to be anecdotal reports that the country was both a point of origin and a transit path for trafficking. Common law prohibits abduction and forced labor, and it is a crime under the SOA to transport persons across the border for sex. Traffickers also can be prosecuted under other legislation such as immigration and abduction laws. The SOA provides for a maximum fine of $0.41 (Z$35 thousand) or imprisonment of up to 7 years for those convicted of prostituting children under 12 years of age. It also provides for a maximum fine of $0.58 (Z$50 thousand) and a maximum prison sentence of 10 years for "procuring another person to become a prostitute and have sex whether inside or outside" the country.

The primary government authority to combat trafficking is the ZRP, which relied on NGOs to alert them to any cases.

There was little information on the extent of trafficking beyond anecdotal reports of girls exchanging sex for passage across the South African border, women lured to other countries with false job promises, immigration officials of neighboring countries sexually abusing children during deportation, children working as domestic or agricultural workers, and employers requiring sex from undocumented Zimbabwean workers in South Africa under threat of deportation. There also were anecdotal reports that victims were trafficked to border areas and into Botswana and South Af-

rica. Likewise, there were anecdotal reports that victims were transited through the country to South Africa from Botswana, Ghana, and East Africa.

Anecdotal information suggested that citizens who emigrated to seek a better life were exploited while employed illegally in a neighboring country, when being deported, or after being lured to another country by false employment schemes. The groups at highest risk were HIV/AIDS orphans and displaced persons.

There were reports of child prostitution, trafficking in children, and child labor. NGOs reported an increase in child prostitution since Operation Restore Order. As with adults, reports suggested that those children in desperate economic circumstances, especially those in families headed by children, were most at risk. One local NGO reported that traffickers took girls from rural areas to city brothels in cities under the false pretenses of job or marriage promises. The NGO reported that rural girls were sometimes trafficked to farms as agricultural labor or to urban areas as domestic labor, where they were sometimes sexually abused.

Victims suffering from child or domestic abuse are treated with special procedures in victim friendly courts. A trafficked person had the option to take a case before the victim friendly court; however, there is no statistical tracking of trafficking-related prosecutions and no record of any cases filed during the year. The state-run media prominently featured articles about trafficking in persons, and the government has prevention programs, such as BEAM (see section 5, Children) to provide alternatives for children at risk. However, there are no NGOs with programs specifically designed to work with trafficking victims.

Persons with Disabilities.—The Constitutional Amendment (17) Act (see section 3) added persons with disabilities as a group protected from discrimination. Although the law specifically prohibits discrimination against persons with disabilities in employment, in access to public places, or in provision of services, the lack of resources for training and education severely hampered the ability of persons with disabilities to compete for scarce jobs. The law stipulates that government buildings should be accessible to persons with disabilities, but implementation has been slow. NGOs continued to lobby to include albinos in the definition of "disabled" under the law. Persons with disabilities faced harsh customary discrimination. Traditional belief considered persons with disabilities bewitched, and reports were common that children with disabilities were hidden when visitors arrived.

Operation Restore Order severely affected persons with disabilities, and, according to the UN report on the operation, the government held approximately 50 persons with physical and mental disabilities at a transit camp separated from the rest of the camp population and were not provided care.

The government broadcast a regular, prime-time show on state radio dedicated to promoting awareness of the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—According to government statistics, the Shona ethnic group makes up 82 percent of the population, Ndebele 14 percent, whites less than 1 percent, and other ethnic groups 3 percent. There were low-level tensions between the African majority and the white minority, between the Shona majority and the Ndebele minority, and among the various Shona subgroups.

Racial tensions remained relatively low despite the government's ongoing attempts to attribute the country's economic and political problems to the white minority and western countries. On some occasions, President Mugabe, members of his government, and the state-controlled media attempted to reignite resentment of the white minority. Ruling party supporters seldom were arrested or charged for infringing upon minority rights.

The disproportionate number of Shona-speaking teachers and headmasters in Matabeleland schools remained a sensitive issue. During the year and notably in the aftermath of Operation Restore Order, members of the Ndebele community continued to criticize the government's unequal distribution of national resources and the government's failure to compensate victims of the 1980s Matabeleland killings of an estimated 10 thousand to 20 thousand Ndebele civilians.

In March ZANU–PF officials reportedly demanded approximately the then equivalent of $170 thousand (Z$1 billion) from businesses and families from the minority ethnic-Indian community for the ruling party's election campaign, and many complied, fearing retribution.

In May over a period of several days, the ZRP raided the homes of approximately 40 ethnic Indian households ostensibly searching for illegally held foreign currency. They seized additional items during these searches, accusing the families of hoarding food and other supplies. These raids took place overnight, without prior warning. At the same time, ethnic Indian business owners alleged that government tax and other officials unfairly targeted their shops for investigation as opposed to shops owned by indigenous citizens or other minorities. Others in the Indian community

viewed the investigations as part of a general government pressure on business rather than specifically targeting ethnic Indians.

Other Societal Abuses and Discrimination.—Over a period of years, President Mugabe has publicly denounced homosexuals, blaming them for "Africa's ills." Although there is no statutory law proscribing the activities of homosexuals, common law prevents homosexual men, and to a lesser extent, lesbians, from fully expressing their sexual orientation and, in some cases, criminalizes the display of affection between men.

On August 5, unidentified men approached the Gays and Lesbians Association (GALZ) exhibit at the Zimbabwe International Book Fair and stated that GALZ was not allowed to be there. They then entered the book fair offices where they threatened staff. Subsequently, they returned to the GALZ stand and seized GALZ literature. GALZ members sought assistance from police officers and security guards patrolling the gardens, but they refused to intervene. The GALZ staff recognized that they would receive no assistance and withdrew from the fair. GALZ staff reported that they believed the government had sent the group. No subsequent action was taken against those who threatened the GALZ members.

The authorities took no action following the incident at the August 2004 Book fair when a mob chased members of GALZ from their exhibit.

The government has a national HIV/AIDS policy that prohibits discrimination against persons living with HIV/AIDS, and the law aims to protect against discrimination of workers in the private sector and parastatals. Despite these provisions societal discrimination against persons affected by HIV/AIDS remained a problem. Although there was an active information campaign by international and local NGOs, the Ministry of Health, and the National AIDS Council to destigmatize HIV/AIDS, ostracism and condemnation of those affected by HIV/AIDS continued.

Incitement to Acts of Discrimination.—Throughout the year government-controlled newspapers, radio, and television stations continued to selectively vilify citizens of European ancestry and to blame them for the country's problems. In 2004 materials used at National Youth Service Camps identified enemies of the state in racist terms and demonized whites. During a cash shortage in 2003, the government-controlled newspapers often accused Asians of hoarding millions of dollars to the detriment of the economy; however, such charges were not repeated during the year.

Section 6. Worker Rights

a. The Right of Association.—While the Labor Relations Amendment Act (LRAA) provides private sector workers with the right to form or join unions without prior authorization, and workers exercised these rights, some pro-ZANU–PF employers declared their shops off-limits to the ZCTU, the national umbrella labor confederation. The Labor Amendment Bill, passed by parliament on December 2 and effective December 30, eliminated some previous public sector employee rights and excluded them from protection under labor laws, placing them instead under the Public Service Act, which does not provide for the right to form and belong to trade unions, collective bargaining, strike, or alternative dispute resolution mechanisms. Employees in positions designated as managerial were excluded from general union membership.

During the year approximately 25 percent of the formal sector work force belonged to the 31 unions that form the ZCTU; approximately 65 percent of industries were unionized.

The Zimbabwe Federation of Trade Unions (ZFTU), a government-created alternative labor body, had few activities throughout the year, the most visible of which was a poorly attended May Day celebration. While the ZFTU continued to support splinter unions in each economic sector, there was no evidence that either employers or employees viewed the splinter unions as legitimate. In addition to fostering confusion among workers, splinter unions forced existing unions to spend scarce resources guarding against declining membership. The splinter unions did not bargain collectively, handle worker complaints, or provide worker education.

During the year the government openly targeted the ZCTU, declaring it aligned with the opposition MDC and arresting ZCTU leaders at various labor rallies. According to the ZCTU and other civil society organizations, the government attempted to change ZCTU leadership using four disgruntled ZCTU associates to intimidate and disrupt ZCTU general council meetings as well as meetings of ZCTU affiliates. However, the majority of ZCTU's 30-plus associates remained loyal to the leadership.

On April 12, at a general council meeting, members of the Construction Workers and Leather Workers Unions physically attacked ZCTU President Lovemore Matombo and his deputy Lucia Matibenga. The attackers were from two of the gov-

ernment-sponsored affiliates that have been at the forefront of efforts to destabilize the ZCTU. No legal action was taken against the assailants.

On April 23, in Bulawayo, hired assailants forced entry into a ZCTU general council meeting and assaulted ZCTU Secretary General Wellington Chibebe, President Matombo, Vice President Matibenga, and ZCTU International Relations Committee member Tabitha Khumalo. The attackers dragged the four ZCTU leaders out of the conference room and beat them. No legal action was taken against the assailants.

On May 6, the police called in ZCTU Informal Economy Coordinator Elijah Mutemeri for questioning regarding the misuse of union funds. The police had no apparent evidence of wrongdoing, but they questioned Mutemeri for three hours prior to releasing him without charge. Subsequently, unidentified men visited Mutemeri's home in his absence and frequently harassed his family members.

On May 13, 14 armed police officers from the ZRP raided the ZCTU offices using a broadly worded search warrant that did not specify an alleged offense. The police ransacked the offices for three hours, seizing both paper and electronic personnel, financial, and personal files. Subsequently, the ZCTU filed an urgent chamber application seeking the return of the documents, but the court took no action by year's end.

On May 16, three suspended staff assistants at the Commercial Workers Union of Zimbabwe (CWUZ), the ZCTU's largest affiliate, and ZANU–PF supporters broke into the CWUZ headquarters and attempted to change the affiliate's leadership at an impromptu meeting. Noting that many present were not CWUZ members and that neither proper notice requirements nor quorum rules were observed, CWUZ President and ZCTU Vice President Matibenga immediately received a court injunction to prevent the "newly elected leadership" from carrying out union business. However, on July 13, a second judge granted the "newly elected leadership" an injunction against Matibenga, leaving CWUZ paralyzed. CWUZ leadership remained unresolved at year's end. Although the LRAA prohibits antiunion discrimination, in practice union members faced discrimination and harassment.

In January 2004 ZCTU President Matombo was dismissed from his job at the postal service for union activities. ZCTU appealed the dismissal, but Matombo had not been reinstated by year's end, reportedly as the consequence of overloaded labor courts. A labor court handled complaints of such discrimination under the mechanism for resolving cases involving "unfair labor practices." The determining authority may direct that workers fired due to antiunion discrimination should be reinstated, although this did not happen in practice.

The ILO continued to criticize the government for ongoing interference with the unions' freedom of association. The International Congress of Free Trade Unions (ICFTU) also criticized government harassment of unions during the year. On February 2, the government's immigration authorities expelled a delegation from the ICFTU-affiliated Congress of South African Trade Unions (COSATU) upon arrival in the country. COSATU had refused to promise not to meet with certain organizations and individuals.

b. The Right to Organize and Bargain Collectively.—The LRAA provides workers with the right to organize and permits unions to bargain collectively over wages and conditions of employment and workers exercised this right in practice; however, government harassment of union leaders and interference by ZFTU sometimes made such negotiations difficult. Collective bargaining agreements applied to all workers in an industry, not just union members. The Labor Amendment Bill, which took effect on December 30, allows the minister of public service, labor, and social welfare (minister of labor) to appoint members to advisory councils, which resolve industrial disputes between labor and employers, without consulting ZCTU or the Employers Confederation of Zimbabwe. The bill also makes lower court rulings enforceable during an appeal.

In December the Tripartite Negotiating Forum resumed talks but did not resolve any issues. ZCTU called for indexing wages according to the poverty datum line (PDL), which calculates the minimum required for a family of six to pay basic expenses. At year's end, the PDL was approximately $200 (Z$16 million) per month. According to local economists, fewer than 20 percent of those employed in the formal sector earned more than the PDL.

The minister of labor retained the power to veto agreements that he believed would harm the economy, but he did not involve himself directly in labor negotiations unless requested to do so by one of the parties. The Labor Amendment Bill gives the minister unlimited time to review lay-offs before they become effective. When no trade union represented a specific sector, representatives of the organized workers, such as the professional associations, met with the employer associations under the mediation of labor officers from the Ministry of Labor. Some employment

councils had yet to reach an agreement or were deadlocked awaiting court-supervised arbitration at year's end. Employees in positions designated as managerial were excluded from the collective bargaining process.

The government continued to use POSA to limit the ZCTU and its affiliates' ability to meet with and consult their constituencies, although the law does not apply to labor unions. For example, unions were prevented from holding meetings with their members, sometimes with heavy police presence and under threat of arrest. Despite court rulings against them, the police continued to monitor ZCTU meetings.

On April 27, police in Mutare forced entry into a ZCTU May Day preparatory meeting at the Hellenic Club, terminated the meeting, and arrested five regional council members and a member of the ZCTU General Council. Police released all six without charge the same day. There was no further action by year's end.

Although the LRAA explicitly recognizes the right to strike, it has been circumscribed with procedural limits including 14-day advance notice requirements, mandated 30-day reconciliation periods, and possible mandatory referral to binding arbitration. The act prohibits "essential services" employees from striking on the grounds that it "endangers immediately the life, personal safety, or health of the whole or any part of the public." The law defines essential services broadly and includes: fire personnel; employees engaged in the supply and distribution of water; employees providing veterinary services; revenue agents at ports; persons in the health care field; transport and communications employees; railway engineers; licensed electricians; and broadcast personnel during a state of emergency. The law also allows that "any nonessential service may be declared an essential service by the minister if a strike in a sector, service industry, or enterprise persists to the point that the lives, personal safety, or health of the whole or part of the population is endangered." Managers also were prohibited from striking, and, in some industries, the government defined most employees as managers. In practice the government harassed and arrested union leaders who called for strikes and union members who attempted to participate in strikes.

Government-imposed delays prevented most employees and their unions from declaring legal strikes, and those who participated in strikes deemed illegal faced harsh sentences of up to five years in prison. On July 30, junior and mid-level doctors at government hospitals across the country began a strike to demand a pay raise and a fuel allowance already given to senior doctors. The Zimbabwe Hospital Doctors' Association cited rising absenteeism due to inability to get to work, poor working conditions, and low pay. Health Minister David Parirenyatwa said the strike was illegal and ordered the doctors back to work or face detention. The Hospital Doctors' Association said CIO officials threatened many doctors. The doctors returned to work on August 5.

Workers protesting health and safety standards or lack of equipment may strike without the notification and arbitration procedure.

The Export Processing Zones Act states the LRAA shall not apply to workers in export processing zones (EPZs); however, according to the ZCTU, employers generally applied the same wages and standards in the EPZs as in the general economy. The ZCTU has negotiated directly with EPZ employers to allow some unions in the EPZ, although their number and level of activity remained low.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.). Forced labor is punishable by an undefined fine, two years' imprisonment, or both. The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued in rural areas (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Under the LRAA, child labor is punishable by a maximum fine of $0.35 (Z$30 thousand), 2 years' imprisonment, or both; however, child labor was common. Under the LRAA a child between the ages of 13 and 15 can work as an apprentice or if the work is an integral part of (or in conjunction with) "a course of training or technical or vocational education." The law further states that no person under 18 shall perform any work likely to jeopardize that person's health, safety, or morals. The status of children between 15 and 18 years of age is not directly addressed, but 15 years of age is still the minimum for light work, work other than apprenticeship, or work associated with vocational education.

The government has not released the 2004 Labor Report. According to the most recent information, the 2000 National Child Labor Survey, approximately 25 percent of children between the ages of 5 and 17 were involved in some form of labor. The unemployment rate continued to grow, with some estimates as high as 80 percent, which decreased the number of children employed in the formal sector. How-

ever, the incidence of children who worked in the informal sector continued to increase as more children worked to fill the income gap left by ill, unemployed, or deceased relatives. Children often lacked access to necessary safety equipment and training. Children worked in the agricultural sector, as domestics, and as car-watchers. As a result of the land redistribution program, there were fewer instances of child labor on commercial farms. Many children sold simple wares on the streets; others worked in the growing illegal gold panning industry. In addition there were reports of an increasing number of girls engaged in prostitution. Although the government and NGOs increasingly discussed the problem of child labor in the agricultural, domestic, and informal sectors, they were unable to gather concrete data on the number of cases.

The Child Protection Society reported that new farmers used children as cheap labor because they could not complain about working conditions. UNICEF reported children working as independent contractors so employers could evade the appearance of employing children. Zimbabwe Domestic and Allied Workers Union observed employers bringing children from their rural homes to work as domestics with parental consent. Save the Children Norway-Zimbabwe reported that sugar businesses along the Mozambique border at Catiyo used children to sell sugar across the border, often with the complicity of their parents. Children in the sugar business were paid less than adults and did not attend school. Save the Children Norway-Zimbabwe also reported children working on tea estates, which sent children to school in the morning and to work in the afternoon and evening.

Some employers did not pay wages to child domestic workers, believing they were assisting a child from a rural home by providing good housing and board. In addition employers paid the parents for the child's work. Relatives often used AIDS-orphaned children as domestics without pay. There were also reports from NGOs that police rounded up street children and took them to work on farms without pay.

The department of social welfare in the Ministry of Labor is responsible for enforcing child labor laws, but the department lacked the human resources to carry out inspections or any other monitoring. The government implemented few new initiatives to prevent child labor.

In 2004 the Ministry of Labor promoted its BEAM and children in difficult circumstances (CDC) programs, which were designed to pay for school fees and other items such as uniforms and books for children who could not afford to go to school; however, fewer than 18 percent of children benefited from the program in 2004. At year's end the government had not released the percentage of children benefiting from BEAM.

The central statistics office conducted a labor survey in 2004; but had not released the results by year's end.

e. Acceptable Conditions of Work.—There is no national minimum wage except for agricultural and domestic workers. Government regulations for each of the 22 industrial sectors continued to specify minimum wages, hours, holidays, and required safety measures. The minimum wage did not provide a decent standard of living for a worker and family, and approximately 80 percent of the population lived below the government's poverty line. Monitoring systems were ineffective, and many agricultural and domestic workers were remunerated below the minimum wage.

Minimum wages in the formal sector changed continuously as a result the high inflation rate. Domestic worker minimum wages were specifically separated from others; the latest monthly minimum wages established in March, were: gardener, $9.34 (Z$800 thousand); cook/housekeeper, $9.93 (Z$850 thousand); child- or disabled-minder, $10.50 (Z$900 thousand); and child- or disabled-minder with Red Cross certification, $11.10(Z$950 thousand).

The maximum legal workweek is 54 hours, and the law prescribes a minimum of one 24-hour rest period per week. No worker is allowed to work more than 12 continuous hours; however, there was little or no enforcement, particularly in the agricultural and domestic worker sectors. Workers were unlikely to complain to authorities about violations, due to fear of losing their jobs. The public service commission sets conditions of employment in the public sector. Health and safety standards were determined on an industry-specific basis.

Many of the basic legal protections did not apply to the vast majority of farm, mine, and domestic workers. The NSSA reported an increase during the year in the number of fatal accidents in the construction, electrical, and telecommunications industries; it attributed the increase to unskilled contract personnel performing jobs formerly done by professionals. In December the state media reported 340 workplace fatalities and 26,037 injuries between 2002 and 2004. The NSSA acting general manager said this level continued to be too high and claimed an estimated 4 percent of gross national product was lost due to accidents. As labor relations officers no longer existed in practice, the Ministry of Labor relied heavily on voluntary compli-

ance and reporting by employers and employees to enforce applicable laws and regulations.

The government designated the Zimbabwe Occupational Safety Council, a quasi-governmental advisory body comprised of six representatives each from the government, employers, and trade unions, to regulate safe work conditions; however, budgetary constraints and staffing shortages, as well as its status as an advisory council, made the council ineffective. The NSSA continued to experience difficulty monitoring the thousands of work sites across the country; however, it continued to close shops and factories not in compliance. Workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment but in practice risked the loss of their livelihood if they did so.

EAST ASIA AND THE PACIFIC

AUSTRALIA

Australia is a constitutional democracy with a federal parliamentary government. Its population was approximately 20.4 million. Citizens periodically choose their representatives in free and fair multiparty elections. John Howard began his fourth consecutive term as prime minister in October 2004; his Liberal and National Party coalition government held 87 of 150 seats in the lower house of the Federal Parliament and 39 of 76 seats in the upper house. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- prolonged detention of unsuccessful asylum seekers who could not be returned to their home country
- domestic violence against women, particularly in Aboriginal communities
- societal discrimination against Aboriginal people
- trafficking in persons
- a few interrelated incidents of interethnic societal violence in December
- labor law reform including restrictions on the right to strike

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings. However, the Australian Institute of Criminology (AIC), an agency of the attorney general's department, reported that in 2004, 28 persons died in police custody or in the process of arrest. Police shot and killed six persons; all six shootings were found to be justifiable. In the remaining cases, 11 deaths were attributed to accidents, 9 to self-inflicted injuries, and 2 to natural causes.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were occasional reports that police and prison officials mistreated suspects in custody. Some indigenous groups charged that police harassment of indigenous people was pervasive and that racial discrimination by some police and prison custodians persisted (see section 5).

In December, 31 persons were injured in assaults and rioting between mostly white and ethnic Arab youths in the Sydney area (see section 5).

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers.

According to the AIC's annual report on prison deaths, 39 persons died in prison custody in 2004. Of these, 15 deaths were attributed to self-inflicted injuries, 20 to natural causes, 1 to accident, 1 to unlawful homicide, and 2 to undetermined causes.

Juvenile offenders under age 17 generally were incarcerated in youth detention or training centers but could be sentenced to custody in an adult prison upon conviction of a serious criminal offense such as homicide. In immigration detention facilities, children were held with adults, most often family members, until July, when families with children were removed from the immigration detention centers to housing in the community under newly established "residency determination arrangements" (see section 2.d.).

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—Each of the country's six state and two territorial jurisdictions has a separate police force that enforces state and territorial laws. The Australian Federal Police (AFP) enforce commonwealth laws. The minister for justice and customs oversees AFP activities, while the state police forces report to the respective state police ministers. The police forces generally do not have problems with corruption and impunity. State and territorial police forces have internal affairs units that investigate allegations of misconduct and a civilian ombudsman's office that can either review an investigation upon request of the complainant or initiate its own inquiry into a complaint.

Arrest and Detention.—Police officers may seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear; however, they also may arrest a person without a warrant if there are reasonable grounds to believe the person has committed an offense. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest, and arrested persons must be brought before a magistrate for a bail hearing at the next sitting of the court. However, legislation passed in December permits the police to hold individuals for up to 48 hours without charge if a senior police official finds it is "reasonably necessary to prevent a terrorist act or preserve evidence of such an act." Bail generally is available to persons facing criminal charges unless the person is considered to be a flight risk or is charged with an offense carrying a penalty of 12 months' imprisonment or more. Attorneys and families were granted prompt access to detainees.

There were no reports of political detainees.

The December antiterrorism law permits a judge to authorize "control orders" on individuals suspected of involvement with terrorism-related activities. Such orders may include a range of measures, including monitoring of suspects and house arrest, and may be in effect for up to a year without the filing of criminal charges. Under certain circumstances a judge may approve extension of an expiring control order for up to an additional year at a time, up to a maximum cumulative period of 10 years.

In August 2004 the High Court ruled that the government had the authority to detain asylum seekers indefinitely (see section 2.d.).

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

There are federal, state, and territorial courts, which handle both civil and criminal matters. The highest federal court is the High Court, which exercises general appellate jurisdiction and advises on constitutional issues. State and territorial supreme, district, and county courts conduct most major criminal and civil trials, while the magistrates' and specialists' courts (such as the Children's Court and administrative tribunals) adjudicate less serious criminal and civil cases and conduct preliminary hearings.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. In the state district and county courts, and the state and territorial supreme courts, there generally is a judge and jury. The judge conducts the trial, and the jury decides on the facts and on a verdict. Defendants have the right to an attorney, and a government-funded system of legal aid attorneys is available to low-income persons. The defendant's attorney can question witnesses, present evidence on the defendant's behalf, and access relevant government-held evidence. Defendants enjoy the presumption of innocence and have the right to appeal the court's decision or the sentence imposed.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In December 2004 the Victoria Civil and Administrative Tribunal upheld a 2003 complaint by the Islamic Council of Victoria that two Christian pastors and their ministry had vilified Muslims in 2002; in June the tribunal directed the pastors to apologize and not repeat the comments (see section 2.c.). The defendants maintained that their speech was protected under the constitution and appealed the tribunal's decision.

During the year some members of the media expressed concern that the definition of sedition contained in proposed antiterrorism legislation possibly could be applied to them for publishing certain types of information. To address these concerns Parliament amended the legislation's definition of sedition and inserted a provision that shields from prosecution for sedition offenses journalists and other commentators who publish "in good faith a report or commentary about a matter of public interest."

b. Freedom of Peaceful Assembly and Association.—While the rights of peaceful assembly and association are not codified in law, the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—On December 13, shots were fired at parked cars of Catholic parishioners attending a church service in the Sydney suburb of Auburn. Police were investigating the incident at year's end.

The country's Jewish community numbered approximately 84 thousand persons. In the 12-month period ending September 30, the Executive Council of Australian Jewry recorded 332 anti-Semitic incidents, a 25 percent decrease from the number recorded in the previous 12 months. Although this was a significant decrease, it was still higher than the annual average of 301 incidents since reports were first compiled in 1989. The incidents ranged from property damage and/or assaults (11 reports) to harassment and offensive written and electronic media. At year's end the leader of a neo-Nazi group was in jail awaiting trial on charges of criminal damage relating to, among other things, the vandalizing of a Perth synagogue in 2004 (see section 5).

In June the Victoria Civil and Administrative Tribunal ordered two Christian pastors to make a public apology, via newspaper advertisements, for comments that the court held had vilified Muslims. The pastors also were ordered not repeat the comments anywhere in the country. In August the Court of Appeal granted a stay on the order for an apology but left in place the order that the pastors not repeat the comments. The pastors appealed the court's decision to the Victoria Supreme Court; the appeal was pending at year's end. In 2003 the Islamic Council of Victoria (ICV) had filed a complaint under Victoria's Racial and Religious Tolerance Act against the pastors and their ministry organization, and in December 2004 the tribunal upheld the ICV's complaint but postponed sentencing.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law does not address exile; however, the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The government has established a system for providing protection to refugees subject to certain geographic and time constraints on claims by those who previously sought asylum in a safe country of transit. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The government sets an annual quota on the number of protection grants it makes. In the 12-month period ending June 30, the government granted 13,178 humanitarian class visas, which included an offshore resettlement component of 12,096 visas (for persons resettled in the country) and an onshore component of 1,082 visas (for persons already in the country who were granted asylum). The program's offshore component was made up of 5,511 refugees and 6,585 special humanitarian grantees. Special humanitarian grantees were displaced persons subjected to gross violations of human rights, and whose applications were supported by residents or organizations based in the country. The government continued to resettle those detainees granted refugee status and provided extensive social services to aid in the adjustment process.

Noncitizens arriving at a national border without prior entry authorization automatically are detained. Legal assistance is provided upon request to detainees making an initial asylum claim or application for lawful residence. Individuals may be released pending full adjudication of their asylum claim only if they meet certain

criteria such as old age, ill health, or experience of torture or other trauma. However, most did not meet release criteria and were detained for the length of the asylum adjudication process. They were either released upon receiving asylum and an appropriate visa or removed once it was determined that they did not qualify for protection. The federal government oversaw five immigration detention facilities and one residential housing detention facility within the country. During the year some asylum seekers who had been intercepted at sea continued to be housed in offshore detention centers in Nauru. In October, 25 of the 27 remaining detainees in Nauru were transported to Australia, where 13 were released and 12 were detained onshore while their status was assessed. Two detainees who had received adverse security assessments remained in detention in Nauru. As of December onshore detention facilities held 805 detainees.

Noncitizens who arrive by boat and have their asylum claims confirmed are granted a three-year temporary protection visa (TPV), which provides full access to medical and social services but does not authorize family reunification or allow travel abroad with reentry rights. A permanent protection visa, which gives authority for family reunification and reentry rights, may be granted to an applicant at any stage of the asylum adjudication process. Denials of asylum claims may be appealed on merit grounds to the Refugee Review Tribunal, and on grounds of legal error to the Federal Court of Australia and, in certain cases, to the High Court. The minister for immigration and multicultural and indigenous affairs may exercise discretion and grant a visa after the asylum seeker has exhausted the review process. As of August 2004, TPV and temporary humanitarian visa holders may apply for permanent visas without leaving the country.

Although long delays in processing asylum applications were not a significant problem during the year, a small number of asylum seekers remained in detention, some for years, despite having exhausted the appeal process. They could not be returned to their home country because they lacked travel documents or could not obtain necessary transit visas. In July 2004 the High Court overturned the Federal Court of Australia's 2003 ruling that the indefinite detention of asylum seekers was unlawful. In May a new Removal Pending Bridging Visa (RPBV) came into effect that allows the minister of immigration to grant a visa to a person in immigration detention whose removal from the country is not practical at that time. Holders of RPBVs may work, access government services, including free medical care, and attend public school. At least 67 people were invited to apply for the visa during the year.

The country's immigration laws and detention policy continued to be criticized by some human rights and refugee advocacy groups, which charged that the sometimes-lengthy detentions violated asylum seekers' human rights.

In its May 2004 report on children in immigration detention, the government-funded, but independent, Human Rights and Equal Opportunity Commission (HREOC) concluded that the country's laws requiring child asylum seekers to be held in mandatory immigration detention breached the UN Convention on the Rights of the Child (CRC), to which the country is a party. The government rejected the commission's view that its policies violated the CRC but announced in June that the Migration Act would be amended to provide that "a minor child shall only be detained as a measure of last resort." On July 29, the remaining 42 children in detention were moved with their families from the detention centers under government-funded "residency determination arrangements" put in place with NGO assistance. Under these arrangements the families were housed among the general population, subject to reporting conditions and a commitment to remain available to the immigration department.

There were no reports of the forced return of persons to countries where they feared persecution, before their asylum claims were considered and rejected. However, during the year refugee, church, and human rights groups continued to express concern about the government's practices in repatriating unsuccessful asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage and mandatory voting.

Elections and Political Participation.—In October 2004 citizens elected a coalition of the Liberal Party and the National Party to a fourth three-year term of office. The opposition Australian Labor Party (ALP) won all six state and two territorial elections held in 2002 for Victoria, South Australia and Tasmania; 2003 for New

South Wales (NSW); 2004 for Queensland and the Australian Capital Territory; and during the year for Western Australia (WA) and the Northern Territory (NT).

There are no legal impediments to public office for women and indigenous people. Both the government and the opposition have declared their intent to increase the numbers of women elected to public office. As of July there were 64 women in the 226-seat Federal Parliament, 3 female ministers in the 17-member federal government cabinet, and 6 female ministers in the 25-member federal government ministry. There was one woman among the eight premiers and chief ministers of the six states and two territories, the chief minister of the NT. During the year a woman was appointed to the High Court of Australia as one of seven justices.

Aboriginals generally were underrepresented among the political leadership (see Section 5). The term of the sole Aboriginal federal senator expired on June 30. No Aboriginals were elected to the Federal Parliament in 2004. There was one Aboriginal woman in the Tasmanian state parliament, one in the NSW state parliament, and one in the WA state parliament. There were four Aboriginals, including a woman, in the NT legislative assembly.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The federal, state, and territorial governments have freedom of information (FOI) laws, which provide the public with access to government information. FOI requests generally are subject to both an application and a processing fee. Federal law enables a person to access and correct inaccurate personal information held by government ministries and agencies and to access other government information that has not been exempted to protect essential public interests or the private or business affairs of others. An applicant, including foreign media, may appeal a government decision to deny a request for information to the quasi-legal Administrative Appeals Tribunal (AAT), an executive body that reviews administrative decisions by government entities. An adverse AAT decision may be appealed to the Federal Court of Australia.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Federal laws prohibit discrimination based on sex, disability, race, color, descent or national or ethnic origin, marital status, or age. An independent judiciary and a network of federal, state, and territorial equal opportunity offices effectively enforced the law. HREOC investigates complaints of discrimination or breaches of human rights under the federal laws that implement the country's human rights treaty obligations.

Women.—The law prohibits violence against women, including spousal rape and abuse, and the government enforced the law. Nonetheless violence against women remained a problem, particularly in Aboriginal communities. In October 2004 the Office for Women, which monitors women's rights and advises the federal government on issues affecting women, published a report entitled *The Cost of Domestic Violence to the Australian Economy*, which found that domestic violence cost the economy $6 billion (A$8.1 billion) in the 12-month period from July 2002 to June 2003. The report ranked domestic violence among the top five risks to women's health. The federal Department of Family and Community Services and the state departments of community services had programs to both combat domestic violence and support victims of domestic violence, and the federal, state, and territorial governments funded numerous women's shelters.

It is a crime in all states and territories to perform female genital mutilation (FGM) or to remove a child from the jurisdiction for the purpose of having FGM performed; maximum penalties range from 7 to 21 years' imprisonment. There were no reports of new cases or prosecutions for the offense during the year.

Prostitution is legal or decriminalized in several states and territories, and the governments of Victoria, Queensland, and the Australian Capital Territory license brothels operating within their borders. However, many brothels operated illegally. In some locations state-funded sexual health services employees visited brothels to educate workers about sexual health matters and to prevent worker mistreatment. Local governments or prostitution licensing authorities inspected brothels to assure compliance with planning laws and licensing requirements, including health and safety regulations. However, government officials faced difficulties enforcing health

and safety standards in illegal brothels. Trafficking in persons, primarily women from Asia, for prostitution was a limited problem (see section 5, Trafficking).

The Sex Discrimination Act prohibits sexual harassment. The independent federal sex discrimination commissioner, which is part of HREOC, undertakes research, policy, and educational work designed to eliminate discrimination between men and women.

According to HREOC's July 2004 to June annual report, sex discrimination complaints fell by 1 percent during the reporting period compared with the previous reporting period. Of the 348 new cases filed during the reporting year, women filed 81 percent, and 85 percent were employment related.

There were highly organized and effective private and public women's rights organizations at the federal, state, and local levels.

Women have equal status under the law, and the law provides for pay equity. In August the Australian Bureau of Statistics (ABS) estimated that women's full-time total average weekly earnings were 81 percent of men's.

Children.—The government demonstrated its strong commitment to children's rights and welfare through its publicly funded educational and medical care systems. While the structure of education varied among states and territories, all children between 6 and 15 years of age are entitled to 9 to 10 years of compulsory and free education. A 2004 ABS survey found that the full-time school participation rate for 15-year-olds was 93.4 percent, with most children completing grade 12. The student retention rate from grades 7 and 8 to grade 12 was 81.2 percent for girls and 70.4 percent for boys. The government provided universal health insurance coverage to all citizens and lawful residents from birth on a copayment basis. The government also provided a minimum benefit of 16.8 percent of the cost of a first child's childcare to all parents (with a smaller benefit for additional children), which increased to as much as 100 percent for the lowest income families.

State and territorial child protection agencies investigate and institute prosecutions of persons for child neglect or abuse. All states and territories have laws or guidelines that require members of certain designated professions to report suspected child abuse or neglect. The federal government's role in child abuse prevention is limited to funding research and education campaigns, developing an action plan against the commercial exploitation of children, and funding community-based parenting programs. According to the Australian Institute of Health and Welfare, there were 40,416 substantiated cases of child abuse and neglect from July 2002 to June 2003, the latest period for which national statistics were available. These included physical abuse (28 percent of cases), sexual abuse (10 percent), emotional abuse (34 percent), and neglect (28 percent).

The government has enacted tough criminal laws aimed at restricting the trade in, and possession of, child pornography; the law allows suspected pedophiles to be tried in the country regardless of where the crime was committed. The Child Sex Tourism Act prohibits child sex tourism and related offenses for the country's residents and citizens overseas and provides for a maximum sentence of 17 years' imprisonment upon conviction. During the 12-month period ending June 30, the AFP began 24 investigations, and 4 persons were charged under the act. Of these, one person pled guilty and was awaiting sentencing, two cases were before the courts, and one case had not yet come to trial. During the year the government continued its awareness campaign to deter child sex tourism, through the distribution of materials to citizens and residents traveling overseas. Child protection NGOs raised community awareness of child trafficking. There were no reports of children being trafficked into the country during the year (see section 5, Trafficking).

In April 2004 the High Court overturned a 2003 ruling by the Family Court that the Family Court's jurisdiction extended to children in immigration detention facilities; however, in July all children were moved with their families from the detention centers (see section 2.d.).

Trafficking in Persons.—The law prohibits trafficking in persons, but the country continued to be a destination for some trafficked women in the sex industry.

The Federal Migration Act prohibits smuggling of persons in all forms and provides for a maximum penalty of 20 years' imprisonment. The Border Protection Act authorizes the boarding and searching in international waters of vessels suspected of smuggling or trafficking in persons. The Commonwealth Criminal Code provides for sentences of up to 20 years' imprisonment for "people smuggling" aggravated by exploitation. Under the code, conduct that amounts to slavery, or exercising a power of ownership over another person, carries a maximum penalty of 25 years' imprisonment. Under the Child Sex Tourism Act, it is an offense for citizens or residents to travel abroad to engage in sex with minors under age 16 (see section 5, Children).

In 2004 four persons were charged with trafficking in persons offenses in two separate cases; both cases were pending at year's end.

The Department of Immigration and Multicultural and Indigenous Affairs, the Australian Customs Service, and the AFP have lead roles in combating trafficking in persons. The AFP's Transnational Sexual Exploitation and Trafficking Team, a 23-member mobile strike force, is responsible for investigating trafficking syndicates operating in the country and abroad. State police forces worked closely with the AFP to develop a comprehensive policing strategy to counter trafficking in persons.

Some women, primarily from China and Southeast Asia, were brought into the country for the purpose of prostitution, sometimes entering with fraudulently obtained tourist or student visas. Many of these women traveled to the country voluntarily to work in both legal and illegal brothels, but some reportedly were deceived or coerced into debt bondage or sexual servitude. Authorities believed that sex trafficking networks were composed primarily of individual operators or small crime groups that often relied on larger organized crime groups to procure fraudulent documentation for the trafficked women. In June 2004 a federal parliamentary committee issued a report on its yearlong inquiry into the national criminal intelligence agency's response to sex trafficking and the adequacy of federal antitrafficking laws. In response to the report's recommendations, in June the government expanded existing antitrafficking laws to include new offenses for debt bondage, child trafficking, and domestic trafficking, with penalties of up to 25 years in prison, and in September ratified the UN Trafficking Protocol.

An ambassador for people smuggling issues is responsible for promoting a coherent and effective international approach to combating trafficking in persons (particularly in the Asia-Pacific region), assisting in the negotiation of international agreements for the return and resettlement of persons brought illegally into the country, and working for the prosecution of traffickers in persons. The ambassador coordinates the country's participation with Indonesia in the Bali Process on People Smuggling, Trafficking in Persons, and Related Transnational Crime. The government has antitrafficking agreements with Cambodia, Burma, Laos, and Thailand designed to improve international cooperation and police investigations of trafficking syndicates. The government also funded awareness campaigns in source countries and continued funding the Asia Regional Cooperation to Prevent People Trafficking project. Underway in four countries—Thailand, Laos, Burma, and Cambodia—the project focused on strengthening the criminal justice process to combat trafficking in persons.

Within the country the government continued an awareness campaign targeting the sex industry and the community at large and widely publicized criminal cases against traffickers. Trafficking victims willing to cooperate with authorities in the investigation and prosecution of traffickers qualify for a temporary visa and a range of social services. Counseling, temporary shelter, and other assistance were available to all trafficking victims.

There were no NGOs devoted solely to trafficking victims. Nonetheless, assistance was available through various NGOs that dealt with women's and children's issues. Some NGOs received government funding; others were funded privately. Local NGOs and the media were instrumental in bringing to the authorities' attention the presence of illegal migrant women and girls in brothels and massage parlors, and raising public awareness of the problem.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment; education; access to premises; provisions of goods, services (including health services), and facilities; accommodation; purchase of land; activities of clubs and associations; sport; and the administration of federal laws and programs, and the government effectively enforced the law. The disability discrimination commissioner, which is part of HREOC, promotes compliance with federal laws that prohibit discrimination against persons with disabilities. The commissioner also promotes implementation and enforcement of state laws that require equal access and otherwise protect the rights of persons with disabilities. The law also provides for mediation by HREOC of discrimination complaints, authorizes fines against violators, and awards damages to victims of discrimination.

HREOC's July 2004 to June annual report stated that 523 complaints of discrimination based on disability were filed during the reporting period, including 211 complaints based on physical disability, 175 complaints based on psychiatric disability, and 48 complaints based on learning disabilities. Of these, 49 percent were employment related and 30 percent concerned the provision of goods and services.

National/Racial/Ethnic Minorities.—Although Asians comprised less than 5 percent of the population, they made up approximately 40 percent of new immigrants. Leaders in the ethnic and immigrant communities continued to express concern

about incidents of vilification and discrimination directed against immigrants and minorities.

On December 11, violence broke out mostly between white and ethnic Arab youths, initially at Cronulla, a suburban Sydney beach. Approximately five thousand persons gathered at the beach to protest an alleged attack by ethnic Lebanese youths on two beach lifeguards the previous week. Some of the protesters, including members of neo-Nazi and other extremist groups, assaulted persons they believed to be of Middle Eastern extraction. Rioting ensued in which at least 31 persons were injured and 16 arrested, and cars and other property vandalized. Police were unable to control the initial violence. On December 12, ethnic Arab youths retaliated by vandalizing cars and shops, assaulting persons, and firing gunshots at various locations around Sydney. At least 7 persons, including a police officer, were injured and 11 arrested in those incidents. Over 400 additional NSW police officers were deployed to Sydney from other locations to prevent further violence. On December 14, two incidents of violence against persons of Middle Eastern descent were reported in other locations, one in Adelaide and one in Perth. On December 15, in response to the December 11–12 Sydney incidents, the NSW parliament passed legislation giving state police additional powers to deal with large-scale public disorder, including authority to establish emergency alcohol-free zones and to "lock down" trouble spots, including expanded authority to search persons and vehicles within such areas. The law also increases the penalties for the crimes of assault and riot and provides for a presumption against bail for such offenses.

In January the leader of the neo-Nazi Australian Nationalist Movement pleaded not guilty to charges of criminal damage and conspiracy to cause arson in connection with incidents in 2004 in which several Asian businesses and a synagogue in Perth were firebombed or sprayed with racist graffiti. At year's end he remained jailed pending trial, which the Perth District Court scheduled for March 2006.

According to HREOC's July 2004 to June annual report, the number of racial discrimination complaints rose by 5 percent during the reporting period. Of 167 reported cases, 43 percent involved employment; 24 percent involved provision of goods, services, and facilities; and 20 percent alleged "racial hatred." Persons born outside the country filed 52 percent of the complaints, and Aboriginals and Torres Strait Islanders filed 28 percent.

Indigenous People.—From 1990 to 2004, Aboriginals and Torres Strait Islanders participated in government decisionmaking through the Aboriginal and Torres Strait Islander Commission (ATSIC). In July 2004 in response to claims of corrupt dealings by ATSIC board members, the government transferred ATSIC's functions to federal civil service departments, and in November 2004 it established the National Indigenous Council, a government-appointed advisory council, to replace ATSIC. An opposition-led Senate inquiry into the administration of indigenous affairs, initiated in 2004, was critical of the government's handling of aboriginal affairs, particularly its decision to move ATSIC responsibilities to relevant government agencies. In March Parliament passed legislation abolishing ATSIC and its subordinate regional entities; the National Indigenous Council was retained as ATSIC's successor.

While some Aboriginal groups claimed that the government's abolishment of ATSIC was an attempt to silence its indigenous critics, other Aboriginal groups welcomed the move as an attempt to refocus the domestic indigenous policy debate on improving health and social conditions and away from ATSIC's leadership team, which they viewed as impeding ATSIC's effectiveness.

The government's approach toward Aboriginals emphasized a "practical reconciliation" aimed at raising the health, education, and living standards of indigenous people. A wide variety of government initiatives and programs sought to improve all aspects of Aboriginal and Torres Strait Islander life. In 2005–06 the government budgeted approximately $417 million (A$556 million) for the indigenous-specific community housing and infrastructure program; a further $407 million (A$543 million) for indigenous education and training programs; $356 million (A$475 million) for indigenous-specific health services; and $607 million (A$809 million) for indigenous employment and economic development programs. The government maintained a national network of "Link Up" offices to provide family tracing, reunion, and other support to indigenous families separated as a result of past government practices. However, indigenous citizens continued to experience significantly higher rates of imprisonment, inferior access to medical and educational institutions, greatly reduced life expectancy rates, higher levels of unemployment, and general discrimination. Poverty and below-average educational achievement levels contributed significantly to Aboriginal underrepresentation in national, territorial, and state political leadership (see section 3).

According to a government report entitled *Overcoming Indigenous Disadvantage* released during the year, the life expectancy of an indigenous person remained 20 years less than that of a nonindigenous person, and the indigenous infant mortality rate was 2.5 times the rates found in nonindigenous populations. In 2002–03 the hospital admission rate for indigenous children under age four for infectious diseases was more than twice the rate for other children. According to a 2004 ABS survey indigenous youth were 1.9 times more likely than nonindigenous youth to leave school before graduation; however, this was a significant improvement over the previous 5 years.

Although Aboriginal adults represented only 2.2 percent of the adult population, according to the ABS they accounted for approximately 21 percent of the total prison population and were imprisoned at 11 times the rate of nonindigenous persons as of June 2004, down from 15 times the nonindigenous rate in 2002. More than 45 percent of Aboriginal men between the ages of 20 and 30 years had been arrested at some time in their lives. In 2003 Aboriginal juveniles accounted for 47 percent of those between the ages of 10 to 17 in juvenile correctional institutions. Human rights observers noted that socioeconomic conditions gave rise to the common precursors of indigenous crime, including unemployment, homelessness, and boredom.

Indigenous groups charged that police harassment of indigenous people, including juveniles, was pervasive and that racial discrimination by police and prison custodians persisted. Human rights groups and indigenous people alleged a pattern of mistreatment and arbitrary arrests occurring against a backdrop of unofficial yet systemic discrimination.

In November 2004 hundreds of residents on Queensland's Palm Island rioted after government officials released the postmortem results on an indigenous man who had died in police custody after being detained for public drunkenness. The coroner's report had cleared the police of responsibility in the man's death; a separate investigation by the Crime and Misconduct Commission, requested by the Queensland State government, was ongoing at year's end.

The National Native Title Tribunal resolves native land title applications through mediation. The tribunal also acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. The 1993 Native Title Act removed the time limit previously in effect for lodging native title claims, but Aboriginal leaders expressed deep concern about the weakening of Aboriginal rights to negotiate with non-Aboriginal leaseholders over the development of rural property. Aboriginal groups continued to express concern that the amended act limited the future ability of Aboriginal people to protect their property rights. In 2002 the High Court ruled that native title rights did not extend to mineral or petroleum resources and that, in cases where leasehold rights and native title rights were in conflict, leaseholder rights prevailed.

The $968 million (A$1,290 million) indigenous land fund is a special account that provides an ongoing source of funds for indigenous people to purchase land for their use. It is separate from the Native Title Tribunal and is not for payment of compensation to indigenous people for loss of land or to titleholders for return of land to indigenous people.

The NGO Aboriginal Tent Embassy in Canberra was set up in a small structure on public land opposite the old parliament building over 30 years ago and worked to publicize Aboriginal grievances. The tent embassy, which also encompassed an itinerants' camp, still existed at year's end, despite fire damage in 2003 and again in August 2004. It remained in the same location despite continued efforts to relocate it by the government and some local indigenous groups who asserted that it was not representative of the entire indigenous community. Other Aboriginal NGOs included groups working on native title issues, reconciliation, deaths in custody, and Aboriginal rights in general. International NGOs, such as Amnesty International, also monitored and reported on indigenous issues and rights.

Other Societal Abuses and Discrimination.—In December 2003 the NSW government released a study of violence against homosexuals, which found that more than half of the survey participants had experienced one or more forms of abuse, harassment, or violence in the previous 12 months. The report also found that two or more persons who were unknown to the victim perpetrated most incidents of harassment or violence and that homosexuals of Middle Eastern background suffered exclusion, assaults, and stalking from family or community members.

Federal and various state laws prohibit discrimination on the grounds of HIV positive status. In the 12 months ending June 30, there were 9 discrimination complaints lodged with the federal disability discrimination commissioner, which is part of HREOC, on the grounds of HIV/AIDS status. These complaints also were included in the total of 523 disability-related complaints to HREOC.

According to HREOC's July 2004 to June annual report, during that period there were 78 reported cases of age discrimination; 73 percent involved employment, and 18 percent involved provision of goods, services, and facilities. Persons aged 45 and older filed 62 percent of the complaints.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers, including public servants, the right of association domestically and internationally and protection against antiunion discrimination, and workers exercised these rights in practice. A 2004 ABS survey indicated that union membership had decreased slightly over the previous 12 months to 22.7 percent of the workforce.

Unions carried out their functions free from government or political control.

The 1996 Federal Workplace Relations Act (WRA) contains curbs on union power, restrictions on strikes (see section 6.b.), and limits on redress and compensation claims by dismissed employees. The umbrella trade union organization, the Australian Council of Trade Unions (ACTU), has objected to the law, alleging that it violates the right to assembly provided for in several International Labor Organization (ILO) conventions that the government has signed, including ILO Convention 87 on the Freedom of Association and Protection of the Right to Organize. The primary curb on union power is the abolition of closed shops and union demarcations. This provision in theory could create many small and competing unions at the enterprise level, but thus far there have been few changes in existing union structures.

b. The Right to Organize and Bargain Collectively.—Federal, state, and territorial laws provide workers with the right to organize and bargain collectively, and workers exercised this right in practice.

Under the WRA, negotiation of contracts covering wages and working conditions shifted from the centralized awards system of the past to enterprise-level agreements certified by the Australian Industrial Relations Commission (AIRC). The WRA provides that the AIRC may certify multibusiness agreements only if they are in the "public interest." In the 12-month period ending June 30, the AIRC certified 5,197 enterprise agreements, a decrease of 39 percent from the number certified in the previous 12 months. The WRA also provides for the negotiation of Australian Workplace Agreements (AWAs) between employers and individual workers, which are subject to fewer government regulations than awards or enterprise bargaining agreements; however, AWAs must improve upon the basic working conditions contained in a relevant same-sector award. The Office of the Employment Advocate approved 205,865 AWAs during the 12-month period ending June 30, an increase of 36 percent compared with the previous 12 months. As of June 30, AWAs covered approximately 460 thousand employees. AWAs were most prevalent in the accommodation and restaurant industries, where an estimated 76 percent of workers covered by a federally registered agreement were covered by AWAs. There also was significant AWA coverage of workers in mining (60 percent) and property and business services (58 percent).

Federal law first recognized an implicit right to strike in 1994. The WRA significantly restricts this right; it subjects strikers to heavy fines for taking industrial action during the life of an agreement and contains tougher secondary-boycott provisions. The WRA confines strikes to the period when unions are negotiating a new enterprise agreement and specifies that strikes must concern matters under negotiation. This is known as "protected action." Protected action provides employers, employees, and unions with legal immunity from claims of losses incurred by industrial action. In 1999 a union successfully challenged the WRA's restriction on strike action in federal court. The court refused to grant an injunction against the union for taking industrial action outside of a bargaining period because the action was in support of maintaining existing wages and conditions. In June the union movement organized a "national week of action" campaign involving stop-work meetings to protest the government's announced agenda for workplace reforms.

On November 2, the government introduced in Parliament a package of proposed changes to the WRA that, among other things, replaces the country's state labor relations systems with a single set of federal labor relations rules and places additional limits on industrial actions. It permits the government to stop strikes if they are judged to have an "adverse effect" on the employer or damage third parties. On November 15, an estimated 250 thousand workers demonstrated against the proposed legislation in nationwide protests organized by the ACTU. Parliament passed the legislation on December 7, but most of its provisions were not scheduled to go into effect until 2006. Unions, the ALP, and a number of international labor organizations criticized the legislation as violating workers' rights.

The Bureau of Statistics reported 567 industrial disputes for the 12 months ending June 30, a decrease of nearly 21 percent from the previous year; during the same period, total workdays lost due to strikes fell by 56 percent to 241,900.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law does not explicitly prohibit forced or compulsory labor, including by children; however, there were no reports that such practices occurred. Trafficking in women was a limited problem (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, enforced by state educational authorities, effectively prevented most children from joining the work force full time until they were 15 or 16 years of age. Federal and state governments monitored and enforced a network of laws, which varied from state to state, governing the minimum school-leaving age (see section 5), the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations. The ACTU also monitored adherence to these laws.

e. Acceptable Conditions of Work.—Although a formal minimum wage exists, it has not been directly relevant in wage agreements since the 1960s, since most workers received higher wages through enterprise agreements or individual contracts. In June the AIRC increased the federal minimum award wage by $12.72 (A$17) to $362.35 (A$484.40) per week. Differing minimum wages for individual trades and professions covered approximately 80 percent of all workers; all rates provided a decent standard of living for a worker and family. Legislation passed in December established a new statutory agency, the Australian Fair Pay Commission, to determine future minimum wage increases.

Most workers were employees of incorporated organizations. A complex body of applicable government regulations, as well as decisions of applicable federal or state industrial relations commissions, prescribe a 40-hour or shorter workweek, paid vacations, sick leave, and other benefits. The minimum standards for wages, working hours, and conditions are set by a series of "awards" (basic contracts for individual industries). In 2002 the AIRC refused the ACTU's request to set a standard for "reasonable working hours" but allowed workers to refuse without penalty "unreasonable" overtime.

Over the past two decades, there has been a substantial increase in the percentage of the workforce regarded as temporary workers. In 2003–04 there were 2.7 million persons (28 percent of the workforce) employed as casual or temporary workers. Such employees were not entitled to certain employment benefits such as sick leave or annual leave but were paid at a higher hourly wage rate.

Federal or state occupational health and safety laws apply to every workplace. The law provides federal employees with the right to cease work without endangering their future employment if they believe that particular work activities pose an immediate threat to individual health or safety. Most states and territories have laws that grant similar rights to their employees. At a minimum private sector employees have recourse to state health and safety commissions, which investigate complaints and demand remedial action.

Labor law protects citizens, permanent residents, and migrant workers alike. Migrant worker visas require that employers respect these protections and provide bonds to cover health insurance, worker compensation insurance, unemployment insurance, and other benefits. There were no reports of worker rights abuses in any of the country's five dependent territories of Macquarie and Heard Islands, Christmas Island, Cocos (Keeling) Island, and Norfolk Island.

BRUNEI

Brunei Darussalam is a small, wealthy, Islamic country with a population of approximately 357,800. It has been ruled by the same family for more than 600 years. The present ruler, Sultan Haji Hassanal Bolkiah, governed under emergency powers that place few limits on his power. During the year the sultan increased membership in the legislative council to include indirectly elected village and district leaders; however, the council has only a limited role in recommending and approving legislation. The sultan maintained control over the security forces.

There were problems in the government's human rights record, particularly in the area of civil liberties. The following human rights problems were reported:

- inability of citizens to change their government

- arbitrary detention
- no freedom of speech, press, assembly, or association
- restrictions on religious freedom
- discrimination against women
- restricted labor rights
- exploitation of foreign workers

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits mistreatment of prisoners, and there were no reports of such mistreatment. Caning is mandatory for 42 drug-related and other criminal offenses, and it was included as part of the sentence in 80 percent of criminal convictions. Canings were carried out in the presence of a doctor, who had the authority to interrupt the punishment for medical reasons.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. Juveniles typically served their sentences in adult detention centers, but several young offenders were housed at a government rehabilitation center. Detention cells at police stations were Spartan.

There were no reports that human rights monitors requested prison visits, but foreign diplomats had consular access to detained nationals. Family members were permitted to visit prisoners and bring food.

d. Arbitrary Arrest or Detention.—The law provides for a prompt judicial determination regarding the validity of an arrest. However, in practice the provisions, like the constitution itself, were partially or wholly superseded through invocation of the emergency powers.

Role of the Police and Security Apparatus.—The police force and the Internal Security Department are under the direct control of the Prime Minister's Office. Both groups were considered free of major corrupt practices, although there were reports of petty corruption among traffic police. Police statistics reported 17 prosecutions and arrests involving police and other law enforcement officers for corrupt or criminal acts.

Arrest and Detention.—Normally a magistrate must endorse a warrant for arrest. On rare occasions, warrants are issued without this endorsement, such as when police are unable to obtain the endorsement in time to prevent the flight of a suspect. Police officers have broad powers to make arrests, without warrants, of persons caught in the physical act of committing a crime.

The Internal Security Act (ISA) permits the government to detain suspects without trial for renewable two-year periods. ISA detainees are also denied the right to legal counsel and are not presumed to be innocent. In the past, information on detainees was made public only after their release.

The criminal procedure code allows for bail except in cases indicated as "discretionary" by written law. Bail is obligatory in any case not deemed discretionary. Detainees generally had prompt access to lawyers and family visitations; however, police may deny access in exceptional cases, such as probable belief of tampering with a witness.

There were reliable reports that the government detained officials suspected of criminal activities, but the government did not acknowledge the arrests.

In April the government released 4 of the 16 persons detained in February 2004 under the ISA for involvement in a counterfeit ring. In November the government announced the release of another five ring members.

Three persons—retired Major Haji Muslim bin Haji Awang Tengah, former senior police officer Noordin bin Haji Ahmed Noor, and businessman Haji Abdul Radzak bin Haji Awang Damit—arrested in March 2004 under the ISA for treason and "subversive actions" remained in detention at year's end.

e. Denial of Fair Public Trial.—The law does not provide specifically for an independent judiciary, but the courts appeared to act independently, and there were no known instances of government interference with the judiciary. All higher court judges are appointed by and serve at the pleasure of the sultan.

The judicial system consists of five levels of courts, with final recourse in civil cases available through the Privy Council in London.

Trial Procedures.—The secular law, based on English common law, provides citizens with a fair and efficient judicial process. Procedural safeguards include the right to defense counsel, an interpreter, and a speedy trial, as well as the right to confront accusers. There is no legal provision to provide affordable legal counsel for poor defendants, except in capital cases. Such defendants may act as their own lawyers in court.

Shari'a (Islamic law) supersedes secular law for Muslims in some areas, including divorce, inheritance, and some sexual crimes. Shari'a is not applied to non-Muslims. A law society, or bar association, established in 2003 to promote lawyers' public accountability, held its first election for a council in late October; election of the president took place on December 19. The society was scheduled to begin operations January 1, 2006.

The law lacks provisions to allow companies or individuals to sue the government, which traditionally resolves disputes with generous, nonnegotiable settlements or in some cases simply refuses to settle.

Political Prisoners.—There were no reports of political prisoners, but information was very difficult to obtain.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law permits government intrusion into the privacy of individual persons, families, and homes. Shari'a permits enforcement of *khalwat*, an Islamic prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse or close male relative. There continued to be numerous reports of religious enforcement officers entering homes, buildings, and vehicles to detain suspects.

The government monitored the private e-mail and Internet chat room exchanges of citizens that it believed to be subversive. The government employed an informer system as part of its internal security apparatus to monitor suspected dissidents.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Under the emergency powers, the government significantly restricted freedom of speech and freedom of the press. Constitutional amendments adopted in 2004 allow members of the legislative council to "speak their opinions freely," but they are prohibited from using language or exhibiting behavior deemed "irresponsible, derogatory, scandalous, or injurious," and they may be disqualified for "disloyalty" to the sultan among other offenses.

Under the amended May 2005 Sedition Act, it is an offense to "directly or indirectly lower or adversely affect the rights, status position, discretion, powers, privileges, sovereignty, or prerogatives of the sultan, his spouse, successors, or other members of the royal family." The act also makes it an offense to "directly or indirectly lower or adversely affect the standing or prominence of the national philosophy, the Malay Islamic Monarchy concept." This ideology permeates the country's life and government administration. It promotes Islam as the state religion and monarchical rule as the sole governing system, and it upholds the rights and privileges of the Brunei Malay race.

The act also provides for the prosecution of any publisher, proprietor, or editor of a newspaper that publishes matter having a seditious intention. Publication of the newspaper may be suspended for up to one year, and the publisher, printer, or editor can be prohibited from publishing, writing for, or editing any other newspaper. Printing equipment used in printing the newspaper can also be seized. Persons convicted under the amended sedition act face fines up to $2,965 (B$5 thousand) and jail terms of up to 3 years.

The law requires local newspapers to obtain operating licenses and prior government approval of foreign editorial staff, journalists, and printers. The law also gives the government the right to bar distribution of foreign publications, and it requires distributors of foreign publications to obtain a government permit. The law allows the government to close a newspaper without giving prior notice or showing cause. Journalists deemed to have published or written "false and malicious" reports may be subjected to fines or prison sentences.

The country's largest circulation daily newspaper, the *Borneo Bulletin*, practiced self-censorship in its choice of topics to avoid angering the government. However, letters to the editor often included comments critical of the government's handling of certain social, economic, and environmental issues. On occasion the government responded to public opinion on topics concerning social or environmental problems.

Although the government owned the country's only television station, three Malaysian television channels were available. Two satellite television networks also were available and offered a total of 28 different channels.

The government's tolerance of political criticism was not tested because there was no organized opposition. In the past the government arrested those who attempted to propagate unwelcome political views. The *Borneo Bulletin* published limited re-

ports on the activities of the Consumers' Association of Brunei, a quasi-human rights organization, and the activities of three political parties (see section 4).

After the 2004 detention of two persons involved in disseminating criticism of the government and the royal family, fear of government surveillance reduced the number of visitors to the few existing Internet forums. The government also was believed to have periodically blocked access to at least one forum hosted outside the country. Brutalk, another forum, reopened early in 2004 only to be shut down again in March. The primary Internet service provider was state owned.

The government generally respected academic freedom; however, some researchers chose to publish from overseas and under a pseudonym when they perceived that subject matter pertaining to the country would not be well received.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Under the emergency powers, the government significantly restricted the right to assemble. Freedom to assemble for political purposes was not tested during the year.

Freedom of Association.—Civil servants and security force personnel, who together composed 60 percent of all employed citizens, are not permitted to join political parties (see section 3). The government continued to restrict the activities of international service organizations such as Rotary, Kiwanis, and the Lions, which developed out of the established business community. Religious regulations promulgated by the Ministry of Religious Affairs and the State Mufti's Office prohibit Muslims from joining these organizations.

There were no politically oriented student associations.

c. Freedom of Religion.—The law states, "The religion of Brunei Darussalam shall be the Muslim religion according to the Shafi'i sect of that religion: Provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam." The government controlled mosques, and the Ministry of Religious Affairs prepared the weekly Friday sermons delivered in mosques countrywide. The government restricted the practice of non-Islamic religions and non-Shafi'i Islamic groups, and it reinforced the legitimacy of the observance of traditional and Islamic values through its national ideology.

The government used its internal security apparatus—including such measures as surveillance, investigation, and detention—against persons whom it considered to be purveyors of radical Islam, non-Muslims who attempted to proselytize, and religious groups that did not belong to the official religion. It has banned the Baha'i Faith and the Islamist Al-Arqam movement, and it detained a number of the latter's followers. In July 2004 the government released six members of the movement who had been detained since 2003. A seventh man, Mohammed Ashadi Haji Sulaiman, who had been arrested later, was released in May.

Registration is required by law for a group to worship communally. Under legislation amended in January, an organization that fails to register can face charges of unlawful assembly. All non-Shafi'i religious groups are required to register as associations. In 2003 two Christian groups were denied permission to register.

The government routinely restricted the practice of non-Muslim religions by prohibiting proselytizing, occasionally denying entry to foreign clergy, banning the importation of religious teaching materials or scriptures such as the Bible, and denying requests to expand or build new churches, temples, and shrines. Non-Muslims who proselytize may be arrested or detained and held without charges for an extended period of time.

Muslims who wished to change or renounce their religion faced considerable difficulties. Born Muslims faced official and societal pressure not to leave Islam. Permission from the Ministry of Religious Affairs must be obtained, and there were no reports of anyone requesting such permission. There were instances of persons, often foreign women, who converted to Islam as a prelude to marrying Muslims, as required by the country's Islamic law. Government statistics reported that 10 percent of the 424 conversions to Islam during the year were due to marriage. After the marriages took place, these women faced intense official pressure not to return to their former religions or encountered extraordinary delays in obtaining permission. Unlike in the past, there were no cases of divorced Muslim converts who, because of official and societal pressure, remained officially Muslim.

Authorities continued to arrest persons for offenses under Shari'a, such as *khalwat* and consumption of alcohol.

The Ministry of Education requires courses on Islam and the national ideology and prohibits the teaching of other religions. The ministry requires all students, including non-Muslims, to follow a course of study on the Islamic faith and learn Arabic script. The International School of Brunei and the Jerudong International School were exempt from these requirements, but both offered Islamic instruction for Mus-

lims. Private Christian schools are not allowed to give Christian instruction and are required to give instruction on Islam. However, the government did not prohibit or restrict parents from giving religious instruction to children at home.

The government routinely censored magazine articles on other faiths by blacking out or removing photographs of crucifixes and other religious symbols. In addition government officials prevented the public display, distribution, and sale of items featuring non-Islamic religious symbols.

The government requires residents to carry an identity card that states the bearer's religion. Visitors to the country are asked to identify their religion on their landing cards.

Only Islamic groups belonging to the Shafi'i school are permitted to organize public religious processions; however, during the year a limited number of public lion dances to celebrate the Chinese Lunar New Year were allowed.

In July the government sponsored the attendance of Christian, Buddhist, and Muslim religious officials at the Asia-Europe Interfaith dialogue held in Bali, Indonesia.

Societal Abuses and Discrimination.—The country's various religious groups coexisted peacefully. There were no known Jewish communities in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The government restricts the movement of former political prisoners during the first year of their release. Generally, the government does not restrict the freedom of movement of citizens, visitors, and permanent residents. Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad, which was granted routinely.

Under the law the sultan may forcibly exile, either permanently or temporarily, any person deemed a threat to the safety, peace, or welfare of the country. However, since 1984 there have been no cases of banishment of citizens.

Protection of Refugees.—The country is not party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and no legal provision exists for granting temporary refuge or refugee status to those seeking such refuge or asylum. Under the law persons arriving without valid entry documents and means of support are considered illegal immigrants and are refused entry. There were no reported cases of individuals seeking temporary refuge during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens did not have the right to change their government peacefully, and civil servants are not permitted to join political parties.

The same family has ruled the country for more than 600 years. In 1962 the then sultan invoked an article of the constitution that allowed him to assume emergency powers for two years. Sultan Haji Hassanal Bolkiah renewed these powers in March 2004. The state of emergency places few limits on the sultan's power. The sultan also served as prime minister, minister of defense, minister of finance, chancellor of the national university, inspector general of the Royal Brunei Police Force, and head of the Islamic faith.

Elections and Political Participation.—In September 2004 the sultan named an appointed legislative council, which he revived after a 20-year suspension; however, the council had no independent powers. Political authority and control rested entirely with the sultan, while the council provided a forum for public discussion of proposed government programs as well as administrative deficiencies. Members of the sultan's appointed cabinet served as his principal advisors. The sultan also announced changes to the constitution that consolidated his executive powers while providing for limited elections to the legislative council. Amendments to royal succession to include the sultan's sons from a second (now divorced) wife also were approved.

In September the sultan increased the membership of the legislative council to include several indirectly elected members, comprised of district and village heads.

The country has attempted, with limited success, to institutionalize a form of popular representation based on a traditional system of village chiefs elected by secret ballot by all adults. Candidates must be approved by the government and must be Malay or of a recognized indigenous race. These leaders are expected to communicate constituents' wishes through a variety of channels, including periodic meetings, chaired by the minister of home affairs, with several officials appointed by the

sultan. Regular meetings between senior government officials and *mukim* (a group of villages) representatives allowed for airing of local grievances and concerns.

There were three registered parties in the country: the Brunei Solidarity National Party, the Brunei People's Awareness Party, and the new Brunei National Development Party (BNDP). The BNDP was registered on August 31. All three parties pledged their support to the sultan and the system of government. Although they criticized administrative deficiencies, their few activities received limited publicity, and they were hindered by membership restrictions. However, several members and former members of political parties were consulted informally about the program of the legislative council.

Individuals sought to express their views or influence government decisions and policies by posting messages to Internet discussion boards, writing letters to local newspapers, and petitioning the sultan or handing him letters when he appeared in public.

The lack of a representative, democratic government seriously limited the role of both men and women in government and politics, although women were limited to a greater extent than men. There were no female ministers in the government or the legislative council, although the sultan's sister, Princess Masna, was the second-ranking official in the Ministry of Foreign Affairs, and there were female ambassadors, judges, and other senior officials.

Government Corruption and Transparency.—There were reliable reports of concealed corruption in the government. The government has announced a "zero tolerance" policy for corrupt policy and has successfully prosecuted a number of low-level officials. In May the government began prosecuting a former minister of development on charges of corruptly awarding government projects and accepting bribes. The case had not been decided at year's end.

Despite earlier declarations that the government planned to be more transparent, it continued to restrict and classify as confidential any information on the financial dealings of the government and royal family, particularly regarding expenditures, revenues, and incomes.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Few if any civil society organizations dealt directly with human rights. A nongovernmental organization (NGO) seeking to operate in the country is required to apply for permission under the Companies Act and provide a list of members. The government may suspend the activities of a registered society if it deems such an act in the public interest or the interest of the registered society.

The few existing NGOs were based locally and generally were professional, business, or social associations. The Consumers' Association of Brunei attempted to address human rights, but the government impeded it from doing so.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law does not contain specific provisions prohibiting discrimination based on race, sex, disability, language, or social status.

Women.—The extent of spousal abuse was unknown. During the year there were fewer than 100 reported cases of domestic violence against women. The criminal penalty for a minor domestic assault is one to two weeks in jail and a fine. An assault resulting in serious injury is punishable by caning and a longer jail sentence.

A special unit, staffed by female officers, existed within the police department to investigate domestic abuse and child abuse complaints. A hot line was in service for persons to report domestic violence. The Ministry of Culture's Social Affairs Services (SAS) Unit provided counseling for women and their spouses. During the year 31 female domestic abuse victims were sheltered at the Taman Noor Hidayah, a shelter run by the SAS unit. According to press reports, the female victims were restricted to the shelter while waiting for their cases to be brought to court.

Islamic courts, staffed by both male and female officials, offered counseling to married couples in domestic violence cases. Officials did not encourage wives to reconcile with flagrantly abusive spouses, and Islamic courts recognized assault as grounds for divorce.

Female domestic servants, most of whom were foreign workers (see sections 6.c. and 6.e.), also were subjected to abuse. While the level of violence in society generally was low, beating servants or refusing them the right to leave the house on days off was more prevalent. Since most foreign female domestics were highly dependent on their employers, those subject to abuse often were unwilling or unable to bring complaints, either to the authorities or to their governments' embassies. However, when such complaints were brought, the government generally was quick to investigate allegations of abuse and impose fines and punishment as warranted.

Several workers settled assault cases out of court with their employers. Two foreign embassies maintained a shelter for domestics involved in disputes with employers and were active in protecting their citizens' rights.

The law stipulates imprisonment of up to 30 years and caning with not fewer than 12 strokes for rape. The law does not criminalize spousal rape; it explicitly states that sexual intercourse by a man with his wife, as long as she is not under 13 years of age, is not legally considered rape. There were 22 rape cases reported during the year; 12 cases resulted in conviction, and 10 were under investigation at year's end.

Prostitution is illegal. Women who entered the country for purposes of prostitution generally were tried, sentenced, and deported swiftly (see section 5, Trafficking).

In accordance with certain local Islamic practices, women are denied equal status with men in a number of important areas such as divorce, inheritance, and custody of children. However, the law permits female citizens to pass their nationality to their children and to own property and other assets, including business properties.

Men were eligible for permanent positions in government service whether or not they had university degrees, but women without university degrees were eligible to hold government positions only on a month-to-month basis. Women in month-to-month positions received slightly less annual leave and fewer allowances than their male and female counterparts in permanent positions. There were no men in month-to-month positions.

Religious authorities strongly encouraged Muslim women to wear the *tudong*, a traditional head covering, and the majority of women did so. Most government departments and the uniformed services required female Muslims and non-Muslims to wear the *tudong* as part of their dress code. All government schools, as well as the national university and other educational institutions, pressured non-Muslim students to wear the *tudong* as part of the institution uniforms.

Children.—No statistics were published regarding the welfare of children. The strong commitment to family values within society, the high standard of living, and government funding for children's welfare provided most children a healthy and nurturing environment. Education is free, compulsory, and universal for the first 12 years, after which it is still free but no longer compulsory. The highest level of education achieved by most children was completion of secondary school, which normally consists of 12 to 14 years in school, ending at age 16 to 18 depending on whether the student pursues a vocational, academic, or arts course of study in secondary school. A significant percentage of students continued on to tertiary education. With a few exceptions, involving small villages in extremely remote areas, nutritional standards were high and poverty was almost unknown. Medical care for all citizens, including children, was subsidized heavily and widely available. Between 20 and 30 young female rape and sexual abuse victims, between 9 and 15 years of age, were housed at the government-sponsored Taman Noor Hidayah women's shelter. The penalty for the rape of a minor is 8 to 30 years' imprisonment and caning with not fewer than 12 strokes.

Trafficking in Persons.—A statute outlaws sexual exploitation and trafficking of women and girls. In addition, a variety of other laws, primarily those related to prostitution and the protection of minors, could be applied against sex traffickers. The country has been a destination for a small number of persons trafficked for sexual exploitation from China and within the region. There were very few identifiable cases of trafficking, and the majority of women who entered the country as sex workers were considered to have done so voluntarily. Immigration, labor, and religious regulations that criminalize prostitution also served to deter trafficking. There were reports of foreign household laborers who worked under harsh conditions and whose freedom of movement was restricted (see section 6.e.).

In December 2004 the government introduced a specific antitrafficking law under which a person convicted of trafficking persons, harboring smuggled persons, or endangering the lives or safety of trafficked or smuggled persons can be fined up to $606,060 (B$1 million), imprisoned for up to 30 years, and caned. A person convicted of facilitating trafficking or smuggling persons can be fined up to $30,303 (B$50 thousand) and imprisoned for up to 10 years. There were no reported cases of human trafficking. Immigration and other law enforcement officials began receiving training to investigate and prosecute suspected offenders to deal with trafficked victims under the terms of the new law. Police officials participated in five overseas training courses dealing with human trafficking.

Persons with Disabilities.—The law does not mandate accessibility or other assistance for persons with disabilities. The government attempted to provide educational

services for children with disabilities; however, these efforts did not meet international norms.

National/Racial/Ethnic Minorities.—There were a sizeable number of "stateless" persons and permanent residents, mostly ethnic Chinese, including persons born and raised in the country, who were not automatically accorded citizenship and its attendant rights. They had to travel abroad as stateless persons and did not enjoy the full privileges of citizenship, including the right to own land. Stateless persons and permanent residents also were not entitled to subsidized medical care. In 2003 a reform to the nationality law allowed some older, stateless persons and some permanent residents over age 50 to acquire citizenship by passing an oral rather than a written nationality test. All stateless persons and permanent residents became entitled to free education at government schools and other vocational and technical institutions. During the year 680 persons were granted citizenship, including more than 150 children.

Section 6. Worker Rights

a. The Right of Association.—All workers, including civil servants other than those serving in the military and those working as prison guards or police officers, may form and join trade unions; however, in practice there was no union activity in the country. The government did not encourage unions or facilitate their formation, and employers in the industrial sector did not encourage foreign workers to form unions. The 3 registered trade unions were in the oil sector, had a total membership of less than 5 percent of that industry's work force, and were inactive. There were more than 100 thousand foreign workers in the country, including approximately 10,600 garment industry workers, none of whom were members of any trade union.

While the law permits the formation of trade union federations, it forbids affiliation with international labor organizations unless there is consent from the home affairs minister and Labor Department. At year's end the country had ratified none of the International Labor Organization's (ILO) eight Fundamental Conventions and was not an ILO member.

b. The Right to Organize and Bargain Collectively.—There was no union activity in the country; therefore, employer discrimination against union members did not arise. There is no legal foundation for collective bargaining, and strikes are illegal. Wage and benefit packages were based on market conditions.

There is a free trade zone in Muara Port, known as the Muara Export Zone (MEZ). The labor laws are fully applicable in the MEZ.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that some foreign domestic workers worked under unacceptable conditions (see section 6.e.). Other workers, most notably in the garment industry, signed contracts with employment agents or other sponsors in their home countries that reduced their promised salaries through payments to the agencies or sponsors. In 2003 the government forbade wage deductions to agencies or sponsors and mandated that employees receive their full salaries. However, foreign workers continued to pay high fees to manpower agents to obtain work in the country.

d. Prohibition of Child Labor and Minimum Age for Employment.—Various laws prohibit the employment of children under age 16. Parental consent and approval by the Labor Commission is required for those under 18. Female workers under 18 may not work at night or on offshore oil platforms. The Department of Labor (DOL), which is part of the Ministry of Home Affairs, effectively enforced laws on the employment of children. There were no reports of violations of the child labor laws.

The government adhered to the standards of ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—Due to economic conditions and reduced government hiring, unemployment has grown in recent years. However, most citizens who had employment commanded good salaries. There is no minimum wage. The standard workweek is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for 2 rest periods of 24 hours each week. Overtime is paid for work in excess of 48 hours per week, and double time is paid for work performed on legal holidays. Occupational health and safety standards are established by government regulations. The DOL inspected working conditions on a routine basis and also in response to complaints. The DOL generally enforced labor regulations effectively, but enforcement in the unskilled labor sector was lax, especially for foreign laborers. The DOL may close a workplace where health, safety, or working conditions are unsatisfactory, and it has done so. The law permits a worker to leave a

hazardous job site without jeopardizing his employment, but generally this did not occur.

At least 100 thousand foreign persons worked in the country. There were reports of foreign maids and other domestic workers who worked exceptionally long hours, did not have a rest day, and had their liberty severely restricted. There also were isolated reports of employers who beat domestic employees or did not provide them with adequate food. The government prosecuted some cases; employers found guilty of abuses typically were fined and asked to compensate the victim.

Government protective measures for foreign workers included arrival briefings for workers, inspections of facilities, and a telephone hot line for worker complaints. Government mediation continued to be the most common means used to resolve labor disputes. Abusive employers faced criminal and civil penalties. When grievances cannot be resolved, repatriation of foreign workers is at the expense of the employer, and all outstanding wages must be paid. The majority of abuse cases were settled out of court by the payment of financial compensation to the worker by the errant employer.

Since February the DOL has brought cases directly against employers who did not pay their workers. Formerly, such cases were brought by the Attorney General's Office and took much longer to prosecute. In March a military officer was fined approximately $4 thousand (B$6,668) or a jail sentence in default for not paying his maid for more than 23 months.

In September approximately 300 garment factory workers protested publicly over unpaid salaries of up to 6 months. The government intervened in the dispute, and embassies of the affected workers assisted in finding alternative employment for some workers. The government warned employers that they would be prosecuted if they defaulted on workers' salary payments or paid them late. In September the government filed charges for nonpayment of wages against the board of directors of the factory that employed the garment workers; among the accused was a former cabinet minister. In late November members of the board of directors were charged with 126 counts relating to unpaid salaries of 19 workers, and more charges were expected to be filed to reflect total number of workers not paid by the company.

The government also used the labor act's provisions to prosecute errant employers who employed illegal immigrants or did not process workers' documents, rendering them in illegal status.

In February 2004 the country amended its immigration laws by introducing retroactive prison sentences and caning for overstaying workers and illegal immigrants seeking work, as well as for foreign workers employed by companies other than their initial sponsor. While the majority of prosecutions were for long-term overstayers, many workers were in illegal status owing to their former employers' negligence. Diplomatic missions appealed to the government to delay the introduction of caning penalties and not apply the law retroactively. The government delayed the introduction of caning penalties until June 2004. Subsequently, numerous foreign persons found to be in illegal status received caning sentences in addition to jail time and fines.

In September nine Filipino workers who had been duped by home-based recruiters into coming to the country on social visit passes and were subsequently unable to work legally were repatriated by their embassy. In 2004 several hundred Bangladeshi workers were duped by foreign and local manpower agents into paying high recruitment fees to obtain a three-month short-term work contract. Many of the workers subsequently were not able to transfer to standard two-year contracts, and some lapsed into illegal immigration status. Diplomatic missions again appealed to the government for leniency for these persons, and the government granted their request. The government subsequently closed this loophole by requiring employment agencies to register and limiting work permit renewals to registered agents.

BURMA

Since 1962, Burma, with an estimated population of more than 52 million, has been ruled by a succession of highly authoritarian military regimes dominated by the majority Burman ethnic group. The current controlling military regime, the State Peace and Development Council (SPDC), led by Senior General Than Shwe, is the country's de facto government, with subordinate Peace and Development Councils ruling by decree at the division, state, city, township, ward, and village levels. In 1990 prodemocracy parties won more than 80 percent of the seats in a generally free and fair parliamentary election, but the junta refused to recognize the

results. Twice during the year, the SPDC convened the National Convention (NC) as part of its purported "Seven-Step Road Map to Democracy." The NC, designed to produce a new constitution, excluded the largest opposition parties and did not allow free debate. The military government totally controlled the country's armed forces, excluding a few active insurgent groups.

The government's human rights record worsened during the year, and the government continued to commit numerous serious abuses. The following human rights abuses were reported:

- abridgement of the right to change the government
- extrajudicial killings, including custodial deaths
- disappearances
- rape, torture, and beatings of prisoners and detainees
- harsh and life-threatening prison conditions
- arbitrary arrest without appeal
- politically motivated arrests and detentions
- incommunicado detention
- continued house arrest of National League for Democracy (NLD) General Secretary Aung San Suu Kyi and NLD Vice Chairman U Tin Oo, and the continued closure of all NLD offices, except the Rangoon headquarters
- imprisonment of members of the United Nationalities Alliance, including Hkun Htun Oo and Sai Nyunt Lwin, both leaders of the Shan Nationalities League for Democracy
- infringement on citizens' right to privacy
- forcible relocation and confiscation of land and property
- restriction of freedom of speech, press, assembly, association and movement
- restriction of freedom of religion
- discrimination and harassment against Muslims
- restrictions on domestic human rights organizations and a failure to cooperate with international human rights organizations
- violence and societal discrimination against women
- forced recruitment of child soldiers
- discrimination against religious and ethnic minorities
- trafficking in persons, particularly of women and girls for the purpose of prostitution and as involuntary wives
- restrictions on worker rights
- forced labor (including against children), chiefly in support of military garrisons and operations in ethnic minority regions

Ethnic armed groups including the Karen National Union (KNU), the Karenni National Progressive Party (KNPP), and the Shan State Army-South (SSA–S) also allegedly committed human rights abuses, including killings, rapes, and forced labor, although reportedly to a lesser extent than the government. Some cease-fire groups, including the United Wa State Army and the Karenni National Peoples Liberation Front also reportedly committed similar abuses against civilians in their home regions. Armed groups and cease-fire groups also practiced forced conscription of child soldiers.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—During the year there were several cases of prodemocracy activists who died while in custody under suspicious circumstances. On May 7, Aung Hlaing Win, an NLD member, died in custody after being arrested on May 1 by the Office of the Chief of Military Affairs Security (MAS) for contacting an "illegal organization" in Thailand five years earlier. On May 10, police informed his family that he died of a heart attack; however, the coroner's autopsy report revealed that the body showed 24 injuries and bruises. MAS offered the family compensation of $100 (100 thousand kyat), which the family refused. The family filed a wrongful death case in Mayangone Township Court. The judge barred admission of the coroner's autopsy report and instead upheld the police report on the cause of death. The NLD legal advisory committee helped the family appeal the case to the Supreme Court, which upheld the decision of the lower court.

On May 22, labor activist Moe Naung reportedly died in Kawthoung, shortly after being taken into custody (see section 6.a.).

On May 31, Min Htoo Wai's wife received a telegram informing her that her husband, an NLD member, had died in custody and would be cremated that day. On May 26, police arrested Min Htoo Wai for unspecified reasons and transferred him to Mawlamyine Prison two days later. The family arrived at the prison within an hour of receiving the telegram but was informed that his body was cremated the day before. A prisoner and the medical coroner both informed the widow that her husband died of severe head injuries suffered during a beating on May 29.

On July 20, officials informed Saw Stanford's family that he died of a heart attack at an interrogation center. The family was not allowed to come close to or handle the heavily draped body and could only see his face. Stanford was detained in an MAS raid of Tawako Village, Irrawaddy Division, for allegedly hiding arms and explosives.

On October 4, Htay Lwin of Aung Myay Thazan Township, Mandalay Division, died while in police custody. Authorities had arrested him on the same day on suspicion of theft. His wife came to visit him at the police station but was not allowed to see her husband. An hour later the police informed her that Htay Lwin had committed suicide inside the jail. On October 5, she refused to sign any documents or make funeral arrangements without first seeing her husband's body. Local peace and development council (PDC) officials and district Union Solidarity and Development Association (USDA) Secretary Tin Maung Win offered compensation of $300 (300 thousand kyat). On October 6, the PDC and hospital authorities delivered the body to her house without any death certificate. The family said Htay Lwin's skull showed evidence of battering, his body was covered with bruises, and there were stitches in both eyes, on his neck, and abdomen. The family appealed to the director general of police and the divisional police commissioner to launch an inquiry and to take action against those responsible. At year's end there were no further developments in the case.

On November 5, 37-year-old Aung Myint Thein of Bago died while in custody in Insein Prison where he was undergoing trial on charges of "illegal association." The cause of death was reported variously to be diarrhea, cholera, or cirrhosis, but the authorities would not release the body to the family (see sections 2.a and 6.c.).

On December 31, Ko Than Htaik died as a result of a severe beating by local peace and development council (PDC) authorities (see section 6.c).

In March 2004 the Shan Human Rights Foundation (SHRF) reported a commander from Light Infantry Battalion 514 beat a civilian to death in front of a military checkpoint in Mong Kung Township, Shan State, for refusing to provide his vehicle for forced labor.

In July 2004 there was an unverified but credible report that Maung Aye, a theft suspect, died after being beaten while in police custody (see section 1.c.).

The government refused to investigate, or to take any responsibility for, the 2003 attack by government-affiliated forces on an NLD convoy led by party leader Aung San Suu Kyi near the village of Depeyin. Villagers and survivors of the attack reported that the attackers might have killed as many as seventy prodemocracy supporters, but there was no official verification of this number. By year's end the fate of other injured persons, including 31 prodemocracy supporters from the convoy, remained unknown. Officials reportedly involved in the assault were not held accountable and several were promoted.

Similarly, there were no reports that the government took action to investigate or prosecute soldiers involved in any of the 2003 killings reported by the SHRF and the KNU. These killings included two farmers accused of being or helping Shan soldiers in Namhsan Township, Shan State; a displaced farmer in Lai-Kha Town in Shan State; a farmer at a remote farm in Shan State; and two Karen village chiefs.

There were several unverified reports of deaths and injuries due to security forces using civilians to clear landmines; however, reported incidents declined from previous years due to a tenuous cease-fire between the government and the KNU (see section 1.g).

Bombings in Mandalay in April and 3 concurrent bombings in Rangoon on May 7 resulted in an official count of 23 persons killed and 55 permanently injured. In response the government conducted widespread arrests and blamed various opposition groups for the bombings; however, it was unable to produce any credible evidence and the perpetrators remained at large.

Unlike in previous years, there were no reports that armed ethnic groups committed killings. Government media alleged in August 2004 that the Shan United Revolutionary Army, also known as SSA–S, killed five farmers in Namhsan Township.

b. Disappearance.—Private citizens and political activists continued to "disappear" for periods ranging from several hours to several weeks or more, and many persons never reappeared. Such disappearances generally were attributed to authorities detaining individuals for questioning without informing family members and the army's practice of seizing private citizens for portering or related duties, often without notifying family members (see section 6.c.). Little improvement was reported regarding requests for information directed to the military services. In many cases, individuals who were detained for questioning were released soon afterward and returned to their families.

The whereabouts of persons seized by military units to serve as porters, as well as prisoners transferred for labor or portering duties, often remained unknown. Family members generally learned of their relatives' fates only if fellow prisoners survived and later reported information to the families.

There were no developments in the 2003 case of a 15-year-old student and 3 or 4 other youths who disappeared from a Rangoon teashop and were believed to have been forcibly taken by the government for military portering.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—There are laws that prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. They routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient.

On December 1, the Assistance Association for Political Prisoners—Burma (AAPP) released a report on the "brutal and systematic" torture that the regime inflicted on political prisoners. Based on the testimony of 35 former political prisoners, the report gave graphic details of the physical, psychological, and sexual abuse the regime metes on dissidents, and identified by name many of the perpetrators. The report detailed the kinds of torture the regime uses, including: severe beatings, often resulting in loss of consciousness and sometimes death; repeated electrocution to all parts of the body, including genitals; rubbing iron rods on shins until the flesh rubs off; burning with cigarettes and lighters; prolonged restriction of movement for up to several months using rope and shackles around the neck and ankles; repeatedly striking the same area of a person's body every second for several hours; forcing prisoners to walk or crawl on an aggregate of sharp stones, metal and glass; using dogs to rape male prisoners; and threatening female prisoners with rape.

According to the report, the ministers of home affairs, defense, and foreign affairs form a three-person committee that oversees the detention of political prisoners charged under the State Protection Act.

The report also indicated that during initial interrogations torture is conducted mainly by MAS. Interrogation was also conducted by the Bureau of Special Investigations and the Special Branch of the Burma Police, which is under the Ministry of Home Affairs.

Five political prisoners died while in custody (see section 1.a.).

On July 6, journalist and former member of the NLD executive committee U Win Tin was taken to a room in Insein Prison where prisoners are debriefed prior to release, but instead of being released, was then returned to his cell. Opposition sources believe that U Win Tin refused attempts by authorities to coerce him to sign a false confession (see section 2.a).

In June 2004 four members of the NLD were taken into custody, interrogated, and forced to stand on stools for three days. The 4 were forced to sign false written confessions that led to prison sentences of up to 15 years for violating the Emergency Provision Act of 1950, the Unlawful Association Act of 1908, and the Immigration Act of 1947. The court ruled the three sentences would not have to be served consecutively, but rather the defendants would serve the longest of the three counts (seven years). The son of the most prominent member of this group also was taken into custody and beaten by security agents before being released.

Reliable sources reported that in February 2004, authorities at Insein prison beat NLD member Khin Maung Oo unconscious. Also in February 2004 there was an unverified report that Rangoon policemen and firemen beat San Htay for unknown reasons. In July 2004 there was an unverified but credible report that Maung Aye, a theft suspect, died after being beaten while in police custody.

The military routinely confiscated property, cash, and food, and used coercive and abusive recruitment methods to procure porters. Persons forced into portering or other labor faced extremely difficult conditions, beatings, rape, lack of food, lack of clean water, and mistreatment that at times resulted in death.

During the year there were new reports by NGOs and community leaders that the military continued to commit abuses against ethnic minorities, including beatings, rape, forced mine clearing, and forced labor against villagers in Bago Division, Karen State, Mon State, Shan State, and Tanintharyi Division.

In September 2004 a credible source in Karen State reported that soldiers from the progovernment Democratic Karen Buddhist Army (DKBA) raped several young Buddhist nuns (ages 8–11).

The government did not investigate the 2003 reports that a DKBA commander and government soldiers threatened and beat villagers in Karen State to recruit forced laborers.

In 2003, security agents detained and later sent school teacher Kyaw Ye Win and student Khin Hla Hla Su Win to Ywathagyi psychiatric hospital for demonstrating in front of Rangoon City Hall for the release of all political prisoners. They were amnestied in November 2004.

Prison and Detention Center Conditions.—Prison and labor camp conditions generally remained harsh and life threatening. The Department of Prisons operated approximately 35 prisons and approximately 70 labor camps throughout the country (see section 6.c.). In prisons, food, clothing, and medical supplies reportedly were in very short supply. Bedding consisted of a single mat on the floor. Prisoners were forced to rely on their families, who were allowed to visit once every two weeks for 15 minutes per visit, for basic necessities. Prisoners were held without being charged for weeks or months, and until a prisoner was officially charged with a crime, families could not visit or send critical supplementary food. HIV/AIDS infection rates in prisons reportedly were high due to communal use of single syringes for injections and sexual abuse by other prisoners. In March 2004 unverified reports indicated that the government revoked access by prisoners to periodicals and television, which were granted following a visit from the UN Special Rapporteur for Human Rights (UNSRHR) Paulo Sergio Pinheiro in 2003.

On April 9, 18 political prisoners in Insein Prison staged a 2-day hunger strike to protest poor prison conditions and the denial of prison visits by their families. The prison authorities agreed to make improvements in conditions. After the prisoners met with their families on April 27, the authorities transferred some of the political prisoners to other prisons, some were put in solitary confinement, and others were moved into communal cells with common criminals who beat them. The political prisoners again went on hunger strike and more were put in solitary confinement where they continued their hunger strike, and political prisoners in other wards joined their strike.

The government continued to deny prisoners adequate medical care, although medical services in prisons partially reflected health care services available to the general population. In September, 11 prison inmates in Tharawaddy prison died, and at least 80 were hospitalized due to a cholera outbreak brought on by worm-infested rice, lentils, and meat, and unsanitary water and waste disposal systems. In October these same conditions in Tharawaddy prison caused the deaths of 40 more prisoners from diarrhea. In late December, 9 prisoners in Sittwe Prison reportedly died of diarrhea and another 60 were hospitalized. Unhygienic food was suspected as the cause.

During the year the health of several political prisoners deteriorated. Prominent political prisoners who suffered deteriorating health included NLD members of parliament-elect (MPs-elect) Dr. Than Nyein and U Naing Naing and veteran journalist U Win Tin. Aung Zaw Latt, 30, a political prisoner, died in Bago prison on December 15 from tuberculosis.

According to the government, political detainees were separated from common criminals. However, reports by prisoners indicated that the authorities frequently placed political prisoners in communal cells where they were subjected to beatings and mistreatment by hard-core criminals. Political prisoners in Ward 3 of Insein Prison have been particularly vulnerable: prisoners Min Soe Naing, Min Min, Min Than Tun Win, U Ohn Maung, Phone Aung, and an unnamed Buddhist monk all reportedly were beaten severely by other inmates during the year. According to relatives of the prisoners and the AAPP, on August 24, a criminal gang of inmates brutally beat political prisoner Ko Tun Tun. The prison authorities reportedly took no action against the gang members, so the political prisoners staged a hunger strike. Prison authorities put them in solitary confinement and later transferred them to prisons in remote locations.

During the year the government allowed the International Committee of the Red Cross (ICRC) to perform its traditional services, such as providing medications to detainees, delivering letters between prisoners and their families, and advocating for monthly family visits to prisoners. The ICRC closely followed more than four thousand detainees on an individual basis. These included security detainees, minors, foreign nationals, and prisoners who were especially vulnerable, such as the sick and aged. As a result of ongoing dialogue with the government on prison problems, the ICRC gained the right to talk in private with prisoners; to make repeated visits as desired; and to have full access to most prisoners, while working to expand

its access to more detainees in prisons and labor camps. The ICRC reported that the conditions of detention, treatment of detainees, and overall health care in most prisons and labor camps improved during the year as a result of corrective measures taken by the prison department on the recommendation of the ICRC. However, the ICRC had to curtail a visit to Tharawaddy Prison in November after the government's mass mobilization organization, the USDA, insisted on accompanying ICRC personnel.

d. Arbitrary Arrest or Detention.—There is no provision in the law for judicial determination of the legality of detention, and the government routinely used arbitrary arrest and incommunicado detention. The law allows authorities to extend sentences after prisoners have completed their original sentence, and the government regularly uses this provision (see section 1.c.).

Role of the Police and Security Apparatus.—The police are auxiliary forces of the military and are under direct command of military officers. They primarily deal with common crimes and do not handle political crimes. The Myanmar Police Force (MPF) is administratively under the Ministry of Home Affairs. Corruption and impunity were serious problems due to a government-imposed system whereby police were required to collect funds for their operations. Police typically required victims to pay substantial sums for crime investigations, and police extorted money from the civilian population. Bail is commonly offered in criminal cases, but it is rarely, if ever, allowed for political prisoners.

MAS officers and Special Branch (SB) officers of the MPF are responsible for detaining persons suspected of "political crimes" that are perceived to threaten the government. Once detained, MAS officers, or in some cases SB officers, take prisoners to MAS regional interrogation centers where MAS officers interrogate the person for a period ranging from hours to months and can charge the person with a crime at any time during the interrogation. A hood frequently was placed on those accused or suspected of political crimes upon arrest.

Arrest and Detention.—By law, warrants for searches and arrests are required; however, MAS and the police have special authority to conduct searches and make arrests at will. The government continued to arrest and detain citizens for extended periods without charging them, often under the Emergency Act of 1950, which allows for indefinite detention. The government regularly refused detainees the right to consult a lawyer, denied the detainee or his family the right to select independent legal representation, or forced the detainee to use government appointed lawyers.

Incommunicado detention was a problem and relatives of detainees often learned much later that they had been detained. Prolonged solitary confinement was used for punishment of prisoners. In December 2004 Thet Naung Soe attempted a hunger strike in prison to demand the release of all political prisoners. His family tried to visit him, but the jailors showed them a note written in his own handwriting that he did not wish to meet his family at the time. A prison official indicated that Thet Naung Soe had refused food for a time and was in the prison hospital. At the end of the year, he remained hospitalized in prison with a severe skin rash and suffering from mental depression.

On July 13, a Buddhist nun, Daw Thissawaddy was arrested on charges of "defaming the Buddhist religion." She had written to the State Sangha Maha Nayaka (State Clergy Coordination Committee) to permit her to use the title of "Bikku-ni" (akin to "mother superior") much as monks use the title "Bikku." She pointed out that such practice was followed in other Buddhist societies. The Buddhist clergy took no action, but the Ministry of Religious Affairs lodged a case against her and had her detained. A month after her detention the authorities pressured her to go abroad.

On August 13, three university students, Ja Naw, Win Moe, and Bran Awng San, were arrested in Momauk Township by the special antidrug squad. However, the squad did not seize any drugs from them, but rather educational CDs on human rights issued by Amnesty International (AI), books opposing the Salween Hydropower project, and educational materials on antidrug matters.

In February 2004 officials transferred NLD Vice-Chairman U Tin Oo (arrested following the May 2003 Depeyin attack) from Kalay Prison, Sagaing Division, to his residence in Rangoon, where he remains under house arrest without trial. During the year, Aung San Suu Kyi remained under house arrest without charge and without trial. Her detention was extended on November 27 for another six months. Except for two live-in housemaids, who are also forbidden from leaving the compound, she remains incommunicado with the outside world.

At year's end, of the 153 persons arrested during and immediately following the Depeyin attack, only Aung San Suu Kyi and U Tin Oo continued to be denied their freedom.

Authorities continued to detain private citizens and political activists, some of whom disappeared, at times temporarily (see section 1.b.).

During the year the government sentenced Rohingya Party MP-elect Kyaw Min to 47 years imprisonment and sentenced his wife, 2 daughters, and son to 17 years imprisonment on charges of having improper house registration documents. In addition his sister-in-law was arrested by authorities in Kyaukphyu for traveling there without permission and residing in her husband's household without proper residential documents.

Amnesty.—Since the October 2004 ouster of Prime Minister Khin Nyunt, the SPDC initiated five prisoner releases. During the year the government carried out mass prisoner releases on January 2 and July 6, totaling approximately six thousand prisoners. The government released approximately 368 political prisoners but continued to arrest additional political prisoners. In November and December 2004, the SPDC released 14,318 convicts, citing "improper deeds" of the disbanded Office of Chief Military Intelligence. Only 76 of those released were considered to be political prisoners.

During the year at least five MPs-elect were released from prison. On January 2, Kyaw Khin, NLD MP-elect from Taunggyi, was released. He was rearrested on February 25 and sentenced to 14 years' imprisonment for providing a list of Aung San Suu Kyi's awards to a fellow student at the university where he was enrolled. Ohn Kyaing (Aung Wint), NLD MP-elect from Mandalay, was also released on January 2. On March 6, Dr. Myint Naing, NLD MP-elect from Kanbulu, Sagaing Division, was released. On July 6, two MPs-elect were released: Sein Hla Oo, NLD MP-elect from Insein, Rangoon Division, and Khin Maung Win, NLD MP-elect from Oktwin, Bago Division.

On March 6, political detainee Dr. Myint Naing was released. Also in March, 11 NLD members from Bogalay Township, Irrawaddy Division, were released. On July 6, the two Buddhist nuns arrested in 2003 for shouting prodemocracy slogans and distributing pamphlets in front of Rangoon City Hall and their colleague were released.

In 2003 and 2004 the government released 24 NLD MPs-elect who were arrested on and around May 2003.

e. Denial of Fair Public Trial.—The judiciary is not independent of the government. The SPDC appoints justices to the Supreme Court who, in turn, appoint lower court judges with the approval of the SPDC. These courts then adjudicate cases under decrees promulgated by the SPDC that effectively have the force of law. The court system includes courts at the township, district, state, and national levels.

Trial Procedures.—During the year the government continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. Although remnants of the British-era legal system formally were in place, the court system and its operation remained seriously flawed, particularly in the handling of political cases. The misuse of blanket laws—including the Emergency Provisions Act, the Unlawful Associations Act, the Habitual Offenders Act, and the Law on Safeguarding the State from the Danger of Subversive Elements—and the manipulation of the courts for political ends continued to deprive citizens of the right to a fair trial. Pervasive corruption further served to undermine the impartiality of the justice system.

In a December 12 press statement, AI noted that the government increasingly used the justice system to stifle peaceful dissent during the year. AI pointed out that opposition supporters were sentenced under false criminal charges. This indictment echoed a statement by UNSRHR Pinheiro, who on October 28 told a committee of the UN General Assembly (UNGA) that in Burma "the machinery of law, order and justice, far from upholding the rights of citizens, has been employed as an implement of repression and to silence dissent."

There is a fundamental difference between criminal and political trial procedures. Some basic due process rights, including the right to be represented by a defense attorney, generally were respected in criminal cases but not in political cases that the government deemed especially sensitive. In criminal cases, defense attorneys generally are permitted 15 days to prepare for trial, are permitted to call and cross-examine witnesses, and can be granted a 15-day delay for case preparation. However, their primary function is not to disprove their client's guilt, which is usually a foregone conclusion, but to bargain with the judge to obtain the shortest possible sentence for their clients. Reliable reports indicated that senior junta authorities dictated verdicts in political cases, regardless of the evidence or the law. Political trials are not open to the public.

None of the NLD members or the hundreds of prodemocracy supporters arrested in association with the May 2003 Depeyin attack were given public trials. In 2003

police arrested Thet Lwin, a driver for a Canadian mining company, for driving his expatriate supervisor near the Rangoon residence of Aung San Suu Kyi. In February 2004 a closed court sentenced Thet Lwin to seven years in prison under a criminal charge, unrelated to the original arrest. At the end of the year, he remained in Insein Prison.

NLD members generally appeared to be able to retain the counsel of lawyers without fear that the lawyers might be imprisoned; however, lawyers were not always told when trials would begin. Approximately 14 lawyers remained imprisoned at year's end. Most had been sentenced prior to 1998, when the government made it easier for political prisoners to retain legal counsel.

Political Prisoners.—At year's end there were approximately 1,300 "security detainees," who included political prisoners (approximately 1,100), arms merchants, violators of state security laws, and those accused of fostering religious disturbances.

On January 2, Kyaw Khin, NLD MP-elect from Taunggyi, was released. He was rearrested on February 25 and sentenced to fourteen years for providing a list of Aung San Suu Kyi's awards to a fellow student at the university where he was enrolled.

On February 9, the government detained Hkun Htun Oo and Sai Nyunt Lwin, the chairman and secretary of the Shan Nationalities League for Democracy (SNLD), the leading ethnic prodemocracy party. Eight other Shan leaders were arrested around the same time. Secret trials were held in Insein Prison for SNLD leaders on charges of subversion and eight other counts of alleged political and economic misdeeds, including violating currency exchange regulations. Hkun Htun Oo received 2 life sentences plus 53 years in prison, General Hso Ten received 3 life sentences plus 46 years in prison, and Sai Nyunt Lwin received 3 life sentences plus 25 years in prison. They remained in remote prisons at the end of the year.

On August 3, Sao Oo Kya, member of the Shan State Consultative Council, was arrested in his home for attending the new generation Shan State meeting and Shan State Day celebrations. He was later sentenced to 13 years in prison for defamation of the state and violating the Hotel and Tourism Act. On November 22, his court appeal was rejected.

On November 20, authorities in Kachin State arrested NLD members Ko Ko Myint and Thein Zaw on charges of opium possession. The opium was allegedly planted by the authorities. Ko Ko Myint and Thein Zaw remained under detention at the end of the year. Authorities in Rakhine State also prosecuted NLD members San Shwe Tun and Aung Ban Thar, arrested in July for foreign currency violations after authorities allegedly planted Bangladeshi currency in their homes.

In April 2004 the government sentenced 11 members of the Mandalay Division NLD to between 7 and 22 years in prison for "illegal association" with an exile group in Thailand. In June 2004 officials detained Than Than Htay and Tin Myint, NLD Township Executive members from Magway and Rangoon divisions, on similar charges. They were interrogated for several weeks before being transferred to Insein Prison. In September 2004 Than Than Htay and Tin Myint, along with one other NLD member, were found guilty of violating three counts of Burmese law and sentenced to seven years in prison. The government produced no credible evidence against them. In June 2004 authorities arrested Ye Ye Win, San Ya, and Ye Htet, members of NLD in Theinzayat Township in Mon State, accused them of contacting exile groups in Thailand, and held them incommunicado. In September 2004 a court sentenced them to seven years in prison. At the end of the year, all of these persons remained in prison. In December 2004 five NLD members were arrested in Rangoon for allegedly possessing and distributing a leaflet titled "An Appeal to the Masses." All five received life sentences on June 13 and remained in Insein Prison at year's end. In December 2004, NLD member U Kyaw Swe was arrested in Chaung Oo, Sagaing Division on charges of possessing an unregistered motorcycle and obstructing authorities in the line of duty. The same month he was sentenced to two years' imprisonment.

The government routinely extends prison sentences under the Law Safeguarding the State from the Dangers of Subversive Elements. The Minister of Home Affairs has the right to extend unilaterally a prison sentence on six separate occasions for two months, that is, for up to one year. The SPDC chairman, Senior General Than Shwe, can add five years to a sentence. Unlike in previous years, the government did not release any prisoners being held under this law. During the year the government released all of the approximately 15 students and political activists held in prison beyond the expiration of their sentences.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The abrogated 1974 constitution did not provide for rights to privacy, and authorities in-

fringed routinely on citizens' privacy. Through its intelligence network and administrative procedures, the government systematically monitored the travel of all citizens and closely monitored the activities of many citizens, particularly those known to be active politically.

Forced entry without a court order is legal. The law requires that any person who spends the night at a place other than his registered domicile inform the police in advance. Any household that hosts a person not domiciled there must, according to the law, maintain and submit a guest list to the police. While the law was selectively enforced, enforcement increased following the April bombing in Mandalay and the May 7 bombings in Rangoon. Security forces significantly increased surveillance of civilians following the May 2003 Depeyin attack and also after bombings that occurred in Rangoon during that year. Ward-level SPDC officials stepped up unannounced nighttime checks of residences for unregistered visitors. Three months after long-term political prisoner U Htwe Myint was released from prison, he was rearrested on March 18 and sentenced to 14 days in prison for failure to report an overnight stay at his brother's home while attending a funeral.

Security personnel regularly screened private correspondence and telephone calls and monitored normally protected communications. In June 2004 a foreign investigation team found an eavesdropping device in the wall of its ambassador's meeting room. In 2003 the UNSRHR found a listening device in a prison interview room while interviewing a political prisoner.

The authorities generally continued to discourage citizens from subscribing directly to foreign publications (see section 2.a.).

The government continued to control and monitor closely the licensing and procurement of all two-way electronic communication devices. Possession of an unregistered telephone, facsimile machine, or computer modem was punishable by imprisonment. For example, users of unregistered cordless telephones in the country face up to three years' imprisonment and a hefty fine.

Weak private property rights and poor land ownership records facilitated involuntary relocations of persons by the government. The law does not permit private ownership of land; it recognizes only different categories of land-use rights, many of which are not freely transferable. Post-colonial land laws also have revived the precolonial tradition that private rights to land were contingent upon the land being put to productive use.

For decades successive military governments have applied a strategy of forced relocation against ethnic minority groups in an effort to deny support to armed ethnic groups. Such forced relocations continued during the year. The forced relocations reportedly were accompanied by rapes, executions, and demands for forced labor to build infrastructure for villagers and military units (see sections 1.c., 1.e., and 2.d.). On October 4, the government ordered approximately 100 households in the villages of Wanzan and Koonkieng, in the southern Shan State, to move to Wanpong, Laikha Township, in an effort to isolate the SSA–S from the local populace.

Reports of forced relocation in urban areas lessened; however, the government reportedly continued to relocate forcibly households for "security" reasons. In Rangoon, persons were forced to leave homes or dwellings located on property that could be used for commercial gain. In some cases those forced to move were poorly compensated. In 2004 the government gave notices to retired civil servants to move from at least two locations in Rangoon by 2005. At the end of the year, they remained in their homes. In November the government ordered civil servants to relocate without their families to a new administrative capital in Pyinmana.

There were numerous reports that government troops looted and confiscated property and possessions from forcibly relocated persons, or persons who were away from their homes. These materials often were used for military construction. Diplomatic representatives reported that commandeering privately owned vehicles for military or VIP transport without compensating the vehicle owners was also commonplace throughout the country. This practice was particularly widespread in Shan, Kayah, and Karen states, and in areas of Mon State and Bago Division.

In these same areas, thousands of civilian villagers were displaced from their traditional villages, which often were burned to the ground, and moved into settlements tightly controlled by SPDC troops in strategic areas. In other cases, villagers who were driven from their homes fled into the forest, frequently in heavily mined areas without adequate food, security, or basic medical care.

Forced relocations often generated large refugee flows to neighboring countries or to parts of the country not controlled by the government. In some areas, the government replaced the original occupants with ethnic Burmans. In other areas, army units forced or attempted to force ethnic Karen to relocate to areas controlled by the DKBA.

The government has the right to confiscate property without paying compensation. There were several credible, but unverified, reports of this occurring across the country. For example in November there were credible reports of a new "model village" being established in Buthitaung Township, Rakhine State. Eighty households of paroled prisoners were moved onto 200 acres of land confiscated from local villagers who received no compensation. In March 2004 the government evicted families and seized land in Chin State to make way for an India-Burma-Thailand highway project. In July 2004 the military expropriated the land of 150 households in Ye Township, Mon State, for new military buildings. In 2003 diplomatic observers reported the government ordered families to exhume corpses of their relatives from a cemetery to make way for construction of a condominium project on the outskirts of Rangoon.

There were several reports of government mistreatment and exploitation of farmers. During the year the military continued to confiscate land from farmers in Mon state (see section 4). In January 2004 officials detained five farmers from Letkhopin Village, Irrawaddy Division, for expressing grievances about uncompensated confiscation of farmland. In 2004 there were credible reports that the military confiscated, without compensation, thousands of acres of farmland in Mon State. The government also reportedly confiscated land in northern Shan State when farmers could not repay loans taken out to buy and plant a type of Chinese rice hybrid never planted before in the area, which the government had required the farmers to plant. In 2003 there were reports that civil servants in several areas confiscated established farm plots, forcing farmers to buy less desirable land to continue their livelihood.

Military personnel also routinely confiscated livestock, fuel, food supplies, fishponds, alcoholic drinks, vehicles, or money. Such abuses were widespread. Regional commanders forced contributions of money, food, labor, and building materials from civilians throughout the country (see sections 1.c. and 6.c.).

In violation of international human rights law, both army and insurgent units used forced conscription, including of children (see sections 1.g. and 6.c.).

Government employees generally were prohibited from joining or supporting political parties; however, this proscription was applied selectively. In the case of the government's mass mobilization organizations, the USDA, the Myanmar Women's Affairs Federation (MWAF), and the Myanmar Maternal and Child Welfare Association (MMCWA), the government used coercion and intimidation to induce many persons, including nearly all public sector employees and students, both to join the organizations and to attend meetings in support of the government (see section 2.a.).

Marriages between female citizens and foreigners were officially banned, and the government ordered local attorneys not to be witnesses to such marriages. However, the ban was not enforced.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—A few ethnic insurgent groups continued to battle, with varying levels of resistance, the government for autonomy or independence, including the Chin National Front, the Naga National Council, the Arakan-Rohingya Solidarity Organization, the Mon Land Restoration Army, the SSA–S, the KNPP, and the KNU through its armed wing, the Karen National Liberation Army (KNLA). The largest of these, the KNU, began peace talks with the government in 2003 leading to a tenuous cease-fire. However, there were credible reports of renewed attacks on villages in Karen State in September 2004 after the rainy season ended. During the year, there were several isolated firefights between units of the Burmese Army and KNLA forces, and a more serious outbreak of fighting a few miles from Taungoo Town, Bago Division, beginning in September.

In April the Shan State National Army rejoined the ranks of the ethnic resistance groups by forming an alliance with the SSA–S, thus becoming the first cease-fire group to break its agreement with the government.

According to credible reports, on July 11, 27 Karen villagers, including children, were massacred by the Burmese Army after being arrested for allegedly having contacts with the KNU. The villagers were internally displaced persons, who had been hiding in the jungle on an island off the coast of Palaw Township, Tanintharyi Division.

According to a credible report, on December 23, Burmese Army battalions 426 and 428 burned 26 houses in Hee Gaw Ber village, Kayah State, forcing the 610 residents into hiding.

In November 2004 there were credible reports that the army attacked Karen villages in Shwegyin Township, Nyaunglebin District, Bago Division, burning houses and rice stores. An estimated 20 thousand baskets of paddy rice were destroyed. As many as 4,781 civilians were displaced and were prevented from returning. The attacks reportedly ceased by the end of 2004, but the dislocated villagers were forced

to construct three new military camps on their old village sites, and the dislocation of civilians continued.

In November and December 2004 there were credible reports of army attacks on civilians in Taungoo District, Bago Division, which displaced more than three thousand residents. Reportedly they were used as forced labor to construct roads into former KNU-held territory. These projects continued during the year and there were reports of fighting in the area between government forces and the KNLA as recently as August.

There were credible reports from Mon Township of northern Nyaunglebin District, Bago Division, that local villagers were forced to tear down their homes and then forced to construct a new army camp at Mawdalaw. Construction continued during the year.

There were credible reports that attacks continued against civilian populations in Kayah State throughout the year. Army troops reportedly continued to pursue Karenni displaced persons who had fled to Taungoo District, Bago Division, and Papun District in northern Karen State.

Incidents of rape in conflict areas and other ethnic minority areas continued. During the months of May and June, at least four cases of rape by government soldiers were reported to the Burmese Army by Mon community leaders. In one case the teacher of a 14-year-old female student who was raped reported the rape to the battalion commander in Ye Township. The case was brought before a military tribunal, and the soldier was sentenced to seven years' imprisonment. The commander later scolded the villagers for not taking better care of their daughters. It was not known whether action was taken in the other three reported cases.

In July a 24-year-old woman of Ponnagyun Township, Rakhine State, alleged she was raped by Commander Shwe Aye of Kyanung Taung police station. She reported the incident to the local police and appealed to the Township Peace and Development Council, but by year's end no investigation had been carried out. On September 8, Sergeant Major Thein Shwe from Kyaun Thaya Naval Base allegedly raped a primary school teacher from Myebon Township, Rakhine State. Authorities pressured her family not to press charges and to keep the matter quiet.

In January 2004 the Thai-based Human Rights Foundation of Mon Land issued a report documenting five cases of rape by elements of the Burmese Army during an offensive against ethnic rebels in southern Mon State that began in 2003. The report also asserted that rape of local women was standard practice by Burmese Army troops, especially by the 299th Light Infantry Brigade, which took 3 local Mon women per day to military bases to work, after which soldiers raped them. The government did not investigate any of the cases, despite their being documented, and failed to respond officially to the report.

Christian Solidarity Worldwide reported that in April 2004 a Shan woman was gang-raped by Burmese Army soldiers near the Thai border.

NGOs reported that Burmese Army soldiers raped numerous women in Shan State and other ethnic regions in 2003. For example, a captain raped a 20-year-old woman in Shan State, while another soldier restrained her husband. The woman and her husband later reported the rape to SPDC authorities in the area; however, after no action was taken they began to fear for their safety and fled across the border to Thailand. In 2003, a captain and 20 other soldiers gang-raped a woman in Shan State. The captain then threatened to punish the village headman and the villagers if anyone reported the rape. There was no information that the government investigated these abuses.

In central and southern Shan State, security forces continued to engage the SSA–S. The military maintained a program of forced relocation of villagers in the region that reportedly was accompanied by killings, rapes, and other abuses of civilians.

Karen NGO sources indicated that human rights abuses increased in Karen State during the year, despite intermittent peace talks. There were reports of fighting between Burmese Army and KNLA forces west of Taungoo and in Nyaunglebin townships of Bago Division. The highway east of Taungoo was closed past Mile 13 for several weeks in September. Numerous Karen villages were attacked and burned and hundreds of villagers fled into the jungle with limited supplies.

There were no developments in the following cases from 2003: combined troops of the Burmese Army and a DKBA unit arrested and tortured a villager in Noeawlar village, Pa-an Township. When he later escaped, the troops extorted $450 (450 thousand kyat) and a cow from his mother. Soldiers extorted $200 (200 thousand kyat) worth of food from the villagers in Sha-zi-bo Village and abducted a woman from Zi-pyu-gon Village. It was not known if she was released. Also in Nyaunglebin District, government troops shot and killed a man from Thaw-nge-doe Village, Kyauk-kyi Township, and took $50 (50 thousand kyat) from his body.

In 2003 government soldiers reportedly forced villagers from Na Bue Township to porter ammunition and supplies and to act as minesweepers for the troops. Many villagers and prisoners have been killed or injured from resulting landmine explosions.

The government blamed Thai-based exile groups for an April bomb blast in Mandalay's Zaygyo Market, the massive May 7 triple bombings at upscale venues in Rangoon, and smaller bombings in Rangoon in 2004 and during the year. According to government reports, members of insurgent groups committed serious abuses in 2003. For example, they accused the KNU of blowing up a cinema hall in 2003 in Phyu Township, Bago Division, injuring fifty persons. The KNU denied responsibility. The UN Children's Fund, AI, and Human Rights Watch reported that insurgent groups, as well as government forces, recruited child soldiers (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law permits the government to restrict freedom of speech and freedom of the press, and in practice the government continued to restrict these freedoms severely and systematically during the year. The government continued to arrest, detain, convict, and imprison citizens for expressing political opinions critical of the government, and for distributing or possessing publications in which opposition opinions were expressed (see sections 1.d. and 1.e.). Security services also monitored and harassed persons believed to hold antigovernment opinions.

Legal restrictions on freedom of speech have intensified since 1996, when the government issued a decree prohibiting speeches or statements that "undermine national stability." In all regions of the country, the government continued to use force to prohibit all public speech critical of it by all persons, including persons elected to Parliament in 1990, and by leaders of political parties. The government has pursued this policy consistently with few exceptions.

On January 2, the government released Zaw Thet Htwe, who was arrested in 2003 along with four other editors of the sports journal *First Eleven* for alleged involvement in a plot against the junta. Some speculated, however, that they were actually arrested for publishing articles exposing corruption in local sports. The government released three of the editors but charged Zaw Thet Htwe, a former student leader, and Soe Pa Pa Hlaing, daughter of an imprisoned NLD MP-elect. Later in 2003 the government sentenced Zaw Thet Htwe to death and released Soe Pa Pa Hlaing. In May 2004 the government commuted the death sentence to a 3-year term.

On December 13, three representatives of political parties were summoned to the Ministry of Home Affairs where they were detained for most of the day. They were reprimanded for giving interviews on the radio on issues related to the constitution and were reminded that discussing the NC process is a violation of the law.

The NLD continued to press for substantive dialogue on political reform and publicly voiced criticisms of the policies and actions of the government (see sections 1.a. and 1.d.). In July 2004 the NLD began collecting signatures on a letter to the SPDC calling for the release of Aung San Suu Kyi and U Tin Oo and for the reopening of party offices. In August 2004 authorities arrested nine NLD supporters and sentenced them to lengthy prison terms. In November 2004 authorities in Danubyu Township arrested three NLD members: U Han Sein, U Than Htut and U Win Maung. They were held for two weeks with no charges and brought to court in November 2004, allegedly for illegally "distributing leaflets." However, the leaflets were legally printed and sealed in an envelope at NLD headquarters. Consequently, they were tried on a different charge of violating State Law and Order Restoration Council Order 3/90, which restricted the right to assemble and campaign, and ordered to pay a fine of $5 (5 thousand kyat)—approximately one week's wages—or face two months imprisonment. They paid the fine and were released. They lodged an appeal in the divisional court, but at the end of the year, the court had not yet deliberated on their appeal.

Many prominent writers and journalists remained in prison for expressing their political views. The Paris-based nongovernmental organization (NGO) Reporters Sans Frontieres reported that at least six journalists remained in prison at the end of the year, including U Win Tin of Hanthawady, who has been imprisoned for more than 16 years (see section 1.c.). Other journalists being held in prison were Thaung Tun, Than Win Hlaing, Monywa Aung-Shin, Ne Min, and Lazing La Htoi. In May 2004 a court sentenced Ne Min, former BBC stringer, to 15 years in prison for allegedly passing information to Thai-based exile groups. Government censorship boards prohibited publication or distribution of works authored by those in prison.

It was not known whether any imprisoned journalists were released during the year.

The government owned and controlled all daily newspapers and domestic radio and television broadcasting facilities. These official media remained propaganda organs of the government and usually did not report opposing views except to criticize them. The only partial exception was the *Myanmar Times*, an English and Burmese-language weekly newspaper, targeted at the foreign community in Rangoon. The paper's co-owner, U Myat Swe (Sunny Swe), and his father, former Office of Chief Military Intelligence (OCMI) officer, Brigadier General Thein Swe, were arrested in the wake of former prime minister Khin Nyunt's ouster in October 2004. The government pressured Yamin Htin Aung, wife of Myat Swe, the major shareholder of the popular *Myanmar Times* weekly newspaper to sell her share to the government-backed publisher. Although the *Myanmar Times* was both censored and progovernment, the newspaper occasionally reported criticisms of government policies by the UN and other international organizations.

All privately owned publications remained subject to prepublication censorship by state censorship boards. Due in part to the time required to obtain the approval of the censors, private news periodicals generally were published weekly. However, the government has given transferable waivers of prepublication censorship for weekly periodicals. As a result weekly tabloids proliferated. During the year the government restructured the Press Scrutiny Board. The board previously was under the management of the Ministry of Home Affairs, but the Ministry of Information assumed control and set up new procedures for the approval of publishers' licenses. New licenses were issued to government cronies. The government ordered all local journals to publish articles critical of the political opposition and their supporters. Government controls encouraged self-censorship, and publications generally did not report domestic political news or sensitive economic and political topics.

Imported publications remained subject, in principle, to predistribution censorship by state censorship boards, and possession of publications not approved by the state censorship boards remained a serious offense. The government also restricted the legal importation of foreign news periodicals and discouraged subscriptions to foreign periodicals (see section 1.f.); however, foreign newspapers could be purchased in Rangoon. Some foreign newspapers and magazines were distributed uncensored.

The government issued few visas to foreign journalists, except for an easing of restrictions for the resumption of the NC in February and December, when some correspondents of major media services were invited to apply for visas. In previous years, the authorities detained and deported some journalists who entered the country as tourists; there were no such actions during the year. During the year, the government held several press conferences to convey its views on current political issues, including the May bombings in Rangoon, and to criticize the International Labor Organization (ILO). Burmese representatives of international media organizations were allowed to attend.

Due to widespread poverty, limited literacy, and poor infrastructure, radio remained the most important medium of mass communication. News periodicals rarely circulated outside urban areas. The government continued to monopolize and control the content of the two domestic radio stations. Foreign radio broadcasts, such as those of Radio Free Asia (RFA), the Voice of America, the BBC, and the Democratic Voice of Burma, remained the principal sources of uncensored information.

On July 4 and 5, authorities arrested Hla Myint Than, a Bago Township NLD member, and seven others. They were accused of listening to the Burmese language service of RFA and BBC in a teashop, and having a group discussion of the news. All but Hla Myint Than were released on July 6. However, they were later rearrested along with two others and charged with contacting an "illegal organization" (Federation of Trade Unions of Burma or FTUB), alleged possession of a satellite telephone, reporting news about forced labor to the FTUB, and illegally traveling to Thailand. They were sentenced in Insein Prison on November 11 to lengthy prison terms. Seven received 8-year sentences, Win Myint of Bago received a 17-year term, and Wai Linn of Bago received 25-years' imprisonment. They remained in prison at year's end. One of them, Aung Myint Thein, died in prison on November 5 of undetermined causes (see sections 1.a. and 6.c.).

The government continued to monopolize and to control tightly all domestic television broadcasting, offering only three channels, including an armed forces channel. The general population was allowed to register satellite television receivers for a fee. Illegal satellite television was also available, but access to satellite television remained far beyond the reach of the vast majority of the impoverished population. The Television and Video Law makes it a criminal offense to publish, distribute, or possess a videotape not approved by a state censorship board. During the year, the government cracked down on uncensored foreign videotapes and DVDs, and many private distributors closed their doors.

The government strictly monitored and censored all cultural events. In September it revoked permission for a Korean pop group to use a large concert venue and made them hold the concert in a smaller area where fewer persons could attend. The government systematically restricted access to electronic media. All computers, software, and associated telecommunications devices were subject to registration, and possession of unregistered equipment was punishable by imprisonment (see section 1.f.).

On July 8, Nai Sein Aye, chairman of the Mon Literature and Culture Committee, was arrested in Thanbyuzayat Township, Mon State, after his organization sponsored an event to commemorate the abdication of former Mon king Manuha and the fall of the ancient Mon capital of Thaton to the Burmese. The Mon Literature and Culture Committee, which had been functioning since 1948, was asked to disband. Nai Sein Aye was released after two months.

On August 26, Aung Pe, a private tuition teacher and a NLD supporter, was sentenced to three years' imprisonment for alleged violation of the Private Tuition Act. He was arrested on February 12 for lecturing to his students on the life of national hero General Aung San and singing songs honoring him.

Until October 2004 the former OCMI operated the more popular of the country's two Internet service providers (ISPs), offering expensive, censored Internet service to those who could afford it. After October 2004 the army signal corps and the Ministry of Communications, Post, and Telegraphs took control of the ISPs. There are several Internet cafes; however, access was costly and the government restricted full access to the World Wide Web and prohibited the use of commercial free e-mail providers. The government also monitored all e-mail communications.

The government restricted academic freedom. University teachers and professors remained subject to the same restrictions on freedom of speech, political activities, and publications as other state employees. The Ministry of Education routinely warned teachers against criticizing the government. It also instructed them not to discuss politics at work, prohibited them from joining or supporting political parties or from engaging in political activity, and required them to obtain advance approval for meetings with foreigners. Like all state employees, professors and teachers are required to join the USDA, the government's mass mobilization organization. Teachers at all levels continued to be held responsible for the political activities of their students. Foreigners were not permitted on university campuses without prior approval and were not allowed to attend any meetings involving students, including graduation ceremonies.

In recent years the government took a number of measures to limit the possibility of student unrest. Undergraduate campuses were moved to remote areas, teachers and students were warned that disturbances would be dealt with severely, and most on-campus dormitories were closed. The quality of education deteriorated to such an extent that many students opted to use self-study or private tutoring. The government placed heavy security around other schools that were open, even during summer vacation.

The government tightly controlled the limited number of private academic institutions in the country as well as their curricula. Similar controls extended to Buddhist monastery-based schools, Christian seminaries and Sunday schools, and Muslim madrassas.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law limits the freedom of assembly, and the government restricted it in practice. An ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although the ordinance was not enforced consistently.

In April 2004 the government allowed the NLD to re-open its Rangoon headquarters, closed following the May 2003 attack. However, all other NLD offices remained closed by government order, and the NLD could not conduct party activities outside its headquarters building. The nine other legally registered political parties were required to request permission from the government to hold meetings of their members. During the year meetings occurred outside the NLD offices without government permission, such as regular Tuesday visits by an NLD women's group to Rangoon's Shwedagon Pagoda; however, security officials closely monitored these "illegal" activities, and the government prohibited those participating from wearing political pins, badges, jackets, and shirts with political pictures or slogans.

The government continued to bar the Parliament elected in 1990 from convening. On February 17, the government reconvened the NC, after a recess of seven months, as part of a democracy road map that would "nullify" the results of the 1990 election and approve a new constitution. However, the government did not allow the participation of the NLD and other prodemocracy parties, did not allow delegates to the

NC to discuss the convention outside of the NC site, and threatened to enforce harsh laws against any who criticized the NC or the draft constitution. The NC recessed on March 31 and reconvened on December 5.

Unlike in previous years, government authorities permitted a delegation of NLD members to pay their respects at the tomb of Aung San, the father of Aung San Suu Kyi, on Martyrs' Day. However, the authorities ensured that the delegation members were not wearing any clothing that would identify them as NLD party members.

The government at times interfered with the assembly of religious groups (see section 2.c.).

Freedom of Association.—The government restricted freedom of association, particularly for members of the NLD, prodemocracy supporters, and those who contacted exile groups. During the year there were several arrests, sentences, and even a death in custody of persons accused of "illegal contact" with cross-border exile groups, especially the FTUB, the NLD-Liberated Areas, and the All Burma Student Democratic Front (see sections 1.b, 1.d, and 2.a). Over the years the government continued to coerce NLD members, including NLD MPs-elect, to resign from their party positions.

AI reported that in January 2004 the government sentenced 7 students from Dagon University to between 7 and 15 years in prison for forming an illegal association (a sports club) in 2003.

The government compelled civil servants to join the USDA. The government coerced secondary school and college-level students to join when registering for classes. The government also coerced skilled trade workers and professional association members to join the USDA. The government organized mass rallies of USDA members to support its seven-step road map to democracy. The MWAF and the MMCWA continued to coerce women to attend their meetings and to join their organizations, with a recent example occurring on December 15 in Ponnagyun Township, Rakhine State. Township authorities ordered women from Aung Pru Byin, Padalike, Thayetcho, Yota Yoke, and Pan Nila villages to attend meetings organized by local women's organizations at which authorities pressured the attendees to become full members.

In another form of coercion, local authorities in Tiddim Township, Chin State, ordered citizens of Tiddim Town as well as villagers from 17 surrounding villages to attend the opening of the Man Hsaung suspension bridge by SPDC member Lieutenant General Ye Myint on March 21. There was no public or private transportation available, so the persons had the choice of walking for up to six hours to attend the ceremony or paying an absentee fine of $1.50 (1,500 kyat).

In general, freedom of association existed only for government-approved organizations, including trade associations, professional bodies, and the USDA. Few secular, nonprofit organizations existed, and those that did took special care to act in accordance with government policy. There were 10 legally registered political parties, but most were moribund. During the year authorities harassed and intimidated three of the opposition parties that challenge military rule. The seven other legal parties supported regime policies in return for more favorable treatment.

c. Freedom of Religion.—Constitutional support for religious freedom does not exist. Most registered religious adherents generally were free to worship as they chose; however, the government imposed restrictions on certain religious activities and promoted Buddhism over other religions. In practice the government also restricted efforts by Buddhist clergy to promote human rights and political freedom.

The government's pervasive internal security apparatus infiltrated or monitored meetings and activities of virtually all organizations, including religious ones. Religious activities and organizations were subject to restrictions on freedom of expression and association.

Virtually all organizations, religious or otherwise, must register with the government. Although an official directive exempted "genuine" religious organizations from registration, in practice only registered organizations were allowed to buy or sell property or open bank accounts. Thus, most religious organizations registered with the government. In addition, the government provided some utilities at preferential rates to registered religious groups. There was no official state religion; however, the government continued to show preference for Theravada Buddhism, the majority religion. For example the government continued to fund two state-run Buddhist universities in Rangoon and Mandalay. The government also hosted the World Buddhist Summit in December 2004. Promotions within the military and the civil service were generally contingent on the candidates being followers of Buddhism.

There were no reported incidents of religious violence during the year.

The government continued its efforts to control the Buddhist clergy (Sangha). It tried members of the Sangha for "activities inconsistent with and detrimental to Buddhism" and imposed on the Sangha a code of conduct that was enforced by criminal penalties. In a November 2004 report, the Assistance Association for Political Prisoners in Burma estimated that there are approximately 300 monks and novices in prison. The government did not hesitate to arrest and imprison Buddhist monks who opposed the government. In 2003, 26 monks from Mahagandayon Monastery in Rangoon were defrocked and then sentenced by the government to 7 to 18 years in prison for refusing to accept offerings from a senior military official. All of these monks were released in a prisoner amnesty on July 6. The government also subjected the Sangha to special restrictions on freedom of expression and freedom of association. For example members of the Sangha were not allowed to preach sermons pertaining to politics. Religious lectures may not contain any words or phrases or stories reflecting political views. The members of Sangha must distance themselves from politics, political parties, or members of political parties. The government prohibited any organization of the Sangha other than the nine state-recognized monastic orders under the authority of the State Clergy Coordination Committee (Sangha Maha Nayaka Committee). The government prohibited all religious clergy from being members of any political party.

The government continued to restrict the building of religious structures by minority religious groups and limited their educational and proselytizing activities, especially Christian and Muslim groups that actively proselytize among Buddhists.

On September 2, authorities of Kyauktada Pabedan Township informed the leader of the Full Gospel Assembly Church in downtown Rangoon that they could no longer hold worship services there because it was a residential area. The mostly Chin congregation had been meeting there for more than 10 years without incident. The following week they hired a room in a hotel for their worship, but the hotel declined to rent the room to them again.

Reports of suppression of religion in Chin State continued during the year. A Chin human rights group reported that in January, Burmese soldiers destroyed a 50-foot hillside cross in Matupi, Chin State. In some cases Chin Christian residents were reportedly forced to erect Buddhist shrines in place of the crosses.

In most regions of the country, Christian and Muslim groups that sought to build small churches or mosques on side streets or other inconspicuous locations occasionally were able to proceed, but only based on informal approval from local authorities. These groups reported that formal requests encountered long delays, generally were denied, and could be reversed by a more senior authority. In June 2004 a Chin human rights group reported that a more senior military official reversed a local commander's decision to allow construction of a new Baptist church in southern Chin State.

The government discriminated against non-Buddhists at the upper levels of the public sector. There are no non-Buddhist members in the SPDC, in the cabinet, or among active flag rank officers of the armed forces. The government actively discouraged Muslims from entering military service, and Christian or Muslim military officers who aspired to promotion beyond the rank of major were encouraged to convert to Buddhism. In some ethnic minority areas, such as Chin State, there were reports that the SPDC offered troops financial and career incentives to marry Christian Chin women, teach them Burmese, and convert them to Buddhism.

The government discouraged proselytizing by all clergy. Evangelizing religions, like some Christian denominations and Islam, were most affected by these restrictions. In general the government has not allowed permanent foreign religious missions to operate in the country since the mid-1960s, when it expelled nearly all foreign missionaries and nationalized almost all private schools and hospitals.

Although authorities appear to have moved away from a campaign of forced conversion, there continued to be evidence that other means have been used to entice non-Buddhists to convert to Buddhism. Christian Chins were pressured to attend Buddhist seminaries and monasteries and were encouraged to convert to Buddhism. In April 2004 an exile Chin human rights group reported that local authorities forced 15 Chin pastors to participate in Buddhist New Year events to demonstrate "unity" with Burman Buddhists. The same human rights group claimed that local government officials placed the children of Chin Christians in Buddhist monasteries in which they were given religious instruction and converted to Buddhism without their parents' knowledge or consent. Reports suggested that the government sought to induce members of the Naga ethnic group in Sagaing Division to convert to Buddhism by similar means.

Religious publications remained subject to control and censorship (see section 2.a.). Neither Bibles nor Korans may be imported. However, with the government's permission, Bibles in indigenous languages could be printed locally. Most Muslims

object to the concept of translating the Koran; however, should someone so desire, the Koran may be translated only into the Burmese language and only after receiving the permission of the Press Scrutiny Board to publish and distribute it to the community.

Citizens and permanent residents of the country were required to carry government-issued national registration cards that often indicated religious affiliation and ethnicity. There appeared to be no consistent criteria governing whether a person's religion was indicated on his or her identification card. Citizens also were required to indicate their religion on some official application forms, such as for passports.

Societal Abuses and Discrimination.—During the year there were reports of small clashes in Rangoon and Arakan State between Muslims and Buddhist monks. The most serious of these occurred in Kyauk Pyu, Arakan State, in January. During several days of violence, two Muslims were killed and one Buddhist monk was severely injured. Some Muslim groups blamed the government for trying to increase tensions between Buddhists and Muslims as part of a "divide and rule" strategy. Reportedly in May 2004 local Buddhist villagers in Kyun Su Township, Tanintharyi Division, attacked and destroyed the properties of 14 Muslim families.

There was one synagogue in Rangoon. It serves a Jewish congregation of only eight local families. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Although the government restricted freedom of movement, most citizens were able to travel within the country, with a few exceptions such as Muslims traveling to, from, and within Rakhine State and some opposition political party members. However, citizens' movements were monitored, and they were required to notify local officials of their whereabouts (see section 1.f.). Movement was limited in areas of armed conflict. Citizens were subjected to arbitrary relocation. Authorities prohibited NLD members, who traveled to Rangoon to attend party functions, from lodging in the capital overnight.

The government continued to hold NLD leaders Aung San Suu Kyi and U Tin Oo under house arrest and rigorously curtailed the freedom of movement of other opposition political leaders. Early in 2003 government-affiliated groups increasingly harassed democratic opposition members during travel outside of Rangoon, culminating in the attack in May 2003 and the subsequent arrest, detention, and eventual release of most of the survivors (see sections 1.d.). The government maintained close control over ethnic leaders' movements, requiring them to seek permission from the government before making any domestic trips.

Ethnic minority areas previously affected by conflict, such as the large Karen areas of Irrawaddy Division, continued to experience tight controls on personal movement, including frequent military checkpoints, monitoring by MAS, and military garrisons. "Informal taxes," or bribes, were extracted at checkpoints in border areas. In Rakhine State, many controls and checkpoints applied only to the Muslim population (see section 5).

The government tightly controlled the movement of Muslim Rohingyas, who are not granted full citizenship rights, in Buthitaung, Kyaukdaw, Maungdaw, and Rathetaung townships along the Bangladesh border. The government also required other noncitizens, generally ethnic South Asians or Chinese, to obtain prior permission to travel internally. Nonetheless, the country's borders with China, Thailand, Bangladesh, and India remained very porous with significant undocumented migration and commercial travel occurring.

An ordinary citizen needs three documents to travel outside the country: a passport from the Ministry of Home Affairs; a revenue clearance from the Ministry of Finance and Revenue; and a departure form from the Ministry of Immigration and Population. In response to the trafficking in persons problem, the government tightened the documentation process in ways that hinder or restrict international travel for women, particularly those under 25 years of age.

New passport procedures went into effect in August 2004 allowing citizens to retain their passports after completing trips abroad through their validity dates, namely: one year for incidental travel; three years for dependents; four years for employment; and 18 months for those traveling on business. In January the government announced that new passports would be issued within a week. However, it still frequently took several months to receive a passport, particularly if the applicant was unwilling to offer a bribe as incentive for speedier service.

The government carefully scrutinized prospective travel abroad for all passport holders. Rigorous control of passport and exit visa issuance perpetuated rampant corruption, as applicants were forced to pay bribes of up to $300 (300 thousand

kyat), the equivalent of a yearly salary. The board that reviews passport applications denied passports on political grounds. College graduates who obtained a passport (except for certain official employees) were required to pay a fee to reimburse the government for the cost of their education.

Citizens who emigrated legally generally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return.

The government loosened its restrictions on travel outside of Rangoon by foreign diplomats and foreign UN employees based in Rangoon to allow travel to designated tourist sites without prior permission; all other travel required advance permission. The government waived the requirement for employees of the ICRC. The government required all foreign and local residents, except diplomats, to apply for authorization to leave the country.

Restrictions on nonresident foreigners' travel to some areas of the country were relaxed. The government also inaugurated a "visa on arrival" system for tour groups, which still required predeparture application for a visa via the Internet. The country's embassies now generally issue tourist visas, valid for one month, within 24 hours of application. However, certain categories of applicants, such as human rights advocates, journalists, diplomats, and political figures regularly were denied entry visas unless traveling under the aegis of a sponsor acceptable to the government and for purposes approved by the government.

The abrogated 1974 constitution did not provide for forced exile, and the government generally did not use forced exile. However, the pressure applied to Buddhist nun Daw Thissawaddy to depart the country was tantamount to exile.

The government has not established legal arrangements to accept Burmese citizens deported from other countries; however, in the past, the government has accepted the return of several thousand illegal migrants from Thailand and had begun preliminary discussions with international organizations on the potential repatriation of Karen refugees living in Thailand.

Harassment, fear of repression, and deteriorating socio-economic conditions continued to force many citizens to leave for neighboring countries and beyond. In border regions populated by minority ethnic and religious groups, the government continued its practices of forced labor, confiscation of land, compulsory contributions of food and money, and forced relocations. During the year there were credible reports that security forces burned villages in Nyaunglebin District of Bago Division and prevented the villagers from returning (see section 1.g.).

These policies produced hundreds of thousands of refugees in neighboring countries such as Thailand, India, Malaysia, and Bangladesh. The UNHCR reported that 30 thousand to 40 thousand Chin refugees and economic migrants continued to live in difficult conditions on the Indian side of the border at the end of the year. It also reported that there were approximately 22 thousand Muslim Rohingya refugees from Rakhine State living in two official camps in Bangladesh and more than 6 thousand living in a squalid unofficial camp near Teknaf, Bangladesh. In addition, reliable sources said there were more than 100 thousand illegal Rohingya migrants who have settled near Cox's Bazaar in southeast Bangladesh.

Rohingya Muslims who returned to Rakhine State were not stigmatized for having left but were discriminated against for being Rohingya. Returnees claimed that they faced restrictions on their ability to travel, to engage in economic activity, to get an education, and to register births, deaths, or marriages. During the year many Muslim youth from Rakhine State accepted to universities and medical schools outside Rakhine State were unable to enroll due to the travel restrictions imposed upon them.

In February 2004 the government gave permission to the office of the UN High Commissioner for Refugees (UNHCR) to send assessment teams into areas of Karen State, Mon State, and Tanintharyi Division (along the Thai border) previously off limits. The government cooperated with UNHCR in allowing initial familiarization visits to begin planning for local villages to receive some or all of the refugees now resident in Thailand. In February the UNHCR reported that conditions remained unsuitable for the repatriation of refugees from Thailand. In April the government withdrew permission, without giving any explanation, for UNHCR to continue visiting these areas. At year's end the government allowed local staff of UNHCR to visit areas in the vicinity of the Thai border.

Internally Displaced Persons (IDPs).—There were a large number of IDPs in the country. According to NGOs based in Thailand, there were more than 500 thousand IDPs in the country at year's end.

During the year, despite sporadic peace overtures between the SPDC and the KNU, the military continued to abuse thousands of villagers and drove them from their homes, particularly during military campaigns in Karen, Kayah, and Shan

States (see section 1.f.). Christian Solidarity Worldwide (CSW) and Thai-based NGOs reported that in early 2004 more than five thousand Karen and Karenni persons were displaced in the area along the Karen-Karenni state border because of army offensives. CSW also reported that the army and its allied Karenni Solidarity Organization launched offensives that displaced more than one thousand Karenni villagers living near the Karen State border.

Karen groups reported that armed hostilities in Karen State stopped as of February 2004. However, there were credible reports of renewed attacks on Karen populations close to Taungoo in Bago Division beginning in September 2004 and continuing during the year (see section 1.g.).

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees.

There were no reports that persons formally sought asylum in the country during the year. There were no reports of forced repatriation.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

Citizens did not have the right to change their government. The SPDC continued to prevent the Parliament elected in 1990 from convening. The junta continued its systematic use of coercion and intimidation to deny citizens the right to change their government.

Since 1962, active duty military officers have occupied the most important positions in the central government and in local governments, and the SPDC placed active duty or retired military officers in most key senior-level positions in all ministries. At year's end, active duty or retired military officers occupied 36 of 38 ministerial-level posts, including prime minister, and also the mayoral posts in Rangoon and Mandalay.

Elections and Political Participation.—Following the NLD's victory in the 1990 elections, the junta refused to implement the election results and disqualified, detained, or imprisoned many successful candidates (see sections 1.d. and 1.e.). In 2004 at least four NLD MPs-elect fled the country. During the year it was believed that only one MP-elect fled the country.

In 1998 the NLD leadership joined other prodemocracy parties to organize the Committee to Represent the People's Parliament (CRPP) on the basis of written delegations of authority from a majority of the surviving MPs-elect of the 1990 Parliament. The CRPP considered itself as acting on behalf of the Parliament until the Parliament is convened. In retaliation the government launched a sustained and systematic campaign to destroy the NLD without formally banning it; the authorities pressured many thousands of NLD members and local officials to resign and closed party offices throughout the country. During the year at least five MPs-elect were imprisoned, including Hkun Htun Oo, Kyaw Khin, Kyaw Min, Kyaw San, and Saw Hlaing. One MP-elect, Dr. Myint Naing, was released on March 8. At year's end a total of 14 MPs-elect remained in prison for political reasons. Some have been in prison since the early 1990s under harsh conditions.

In the 1990 election, 392 NLD members won seats. Of that number, 130 remained elected members. Self-exiles (19), deaths (73), and forced resignations or barring (170) accounted for the balance. Those in the last category resigned for various reasons. For example the USDA staged rallies of "no confidence" against some of the elected members. The USDA and government officials pressured the families, as well as the members themselves.

Elected MPs were harassed and pressured to resign. In 2004 local authorities in northern Shan State pressured Sai Tun Aung of the Shan Nationalities League for Democracy to resign. Than Htay, an elected NLD member from Lashio, resisted pressure from the government to leave his post. Consequently, the police arrested him because his son, who owned a legally registered shop selling electronic equipment, allegedly sold an "illegal" cordless telephone and electronic equipment to a customer.

In addition, the NLD expelled or suspended 46 of its members for breach of party discipline or to forestall government efforts to ban the entire party. Nine of the expelled MPs were allowed to become independent MPs by the government election commission. The CRPP has not disqualified any elected members.

On February 17, the government reconvened the NC, first convened from 1993–96 and in recess since its last session from May through July 2004, as part of a seven-step democracy road map that would nullify the results of the 1990 election and adopt a new constitution. The government convened the NC with more than one thousand handpicked delegates, including representatives from 17 ethnic cease-fire

groups. However, it effectively barred participation by the major political parties, including the NLD and others that won seats in the 1990 elections, and prohibited free debate on the drafting of a new constitution. The government threatened 5 to 20 years in prison for any criticism of the process. The NC recessed on March 31, reconvened again on December 5, and was still in session at the end of the year.

In his August report to the UNGA, the UNSRHR expressed his belief that, "The exclusion of important and representative political actors from the process, the restrictions placed on their involvement, the intolerance of critical voices and the intimidation and detention of prodemocracy activists render any notion of a democratic process devoid of meaning." He went on to say, "if the inherent procedural restrictions are not amended and the representatives of the democratic opposition are not involved in the National Convention, any constitution that emerges will lack credibility."

In a statement submitted to the UNGA in August 2004, the UNSRHR said it was "essential" that the government resume cooperation with the UN Secretary General's special envoy Tan Sri Razali Ismail. Nevertheless, Foreign Minister Nyan Win declined to meet with Razali on the sidelines of the ASEAN Regional Forum in Laos in July.

Women were excluded from political leadership. There were no female or ethnic minority members of the SPDC, cabinet, or Supreme Court.

Members of certain minority groups also were denied full citizenship and a role in government and politics (see section 5).

Government Corruption and Transparency.—Corruption was systemic at all levels of the government and society. It was considered by economists and businesspersons to be one of the most serious barriers to investment and doing business in the country. A complex and capricious regulatory environment fostered corruption.

The authorities rarely and inconsistently enforced the anticorruption statute—they usually did so only when the junta's senior generals wanted to take action against an official whose egregious corruption had become an embarrassment. In November 2004 the SPDC published an explanation of deposed prime minister Khin Nyunt's ouster that included charges of "bribery and corruption." Khin Nyunt was convicted in a secret trial in Insein Prison on a litany of charges, including bribery, corruption, and insubordination, and was sentenced to a 44-year prison term. The government suspended the sentence and on July 21, he was transferred from prison to his home for indefinite house arrest. Hundreds of Khin Nyunt's family and associates were detained or interrogated in the wake of his ouster. As many as 26 of Khin Nyunt's military associates were tried and sentenced during the year on a variety of corruption charges. Their sentences ranged from 12 to 142 years' imprisonment; some also received multiple life sentences. The junta also claimed it had convicted 186 "personnel" from the military and three civilian departments for their involvement in corruption at Muse, a border checkpoint near China that was controlled by Khin Nyunt's intelligence service.

The government did not provide access to most official documents, nor is there a law allowing for it. Most government data is classified or controlled. Government policymaking was not transparent, with decision-making confined to the top layers of government, and new government policies rarely were published or explained openly.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government did not allow domestic human rights organizations to function independently, and it remained generally hostile to outside scrutiny of its human rights record.

In addition to the ICRC and several UN agencies, approximately 35 nonpolitical, international humanitarian NGOs operated in the country. A few others have established a provisional presence while undertaking protracted negotiations necessary to establish permanent operations in the country. While some government ministries demonstrated an increased willingness in 2004 to engage on previously taboo subjects such as trafficking in persons, HIV/AIDS, child soldiers, and education, by mid year many international humanitarian NGOs and UN agencies reported increasing government pressure to curtail their activities in ethnic areas, and access by international personnel became more difficult. The restrictions eased somewhat by the end of the year for some, but not all, NGOs and UN agencies.

The government increased travel restrictions on foreign journalists, NGO staff, some UN agency staff, and diplomats in some regions. Human rights advocates regularly were denied entry visas unless traveling under the aegis of a sponsor acceptable to the government and for purposes approved by the government (see section 2.d.). The government's monitoring of the movements of foreigners, its frequent in-

terrogation of citizens concerning contacts with foreigners, its restrictions on the freedom of expression and association of citizens, and its practice of arresting citizens who pass information about government human rights abuses to foreigners all impeded efforts to collect or investigate human rights abuses. Reports of abuses, especially those committed in prisons or ethnic minority areas, often emerged months or years after the abuses allegedly were committed and seldom could be verified.

The government also placed severe operational restrictions on several NGOs, humanitarian, and religious organizations in the capital. In October the Rangoon office of Spirit in Education Movement, a Thai-based NGO that provides training for local Burmese students on community leadership and sustainable development, was raided, and at least one member was reportedly detained.

Some international NGOs and UN agencies were required to have a government representative accompany them on field visits, at the NGOs' expense, although this rule was not consistently enforced (see section 1.f.).

The ICRC continued to implement most of its assistance programs to civilians (protection, physical rehabilitation, basic hygiene, and healthcare) with the exception of Shan State, where it had to suspend its activities due to restrictions of access to conflict areas, which prevented it from carrying out normal, independent humanitarian operations.

In 2003 the government arrested 11 and sentenced 9 persons to death for "conspiracy against the government," for their alleged role in a coup plot. A court sentenced to death Naing Min Kyi, Shwe Man, and Aye Myint, in part for having contacts with the ILO and the Thai-based exile labor group, the FTUB. Subsequent ILO diplomatic efforts led to a special appeals court reducing the death sentences to three years' imprisonment for Naing Min Kyi and Aye Myint. The special court reduced Shwe Man's sentence to life in prison. An October 2004 decision further reduced Shwe Man's sentence to five years, and the sentences of the others to two years. After continuing efforts by the ILO, Naing Min Kyi and Aye Myint were released from prison on January 3, and Shwe Man was released on April 29. Aye Myint was rearrested on August 28 for allegedly providing legal assistance to farmers whose land was confiscated by the Light Infantry Battalion 40 and redistributed among the military, local authorities, and the USDA. On October 31, the Daik Oo Township court in Bago Division sentenced Aye Myint to seven years' imprisonment on charges of "spreading false news, knowing or having reason to believe that it is not true," an allusion to the allegation he advised the farmers to inform the ILO about their case. He remained in prison at year's end.

In February 2004 the government and the UNHCR signed an agreement to allow UNHCR access to previously off-limits conflict areas in Karen State and Tanintharyi Division (see section 2.d.). The UNHCR subsequently made "assessment" trips to the region, but in April the government withdrew permission to UNHCR to visit these areas.

Despite repeated requests, the government did not permit the UNSRHR to visit the country during the year. In 2003 the UNSRHR visited the country twice. In his interim report to the UNGA in August, the UNSRHR noted, "the situation regarding the exercise of fundamental rights and freedoms has not substantially changed" since his last report. He noted that he "constantly receives reports of restrictions and violations of basic rights and freedoms."

The government's Human Rights Committee was chaired by the minister of home affairs and included the chief of police. During the year members of the Human Rights Committee attended seminars on trafficking hosted by UN agencies. The government received ILO complaints of labor violations and stated that it was conducting investigations into the violations. Some officials were arrested and prosecuted in January for forced labor violations and spent several months in jail before being released (see section 6.c.).

Section 5. Discrimination, Societal Abuses and Trafficking in Persons

The SPDC continued to rule by decree and was not bound by any constitutional provisions concerning discrimination.

Women.—Domestic violence against women, including spousal abuse, was a problem; however, because the government did not release statistics regarding spousal abuse or domestic violence, it was difficult to measure. The government-affiliated MWAF sometimes lobbied local authorities, including the police, to investigate domestic violence cases involving spousal abuse.

Rape is illegal; however, spousal rape is not a crime unless the wife is under 12 years of age. Married women often lived in households with extended families, where social pressure tended to protect the wife from abuse. The government did not release statistics regarding rape; however, the government stated that rape was not common in populous urban areas, but occurred more often in remote areas.

Nonetheless, it was generally considered unsafe for women to travel during hours of darkness without a male escort, and employers typically had to supply a bus or truck to return female workers to their homes at night. Use of taxis at night was considered particularly hazardous for women because of the risk of rape or robbery. Prostitutes traveling at night typically had to pay substantial additional fees to taxi operators or risk being raped, robbed, or turned over to the police. There were credible reports from NGOs and diplomatic sources that prostitutes taken into police custody were sometimes raped or robbed by the police. Incidents of rape in conflict areas and other ethnic minority areas continued (see section 1.g.).

Prostitution is prohibited by law and punishable by three years in prison; however, it was growing in prevalence in urban areas, particularly in some of Rangoon's "border towns" and "new towns," populated chiefly by poor families relocated forcibly from older areas of the capital. In 2003 there were credible reports that a large number of female prostitutes were imprisoned and subjected to physical and verbal abuse while incarcerated. The government and at least one international NGO operated schools and other rehabilitation programs for former prostitutes.

There were no laws against sexual harassment.

Consistent with traditional culture, women kept their names after marriage and often controlled family finances. However, women remained underrepresented in most traditional male occupations, and women continued effectively to be barred from a few professions, including the military officer corps. Poverty affected women disproportionately. Women did not receive equal pay for equal work on a consistent basis. Women legally were entitled to receive up to 26 weeks of maternity benefits; however, in practice these benefits often were not accorded them.

There were no independent women's rights organizations, although there were several with some relationship to the government. The MWAF, established in December 2003 and chaired by the wife of Prime Minister General Soe Win, was the leading "nongovernmental" women's rights organization. With branches in all 14 states and divisions, it was the primary government organization responsible for safeguarding women's interests. The Myanmar Maternal and Child Welfare Association, another government-controlled agency, provided assistance to mothers and children. The Myanmar Women Entrepreneurs' Association, a professional society for businesswomen, provided loans to women for starting new businesses.

Children.—Children under the age of 18 constituted approximately 40 percent of the population. Children were at high risk as destitute parents took them out of school to beg or to work in factories and teashops. Some were placed in orphanages. With few or no skills, increasing numbers of children worked in the informal economy or in the street, where they were exposed to drugs, petty crime, risk of arrest, sexual abuse and exploitation, and HIV/AIDS.

There was no adequate child protection or juvenile justice system. Efforts in this regard were severely constrained by lack of resources. The Department of Social Welfare (DSW) was in charge of the provision of limited social welfare services, and there were only a few officially appointed social workers.

The government cooperated with the UN Committee on the Rights of the Child. In June 2004 the committee's chairman visited the country. The UN Children's Fund (UNICEF) reported close working relationships with the DSW and the Ministry of Education, where it worked to support primary education and instruction in minority languages. Faith-based organizations, Buddhist monks and nuns, and private community-based groups also provided educational and other support for children.

The government continued to allocate minimal resources to public education. According to the official government figures for fiscal year 2005–06 (April through March), official expenditures for all civilian education has been earmarked at 8.9 percent of the national budget. However, other leading international organizations place the actual amount much lower. Public schooling was ostensibly provided free through the 10th standard (around age 16). However, on average, public school teachers' pay was equal only to approximately $5.30 (5,300 kyat) per month, far below subsistence wages, forcing many teachers to leave the profession, or demand extra payments from their students. Thus, many families had to pay to send their children to school, even at the primary level. According to a Kachin women's group in Thailand, families in Kachin State had to pay as much as $300 (300 thousand kyat) for their children to attend 10th standard, an amount above the national average annual income. In some areas where families were not able to afford unofficial payments, teachers generally ceased work. In response to official neglect, private institutions began to provide assistance in education, despite a legal ban on private schools.

Education is compulsory through the 4th standard. UNICEF reported that 50 percent of primary school students dropped out of school before finishing the 4th stand-

ard. Rates of school attendance and educational attainment decreased during the year, largely due to increasing economic hardship, causing students to seek work as domestic helpers or waiters at urban teashops. There was no difference in the attendance rate of boys and girls.

The government promoted Buddhist monastic schools in rural areas and subsidized Buddhist universities in Rangoon and Mandalay. In ethnic minority areas, the government often banned teaching in local languages.

Children also suffered from the government's severe neglect of health care. According to official government figures, the budget for the Ministry of Health in fiscal year 2005–06, amounted to only 3.3 percent of total government expenditures. The government conservatively projected defense expenditures to be 24 percent of the budget, a figure that many international observers considered unrealistically low. There were no reports that the government discriminated between boys and girls in the provision of health care. Estimated mortality rates for children under 5 years of age range from 66 (Ministry of Health, 2003) to 109 (UNDP, 2004) deaths per thousand live births. Of these deaths, almost three-quarters occur within the first year of life, with infant mortality rates from the same sources ranging from 50–77 deaths per thousand live births, respectively. Of these infant deaths, many occurred in the first month of life. All data sources estimated rural mortality to be at least 25 percent higher than urban mortality, with the highest mortality in "hilly areas" and the "central plains." According to UNICEF, up to 56 percent of child deaths from age 6 to 59 months could be attributed to the effects of malnutrition and infection. Nationwide, the prevalence of underweight and stunting among children was 32 percent and wasting is 8.6 percent. During the year the head of the World Food Program (WFP) estimated that 33 percent of children were chronically malnourished in spite of WFP's food-for-work programs in Shan State and the central dry zone.

The law prohibits child abuse. The government stated that child abuse was not a significant problem; however, the government did not release supporting statistics. In May 2004 the UN Committee on the Rights of the Child met to consider the country's second periodic report. The committee issued its concluding observations, noting that it remained "seriously concerned at the lack of appropriate measures, mechanisms, and resources to prevent and combat domestic violence, including physical and sexual abuse and neglect of children; the limited number of services for abused children; as well as the lack of data on the aforementioned."

Child prostitution and trafficking in girls for the purpose of prostitution—especially Shan girls who were sent or lured to Thailand—continued to be a major problem. In Rangoon and Mandalay, diplomatic representatives noted widespread employment of female prostitutes who appeared to be in their early teens and for whom there was reportedly a high demand. Additionally, some brothels offered young teenage "virgins" to their customers for a substantial additional fee. The June 2004 UN Committee on the Rights of the Child report commented: "The committee is concerned over the increasing number of child victims of sexual exploitation, including prostitution and pornography, especially among those engaged in child labor and street children. Concern is also expressed at the programs for the physical and psychological recovery and social reintegration of child victims of such abuse and exploitation which remain insufficient and inadequate."

In a report released in May titled *Driven Away*, the Kachin Women's Association of Thailand documented trafficking of Kachin girls and women to China ostensibly to work, but who were forced into prostitution or to become brides to Chinese men who could not find local brides. This was alleged to be the result of China's "one child" policy and the traditional Chinese preference for male children. Based on interviews with 85 Kachin women who managed to escape their captors, 10 percent were trafficked domestically and up to half became brides of Chinese men, some in distant northeastern provinces of China.

The official age of enlistment in the army is 18 years; however, voluntary enlistment was permitted by minors from the age of 15. As a policy, the government stated it did not conscript child soldiers; however, recruiters frequently ignored the policy. At a press conference held on March 15 the government admitted that "inefficient" recruiters conscripted underage children, but claimed that the government had "taken action" against as many as five such recruiters in 2003. The government also claimed to have sent home 75 forcibly recruited child soldiers in 2003 and another 50 in 2004. In January 2004 the government established the Committee for Preventing Recruitment of Child Soldiers (CPRCS), which met again in August 2004 and purportedly issued new rules and regulations to punish those who recruit child soldiers. In March 2004 diplomatic observers received a report that the authorities had arrested more than a dozen children in Rangoon and forced them into military service. In the past army recruitment drives targeted children to meet quotas for

the ostensibly all-volunteer army, but anecdotal evidence, at least in Rangoon, suggested this practice was now not as common.

In June 2004 the UN Committee on the Rights of the Child report welcomed the establishment of the government's CPRCS but noted the UN committee remained "concerned by the impact of the armed conflicts on children, especially the use of children below the age of 15 years as soldiers by both government armed forces and armed ethnic groups."

There was evidence of continued forced recruitment of child soldiers by the army.

On April 23, two underage soldiers defected from the Burmese Army to the side of the Karenni National Progressive Party during fighting, according to international media sources. Private Myo Min, age 15, and Private Soe Thu, age 16, reported that they were both from the Light Infantry Brigade 112 of Division 55, based in Kalaw, Shan State. Myo Min said he was forcibly recruited in December 2004 from Shwebo, Sagaing Division, where he was working as a waiter. He was given the choice of joining the army or going to prison. He opted to be a soldier but was not allowed to inform his mother and feared she still did not know what happened to him. After more than four months of training, authorities transferred him to Thit Paung Zeik Camp. He deserted less than a month later. Soe Thu, who shared a similar experience as Myo Min, had been in the military for six months before he ran away.

During the year, the ILO was unsuccessful in resolving the case of Private Aung Myo Paing, 16, who deserted his regiment (LIB 6) near Shwepyitha. He approached the ILO for assistance to retire from the army. The ILO issued a letter to the CPRCS requesting that he be allowed to leave. Nevertheless, the regiment commander court-martialed him and he was sentenced to one year's imprisonment. In another case, a child soldier who reportedly deserted his unit was arrested and ordered to serve in a frontier zone.

The ILO assisted in obtaining the release of some underage soldiers who had been forcibly recruited. In 2004 the ILO notified the government of nine allegations of forced recruitment of children into the military. Two of the cases involved boys who had been sentenced to prison, or who were facing court martial for desertion. The government has cooperated with some of the ILO investigations and also conducted its own investigations and reported to the ILO on eight of these cases, but claimed no incidents of forced recruitment. In two cases the military released the boys, who returned home, but there was no further action. In five cases the government insisted the boys were above 18 years old. The government was unable to find one of the alleged child soldiers.

According to a UN source, in November 2004, a military conscription unit of three soldiers visited Se Ywa village of Thongwa Township, Rangoon Division. Four youths were required to accompany the soldiers to the military conscription center at Mingaladon, Thongwa Township. Residents say that the youths were subsequently sent to Military Training Center No. 6 in Pathein. The parents of the students filed complaints with the CPRCS.

In 2004 the Burmese Army organized tours of two recruitment centers for UN representatives, who naturally found no evidence of recruitment of underage children on these visits. International observers were not allowed unfettered access to investigate independently charges of forced conscription by the military.

Several international NGOs and agencies promoted the rights of children in the country, including ICRC, World Vision, Save the Children UK, CARE, UNICEF, the UN Development Program, and foreign governments. UNICEF expanded its operations in 2004 to open a separate child protection section. In July 2004 UNICEF, in conjunction with the Supreme Court of Burma, ran a "National Workshop on Juvenile Justice and Child Protection" that concluded an action plan aimed at strengthening the existing juvenile justice system.

Ethnic minority cease-fire groups and insurgent armies also forcibly conscripted child soldiers, and there were significant numbers of child soldiers drafted into these forces, particularly the United Wa State Army. Inaccessibility to the areas where these groups operate made it difficult to obtain reliable data on the extent of the problem among ethnic armies.

Trafficking in Persons.—On September 13, the government enacted the Anti Trafficking in Persons Law. This new law replaces a combination of different laws previously used to address trafficking, such as those that prohibit kidnapping; the Suppression of Prostitution Act; and the Child Law, which include provisions against the sale, abuse, or exploitation of children.

There are laws specifically against child prostitution and child pornography; however, they were not effectively enforced. An NGO reported in May 2004 that the government arrested, tried, and convicted a foreigner for sexual abuse of a child. This was reportedly the first such conviction. Reports from Thailand indicated that the

rising incidence of HIV infection there increased the demand for supposedly "safer," younger prostitutes, many of whom came from Burma. Trafficking of children within the country also appeared to be a growing problem; however, there were no reliable statistics regarding its extent.

According to the government, 342 traffickers received jail sentences ranging from under 5 years (78 convicted) to life imprisonment (2 convicted) from July 2002 to July 2004. The largest number (177) received sentences of between 5 and 10 years. According to the government, it filed 474 cases during the same period, resulting in 485 convictions, including some multiple convictions. The government did not distinguish between human traffickers and smugglers, so the actual number of traffickers convicted was probably less. Government data show Thailand was the primary destination for trafficking victims (nearly 80 percent), with much smaller numbers going directly to China, Bangladesh, and India. The Ministry of Home Affairs also reported that it had distributed information about human trafficking to some 702 thousand persons living in border areas during the period from 2001 to 2004.

Officials recognized the importance of preventing trafficking and prosecuting traffickers. The government expanded cooperation in this area with international and local NGOs. In April 2004 the government issued the Mutual Assistance in Criminal Matters law, which allows international cooperation to pursue transnational crime (including trafficking).

The Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) met in Rangoon in October 2004, to sign a Memorandum of Understanding pledging mutual cooperation on the problems involved and to develop an action plan. Senior government and cabinet-level officials from Burma, Cambodia, China, Laos, Thailand, and Vietnam participated. In March Burmese officials attended follow-up COMMIT meetings with their counterparts in Hanoi to complete a regional action plan to prevent trafficking.

In 2004 UN agencies and NGOs credited the government for demonstrating political will to combat trafficking and for improvement in cooperation with the international community. In March 2004 the government formed a new office of transnational organized crime, headed by a police brigadier general, to handle non-narcotics related transnational crimes. This office includes a 40-person unit responsible for trafficking in persons.

The government made limited progress on trafficking in persons during the year. The government's pervasive security controls, restrictions on the free flow of information, and lack of transparency prevented a comprehensive assessment of trafficking in persons activities in the country. While experts agreed that human trafficking from the country was substantial, no organization, including the government, was able or willing to estimate the number of victims. The government did not allow an independent assessment of its reported efforts to combat the problem.

Trafficking of women and girls to Thailand and other countries, including China, India, Bangladesh, Taiwan, Pakistan, Malaysia, Japan, and countries in the Middle East, for sexual exploitation, factory labor, and as household servants, was a problem. Shan and other ethnic minority women and girls were trafficked across the border from the north; Karen and Mon women and girls were trafficked from the south. There was evidence that internal trafficking generally occurred from poor agricultural and urban centers to areas where prostitution flourished (trucking routes, mining areas, and military bases) as well as along the borders with Thailand, China, and India. Men and boys also reportedly were trafficked to other countries for sexual exploitation and labor. While most observers believed that the number of these victims was at least several thousand per year, there were no reliable estimates.

Human traffickers appeared to be primarily free-lance, small-scale operators using village contacts that fed victims to more established trafficking "brokers."

The Ministry of Home Affairs stated there was no complicity of government officials in trafficking; however, corruption among local government officials was widespread. NGOs reported that government officials were complicit in trafficking, although it appeared limited to local or regional officials turning a blind eye to trafficking activities. NGOs also reported that individual police officials were likely involved in extorting money from economic migrants and others leaving the country.

In recent years the government made it difficult for single women to obtain passports or marry foreigners, ostensibly to reduce the outflow of women as victims of trafficking (see sections 1.f. and 2.d.). In addition regulations forbid females under the age of 25 from crossing the border unless accompanied by a guardian. However, most citizens who were forced or lured into prostitution crossed the border into Thailand without passports. According to the DSW, the government has begun to help locate families of trafficking victims and to assist in their repatriation.

The government has a repatriation center on the Thai-Burma border, which has processed an estimated 10,500 illegal migrants (not just trafficking victims) since 2001. In 2004 as many as 29 female trafficking victims were repatriated from Malaysia and Thailand and were reunited with their families. In the first 6 months of the year, Malaysia and Thailand reportedly repatriated to Burma 76 female trafficking victims, an increase from the previous year.

The MWAF and the DSW provided some counseling and job training for trafficking victims before they were returned to their families. The DSW also provided training to government officials on the recognition and provision of assistance to victims of human trafficking. The government provided medical attention and shelter to trafficking victims returning from Thailand. However, government funding for these programs was very limited. There were no reports of victims being arrested after their return to Burma. There were no reports of trafficking victims filing suit against traffickers.

Several NGOs offered poverty alleviation and education programs designed to counter trafficking. Reportedly these programs have been moderately successful.

Persons with Disabilities.—The government did not actively discriminate against persons with disabilities in employment, access to health care, education, or in the provision of other state services, but there were few resources assisting persons with disabilities. There were no laws mandating accessibility to buildings, public transportation or government facilities, and persons with disabilities faced societal discrimination. There were several small, local and international organizations that assisted persons with disabilities, but most such persons had to rely exclusively on their families to provide for their welfare.

Military veterans with disabilities received benefits on a priority basis, usually a civil service job at equivalent pay. In principle official assistance to nonmilitary persons with disabilities included two-thirds of pay for up to one year of a temporary disability and a tax-free stipend for permanent disability; however, the government did not provide any private sector job protection for persons who became disabled.

The Ministry of Health is responsible for medical rehabilitation of persons with disabilities and the Ministry of Social Welfare is responsible for vocational training. The government operated three schools for the blind, two for the deaf, two rehabilitation centers for adults, and two for children. The government provided inadequate funds for schools and programs for the disabled. Local NGOS ran four schools for the blind.

The ICRC continued to provide rehabilitation services to victims of landmine injuries, both civilian and military amputees. Besides running an orthopedic rehabilitation center in Hpa-an, Karen State, it also had an active outreach program to identify and refer vulnerable amputees from remote border villages to the ICRC's prosthetic services.

National/Racial/Ethnic Minorities.—Wide-ranging governmental and societal discrimination against minorities persisted. Animosities between the country's many ethnic minorities and the Burman majority, which has dominated the government and the armed forces since independence, continued to fuel active conflict that resulted in serious abuses during the year. These abuses included reported killings, beatings, torture, forced labor, forced relocations, and rapes of Chin, Karen, Karenni, Shan, Mon, and other ethnic groups by SPDC soldiers. Some armed ethnic groups also may have committed abuses but on a much smaller scale than the Burmese Army (see sections 1.a., 1.c., 1.f., and 1.g.).

Only persons who were able to prove long familial links to the country were accorded full citizenship. Native-born but nonindigenous ethnic populations (such as Chinese, Indians, Bengalis, and Rohingyas) were denied full citizenship and were excluded from government positions. Members of the Rohingya Muslim minority in Rakhine State continued to experience severe legal, economic, and social discrimination. The government denied citizenship to most Rohingyas on the grounds that their ancestors did not reside in the country for one year prior to the start of British colonial rule in 1824, as required by the country's highly restrictive citizenship law.

In June 2004 the UN Committee on the Rights of the Child expressed concern "over the situation of the children of the Bengali people residing in Northern Rakhine Region, also known as the Rohingyas, and of children belonging to other ethnic, indigenous or religious minorities; and in particular, that many of their rights are denied, including the rights to food, to health care, to education, to survival and development, to enjoy their own culture and to be protected from discrimination."

Rohingya Muslims did not have access to state run schools beyond primary education because the government reserved secondary state schools for citizens. Those excluded were also ineligible for most civil service positions.

Forced labor of Muslims continued to be widespread in Rakhine State. Forced labor of minority ethnic groups was still prevalent in eastern border areas and in Chin State (see section 6.c.).

Persons without full citizenship faced restrictions in domestic travel (see section 2.d.). They also were barred from certain advanced university programs in medicine and technological fields.

Ethnic minority groups generally used their own languages at home. However, throughout all parts of the country controlled by the government, including ethnic minority areas, Burmese remained the language of instruction in state schools. Even in ethnic minority areas, most primary and secondary state schools did not offer instruction in the local ethnic minority language. There were very few domestic publications in indigenous minority languages.

There were reports that the government resettled groups of Burmans to various ethnic minority areas (see section 1.f.).

There were ethnic tensions between Burmans and nonindigenous ethnic populations, including South Asians, many of whom were Muslims, and a rapidly growing population of Chinese, most of whom emigrated from Yunnan Province. Chinese immigrants increasingly dominated the economy of the northern part of the country.

Other Societal Abuses and Discrimination.—Many citizens viewed homosexuals with scorn. Penal code provisions against "sexually abnormal" behavior were applied to charge gays and lesbians who drew unfavorable attention to themselves. Nevertheless, homosexuals had a certain degree of protection through societal traditions. Transgender performers commonly provided entertainment at traditional observances. Some were spirit (*nat*) worshipers and, as such, they had special standing in the society. They participated in a well-established week-long festival held near Mandalay every year. The event was considered a religious event, free of sexual overtones or activities, and was officially approved by the government. No one, including the military or police, interfered with the festival.

HIV-positive patients were discriminated against, as were the doctors who treated them.

Section 6. Worker Rights

a. The Right of Association.—The 1926 Trade Unions Act, which remains in effect, permits workers to form trade unions only with the prior consent of the government; however, no free trade unions existed in the country.

There were no internationally affiliated unions because unions were banned. The government forbade seafarers who found work on foreign vessels through the Seafarers Employment Control Division from contacts with the International Transport Workers' Federation (ITWF), and the government often refused to document seafarers who were abroad. Absent proper documentation, it was impossible for a seafarer to find regular employment abroad.

According to reliable sources in Thailand, on May 19, unidentified armed men abducted Moe Aung, leader of the Burma Seafarers' Union, an affiliate of the ITWF, from his residence in Ranong, Thailand and took him to a Burmese infantry base at 8th Mile in Kawthoung, Burma. He reportedly died in custody three days later on May 22.

The government criminalized contact with the Thai-based FTUB, claiming it was a "terrorist group"; however, the government has not presented this case to the ILO through the relevant formal procedure. During this year and in preceding years, the government arrested and sentenced persons in part for their contacts with the FTUB and other Thai-based exile groups, and one such prisoner, Aung Myint Thein, died while in custody (see sections 1.a., 1.b., 1.d., 2.a., 2.b, and 6.b.).

b. The Right to Organize and Bargain Collectively.—The government does not allow unions; therefore, workers did not have the right to organize and bargain collectively. The government's central arbitration board, which once provided a means for settling major labor disputes, has been dormant since 1988, although the Department of Labor reportedly played an arbitration role in settling some disputes since then. Township-level labor supervisory committees existed to address minor labor concerns.

The government unilaterally set wages in the public sector. In the private sector, market forces generally set wages; however, the government pressured joint ventures not to pay salaries greater than those of ministers or other senior government employees. Some joint ventures circumvented this with supplemental pay or special incentive systems. Foreign firms generally set wages near those of the domestic private sector, but followed the example of joint ventures in awarding supplemental wages and benefits.

According to the law, workers generally were prohibited from striking, although a small number of workers are purportedly accorded the right to strike. On April

17, authorities arrested four female workers at Gustom Molinel Garment Factory at Hlaing Thaya Industrial Zone on charges of inciting a workers' strike on April 9. A judge dismissed the case, and the four women were released to their families on May 2, after signing undertakings not to engage in such activities again. On November 8, workers of X-Square Footwear Factory in Hlaing Thaya Industrial Zone protested having to work overtime without pay. Their grievances were resolved, and there were no arrests.

There are no export processing zones; however, there were special military-owned industrial parks, such as Pyin-Ma-Bin, near Rangoon, which attracted foreign investors, and the two thousand-acre Hlaing Thaya Industrial Zone in Rangoon where several companies operated. National labor laws were applicable in all industrial zones and across all industries, however they were not always enforced evenly.

c. Prohibition of Forced or Compulsory Labor.—Forced or compulsory labor remained a widespread and serious problem, particularly targeting minority groups. The penal code provides for the punishment of persons who imposed forced labor on others. In 2004 and during this year, the ILO reported eight cases brought to court under this provision, either by alleged victims or by the authorities after cases were raised by the ILO liaison officer. Of the eight, two were dismissed, and one person withdrew his charges. Three cases were processed and on January 31, a judge in Kawhmu Township Court sentenced four local government officials to eight-month jail sentences for using forced labor. The officials received early releases in July. In a separate but related case, Ma Su Su Nway successfully prosecuted local officials from Kawhmu Township on forced labor charges. Another local official who was not charged subsequently filed a countersuit against Ma Su Su Nway for "insulting and disrupting a government official on duty." Su Su Nway was sentenced to 18 months' imprisonment on October 13.

During the year other cases in which government officials were prosecuted by the authorities after cases were raised by the ILO liaison officer resulted in an additional four officials being given prison terms for imposing forced labor.

Throughout the country, international observers verified that the government routinely forced citizens to work on construction and maintenance projects. Citizens also were forced to work in the military-owned industrial zones.

Reports of forced labor for building and maintaining economic infrastructure have declined from a peak during the mid-1990s, particularly in the ethnically Burman central regions.

In contrast, the government's use of forced labor in support of military garrisons or operations remained particularly serious in ethnic or religious minority regions. The ILO has corroborated UNHCR's reports of a "serious resurgence" in forced labor in Rakhine State, where the prime minister had ordered the military to construct six new bridges. The ILO continued to call upon the government to stop the use of forced labor; however, the local authorities have ignored the central government's instructions to cease the practice, particularly when under pressure from the same central government to complete certain public works projects on time.

On September 8, AI released a report titled *Myanmar, Leaving Home*, in which it documented the continuing human rights abuses in the country. The report pointed out that, as armed resistance to the government lessens and the Burmese army establishes itself in former hostile territory, the requirement for porters has decreased. However, the decreasing need for porters has been replaced with an increase in forced labor as the military needs new barracks and other infrastructure. The report also notes that the KNLA and the DKBA are also guilty of some of the very same abuses as the Burmese army, including forced confiscation of food from already malnourished villagers who are forced to provide rice, livestock, and other valuables to the soldiers of both sides.

On November 12, 70 Chin villagers from Kone Khaung village in Mrauk U Township, Rakhine State, were forced to work as porters for the Light Infantry Battalion 377. They had to carry supplies to Kalama Mountain, a distance of 10 miles, and had to supply their own rice, adding another 6.5 pounds to their loads. In November another report told of six villages being forced to build a new base for the Border Security Force at A-Ngu Maw, Rathetaung Township, Rakhine State. Not only were the villagers required to work for free, they also had to provide building supplies including timber, bamboo, and thatch.

The Rangoon-based ILO liaison office reported that the government's order to end forced labor had been widely, if unevenly, disseminated, but its impact on reducing forced labor was limited and not sustained.

Over the past five years, the ILO and other international agencies have seen changes in the government's approach to conscripting forced labor. The ILO reported that military units no longer tended to issue written orders to village heads to provide forced labor and instead gave verbal instructions. The ILO also reported that

in some cases the government substituted demands for forced labor with demands for forced contributions of materials, provisions, or money. Throughout the year, there were frequent and widespread reports of soldiers forcing contributions of rice and other commodities from ethnic minority villagers. In 2004 the ILO reported that it appeared the government occasionally paid for forced labor, but the payments were usually well below prevailing wage rates.

The ILO reported that since 2002, the government increasingly substituted prisoners not sentenced to hard labor for civilians as forced laborers, possibly due to international pressure not to use civilians. There reportedly were approximately 70 camps scattered around the country, but many were temporary, existing only until the completion of a specific work project. In the past the military took prisoners from jails around the country for use as porters. For instance, in 2003 during its offensive against the KNLA, the army reportedly used more than 300 prisoners as porters.

Authorities often allowed households or persons to substitute money or food for labor for infrastructure projects, but widespread rural poverty forced most households to contribute labor. Parents routinely called upon children to help fulfill their households' forced labor obligations (see section 6.d.).

On December 30, local peace and development council (PDC) authorities in Myothit Village, Nga-Thaing Gyaung Township, Irrawaddy Division, arrested carpenter Ko Than Htaik, detained him at the village PDC office, and severely beat him. The authorities accused him of failing to provide involuntary labor in cutting trees to build a road and not providing funds for village militia training. On December 31, his family admitted him to the local hospital where he died soon after as a result of the severe beating. The Yaykyay police arrested local PDC officials who were involved in the beating, including Aung Myint Thein, chairman of the village PDC.

On November 1, a 35-year-old man from Tharat Cho village in Ponnagyan Township, Rakhine State, died two days after returning home seriously ill as a result of labor forced on him by the military. Battalion 550 of the Burmese Army forced him to help construct a military base.

During the year reports of forced labor for smaller projects in villages nationwide persisted. In 2003 the local chairman of Chaungnet Village in Magway Division forced one person from each household to clear the bushes on Rangoon-Magway Highway. Those who refused were fined five dollars (five thousand kyat). The authorities also continued to use forced labor countrywide to maintain existing civil infrastructure, including transportation and irrigation facilities.

Beginning in 2004, the first year that private citizens voluntarily approached the ILO to report alleged violations, until September 2005, the ILO office in Rangoon received 102 cases of forced labor to investigate. The ILO forwarded 59 of these cases to the government's committee on forced labor. The committee responded to all the cases and a total of ten persons were found guilty and sentenced. The committee did not implement adequate mechanisms for the reporting, investigation, and prosecution of incidents of forced labor. In May, the ILO stopped accepting cases because the government indicated that it would prosecute any person who made what the government deemed a "false" complaint of forced labor.

In ethnic regions, reports of forced labor were common. According to credible NGO sources, villagers were ordered to build or repair military camp infrastructure and to perform other tasks within the camps, such as standing guard. The same sources also reported that villagers were required to bring lumber, at their own expense, to construct and repair military facilities. In May 2004 the ILO office in Rangoon witnessed a case of villagers in Tiddim and Falam Townships in Chin State forced to widen the main road between the two towns. In 2004 AI reported several cases in Buthitaung and Maungdaw, northern Rakhine State. In these cases the military (members of a border task force consisting of the police, military intelligence, internal security, customs officials, and the immigration and manpower department) commandeered villagers to stand sentry, build roads, cut wood, and to construct government buildings. The India-based Chin Human Rights Organization (CHRO) also reported several cases of forced labor in southern Chin State during the year. In these cases local military officials forced village leaders to provide workers for road projects, military building construction, and farm work. The CHRO reported local military officials arrested one village chief in June 2004 because his village's workers did not complete their assigned road-building task.

The ILO and other international observers reported a decline in forced labor and other abuses in Karen State since the KNU and SPDC achieved a temporary ceasefire in January 2004. However, in 2003 the KNU released credible but unconfirmed reports of widespread use of forced labor in conflict areas along the eastern border. In 2003 soldiers forcibly recruited 500 porters in Mone Township to carry food sup-

plies for the army. Those unable to carry a load had to pay five dollars (five thousand kyat) each.

During the year the ILO was required to follow general regulations applicable to diplomatic travel. ILO international staff could travel unaccompanied, but central government officials alerted local authorities to their movements. Relations between the ILO and the government reached new lows by mid-year, when the International Labor Conference in Geneva in June highlighted the government's continued lack of cooperation with the ILO. In the second half of the year, government-affiliated organizations—including the USDA, MWAF, and the War Veterans Organization—carried out a high profile campaign of mass rallies at which the ILO was criticized and the government was urged to sever relations with the international organization. This public condemnation of the ILO and aura of intimidation further constrained the ILO's ability to travel and to implement effectively its mandate. The ILO Liaison received a series of personal death threats, which the government disregarded.

In October the government verbally stated its intention to withdraw from ILO, but did not act on the threat. At the November ILO governing board meeting, members noted the serious deterioration of ILO relations and the forced labor situation. The board called upon the government to ensure the safety of the liaison officer and to allow him to conduct his work effectively. The board also urged the government to stop prosecuting victims of forced labor who bring claims and continue efforts to eliminate forced labor. At year's end, government officials gave verbal assurances of the liaison officer's safety and his ability to resume work.

The ILO office in Rangoon has reported several cases in which the organization's local contacts have been detained and interrogated for providing information to the ILO about forced labor. During the year, Naing Min Kyi, Shwe Man, and Aye Myint were released from prison. In 2003 a court sentenced all three to death in part for having contacts with the ILO and the FTUB (see Section 4). However, on August 28 authorities in Bago rearrested lawyer Aye Myint. He was sent to Bago Prison in late September. On October 31, he was sentenced to seven years imprisonment. The authorities were reportedly displeased with him for providing legal assistance to poor farmers whose land was confiscated without any compensation by Light Infantry Brigade 40.

The family of Win Lwin, who died while performing forced labor in Magway Division in December 2004, filed a case against the government. In October the government sued the villagers and the family's lawyer, saying they supplied false information to the ILO.

On November 5, Aung Myint Thein, died in prison while he was under trial. According to authorities, his father, Myint Thein, 77, confessed during the trial that he and his son had visited Thailand several times to contact the FTUB. After Aung Myint Thein's death, FTUB reportedly verified that he was a member of their group. Myint Thein received an eight-year prison sentence (see sections 1.a and 2.a.).

Forced recruitment of soldiers was widespread. Credible reports indicated that the government would not allow soldiers to leave the army at the end of their enlistment without first recruiting three or four replacements, even if it required forced recruitment. Forced recruitment of police forces followed the same pattern.

The law does not specifically prohibit forced and bonded labor by children, and forced labor by children continued to be a serious problem (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets a minimum age of 13 for the employment of children, but in practice the law was not enforced. Child labor has become increasingly prevalent and visible. Working children were highly visible in cities, mostly working for small or family enterprises. In the countryside, children worked in family agricultural activities. Children working in the urban informal sector in Rangoon and Mandalay often began work at young ages. In the urban informal sector, child workers were found mostly in the food processing, street vending, refuse collecting, light manufacturing industries, and as teashop attendants. According to 2002 official statistics, 6 percent of urban children worked, but only 4 percent of working children earned wages; many were employed in family enterprises.

The law does not specifically prohibit compulsory labor by children, and children were subjected to forced labor. Authorities reportedly rounded up teenage children in Rangoon and Mandalay and forced them into porterage or military service (see section 5).

The DSW provided support and schooling for a small number of orphaned children or others who were in some other way estranged from their families. One of the aims of this assistance was to help the children become more capable of resisting exploitation in the future.

e. Acceptable Conditions of Work.—Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The minimum daily wage for salaried public employees was $0.13 (136 kyat) for what was in effect an eight-hour workday. Various subsidies and allowances supplemented this sum. Neither the minimum wage nor the higher wages earned by senior officials provided a worker and family with a decent standard of living. Low and falling real wages in the public sector fostered widespread corruption and absenteeism. In the private sector, urban laborers earned approximately $0.50 to $1.00 (500 to 1,000 kyat) per day, while rural agricultural workers earned approximately half that rate. Some private sector workers earned substantially more: a skilled factory worker earned approximately $3 (3 thousand kyat) per day.

A surplus of labor, a poor economy, and lack of protection by the government continued to foster substandard conditions for workers. The 1964 Law on Fundamental Workers Rights and the 1951 Factories Act regulate working conditions. There is a legally prescribed 5-day, 35-hour workweek for employees in the public sector and a 6-day, 44-hour workweek for private and state enterprise employees, with overtime paid for additional work. The law also allows for a 24-hour rest period per week, and workers are permitted 21 paid holidays per year; however, in practice such provisions benefited only a small portion of the country's labor force, since most of the labor force was engaged in rural agriculture or in the informal sector. The laws were generally enforced in the government sector, but there were frequent violations by private enterprises.

Numerous health and safety regulations existed, but in practice the government did not make the necessary resources available to enforce the regulations. Although workers in principle may remove themselves from hazardous conditions, in practice many workers could not expect to retain their jobs if they did so.

CAMBODIA

Cambodia is a constitutional monarchy with an elected government and a population of approximately 13.1 million. Following elections in 2003, the Cambodian People's Party (CPP), led by Prime Minister Hun Sen, and the National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC), led by Prince Norodom Ranariddh, formed a coalition government in 2004. However, the CPP dominated the government, with most power concentrated in the hands of the prime minister. Although the civilian authorities nominally controlled the security forces, in practice security forces answered to the CPP leadership.

Unlike in 2004, there were no reported political killings. Nevertheless, the government's human rights record worsened, as the country's fragile democracy suffered several setbacks, particularly in the areas of political participation and freedom of speech. The government undertook actions that served to neutralize its critics through a limited number of arrests of journalists, leaders of civil society, human rights activists, and members of the political opposition. In February the National Assembly removed parliamentary immunity from three opposition members of parliament (MPs) to pursue possible criminal cases against them. The government used the weak and often politically biased judiciary to file defamation suits to arrest, silence, and intimidate civil society and critics of government policy. The following human rights problems were reported:

- extrajudicial killings
- impunity of security forces
- abuse of detainees, often to extract confessions
- harsh prison conditions
- arbitrary arrest and prolonged pretrial detention
- a weak judiciary and denial of the right to a fair trial
- government control of or influence over the content of television and radio broadcasts
- government interference with freedom of assembly
- domestic violence and discrimination in the workplace against women
- child abuse
- trafficking in women and children
- land disputes and lack of fair resolutions
- antiunion activity by employers and nonenforcement of labor laws

- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Contrary to previous years, there were no reports of politically motivated killings. There were five killings of Sam Rainsy Party (SRP) activists during the year, but none were proven to be politically motivated. However, extrajudicial killings continued to occur.

On March 21, government security forces killed five protestors and injured eight others in the village of Kbal Spean while attempting to carry out an eviction. The provincial court investigated charges of murder, attempted murder, voluntary manslaughter, and battery against 66 police officers and 52 villagers. On August 4, the court announced that charges were dropped against all except a military policeman. On August 30, the victims' families lodged criminal complaints with the Phnom Penh Appeals Court. At year's end the court had not taken any action.

On March 23, 19 inmates and a prison director died during an attempted escape from Trapoeung Phlong Prison, also known as CC3, in Kampong Cham Province. Security forces reportedly shot and killed 17 inmates during the escape attempt and 2 thereafter. The prison director, whom inmates severely injured during the jailbreak, died two days later from injuries sustained after being inadvertently shot by prison guards. Prison authorities delayed a week after the incident before allowing humanitarian groups to provide medical care to 11 injured inmates, and they did not grant access to human rights groups and journalists to investigate the incident until 5 months later.

On January 18, an investigating judge in the Kratie Provincial Court dropped charges and freed two persons arrested for involvement in the August 2004 killing of a member of the military. Nongovernmental organizations (NGOs) reported that the judge persuaded the victim's spouse to accept financial compensation in exchange for withdrawing the criminal suits.

On February 15, a soldier from a paratroop unit was sentenced to 15 years in prison for the May 2004 killing of Ros Sanannareth, a factory-level union leader. The soldier also was ordered to pay $2 thousand (8.4 million riel) in punitive damages to the victim's spouse. Savannareth's spouse and daughter received political asylum in a third country.

On July 8, the Supreme Court upheld the July 2004 appeals court decision overturning the verdict of an investigating judge to drop charges against two persons arrested for the January 2004 killing of union activist Chea Vichea. On August 1, the Phnom Penh Municipal Court sentenced the suspects to 20 years in prison. Local and international NGOs and the diplomatic community widely denounced the outcome of the trial. The UN special representative for human rights in Cambodia stated that the prosecution failed to present evidence linking the defendants to the crime and disregarded fundamental principles of a fair trial, such as presumption of innocence and impartiality of the court.

There were no developments in the cases of a FUNCIPEC deputy village chief or a Sam Rainsy Party (SRP) activist, who were killed in separate incidents in January 2004 in Kompot Province. There also were no developments in the case of the 2003 killing of Sam Bunthoeun, a Buddhist abbot who encouraged monks to register for elections after a pro-CPP Buddhist patriarch had forbidden them to do so. At year's end no suspects had been arrested for the 2003 killing of Chuor Chetharith, a reporter for pro-FUNCINPEC Taprohm Radio and official in the Ministry of the Interior (MOI). The case of the village chief accused of the 2003 killing of an SRP activist's daughter was pending in the appeals court at year's end.

A credible NGO report indicated that members of the military, military police, and civilian police forces were implicated in 40 cases of extrajudicial killings. The report found that perpetrators were apprehended and prosecuted in 23 percent of those cases, while the rest escaped prosecution or remained at large.

At year's end no legal action had been taken against a police officer who in July 2004 killed a prisoner awaiting trial in Takeo Province. Reports indicated that he had been transferred to a different position.

There were no developments in the 2003 case in which antiriot police shot a union striker during a demonstration; a policeman was killed in the same incident. Several 2003 high-profile cases remained unsolved. These included the killing of Judge Sok Sethamony of the Phnom Penh Municipal Court, shot on his way to work, and Touch Srey Nich, a popular singer paralyzed after being shot by unidentified gunmen.

The number of landmine casualties remained high. There were 871 landmine and unexploded ordinance (UXO) casualties reported in the year, resulting in 173

deaths, 175 amputations, and 523 other injuries. There were 898 landmine and UXO casualties in 2004 and 772 in 2003.

On February 15, the Supreme Court upheld the life sentence of Chhouk Rin, a former Khmer Rouge commander, for his role in a 1994 train ambush in Kampot Province. Authorities arrested Chouk Rin on October 25 and sent him to Prey Sar Prison to serve his sentence.

Vigilante justice persisted, as well as killings of alleged witches and sorcerers. During the year vigilante mob violence resulted in at least 22 deaths of suspected thieves and the severe injury of many others. In January villagers killed a man suspected of stealing a cow. In February approximately 100 villagers attacked and killed a man suspected of stealing a motorbike. In June a mob beat to death a teenage boy who was suspected of attempting to steal a ladder. In July a man killed an elderly woman with an axe; he told police that 20 villagers had paid him to kill the alleged sorceress. In August two gunmen killed a man believed responsible for killing their relatives with his magic power. Prosecutions of those responsible for mob violence were rare. NGOs cited public loss of confidence in the police and judiciary along with the prevalence of rampant corruption within those institutions as driving forces behind the pervasiveness of mob violence.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture and physical abuse of prisoners; however, beatings and other forms of physical mistreatment of prisoners continued to be a serious problem. There were credible reports that military and civilian police officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation. According to the government, the number of inmates detained in the country's 24 prisons increased from 7,423 in 2004 to 9,373. A local NGO that monitored 17 of the prisons reported that during the year 308 inmates were pretrial detainees who had been held longer than the 6-month maximum detention period established by law. Of 189 inmates interviewed by a local NGO, 25 claimed they were tortured upon their arrival at prison, and 52 others claimed they were tortured while in police custody. Members of the police and security force who carried out abuse often were protected from prosecution or disciplinary action by local government authorities, despite occasional central government efforts to curtail or eliminate violations of prisoners' rights and address problems of accountability.

On April 29, a commune police chief and another police officer without a warrant forcibly arrested a man because of a personal dispute from the previous day. The policemen suspended the man upside down from the ceiling of the police station, where he was interrogated, beaten, and forced to confess to a robbery in which he had no involvement. The victim was released later that night. Following a provincial police officer's urging, the victim accepted financial compensation and withdrew his criminal complaint from the provincial court. No legal action was taken against the police chief, and the case was terminated.

On November 8, a 15-year-old female prisoner filed a complaint with a local NGO, alleging that a guard threatened her with a gun after she refused his sexual advances. The prisoner later alleged that, in retaliation, prison authorities deprived her of sufficient clothing, food, and bathing time. A formal complaint was filed by the NGO with a provincial prosecutor, and the accused prison guard was suspended while the prosecutor investigated the complaint.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards and were life threatening. Prison conditions remained harsh, and government efforts to improve them continued to be hampered by a lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, medical and sanitation problems, food and water shortages, malnutrition, and poor security. A local NGO that monitored 23 of the country's 24 prisons noted that the population of those prisons had grown and the average number of inmates placed in a 7-by-8-meter cell had increased from 45 to between 50 and 60. In August 2004, Tackhmau Prison, with a capacity of 110 prisoners, held 266. In some prisons, after escape attempts authorities used shackles and held prisoners in small, dark cells. Government ration allowances for purchasing prisoners' food routinely were misappropriated and remained inadequate, exacerbating malnutrition. Regulations permitted families to provide prisoners with food and other necessities, and prisoners depended on such outside assistance; however, families often were compelled to bribe prison officials to be allowed to provide assistance. During the year NGOs reported that 89 prisoners died for lack of food or medication, or of disease contracted or aggravated while incarcerated.

In March, 19 inmates and the director of Trapoeung Phlon Prison were killed in an attempted jailbreak. In July 2004 a pretrial detainee under police custody in Takeo Province was beaten to death (see section 1.a.).

In most prisons there was no separation of adult prisoners and juveniles, of male and female prisoners, or of persons convicted of serious crimes and persons detained for minor offenses.

The government generally continued to allow international and domestic human rights groups to visit prisons and provide human rights training to prison guards. However, NGOs reported that at times cooperation from local authorities was limited. For example, human rights NGOs were not given access to investigate the incident surrounding the attempted escape in March at the Trapoeung Phlon Prison until five months after it occurred (see section 1.a.). The MOI continued to require that lawyers, human rights monitors, and other visitors obtain permission prior to visiting prisoners. The MOI withheld such permission in some politically sensitive cases. NGOs were not allowed to interview prisoners in private. There were credible reports that inmates' relatives had to bribe prison authorities to gain access to visit inmates. There also were reports of corrupt officials who demanded bribes before releasing inmates who had served their full jail terms.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government generally did not respect these prohibitions. During the year a number of persons were arrested without warrants, and human rights groups reported 88 cases of persons illegally detained by police.

Role of the Police and Security Apparatus.—The General Commissariat of the National Police, which is under the supervision of the MOI, manages all civilian police units. The police forces are divided into those who have the authority to make arrests, those who do not have such authority, and the judicial police. Military police are permitted to arrest civilians only when authorized by local governments. During the year there were reports that police, prosecutors, investigating judges, and presiding judges received bribes from illegal businesses and released suspects due to corruption. There was a climate of impunity for some criminals.

Police, prosecutors, and judges are required by law to investigate all complaints, including those of police abuses, but in practice judges and prosecutors rarely conducted an investigation prior to a public trial. The presiding judge passes down the verdict based on written reports from police and witness testimonies. In general police received little professional training. Police who failed to prevent or respond to societal violence were rarely disciplined.

Arrest and Detention.—The law allows police to take a person into custody and conduct an investigation for 48 hours, excluding weekends and government holidays, before charges must be filed; however, authorities routinely held persons for extended periods before charging them. The law requires police to obtain a warrant from a prosecutor prior to making an arrest, but police may arrest anyone caught in the act of committing a crime without a warrant. Many prisoners, particularly those without legal representation, had no opportunity to seek release on bail. Accused persons legally are entitled to a lawyer, but prisoners routinely were held for several days before gaining access to a lawyer or family members. According to the UN High Commissioner on Human Rights (UNHCHR), such prolonged detention largely was a result of the limited capacity of the court system.

On October 11, police detained independent radio station owner Mam Sonando on defamation charges following an interview broadcast on his station that criticized the government's border policies. On October 15, police detained Rong Chhun, president of the Cambodian Independent Teachers' Association and also Cambodia Watchdog Council (CWC) member, on defamation charges following the release of a public statement that criticized the government's border policies. On December 31, police arrested human rights advocates Kem Sokha and Yeng Virak for activities related to a December 10 rally in Phnom Penh (see section 2.a.). Sonando and Chhun were denied bail. The UN special representative for human rights, the diplomatic community, and various international NGOs condemned the arrests and urged authorities to drop the charges against the men. Although the government gave these political detainees the same protections as other detainees, it did not permit regular access to them.

The investigating judge gathers evidence before determining whether to try a case. An NGO reported that during the year there were 308 complaints of pretrial detention that lasted longer than the prescribed 6 months. The suspected killers of union leader Chea Vichea were detained for almost 18 months prior to their trial on August 1. Opposition parliamentarian Cheam Channy was detained for more than six months before the military court tried him on August 8; court officials claimed that the delay was the result of appeals made to the courts. International

and local NGOs widely criticized Cheam Channy's arrest and detention as illegal under criminal law. In addition human rights observers called his arrest and subsequent detention a violation of the law for trying a civilian charged with civilian crimes in the military court (see section 1.e.).

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, but the government did not respect this provision. The courts were subject to influence and interference by the executive branch, and there was widespread corruption among judges, prosecutors, and court officials.

The court system consists of lower courts, an appeals court, and a Supreme Court. The constitution also mandates a Constitutional Council, which is empowered to review the constitutionality of laws, and a Supreme Council of the Magistracy, which appoints, oversees, and disciplines judges. The composition of both councils heavily favored the CPP.

Trial Procedures.—Trials are public. Juries are not used; the presiding judge possesses the authority to pass a verdict. Defendants have the right to be present and consult with an attorney, confront and question witnesses against them, and present witnesses and evidence on their own behalf. If a defendant cannot afford an attorney, the court is required to provide the defendant with free legal representation; however, the judiciary lacked the resources to provide legal counsel, and most defendants sought assistance from NGOs or went without legal representation. Trials typically were perfunctory, and extensive cross-examination usually did not take place. Defendants and their attorneys have the right to access government-held evidence relevant to their cases; however, in practice it could be difficult for them to obtain such access, especially if the case was political or involved a high-ranking government official or well-connected member of the elite.

Defendants are entitled by law to the presumption of innocence and the right of appeal, but due to pervasive corruption, defendants often were expected to bribe judges to secure a verdict. A citizen's right to appeal sometimes was limited by difficulty in transferring prisoners from provincial prisons to the appeals court in Phnom Penh. Many appeals thus were heard in the absence of the defendant.

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and the government did not ensure due process.

On August 1, the Phnom Penh Municipal Court found Born Samnang and Sok Sam Ouen guilty of the murder of Chea Vichea (see section 1.a.). On August 9, the military court sentenced opposition party MP Cheam Channy to seven years' imprisonment for fraud and organizing an illegal armed force (see section 1.a.). On December 22, opposition leader Sam Rainsy was sentenced in absentia to 18 months in jail for defaming FUNCINPEC President Prince Norodom Ranariddh and PM Hun Sen. The cases were marked by serious irregularities, and the verdicts led to widespread condemnation by NGOs and the diplomatic community. The UN special representative for human rights denounced the outcome of the trials, stating that the defendants were sentenced to long prison terms on the basis of noncredible criminal investigations and court hearings.

Judges and prosecutors often had little legal training. In 2003 the Royal School for Judges and Prosecutors reopened and accepted its first class of students since the 1960s. Following their legal internships in late 2004, the 55 graduates were appointed as judges and prosecutors to courts throughout the country. The introduction of newly trained lawyers also resulted in significant improvements for defendants provided with counsel, including a reduced pretrial detention period and improved access to bail; however, there remained a critical shortage of trained lawyers, particularly outside Phnom Penh. Persons without means to secure counsel often were effectively denied the right to a fair trial.

Sworn written statements from witnesses and the accused usually constituted the only evidence presented at trials. The accused person's statements sometimes were coerced through beatings or threats, and illiterate defendants often were not informed of the content of written confessions that they were forced to sign. In cases involving military personnel, military officers often exerted pressure on judges of civilian courts to have the defendants released without trial.

Court delays or corrupt practices often allowed accused persons to escape prosecution. Government officials or members of their families who committed crimes sometimes appeared to enjoy impunity. On May 5, the 23-year-old son of a senior military official was accused of killing 3 persons in a hit-and-run accident in Phnom Penh. The traffic police and the prosecutor closed the criminal case after the young man's family paid financial compensation to the families of the dead. On June 9, police found the body of a 20-year-old man in a house that belonged to the family of a provincial police chief. The victim apparently had been electrocuted and had

one of his fingers cut off. At year's end authorities had taken no legal action, and the criminals remained at large.

Although the courts prosecuted some members of the security forces for human rights abuses, impunity for most of those who committed human rights abuses remained a problem. On August 4, an investigating judge of the Battambang Provincial Court dropped charges against more than 100 soldiers, civilian police, and military police involved in a March eviction in Kbal Spean during which 5 persons were killed and many others injured (see section 1.a.). Most national and local government officials continued to lack the political will and financial resources to act effectively against military or security officials suspected of human rights abuses.

The Judicial Reform Council made no significant progress in fulfilling its mandate to develop and implement reform measures. In 2002 the government established a second legal and judicial reform council amid criticisms that the council's cochairs, a cabinet minister and the supreme court president, lacked sufficient independence. In 2003 the Council for Legal and Judicial Reforms (CLJR) produced a draft justice sector program and held workshops with civil society, donors, and other interested parties. During 2004 the CLJR cooperated with donors to implement the program and forwarded numerous draft laws to the National Assembly for approval, including draft laws on the Statute of Magistrates, the administrative court, and amendments to the law on the Organization and Functioning of the Supreme Council of Magistracy. In addition, in November 2004 the CLJR forwarded action plans for legal reform goals to the Council of Ministers. The government, in cooperation with legal experts from donor countries, completed draft laws of the criminal and civil codes and was reviewing them at year's end.

In March the Supreme Council of the Magistracy dismissed a judge and a deputy prosecutor of the Phnom Penh Municipal Court for misconduct in their judicial functions. A judge and a prosecutor were suspended for a year without pay. According to the minister of justice, the judges and prosecutors were subject to investigation for inappropriate actions, including illegal release of felony criminals. Legal observers charged that the council was subject to political influence and did not effectively protect the independence of the judiciary. In accordance with the March 3 "Iron Fist" anticorruption order, on May 5 Prime Minister Hun Sen dismantled the secretariat of the council. Legal critics regarded the dismantling as executive branch interference with the judiciary. On December 21, the Battambang Provincial Court sentenced three judges, two deputy prosecutors, and two court clerks to four years' imprisonment each on charges of corruption and corruption-related conspiracy.

Human rights groups continued to report that the government demonstrated its control of the courts by ordering the rearrest of suspects released either by the courts or through extrajudicial processes. Judges cited examples of interference from high-ranking officials tasking them to make rulings in line with political priorities.

Lawyers also noted that, in violation of the law, some police and prison officials, with apparent support from other government officials, have denied them the right to meet prisoners in private or for adequate lengths of time. After the 2003 anti-Thai riots, family members and human rights groups noted they did not have access to the 57 individuals detained by the government while the investigation was in progress.

There is a separate military court system, which suffered from deficiencies similar to those of the civilian court system. The legal distinction between the military and civil courts sometimes was ignored in practice, and civilians have been called for interrogation by military courts with no apparent jurisdiction in their cases.

In 2001 a law was promulgated to establish Extraordinary Chambers to bring Khmer Rouge leaders to justice for genocide, crimes against humanity, and war crimes committed from 1975 through 1979. In 2003 the UN General Assembly approved a draft agreement between the UN and the government for prosecution of crimes committed during the Democratic Kampuchea (Khmer Rouge) period. In October 2004 the National Assembly unanimously ratified the agreement with the UN and passed the amendments necessary to make the tribunal operational. The agreement outlined a 3-year budget of $56.3 million for the trials of senior Khmer Rouge leaders. Donor nations pledged contributions of $43 million, and the government pledged to contribute the remaining $13.3 million. However, the prime minister later announced that the government could provide only $1.3 million. Despite the funding shortfall, the government and the UN proceeded with the establishment of the Khmer Rouge Tribunal (KRT) and appointed the director of the KRT administration and the UN representative to the KRT.

Political Prisoners.—On February 3, the National Assembly stripped opposition MP Cheam Channy of his parliamentary immunity and arrested him on charges of organized crime and fraud following government allegations that he formed an illegal army. On August 9, a military tribunal convicted Channy and sentenced him

to seven years' imprisonment. NGOs and the diplomatic community strongly condemned the verdict as a breach of due process that raised fundamental questions about the country's progress toward rule of law. Although the government gave Channy the same protections as other prisoners, it did not permit regular access to him.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for the privacy of residence and correspondence and prohibits illegal searches; however, police routinely conducted searches and seizures without warrants. There were no reports that the government monitored private electronic communications.

Due to the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership often has been unclear, and most landowners lacked adequate formal documentation of ownership. Following the end of the Khmer Rouge insurgency, a rush to gain possession of lands near potentially lucrative cross-border trade routes exacerbated the ownership problem. Widespread land speculation has fueled disputes and increased tensions between poor rural communities and wealthy speculators. In 2002 the Ministry of Land Management, Urban Planning, and Construction established the Cadastral Commission to settle disputes over land that had not been registered or given a land certificate. The commission continued to perform its functions slowly due to a lack of finances, training, and experience. The courts under the Ministry of Justice remained responsible for resolving disputes in cases where land had been registered or disputants had been given land titles.

During the year the Ministry of Land Management, Urban Planning, and Construction began implementing a 2001 land law to protect land ownership and deeds. Problems of inhabitants being forced to relocate continued to occur when powerful officials or businessmen colluded with local authorities. One NGO reported receiving complaints during the year of 130 cases of land disputes that affected 7,885 families. Another NGO reported 335 cases during the same period. Some persons also used the court system to intimidate the poor and vulnerable into exchanging their land for meager compensation. The poor often had no legal documents to support their land claims and lacked faith in the judicial system to rule favorably on their behalf due to the corruption within the judiciary. Some of those expelled successfully contested these actions in court, but the majority lost their cases.

The use of land concessions by government officials for personal economic and political gains has increased the number of land disputes throughout the country. The UN special representative for human rights sharply criticized the government's land policies in a November 2004 report and called for full disclosure of information concerning all land concessions. Despite promising donors in October 2004 that he would stop issuing concessions, Prime Minister Hun Sen reversed this position in March. In early December the government released hundreds of documents containing in-depth information on economic land concessions, something donor nations had persistently requested.

On March 21, a mass eviction took place in the village of Kbal Spean, near the Thai border at Poipet, resulting in the shooting deaths of 5 villagers and injuries to at least 40 more. In 1997 district authorities had moved some current residents onto the land, which the residents cleared of trees and mines. However, a 2003 appeals court decision awarded the land in dispute to the village chief. Hundreds of civilian and military police were deployed to protect demolition workers who, in enforcing a 2003 appeals court eviction order, destroyed the homes of more than 200 families. An interministerial committee was established after the incident to investigate the case. A provincial court charged 55 villagers, including the 5 dead, with physical assault, and 63 police and a civilian for intentional killings. In August the court dropped all charges due to lack of evidence. Later in August the provincial authority reportedly again ordered the villagers to move off the land. In December approximately 200 villagers traveled to Phnom Penh to seek prime ministerial intervention to solve their dispute. The families, with assistance from an NGO, also lodged a complaint with the appeals court, but at year's end no action had been taken.

During the year indigenous Phnong in Mondulkiri Province launched a series of protests to block encroachment on communal land by the Wuzhichan Group, a Chinese company. These protests culminated on June 16, when approximately 40 police officers used water hoses to disperse 800 mostly Phnong hill tribe members. The members had gathered to demand that the provincial authority stop the company's activities on historically communal land that is also an ancestral gravesite. Wuzhishan reportedly had received more than 80 thousand hectares of concession in Mondulkiri for a tree plantation, a size violating the concession limit of 10 thousand hectares. On June 17, the Council of Ministers ordered suspension of the com-

pany's activities, but the company largely ignored the order. On July 7, villagers planned to protest continued government inaction, but roadblocks set up by local authorities prevented all but 300 to 400 protestors from reaching the provincial capital. In August the interministerial committee provided compensation to the villagers and a 10-thousand-hectare concession to the company. The villagers were not satisfied with the committee's solution, and at year's end the conflict remained unresolved.

In September the UN special representative on housing rights reported that the country had a worrisome pattern of land disputes between elites and the poor and that some local authorities and businessmen intimidated poor residents to accept eviction. The special representative reported that the prevalence of land confiscation stemmed from the country's lack of suitable land laws, clear property lines, and adequate legal systems, and that it was compounded by a culture of impunity, corruption, and the uncertain roles of civil and military officials.

A dispute originally affecting approximately 1,800 families over a road project between Phnom Penh and Ho Chi Minh City continued. Although most claims were settled, approximately 300 additional families submitted grievances to an interministerial resettlement committee for an increase in compensation, charging that the amount offered was inadequate.

After an October 2004 speech by Prime Minister Hun Sen concerning redistribution of land from speculators to the poor, thousands of villagers in Sihanoukville began a program of land grabbing on vacant plots owned by wealthier members of the community or absentee landlords. Authorities issued arrest warrants for 29 persons in connection with the act and eventually arrested 17 suspects, who were later released.

In November 2004 a major land dispute occurred involving hundreds of villagers in Pursat and Kompong Chnnang and the Pheapimex Company. The dispute involved a 31,500-hectare land concession granted to Pheapimex by the government. During protests in front of the company's worksite, an unknown person threw a grenade into the crowd of villagers, injuring eight persons. At year's end police had not made any arrests, and the company had ceased its operations.

There were reports of 5 cases of relocations that affected more than 500 families due to community development projects by the Phnom Penh Municipality. In December 2004 local officials and a real estate development company began pressing residents to leave Koh Pich, a small island in the Tonle Bassac River near Phnom Penh. The island's more than 300 families (most of whom were farming families living there since the 1980s) were offered a small amount of money, resettlement on marginal land in a nearby province, and food. Residents were subjected to a variety of threats and intimidating acts. Many residents sold their land out of fear and left the island. An NGO represented the remaining residents in negotiations and enabled them to obtain better compensation. Residents with the strongest land ownership claims remained on the island, hoping for a higher rate of compensation. In November the Phnom Penh Municipal Court issued an eviction order for the residents remaining on the island. NGOs asserted that the municipal court did not have jurisdiction in the Koh Pich case and that the dispute should be decided by the Cadastral Commission. At year's end all but five families, which had strong supporting documents, accepted the compensation offered and agreed to move off the land.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press; however, the government increasingly did not respect these rights in practice. The government used the weak and often politically biased judiciary to file defamation suits under the criminal code to arrest and silence antigovernment critics and outspoken civil society leaders. The media increasingly practiced self-censorship due to fear of government reprisal. The constitution implicitly limits free speech by requiring that it not adversely affect public security. The constitution also declares that the king is "inviolable."

The 1995 press law provides journalists with a number of rights, including a prohibition on prepublication censorship and protection from imprisonment for expressing opinions. However, it also includes a vaguely worded prohibition on publishing articles that affect national security and political stability. The press published a large number of news items critical of the government, including frequent, highly personal criticism of the prime minister, the national assembly president, and other senior officials. However, the government has increasingly used the older UN Transitional Authority in Cambodia law to prosecute journalists, civil society leaders, human rights activists, and members of the political opposition under criminal defamation charges rather than use the 1995 press law, which treats defamation as a civil matter.

All major political parties had reasonable and regular access to the print media. In general newspapers were aligned politically. Although the press law does not specifically permit newspapers, major newspapers that published in the Khmer language received support from various political parties. There were an estimated 20 Khmer-language newspapers published regularly; more than half were considered pro-CPP, one-third were considered to support FUNCINPEC, and 1 was considered to support the SRP. Although the three largest circulation newspapers were considered pro-CPP, most newspapers criticized the government frequently, particularly with respect to corruption. Prime Minister Hun Sen and National Assembly President Prince Norodom Ranariddh frequently came under strong attack by opposition newspapers.

The government, military forces, and ruling political party continued to dominate the broadcast media and influence the content of broadcasts. According to a 2001 UNHCHR report, the procedures for licensing and allocation of radio and television frequencies to the media were not impartial. The SRP and independent human rights advocacy groups aligned with the opposition have been unable to obtain broadcast licenses. The Ministry of Information allowed local French radio station FM 92 to broadcast live programming in Khmer originating from Radio France International in Paris.

There were seven television stations, all controlled or strongly influenced by the CPP. Government control severely limited the content of television and radio broadcasting. The government-controlled national television and radio stations broadcast taped sessions of national assembly debates; however, in several instances these broadcasts were censored. National radio and television stations regularly broadcast some human rights, social action, public health, education, and civil society programming produced by domestic NGOs.

On October 11, authorities detained Mam Sonando, radio journalist and owner of independent radio station Beehive/FM 105, for alleged defamation regarding the Cambodia-Vietnam Border Agreement. On October 15, CWC member and labor leader Rong Chhun was detained on defamation charges following the release of a public statement that he signed criticizing the government's border policies. Prison authorities denied access to human rights organizations and reporters and refused bail to both men. CWC members Man Nath, Ear Channa, and Chea Mony fled the country after the government issued warrants for their arrests. The government filed a request for their extradition. Prince Sisowath Thomico fled the country after the government charged him with defamation for criticizing government policies. Several journalists also fled to Thailand fearing prosecution for their reporting on the border agreement; they later returned to resume their work as reporters and at year's end had not faced prosecution. On December 31, police arrested Kem Sokha, CCHR president and prominent human rights activist, and Community Legal Education Center Director Yeng Virak on defamation charges stemming from the display of a banner during an International Human Rights Day rally in Phnom Penh on December 10. The government held both men responsible since they were involved in the event's organization. The UN special representative for human rights, NGOs, and the diplomatic community condemned the arrests and called for the immediate release of Sonando, Chhun, Virak, and Sokha; there also were calls for criminal proceedings to be immediately dropped against the three CWC members and Prince Thomico Sisowath.

There was no decision in the lawsuit filed in September 2004 against a military officer by a journalist alleging that the officer beat him and threatened him with a gun to stop a report on extortion and illegal logging. There were no developments in the 2003 killing of Chuor Chetharith, a reporter for pro-FUNCINPEC Taprohm Radio and former FUNCINPEC aide. While the case was still technically under investigation, it was unlikely that anyone would stand trial for the crime.

The CCHR-produced *Voice of Democracy* radio program, which included independent and often antigovernment views, was dropped by a pro-FUNCINPEC radio station in June 2004 after the program criticized the party's leader. Nevertheless, the program remained extremely popular, and in December the program also started broadcasting its program on the SRP-aligned radio station FM 93.5. Since 2003 the Ministry of Information has refused to grant the CCHR a license to operate a radio station, claiming that Phnom Penh had too many radio stations and newspapers. Nevertheless, FM 93.5 was able to increase its broadcasting capacity under its existing license from 5 kilowatts to 10 kilowatts during the year, expanding its range of coverage up to 100 kilometers from Phnom Penh.

Although the government increasingly used criminal defamation suits to silence its critics, defamation and libel suits against the media decreased compared to 2004, with only three newspapers charged with defamation during the year. In September the Supreme Court upheld a 2001 ruling by the Phnom Penh Municipal Court in

favor of Foreign Minister Hor Namhong in his defamation suit against a *Cambodia Daily* journalist. The Supreme Court fined the journalist approximately $7,500 (30 million riel) for a newspaper article that quoted allegations by the late senator Keo Bubthouk against Hor Namhong regarding events at the Khmer Rouge camp Boeng Trabek during the 1975–79 Pol Pot regime. The second defamation case was settled out of court. The third case involved a Koh Kong provincial border police officer who filed a defamation lawsuit with the Phnom Penh Municipal Court in September against *Kampuchea Tngai Nih* for an article that accused him of helping a fugitive flee the country. In August Prime Minister Hun Sen's chief of bodyguards threatened to file a defamation lawsuit against pro-opposition newspaper *Moneakseka Khmer* for alleging that he was involved in a 1997 grenade attack on an opposition rally, but at year's end no formal charges had been filed.

Media access to national assembly sessions is mandated by the constitution. The government broadcasts national assembly sessions on national television and radio; however, it continued to restrict media access to government facilities. Since 2003 the National Assembly has banned journalists from entering its grounds without authorization from the assembly's secretary general. In October police barred journalists from entering the grounds of the Phnom Penh Municipal Court after the court's top officials signed an order interpreted to be a total ban on reporters' access to the courthouse. The following day court officials clarified that the order required reporters to obtain permission to interview court officials and required written permission for journalists to bring recording devices into the courtroom. In practice reporters were not given free access to the courts.

Government authorities confiscated publications during the year. In February the government seized two thousand copies of a report documenting illegal logging and alleged corruption in the Aural Wildlife Sanctuary. The report was published by Global Witness, an NGO that monitored logging activities. However, the report remained easily accessible online and through distribution of an earlier printing.

The government did not restrict Internet access.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of peaceful assembly, but the government did not respect this right in practice. The government required that a permit be obtained in advance of a march or demonstration. The government routinely did not issue permits to groups critical of the ruling party. Throughout the year the government cited the 2003 anti-Thai riots, the need for stability, and public security as reasons for denying permits. Police forcibly dispersed groups that assembled without a permit, often resulting in minor injuries to some demonstrators. The government granted permission for an NGO coalition to hold a gathering in commemoration of International Human Rights Day on December 10, which organizers estimated that eight thousand persons attended. Although the government's authorization to hold the event initially appeared to be a positive step forward, the subsequent arrests of two of its organizers marked a significant setback to human rights (see section 2.a.).

During the year the government forcibly broke up multiple protests, including 8 protests by garment factory workers who had been denied permits, resulting in 100 injuries and 20 temporary detentions. In January district and military police set up roadblocks near the site of a public forum in Phnom Penh and stopped the cars of CCHR director Kem Sokha and opposition leader Sam Rainsy in a purported search for weapons. In February a CCHR-organized public forum in Svay Rieng Province was abruptly ended when an unidentified man began photographing the faces of persons trying to speak during the rally. On June 24, a provincial court sentenced two taxi drivers to one-year suspended prison sentences and five years' probation for incitement in a January protest against a highway toll increase. In January and September, police dispersed demonstrations by the opposition Khmer Front Party and arrested seven protestors, who were released after signing a pledge not to participate in an unauthorized protest in the future. During the year local authorities banned three meetings organized by the SRP.

In early June the prime minister warned those participating in public forums that they should be careful and stated that the authorities could not be blamed if the public became irate and took matters into their own hands. On September 4, the prime minister publicly urged supporters of the ruling parties to cease disrupting the public forums. Following a suggestion by the prime minister, the supreme patriarch of Buddhist monks issued a ban on political debates and public forums in pagodas.

In August authorities shut down a forum in Kompong Speu Province on the justification that they could not guarantee the safety of speakers after a group of approximately 40 persons started shouting pro-CPP slogans and pointing aggressively

at the panel of speakers. Also in August authorities disrupted a dialogue organized by CCHR with villagers in Sihanoukville. Earlier that morning the second deputy commune chief and the village chief, escorted by more than 20 police officers, ordered the owner of the house where the meeting was to be held to cancel the scheduled event. Police also entered the offices of the Khmer Kampuchea Krom Association in Phnom Penh and seized placards and banners that called on the Vietnamese government to respect their rights.

The government also failed to protect peaceful demonstrators from violence. At an unauthorized Students for Democracy (SMD) protest on September 27, a group of counterprotestors (whom a witness described as members of the pro-CPP Pagoda Boy Association) emerged to violently challenge the SMD protestors. Human rights organizations reported that police failed to establish order and prevent the assaults and instead seized the signs and detained the nonviolent SMD protestors, who were later released.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice; however, the government did not enforce effectively the freedom of association provisions of the labor law (see section 6.a.).

The government did not coerce or forbid membership in political organizations. Political parties normally were able to conduct their activities freely and without government interference. However, in a closed session on February 3, the National Assembly removed the immunity of three opposition parliamentarians, including opposition leader Sam Rainsy and two other opposition MPs from the SRP. One SRP MP was arrested that same day; Rainsy and the other MP, Chea Poch, fled the country rather than face possible arrest (see section 3). In August a military court sentenced MP Cheam Channy to seven years' imprisonment. SRP activist Khom Piseth was convicted in absentia.

Human rights organizations reported that some local authorities warned members of certain political parties that if they continued to support those parties, they would face a loss of residency rights, confiscation of property, and a ban on using local infrastructure.

Membership in the Khmer Rouge, which ruled the country from 1975 to 1979 and after its overthrow conducted an armed insurgency against the government, is illegal, as is membership in any armed group.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution also prohibits discrimination based on religion, and minority religions experienced little or no official discrimination. Buddhism is the state religion, and more than 95 percent of the population was Buddhist. Ethnic Cham Muslims constituted most of the remaining population.

In 2003 the Ministry of Cults and Religions issued an order prohibiting public proselytizing; however, this order was enforced only during the two-hour lunch period.

Societal Abuses and Discrimination.—Minority religions experienced little or no societal discrimination. There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice; however, there were reports that provincial authorities barred ethnic minority villagers from leaving Mondolkiri Province to attend an NGO workshop outside the province. In 2004 there were several reports of restrictions on villagers in Mondolkiri and Ratanakiri provinces after the Montagnard (hill tribes) unrest in neighboring Vietnam.

The government placed no restrictions on foreign travel. The government also did not restrict emigration or the return of citizens who had left the country.

The constitution prohibits forced exile, and the government did not employ it.

In 2002 the government signed a memorandum of understanding (MOU) with the United States to facilitate the return of deportable Cambodian nationals; 139 persons had been repatriated from the United States by year's end. An NGO provided reintegration assistance to those repatriated.

Protection of Refugees.—The law provides for the granting of asylum or refugee status, and the country is a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, in practice the government did not consistently respect the law and has not implemented legislation pertaining to the 1951 UN convention.

In January the governments of Vietnam and Cambodia and the UN High Commissioner for Refugees (UNHCR) signed an MOU to resolve the situation of approximately 750 Montagnards under UNHCR protection in Phnom Penh. In accordance with the MOU, Montagnards from the Central Highlands of Vietnam seeking asylum in Cambodia would either be resettled to a third country if accorded refugee status or be sent back to Vietnam, voluntarily or involuntarily. There was a report that four Vietnamese Montagnards seeking asylum were deported without review, despite a UNHCR presence in the country. The UNHCR maintained its Phnom Penh office but closed its Ratanakiri office in April 2004 in response to requests from local authorities. However, since July 2004 the UNHCR has made numerous trips to Ratanakiri to collect groups of Montagnards who have fled Vietnam. The government permitted the UNHCR to transport these asylum seekers to Phnom Penh, where the UNHCR processed them for potential resettlement abroad. On July 20, the government deported to Vietnam 94 asylum seekers whom the UNHCR had determined not to be refugees. NGOs that witnessed the event raised concerns about the use of excessive force and the possible use of electric shock batons during the deportation, but the UNHCR reported that proper restraint had been used. There were unconfirmed reports that Vietnamese authorities offered incentive awards to Cambodian border police who returned Vietnamese refugees to Vietnam and that Vietnamese secret police were active on the Cambodian side of the border. In January NGOs reported that Cambodian border police deported six Montagnard asylum seekers to Vietnam before UNHCR representatives were able to review their cases. In September the Ratanakiri deputy police commissioner warned villagers that they would be prosecuted for human trafficking crimes if they assisted Montagnards to enter Cambodia. Montagnard asylum seekers continued to enter the country from Vietnam through the end of the year. There were reports of at least one and possibly two incidents in which Montagnards were returned to Vietnamese territory in December.

Asylum seekers who reached the UNHCR office in Phnom Penh were processed with government cooperation. During the year 224 Montagnard asylum seekers and 25 other individuals arrived at the UNHCR refugee facilities in Phnom Penh. The UNHCR also processed 784 Montagnards who had arrived in previous years.

Following the October 11 detention of radio journalist Mam Sonando and CWC member Rong Chhun stemming from criticism of a proposed border agreement with Vietnam, several activists sought asylum abroad. Three civil society leaders from CWC sought refugee protection in Thailand and were granted refugee status by the UNHCR. CWC member Chhan Channy was resettled in Norway in November. However, the government sought extradition of two members to face defamation charges.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens generally exercised this right in practice through periodic elections on the basis of universal suffrage. Suffrage is voluntary for all citizens above the age of 18.

Elections and Political Participation.—Voter turnout for the most recent elections, held in 2003, was approximately 83 percent. The CPP won 73 seats in the election, FUNCINPEC 26 seats, and the SRP 24 seats. In July 2004 the CPP and FUNCINPEC formed a nominal coalition government, but the CPP dominated the government. All election observer groups noted improvements in the elections; however, they concluded the elections still fell short of international standards. Politically motivated violence remained a problem but was less than during previous elections. The government took action against only some alleged perpetrators and addressed other misconduct inconsistently.

Technical problems with the registration process and preparation of voter lists effectively disenfranchised many citizens in the elections. There also were incidents of voter intimidation by local officials. The National Election Commission (NEC) failed to establish a credible process to resolve election complaints. The appointment of NEC members by the MOI was not transparent and left the NEC open to charges of political influence by the ruling CPP.

During the elections there were improvements in media access for registered parties, and open political debate and multiparty debates were televised nationally for the first time; however, electronic media coverage heavily favored the ruling CPP. In 2003 at least six private radio and television stations refused to sell air time to political parties, a move that critics viewed as CPP-inspired; however, five other private radio stations sold airtime to political parties. The National TV of Cambodia was the sole television station to broadcast news of the general elections.

Some NGOs and political parties alleged that membership in the dominant CPP party provided advantages, such as gifts or access to government emergency aid.

In 2002 the government held its first nationwide commune, local-level elections. During the election campaign period, NGOs reported 25 FUNCINPEC and SRP activists and candidates were killed under suspicious circumstances, including 7 killings that human rights monitoring organizations agreed were politically motivated. The election results loosened the CPP's long hold on local governance. CPP commune chiefs remained in 99 percent of the 1,621 communes; however, as a result of the elections, power was shared with other parties in all but 148 communes. The transfer of power to the newly elected commune councilors was smooth. At year's end the MOI had not issued instructions for elected commune councils to implement the Commune Administration Law describing the power, duties, and functions of the councils.

In a closed session on February 3, the National Assembly voted to remove the immunity of opposition party members Sam Rainsy, Chea Poch, and Cheam Channy. Human rights groups and the diplomatic community condemned the suspension of immunity as a major setback for democracy in the country. Later that same day, police arrested Cheam Channy on charges of fraud and organizing an illegal armed force (see section 1.e.). Rainsy and Poch fled the country because they feared arrest. On August 8, the military court sentenced Channy and, in absentia, SRP member Khom Piseth to seven years' imprisonment. Poch returned to the country in early August to face charges of defamation. On December 22, a municipal court convicted Sam Rainsy in absentia and sentenced him to 18 months' imprisonment. At year's end Rainsy remained in a third country. Diplomatic officials protested Channy's trial by the military court and serious irregularities in the proceedings. The UN special representative for human rights expressed concern that the courts were increasingly being used as an instrument of the executive to silence opposition voices.

Traditional culture limited the role of women in government; however, women took an active part in the 2003 elections. The number of women in the National Assembly, Senate, and high-level government positions increased. There were 22 women in the 123-seat National Assembly, 9 women in the 61-seat Senate, and 24 women working as ministers, secretaries of state, undersecretaries of state, and NEC officials. Women also served as advisors, and there were 14 female judges at the municipal, provincial, and appeals court levels. After the 2002 local elections, women held 933 (8.3 percent) of the 11,261 commune council seats.

Minorities also took part in the government. There were 4 members of minorities—2 Cham and 2 tribal—in the National Assembly. There also were 6 members of minorities—2 Cham, 2 tribal, and 2 Thai—in the Senate. At least eight officials in senior positions in the government were from minority groups.

Government Corruption and Transparency.—Corruption was considered endemic and extended throughout all segments of society, including the executive and legislative branches of government. In January the prime minister instructed the Ministry of National Assembly-Senate Relations and Inspection to prepare a draft anticorruption law. Prime Minister Hun Sen announced his "Iron Fist" campaign to combat judicial corruption on March 3, which led to the dismissal of three judges and one prosecutor and the one-year suspension of two judges and two prosecutors. In addition three judges, two deputy prosecutors, and two court clerks were each sentenced to four years in prison. Public perception of corruption was widespread. Meager salaries contributed to "survival corruption" among low-level public servants, while a culture of impunity enabled corruption to flourish among upper-level officials.

There was no law providing for or prohibiting public access to government information. In August the National Assembly ratified the National Archives Law, which allows unlimited access to informational documents in the public archive. However, access to other unspecified government documents would be granted only after 20 years and documents affecting national security and preservation of personal lives would be released after 40 and 120 years, respectively. In practice the government occasionally denied access to information, citing reasons of confidentiality or national security.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government generally cooperated with human rights workers in performing their investigations; however, there were numerous reports of lack of cooperation or even intimidation by local authorities throughout the country.

There were approximately 40 NGOs involved in human rights activities; however, only a small portion of them were actively involved in organizing training programs or investigating abuses.

While the central government generally was cooperative, human rights NGOs faced a variety of threats and harassment from local officials. These took the form of restrictions on gatherings sponsored by NGOs, verbal intimidation, threats of legal action, bureaucratic obstruction, and other acts of interference. On July 5, Pursat provincial authorities temporarily detained three human rights workers after they photographed houses being demolished by soldiers during an eviction. The human rights workers were released after a few hours, following intervention by local police and court officials.

In July the Phnom Penh-based advisor of Global Witness, an NGO that monitors illegal logging, was denied reentry into the country and had his visa revoked. Immigration officials confirmed that he and four other international Global Witness staff were banned from entering the country. Unlike in 2004, there were no credible threats against local NGO staff providing shelter to trafficked victims and conducting antitrafficking advocacy and investigations.

In January the government and the UNHCHR signed an MOU that extended UNHCHR's activities in the country for two years. During the year the UNHCHR conducted activities related to human rights and the judiciary, and it maintained its headquarters in Phnom Penh and a regional office in Battambang.

The Cambodian Human Rights Committee, which the government established in 1998, was largely inactive. The committee did not have regular meetings or a transparent operating process. In April 2004 the committee issued a report for the first quarter of the year detailing mob killings, but it did not address the killing of union leader Chea Vichea and other serious human rights issues.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, color, language, religious beliefs, or political views; however, the government did not generally protect these rights.

Women.—Local and international NGOs reported that violence against women, including domestic violence and rape, was common. The law prohibits rape and assault. Spousal rape and domestic abuse are not recognized as separate crimes. A case of spousal rape could be prosecuted as "rape," "causing injury," or "indecent assault," but such charges were rare. One NGO reported 59 cases of domestic violence from January to August, including 10 deaths. The MOI's antitrafficking department investigated 398 cases of violence against women and children, resulting in the arrest of 431 perpetrators and rescue of 431 victims. Of the 431 arrests, 218 were for rape. A legal advocacy NGO reported having worked on 265 cases of violence against women and children, including trafficking, domestic violence, and rape. Of the 265 cases, 95 were tried during the year, of which 39 resulted in convictions. The other cases were acquitted by the court either for lack of evidence or because the victims withdrew their complaints. Authorities normally declined to become involved in domestic disputes, and the victims frequently were reluctant to issue formal complaints.

Prostitution is prohibited constitutionally; however, there is no specific legislation against working as a prostitute. Trafficking in women for the purpose of prostitution was a serious problem, despite laws against procuring and kidnapping for purposes of sexual exploitation (see section 5, Trafficking). Sex tourism was a problem, fueled by pervasive poverty and the perception of impunity. Despite sporadic crackdowns on brothel operators in Phnom Penh, prostitution and trafficking related to it persisted. Estimates of the number of working prostitutes ranged from 14,725 to 18,250.

The labor law has provisions against sexual harassment in the workplace, and the International Labor Organization (ILO) reported that sexual harassment in the industrial sector was rare. However, a local NGO study conducted on women working in the beer promotion industry reported widespread harassment: 83 percent experienced derogatory behavior, 80 percent faced unwanted sexual touching, 54 percent were physically abused, and 60 percent had been threatened, sometimes at gun point. A large number of NGOs provided training for poor and vulnerable women that addressed social problems such as spousal abuse, prostitution, and trafficking. A local media center produced and broadcast programming on women's issues. NGOs provided shelters for many women in crisis.

The constitution contains explicit language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice women had equal property rights, the same legal status to bring divorce proceedings, and equal access to education and some jobs; however, cultural traditions continued to limit

the ability of women to reach senior positions in business and other areas. In September the National Assembly passed a domestic violence law to prevent domestic violence and protect victims from domestic abuse. The law breaks from the cultural tradition of noninvolvement in domestic life, allowing citizens and government authorities to intervene to prevent domestic abuse. The Ministry of Women's Affairs, mandated to protect the rights of women and promote gender equality in society, produced the *Neary Ratanak* (Women as Precious Gems) Program. The program aimed to improve the image of women through gender mainstreaming, enhanced participation of women in economic and political life, and protection of women's rights. Demographic trends and a history of conflict have resulted in increasing female participation in the labor force. According to a 2001 labor force survey, women made up 52 percent of the population, 60 percent of agricultural workers, 85 percent of the business work force, 70 percent of the industrial work force (due to the high proportion of women working in garment factories), and 60 percent of all service sector workers (dominated by the tourism industry). Women often were concentrated in low-paying jobs and largely were excluded from management positions. Men made up the vast majority of the military, police, and civil service.

Children.—The constitution provides for children's rights, and the government made the welfare of children a specific goal. The government relied on international aid to fund most child social welfare programs, resulting in only modest funds for problems that affect children.

Children were affected adversely by an inadequate education system. Education was free, but not compulsory, through grade nine. Many children either left school to help their families in subsistence agriculture, began school at a late age, or did not attend school at all. A Ministry of Education (MOE) report issued in 2005 stated that 91 percent of eligible children were enrolled in primary school but only 26 percent of eligible students attended junior high and 9 percent attended high school. Despite an extensive school construction program, schools were overcrowded and lacked sufficient equipment. In rural areas, schools often provided only a few years of education. According to MOE data, 46 percent of schools lacked drinking water and 37 percent had no toilets. Teachers' salaries were irregularly paid and inadequate to support a decent standard of living, leading to demands for unofficial payments from parents, which the poorest families could not afford. The government did not deny girls equal access to education; however, families with limited resources often gave priority to educating boys. In many areas, schools were remote and transportation was a major problem. This especially affected girls because of safety concerns in traveling between their homes and schools.

Children frequently suffered from malnutrition, and the health care system was inadequate. According to the 2004 Cambodia Inter-Censal Population Survey, infant mortality was estimated at 66 per 1,000. It was also estimated that the mortality rate for children between the ages of 1 and 4 years was 17 per 1,000.

Child abuse was believed to be common, although no statistics were available. A domestic NGO estimated that more than 1,200 street children in Phnom Penh had no relationship with their families and more than 10 thousand children worked on the streets but returned to their family homes in the evenings. It was estimated that there were between 500 and 1,500 children living with their families on the streets in provincial towns. A local NGO reported a monthly intake of approximately 60 street children into its shelter for vocational and literacy training. The NGO reported observing 80 to 100 new children on the street every month. The Ministry of Social Affairs, Veterans, and Youth Rehabilitation (MOSAVY) provided lower statistics, reporting 3,084 street children nationwide. In June 2004 the governor of Phnom Penh began a controversial roundup of street children who were deemed "an eyesore to the outside tourists." The media reported that government officials stated the children were being sent to an NGO in Banteay Meanchey Province for drug rehabilitation. Many children were released on the roadside outside the city and subsequently returned to Phnom Penh; however, some children were never accounted for, and no NGO claimed to have received them.

Sexual intercourse with a person under age 15 is illegal; however, child prostitution and trafficking in children occurred (see section 5, Trafficking). In 2000 the government adopted a five-year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement (see section 5, Trafficking). A local NGO reported having investigated 29 cases of child sexual exploitation, which resulted in the arrest of 5 foreign pedophiles. Three perpetrators were charged and awaiting trial. Two pedophiles were sentenced to 15 and 10 years' imprisonment, respectively. Child rape remained a serious issue; a local NGO reported 65 cases of rape involving children below 10 years of age during the year; the youngest victim was 4 years old.

The illegal purchase and sale of children for prostitution was a problem. During the year raids on brothels rescued underage girls who were trafficked for prostitution.

Child labor was a problem in the informal sector of the economy (see section 6.d.).

Trafficking in Persons.—The 1996 Law on the Suppression of Kidnapping, Trafficking, and Exploitation of Humans (the trafficking law) prohibits trafficking in persons; however, persons were trafficked to, from, and within the country. The trafficking law establishes a prison sentence of 15 to 20 years for a person convicted of trafficking in persons under 15 years of age; the penalty is from 10 to 15 years for trafficking persons age 15 or older. In October 2004, at the Coordinated Mekong Ministerial Initiative Against Trafficking meeting, the country joined five other countries in the region in signing a memorandum on regional antitrafficking cooperation. In March the six governments approved a plan of action to serve as a blueprint to build cooperation amongst the countries. The trafficking law contains no provisions to protect foreign victims from being charged under the country's immigration laws, but during the year there were no reported cases of trafficking victims being treated as illegal immigrants.

While the government has increased arrests and prosecutions of traffickers and continued its support for prevention and protection programs through collaboration with foreign and domestic NGOs and international organizations, its antitrafficking efforts continued to be hampered by reports of corruption and a weak judicial system. According to the MOI, police investigated 612 cases of child sexual exploitation, rape, debauchery, and human trafficking. During the year police arrested 397 offenders, of whom 73 were for human trafficking. A legal advocacy NGO brought 47 trafficking cases to court, of which 15 went to trial. Convictions were obtained against 8 traffickers with sentences ranging from 2 to 15 years' imprisonment and civil compensation issued to victims ranging from $120 to $715 (500 thousand to 3 million riel). In June a Dutch man acquitted in 2004 by the Phnom Penh Municipal Court was convicted of debauchery by the appeals court and sentenced to 10 years in prison in addition to paying $250 (1 million riel) to each of his 6 victims.

Several government ministries were active in combating trafficking. In 2000 the government adopted a five-year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement. The government has established mechanisms for monitoring and reporting on the plan and has established a Department of Anti-Human Trafficking and Juvenile Protection. There were specialized MOI antitrafficking divisions in all provinces and municipalities. In June three new hotlines were established in provincial towns to receive reports of human trafficking and sexual exploitation. During the year the hotlines received 732 calls, of which 330 were related to trafficking and sexual exploitation. These cases fell into 4 categories: rape (190 cases), child sexual exploitation (50), human trafficking (70), and debauchery (24). MOSAVY worked with the International Organization for Migration (IOM) to repatriate trafficked victims from Thailand to Cambodia and from Cambodia to Vietnam. However, repatriation to Vietnam continued to be a long and arduous process. In addition the MOSAVY worked with the United Nations Children's Fund and local NGOs to manage community-based networks aimed at preventing trafficking. The Ministry of Women's Affairs continued a public education campaign against trafficking, focusing on border provinces. In October the government signed an MOU with Vietnam on bilateral cooperation to eliminate trafficking in women and children and assist victims of trafficking.

The country is a source, destination, and transit country for men, women, and children trafficked for the purposes of sexual exploitation and labor. A 2003 study estimated the number of trafficking victims in the sex industry to be approximately 2 thousand victims, approximately 80 percent of whom were Vietnamese women and girls. Some Vietnamese women and girls were trafficked through the country for exploitation in the commercial sex trade in other Asian countries.

Children were trafficked to Thailand and Vietnam for begging, soliciting, street vending, and flower selling. These children frequently were placed into debt bondage to beg or sell, or they formed part of organized begging rings even when there was no debt or economic hardship involved. One study by MOSAVY found that 76 percent of trafficked persons returned from Thailand came from families who owned land, 93 percent owned their own house and had no debt on the land or house, and 47 percent of trafficked persons stated that their mother was the facilitator. There was an increase in the trafficking of women to Malaysia to work in the sex industry.

Trafficking victims, especially those trafficked for sexual exploitation, faced the risk of contracting sexually transmitted diseases, including HIV/AIDS. In some cases victims were detained and physically and mentally abused by traffickers, brothel owners, and clients.

Traffickers used a variety of methods to acquire victims. In many cases victims were lured by promises of legitimate employment. In other cases acquaintances, friends, and family members sold the victims or received payment for helping deceive them. Young children, the majority of them girls, were often "pledged" as collateral for loans by desperately poor parents; the children were responsible for repaying the loan and the accumulating interest. Local traffickers covered specific small geographic areas and acted as middlemen for larger trafficking networks. Organized crime groups, employment agencies, and marriage brokers were believed to have some degree of involvement.

It was widely believed that some law enforcement and other government officials received bribes that facilitated the sex trade and trafficking in persons. In March four officials were suspended for extorting money from brothel owners in exchange for release from custody. In July the officials were formally charged. At year's end the criminal investigation was in progress, and one of the officials was placed in pretrial detention.

The MOSAVY referred trafficking victims to NGOs, which provided most assistance to the victims. The government participated as a partner in a number of these efforts; however, its contributions were hampered severely by limited resources. Some victims were encouraged by NGOs and the MOI to file complaints against perpetrators; however, in the general climate of impunity, victim protection could be problematic, and victims were known to be intimidated into abandoning their cases. The MOSAVY reported that from January to July, 261 victims were rescued, rehabilitated, and reintegrated into their families. During the year the MOSAVY also repatriated 145 women and children from Thailand and 1,216 from Vietnam, reintegrating the victims with their families. MOSAVY repatriated 13 trafficked Vietnamese girls. There were no reports of trafficked victims punished as illegal migrants.

During the year NGOs worked with the Ministry of Women's Affairs to repatriate 23 victims of sex trafficking from Malaysia, bringing to 40 the number of repatriated victims from Malaysia since 2003. The MOI was conducting an investigation into the trafficking of women and girls to Malaysia for sex.

In each of the provinces and municipalities, the government has established specialized antitrafficking and juvenile protection divisions, which raided a number of brothels and rescued numerous victims, including underage workers. The government provided most rescued victims with protection and worked with NGOs either to reunite the victims with their families or place them in a shelter. Trafficking victims, especially those exploited sexually, faced societal discrimination, particularly in their home villages and within their own families, as a result of having been trafficked.

In December 2004 the MOI's Antitrafficking and Juvenile Protection Police raided a notorious Phnom Penh hotel, detaining 8 suspected traffickers and placing 83 women and girls from the hotel under NGO care. A day after the raid the suspects were released by police, and a mob of family members and other unidentified persons removed or caused to be released 91 women and girls from the NGO shelter, including the 83 women and girls taken from the hotel. Authorities did not determine how many of these women and girls were trafficking victims. The government's interministerial report on the incident was widely criticized by NGOs and the diplomatic community as lacking credibility. The hotel continued to operate freely until a September 7 police raid, which led to the rescue of three trafficking victims and the arrest of four individuals for their involvement in human trafficking, including the hotel's owner. Authorities closed the hotel, and it remained closed at year's end.

The government used posters, television, radio, and traditional local theater to raise public awareness of human trafficking. The Ministry of Women's Affairs, in conjunction with IOM, continued its major information campaign to raise awareness of trafficking in persons and safe migration. The IOM continued to work with the ministry throughout the year to expand the project to all provinces.

Persons with Disabilities.—The government does not require that buildings or government services be accessible to persons with disabilities. The government prohibits persons with even minor disabilities from being teachers in public schools. In the most recent figures available dating from 1999, it was reported that there were 170 thousand persons with disabilities, including 24 thousand persons missing at least 1 limb and 6,744 persons missing more than 1 limb. Disability due to landmines accounted for 11.5 percent of persons with disabilities, while disability due to congenital problems and disease accounted for 53 percent. Programs administered by various NGOs brought about substantial improvements in the treatment and rehabilitation of persons who had lost limbs, but they faced considerable societal discrimination, especially in obtaining skilled employment.

There are no legal limitations on the rights of persons with disabilities to vote or participate in civic affairs, but the government does not make any concerted effort to assist them in becoming more civically engaged. The Rehabilitation Department of the MOSAVY is responsible for making policy to protect the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The rights of minorities under the 1996 nationality law are not explicit; constitutional protections are extended only to "Khmer people." Citizens of Chinese and Vietnamese ethnicity constituted the largest ethnic minorities. Ethnic Chinese citizens were accepted in society, but animosity continued toward ethnic Vietnamese, who were seen as a threat to the nation and culture. Some groups continued to make strong anti-Vietnamese statements. They complained of political control of the CPP by the Vietnamese government, border encroachment, and other problems for which they held ethnic Vietnamese at least partially responsible.

Indigenous People.—The government often ignored efforts by indigenous communities to protect their ancestral lands and natural resources. In spite of the 2001 land law, which calls for the registration of communal lands of indigenous people, little has been done to implement communal land titling. NGOs have called for a moratorium on land sales and land concessions affecting indigenous communities.

International and local NGOs have been active in educating the indigenous communities about their land rights. In June a group of approximately 800 Phnong minorities protested against a company's incursion on to their ancestral lands (see section 1.f.). NGOs organized regional and provincial workshops for the indigenous communities to discuss traditional methods of land management and land titling laws; however, there were reports that provincial authorities placed some restrictions on minority villagers traveling to attend workshops outside their provinces (see section 2.d.).

Other Societal Abuses and Discrimination.—Societal discrimination against those infected with HIV/AIDS remained a problem in rural areas; however, discrimination was moderated by HIV/AIDS awareness programs. There was no official discrimination against those infected with HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The labor law provides workers with the right to form professional organizations of their choosing without prior authorization, and all workers are free to join the trade union of their choice. However, the government's enforcement of these rights was selective. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations, although a few unions attempted to intimidate workers who wanted to withdraw. Unions may affiliate freely, but the law does not address explicitly their right to affiliate internationally.

The law does not apply to civil servants, including teachers, judges, and military personnel, or to household servants. Personnel in the air and maritime transportation industries were not entitled to the full protections of the law but were free to form unions. The law applies to all local and foreign workers.

Most workers were subsistence rice farmers, and although there was an expanding service sector, most urban workers were engaged in small-scale commerce, self-employed skilled labor, or unskilled day labor. Only a small fraction (estimated at less than 1 percent) of the labor force was unionized, and the nascent trade union movement was very weak. Unions suffered from a lack of resources, training, and experience. Unions were concentrated in the garment and footwear industries, where approximately 40 to 50 percent of the 280 thousand workers were union members. The Cambodian Tourism and Service Workers Federation, formed in 2003, represented more than 3,700 hotel, casino, and airport workers.

Due to prohibitions against public sector employees forming unions, the Cambodia Independent Teachers Association (CITA) is registered as an "association" and represented 7,850 members in 18 provinces and municipalities. Local and provincial authorities, acting on the government's orders, banned most of CITA's activities. Another public sector association, the Cambodian Independent Civil Servants' Association, was registered in January and represented more than 200 members from ministries, provincial departments, and commune councils throughout the country.

The law requires unions and employer organizations to file a charter and list of officers with the Ministry of Labor and Vocational Training (MOLVT). The MOLVT has registered 832 factory unions, 24 national labor federations, and 2 national confederations (alliances of several like-minded federations) since the law went into effect in 1997, including 202 unions, 5 federations, and 1 confederation during the year. There were no complaints that the government failed to register unions or

labor federations; however, some unions and federations complained of unnecessary delays and costs. Although all unions collected dues from members, none was able to operate without outside sources of financial support.

Of the 24 national labor federations, 15 were allied with the government, including 11 that were part of the progovernment Cambodian Confederation of Trade Unions (CCTU). The remaining nine federations were independent of government ties; many of them had pro-opposition leanings or support. There was credible evidence of management involvement in some labor unions. In some factories, management appeared to have established their own unions, supported promanagement unions, or compromised union leaders. Independent union leaders complained that the CCTU frequently intervened in the affairs of other unions, extorted money from management in exchange for discouraging workers from conducting legal strikes and demonstrations, and threatened rival union leaders. In December one union federation withdrew from the CCTU.

The government's enforcement of the right of association and freedom from antiunion discrimination was poor, and MOLVT was significantly less active than its pre-July 2004 predecessor, the Ministry of Social Affairs, Labor, Vocational Training, and Youth. The government's enforcement efforts were further hampered by a lack of political will and by confused financial and political relationships with employers and union leaders. The government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay staff adequate salaries. The MOLVT often decided in favor of employees but rarely used its legal authority to penalize employers who defied its orders.

During the year there were credible reports of antiunion harassment by employers, including the dismissal of union leaders, in 20 garment factories and other enterprises. Employers sometimes relied on the courts to dismiss or punish union leaders. In four cases, union leaders were charged with inciting workers to strike and destroying private property. On several occasions dismissed union leaders accepted cash settlements after unsuccessfully appealing to the government to enforce laws requiring their reinstatement. At other times the government upheld labor rights. For example, according to MOLVT statistics, the MOLVT fined 68 companies for law violations and sued 6 companies on behalf of workers during the year.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively, but the government's enforcement of these rights was inconsistent. Wages were set by market forces, except in the case of civil servants, whose wages were set by the government.

Since passage of the 1997 labor law, there has been confusion about the overlapping roles of labor unions and elected shop stewards. The law provides unions the right to negotiate with management over wages and working conditions and allows unions to nominate candidates for shop steward positions. The law provides shop stewards the right to represent the union and sign collective bargaining agreements; however, in practice most factories elected shop stewards before a union was present in the enterprise. Many unions had no legally enforceable right to negotiate with management if a nonunion shop steward had been elected. In addition the law specifically protects elected shop stewards from dismissal without permission from the MOLVT, but it grants no such protection to elected union leaders. In 2000 MOLVT issued a regulation that gave trade unions roles comparable to those of shop stewards and extended protection from dismissal to certain union officers within an enterprise; however, these protections for union leaders have not proved effective.

During the year there were 15 collective bargaining agreements registered with the MOLVT, most of which were conciliation agreements, which did not meet international collective bargaining standards. Only five genuine collective bargaining agreements existed within the garment industry. These agreements provided additional health and welfare provisions such as extra sick leave and maternity leave, factory clinic upgrades, and union-controlled welfare funds.

A 2001 regulation established procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. The regulation also established requirements for employers and unions regarding collective bargaining and provided union leaders with additional protection from dismissal. The Bureau of Labor Relations facilitated the process of union registration and certification of "most representative status" for unions, a status that entitled a union representing an absolute majority of workers in a given enterprise to represent all of the workers in that establishment. The MOLVT granted most representative status to 23 unions. Other unions that have applied for this status but not received it complained of unnecessary bureaucratic delays.

The law provides for the right to strike and protects strikers from reprisal. The MOLVT reported that 67 strikes occurred during the year, most of which violated prestrike legal requirements. The law stipulates that strikes can be held only after

several requirements have been met, including the failure of other methods of dispute resolution (such as negotiation, conciliation, and arbitration), a union organizing committee vote by secret ballot, and a seven-day advance notice to the employer and Ministry of Labor. Union leaders, in contrast, maintained that twice as many strikes had actually taken place, the majority of which were legal. Unions complained that a severe lack of MOLVT involvement led to a dramatic increase in industrial action from July 2004 until June.

The government allowed most strikes held at factories but denied worker requests to hold protest marches outside of the factory district. Police intervention at strikes generally was minimal and restrained, even in those cases where property damage occurred. Police presence at the few marches that occurred tended to be excessive and often included a specialized police intervention unit.

On January 20, police arrested two union leaders, including Chea Mony, president of the Free Trade Union of the Workers of the Kingdom of Cambodia, for illegally organizing a labor strike in Phnom Penh, which prompted an outcry from workers and human rights groups. The two men were released from police custody on the same day in exchange for promising to stop conducting illegal protests.

On February 15, antiriot police fired assault rifles and used electric batons to break up a protest by approximately one thousand workers demanding redundancy payment from a garment factory that was closed. Observers estimated that 18 protesters were injured in the clash between workers and the police.

On May 11, three union leaders from the Federation Union of Solidarity were arrested on charges of extorting money from a garment factory. They were released a week after negotiations with a high-ranking government official; at year's end their case was pending in court.

In spite of legal provisions protecting strikers from reprisals, there were credible reports that workers were dismissed on spurious grounds after organizing or participating in strikes. In some cases strikers were pressured by employers to accept compensation and leave their employment.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including forced labor by children, but the government did not enforce its provisions adequately. Involuntary overtime remained widespread. Under the law, legal overtime work cannot exceed two hours daily and must be voluntary; however, in practice overtime was often extended beyond the legal limit, and employers used coercion to force employees to work. Workers often faced fines, dismissal, or loss of premium pay if they refused to work overtime.

There also were reports of isolated cases of forced labor by domestic servants.

Forced child labor was a serious problem in the commercial sex industry (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government has adopted laws to protect children from exploitation in the workplace. The labor law establishes 15 years as the minimum age for employment and 18 years as the minimum age for hazardous work. The law permits children between 12 and 15 to engage in "light work" that is not hazardous to their health and does not affect school attendance.

In late August the National Assembly ratified ILO Convention 182 on the worst forms of child labor. The king signed it into law in October.

Law enforcement was often weak. No aspect of the law was adequately enforced in the formal employment sector, including the provisions against child labor. No employer has been prosecuted for violating laws against child labor. MOLVT has responsibility for child labor issues in both the formal and informal sectors of the economy, but its labor inspectors played no role in the informal sector or in enforcing the law in illegal industries. Within the formal sector, labor inspectors conducted routine inspections of some industries, such as garment manufacturing (where the incidence of child labor is negligible), but in some industries with the highest child labor risk, labor inspections were entirely complaint-driven.

Of children between ages 5 and 17, 53 percent were employed; one-third of these children were above 14. Approximately 71 percent of them worked in agricultural, farming, or forestry activities; 21 percent in sales or service; and 7 percent in production work.

The constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry (see section 5). Law enforcement agencies failed to combat child prostitution in a sustained, consistent manner. Widespread corruption, lack of transparency, inadequate resources, and staffing shortages remained the most challenging obstacles.

e. Acceptable Conditions of Work.—The law requires the MOLVT to establish minimum wages based on recommendations from the Labor Advisory Committee, a

group that had not met since July 2004. By law the minimum wage may vary regionally. In 2000 the Labor Advisory Committee approved a minimum wage equivalent to $45 per month, but this extended only to the garment and footwear industries. Most garment and footwear factories respected the minimum wage. There was no minimum wage for any other industry.

Garment workers earned an average wage equivalent to $65 per month, including overtime and bonuses. Prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living. Civil service salaries also were insufficient to provide a decent standard of living, requiring government officials to secure outside sources of income, in many cases by obtaining second jobs or collecting bribes.

The law provides for a standard legal workweek of 48 hours, not to exceed 8 hours per day. The law stipulates time-and-a-half for overtime and double time if overtime occurs at night, on Sunday, or on a holiday; however, the government did not enforce these standards effectively. Workers in many garment factories reported that overtime was excessive or involuntary or that they were required to work seven days per week. Similarly, outside the garment industry, regulations on working hours were rarely enforced.

The law states that the workplace should have health and safety standards adequate to ensure workers' well-being. The government enforced existing standards selectively, in part because it lacked trained staff and equipment. Work-related injuries and health problems were common. Most large garment factories producing for markets in developed countries met relatively high health and safety standards as conditions of their contracts with buyers. Working conditions in some small-scale factories and cottage industries were poor and often did not meet international standards. The government issued several instructions on workplace standards, and more detailed regulations awaited approval by the Labor Advisory Committee before they could be promulgated. Penalties are specified in the law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers who removed themselves from unsafe working conditions risked loss of employment.

CHINA

The People's Republic of China (PRC) is an authoritarian state in which, as specified in its constitution, the Chinese Communist Party (CCP) is the paramount source of power. Party members hold almost all top government, police and military positions. Ultimate authority rests with the 24-member political bureau (Politburo) of the CCP and its 9-member standing committee. General Secretary Hu Jintao holds the three most powerful positions as CCP general secretary, president, and chairman of the Central Military Commission (CMC). The party's authority rested primarily on the government's ability to maintain social stability; appeals to nationalism and patriotism; party control of personnel, media, and the security apparatus; and continued improvement in the living standards of most of the country's 1.3 billion citizens. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, and the government continued to commit numerous and serious abuses. There was a trend towards increased harassment, detention, and imprisonment by government and security authorities of those perceived as threatening to government authority. The government also adopted measures to control more tightly print, broadcast and electronic media, and censored online content. Protests by those seeking to redress grievances increased significantly and were suppressed, at times violently, by security forces. There were notable developments in legal reforms during the year. However, some key measures to increase the authority of the judiciary and reduce the arbitrary power of police and security forces stalled. The government adopted new religious affairs regulations expanding legal protection for some activities of registered religious groups but was criticized for failing to protect unregistered groups.

The following human rights problems were reported:

- denial of the right to change the government
- physical abuse resulting in deaths in custody
- torture and coerced confessions of prisoners
- harassment, detention, and imprisonment of those perceived as threatening to party and government authority

- arbitrary arrest and detention, including nonjudicial administrative detention, reeducation-through-labor, psychiatric detention, and extended or incommunicado pretrial detention
- a politically controlled judiciary and a lack of due process in certain cases, especially those involving dissidents
- detention of political prisoners, including those convicted of disclosing state secrets and subversion, those convicted under the now-abolished crime of counterrevolution, and those jailed in connection with the 1989 Tiananmen demonstrations
- house arrest and other nonjudicially approved surveillance and detention of dissidents
- monitoring of citizens' mail, telephone and electronic communications
- use of a coercive birth limitation policy, in some cases resulting in forced abortion and sterilization
- increased restrictions on freedom of speech and the press; closure of newspapers and journals; banning of politically sensitive books, periodicals, and films; and jamming of some broadcast signals
- restrictions on the freedom of assembly, including detention and abuse of demonstrators and petitioners
- restrictions on religious freedom, control of religious groups, and harassment and detention of unregistered religious groups
- restrictions on the freedom of travel, especially for politically sensitive and underground religious figures
- forcible repatriation of North Koreans and inadequate protection of many refugees
- severe government corruption
- increased scrutiny, harassment and restrictions on independent domestic and foreign nongovernmental organization (NGO) operations
- trafficking in women and children
- societal discrimination against women, minorities, and persons with disabilities
- cultural and religious repression of minorities in Tibetan areas and Muslim areas of Xinjiang
- restriction of labor rights, including freedom of association, the right to organize and bargain collectively, and worker health and safety
- forced labor, including prison labor

There were several positive human rights developments during the year. The government returned authority to approve death sentences to the Supreme People's Court, supported local experiments to record police interrogation of suspects, and limited the administrative detention of minors, the elderly, pregnant women, and nursing mothers. In March government officials stated that family bible studies in private homes need not be registered with the government and said that the law permitted religious education of minors, but problems continued in both areas. The National People's Congress (NPC) adopted amendments to the law protecting women's rights and interests, including one outlawing sexual harassment. The government ratified International Labor Organization (ILO) Convention 111 prohibiting discrimination in employment. The government also hosted visits by international human rights monitors.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—During the year politically motivated and other arbitrary and unlawful killings occurred. While no official statistics on deaths in custody were available, state-run media reported that law enforcement officials killed 460 persons and seriously injured more than 100 through abuse or dereliction of duty in 2003.

In December police shot and killed at least three protesters in Dongzhou village, Guangdong Province, the first known shooting of public protesters by security forces since 1989. Villagers claimed that as many as 20 villagers were shot and killed by paramilitary riot police, with approximately 40 others missing. The government said the shooting occurred after protesters threw explosives at police and claimed that

three protesters were killed. It suspended an official responsible for the incident, pending an investigation.

An unconfirmed, published report said that authorities beat a petitioner to death in Beijing in April.

Trials involving capital offenses sometimes took place under circumstances involving severe lack of due process and with no meaningful appeal. Executions often took place on the day of conviction or failed appeal. In Xinjiang, executions of Uighurs whom authorities accused of separatism but which some observers claimed were politically motivated were reported (see section 5). The government regarded the number of death sentences it carried out as a state secret. However, in March 2004 an NPC deputy asserted that nearly 10 thousand cases per year "result in immediate execution," a figure Supreme People's Court (SPC) and Ministry of Justice officials stated was exaggerated. Foreign experts estimated that the country executed between 5 thousand and 12 thousand persons each year. The SPC announced its intention to take back from provincial courts the authority to approve all death sentences, an authority given to provinces during the government's 1983 anticrime "strike hard" campaign. During the year judges were hired and an administrative division established to conduct reviews of death sentences, but the SPC had not yet begun exercising its authority (see section 1.e.). Media reports stated that approximately 10 percent of executions were for economic crimes, especially corruption. NPC officials insisted during the year that there were no plans to abolish the death penalty for economic crimes.

b. Disappearance.—The government used incommunicado detention. The law requires notification of family members within 24 hours of detention, but individuals were often held without notification for significantly longer periods, especially in politically sensitive cases. Citizens who were reportedly detained with no or severely delayed notice included blind legal activist Chen Guangcheng, attorney Zhu Jiuhu, petitioner advocate Hou Wenzhuo, and writer Yang Maodong (also known as Guo Feixiong). In 2004 Jiang Yanyong and his wife were detained and held incommunicado for several weeks in connection with a letter he wrote to government leaders asking for reconsideration of the 1989 Tiananmen massacre.

As of year's end, the government had not provided a comprehensive, credible accounting of all those killed, missing, or detained in connection with the violent suppression of the 1989 Tiananmen demonstrations.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law forbids prison guards from extorting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners; however, police and other elements of the security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. Officials acknowledged that torture and coerced confessions were chronic problems and began a campaign aimed at curtailing these practices. Former detainees credibly reported that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse.

After a November visit, UN Special Rapporteur on Torture Manfred Nowak concluded that torture remained widespread, although the amount and severity decreased. He reported that beatings with fists, sticks, and electric batons were the most common tortures. Cigarette burns, guard-instructed beatings by fellow inmates, and submersion in water or sewage were also reported. Nowak further found that many detainees were held for long periods in extreme positions, that death row inmates were shackled or handcuffed 24 hours per day, and that systematic abuse was designed to break the will of detainees until they confessed. Procedural and substantive measures to prevent torture were inadequate. Nowak found that members of some house church groups, Falun Gong adherents, Tibetans, and Uighur prisoners were specific targets of torture. The government said Nowak's preliminary report was inaccurate because he had visited only three Chinese cities (Beijing, Lhasa, and Urumqi) and urged him to revise conclusions in his final report.

Since the crackdown on Falun Gong began in 1999, estimates of Falun Gong adherents who died in custody due to torture, abuse, and neglect ranged from several hundred to a few thousand (see section 2.c.). In October Falun Gong adherents Liu Boyang and Wang Shouhui of Changchun, Jilin Province, reportedly died in custody after being tortured by police.

During the year police continued to use torture to coerce confessions from criminal suspects, although the government made efforts to address the problem of torture. A one-year campaign by the Supreme People's Procuratorate (SPP) to punish officials who infringed on human rights, including coercing confessions through torture or illegally detaining or mistreating prisoners, ended in May. The campaign uncovered more than 3,700 cases of official abuse.

A series of wrongful convictions in murder cases came to light in which innocent persons were convicted on the basis of coerced confessions. Among them, Nie Shubin of Hebei Province, who was executed in 1995 for a murder-rape, was exonerated in January after the true killer confessed. She Xianglin of Hubei Province was exonerated in March of murdering his wife in 1994 after she reappeared alive and well. The SPP campaign resulted in the prosecution of 1,924 officers and 1,450 convictions. Among them, a Gansu Province police officer was sentenced to life in prison in January for torturing a suspect to death. In June three Yunnan Province police officers were sentenced to one year in prison for torturing a suspect and rendering him disabled. At the campaign's conclusion, the SPP announced that preventing coerced confessions was its most important supervisory priority. Scholars advocated reform of police interrogation practices. In one highly publicized experiment, officials ordered audio and videotaping of police interrogations. Suspects in a few locations were offered the opportunity to have a lawyer present during interrogation.

During the year there were reports of persons, including Falun Gong adherents, sentenced to psychiatric hospitals for expressing their political or religious beliefs (see section 1.d.). Some were reportedly forced to undergo electric shock treatments or forced to take psychotropic drugs.

Petitioners and other activists sentenced to administrative detention also reported being tortured. Such reports included being strapped to beds or other devices for days at a time, beaten, forcibly injected or fed medications, and denied food and use of toilet facilities. A petitioner reportedly choked to death from force-feeding in a police-run psychiatric hospital in Beijing, according to a released inmate. Mao Hengfeng, a Shanghai housing petitioner who reportedly suffered various forms of torture while in reeducation-through-labor, was released in September, but authorities continued to monitor and harass her.

Prison and Detention Center Conditions.—The Ministry of Justice administered more than 700 prisons with a population of over 1.5 million inmates, according to official statistics. In addition some 30 jails for juveniles housed approximately 22 thousand juvenile offenders. The country also operated hundreds of administrative detention centers, which were run by security ministries and administered separately from the formal court system (see section 2.d.).

Conditions in penal institutions for both political prisoners and common criminals generally were harsh and frequently degrading. Prisoners and detainees often were kept in overcrowded conditions with poor sanitation. Prison capacity became an increasing problem in some areas. Food often was inadequate and of poor quality, and many detainees relied on supplemental food and medicines provided by relatives; some prominent dissidents were not allowed to receive such goods. Political prisoners were segregated from each other and placed with common criminals, who sometimes beat political prisoners at the instigation of guards. Newly arrived prisoners or those who refused to acknowledge committing crimes were particularly vulnerable to beatings. In January 2004 political dissident He Depu was reportedly beaten by guards at Beijing No. 2 Prison and made deaf in one ear. Authorities acknowledged He's deafness, but asserted that he was already deaf when he entered prison. Prolonged use of electric shocks and use of a rack-like disciplinary bed were reported. Inner Mongolian cultural activist Hada was among those reportedly tortured. Chinese prison management forced prisoners to engage in labor, both as punishment and a source of funding (see section 6.c.).

Officials confirmed that executed prisoners were among the sources of organs for transplant. No national law governed organ donations nor were there reliable statistics on how many organ transplants using organs from executed prisoners occurred, but a Ministry of Health directive explicitly states that buying and selling human organs and tissues is not allowed. Transplant doctors stated publicly in 2003 that "the main source [of organ donations] is voluntary donations from condemned prisoners," but serious questions remained concerning whether meaningful or voluntary consent from the prisoners or their relatives was obtained.

Adequate, timely medical care for prisoners continued to be a serious problem, despite official assurances that prisoners have the right to prompt medical treatment. Labor activist Yao Fuxin suffered a heart attack in prison in August and foreign residents Yang Jianli and Wang Bingzhang previously suffered strokes in prison. In all three cases, authorities rejected their requests for outside medical care. Yao and fellow labor activist Xiao Yunliang also had to withstand frequent prison transfers while in ill health.

According to an NGO report, the government recently confirmed that Abidjan Obulkasim, a Uighur student imprisoned in 1995 on charges of counterrevolutionary activities, died in prison in 2003 of tuberculosis. Other prisoners with health concerns included democracy activists Qin Yongmin, Hua Di, Wang Sen, and He Depu; Internet writers Yang Zili and Luo Yongzhang; labor activists Hu Shigen and Zhang

Shanguang; Inner Mongolian activist Hada; and religious prisoners Zhang Rongliang, Liu Fenggang, Xu Yonghai, Gong Shengliang, Bishop Su Zhimin, and other underground Catholic bishops. During the year some political prisoners went on hunger strikes to protest their treatment, including Shandong Province legal advocate Chen Guangcheng, Anhui Province democracy activist Zhang Lin, and writer Yang Maodong (Guo Feixiong).

Acknowledging guilt was a precondition for receiving certain prison privileges, including the ability to purchase outside food, make telephone calls, and receive family visits. Prison officials often denied privileges to those, including political prisoners, who refused to acknowledge guilt or obey other prison rules. After foreign resident Yang Jianli refused to wear his prison uniform and engaged in acts of civil disobedience, prison staff prohibited him from communicating with his lawyer, obstructed family visits, transferred him to another facility, and reportedly placed him on an abusive labor team. Foreign citizen and Falun Gong member Charles Lee staged a hunger strike to protest forced "reeducation" sessions he received in prison, where he remained at year's end. Some prominent political prisoners, however, received better than standard treatment.

Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons. Beating deaths occurred in administrative detention and reeducation-through-labor facilities. While the 2003 death of Sun Zhigang in a custody-and-repatriation camp for illegal migrants led the State Council to abolish that system, the government failed to enact proposed legislation to reform the system of reeducation-through-labor. The reform reportedly stalled because of objections from public security forces.

Sexual and physical abuse and extortion were reported in some detention centers. Falun Gong activists reported that police raped female practitioners, including an incident in November at the Dongchengfang police station in Tunzhou City, Hebei Province, in which two women were raped while in detention. Forced labor in prisons and reeducation-through-labor camps was common. Juveniles were required by law to be held separately from adults, unless facilities were insufficient. In practice, children sometimes were detained without their parents, held with adults, and required to work (see sections 1.d. and 6.c.).

The government generally did not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remained inaccessible to most international human rights organizations. However, the government hosted visits by the UN high commissioner for human rights and the UN special rapporteur for torture and permitted them to visit prisons (see section 4). In July the government and the International Committee of the Red Cross (ICRC) agreed to terms permitting the ICRC to open an office in Beijing. The office opened, although the agreement did not grant the ICRC access to prisons. Working-level meetings with foreign government officials on a prison labor memorandum of understanding continued during the year and included a few prison visits (see section 6.c.).

d. Arbitrary Arrest or Detention.—Arbitrary arrest and detention remained serious problems. The law permits police and security authorities to detain persons without arresting or charging them. It also permits sentencing without trial to as many as four years in reeducation-through-labor camps and other administrative detention. Because the government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to new or continued arbitrary arrest or detention. According to 2003 government statistics, more than 260 thousand persons were in reeducation-through-labor camps. Foreign experts estimated that more than 310 thousand persons were serving sentences in these camps in 2003. According to published SPP reports, the country's 340 reeducation-through-labor facilities had a total capacity of about 300 thousand persons. In addition the population of special administrative detention facilities for drug offenders and prostitutes grew rapidly following a campaign to crack down on drugs and prostitution. In 2004 these facilities held more than 350 thousand offenders, nearly three times as many as in 2002. The government also confined some Falun Gong adherents, petitioners, labor activists, and others to psychiatric hospitals.

Among those specially targeted for arbitrary detention or arrested during the year were current and former China Democracy Party activists, Falun Gong practitioners, domestic and foreign journalists, unregistered religious figures, and former political prisoners and their family members. Business associates of released Uighur political prisoner Rebiya Kadeer were detained in Xinjiang from May to December. Her relatives were also harassed on several occasions after her March release abroad (see sections 2.c. and 5).

Role of the Police and Security Apparatus.—The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police,

the People's Liberation Army (PLA), and the state judicial, procuratorial, and penal systems. The Ministries of State and Public Security were responsible for internal security. SPP and SPC officials admitted that courts and prosecutors often deferred to the security ministries on policy matters and individual cases. The PLA was responsible for external security, but also had some domestic security responsibilities.

The Ministry of Public Security (MPS) coordinates the country's law enforcement, which is administratively organized into local, county, provincial, and specialized police agencies. Recent efforts have been made to strengthen historically weak regulation and management of law enforcement agencies; however, judicial oversight was limited, and checks and balances were absent. Corruption at the local level was widespread. Police officers reportedly coerced victims, took individuals into custody without due cause, arbitrarily collected fees from individuals charged with crimes, and mentally and physically abused victims and perpetrators.

Arrest and Detention.—Extended, unlawful detention remained a problem, although the government claimed to have eliminated it. In March both the SPP and the SPC told the NPC that they had resolved all cases of extended, unlawful detention. Nonetheless, a number of politically sensitive individuals were held for periods longer than that authorized by law, including journalists Zhao Yan and Ching Cheong. In some cases, investigating security agents or prosecutors sought repeated extensions, resulting in pretrial detention of a year or longer. It was uncertain how many other prisoners were similarly detained.

According to the law, police may unilaterally detain a person for up to 37 days before releasing him or formally placing him under arrest. After a suspect is arrested, the law allows police and prosecutors to detain him for up to six and one-half months before trial while the case is further investigated. Dissident Yang Jianli was held without conviction for more than two years before his verdict and five-year sentence was announced in May 2004.

The law stipulates that authorities must notify a detainee's family or work unit of his detention within 24 hours. However, failure to provide timely notification remained a serious problem, particularly in sensitive political cases (see section 1.b.). Under a sweeping exception, officials are not required to provide notification if doing so would "hinder the investigation" of a case. In some cases police treated those with no immediate family more severely.

According to regulations, public security organs had broad discretion to detain administratively suspects without supervision from a court or other outside bodies for up to 15 days, with the possibility of consecutive detention periods of up to 45 days. During the year the NPC passed the Security Administration Punishments Law, which banned administrative detention of minors, the elderly, pregnant women, and nursing mothers, created a maximum time for interrogation, and revised the maximum period of this type of detention to 20 days. The law provided for administrative review of detention decisions. It also expanded the number and type of offenses subject to administrative detention to include illegal demonstrations, disturbing social order in the name of religion, invasion of privacy, and publication that incites ethnic or national hostility or discrimination. Police continued to hold individuals without granting access to family members or lawyers, and some trials continued to be conducted in secret. Detained criminal suspects, defendants, their legal representatives, and close relatives were entitled to apply for bail; however, in practice few suspects were released pending trial.

The reeducation-through-labor system allows non-judicial panels of police and local authorities, called Labor Reeducation Committees, to sentence persons to up to three years in prison-like facilities. The committees have authority to extend an inmate's sentence for an additional year. Defendants were legally entitled to challenge reeducation-through-labor sentences under the Administrative Litigation Law through the court system (see section 1.e.). They could appeal for a reduction in, or suspension of, their sentences; however, appeals rarely were successful. Many other persons were detained in similar forms of administrative detention, known as "custody and education" (for prostitutes and those soliciting prostitutes) and "custody and training" (for minors who committed crimes). Li Guoqing was detained for three months in a mandatory drug rehabilitation center in Pingdingshan, Henan Province. Published reports said Li was given electric shocks until he signed a confession saying he took drugs and was then incarcerated at the center. Medical tests taken after his release supported his claim that he had never used drugs. A special form of reeducation centers was used to detain Falun Gong practitioners who had completed terms in reeducation-through-labor but whom authorities decided to continue detaining.

According to foreign researchers, the country had 20 *ankang* institutions (high-security psychiatric hospitals for the criminally insane) directly administered by the Ministry of Public Security. Some dissidents, persistent petitioners, and others were

housed with mentally ill patients in these institutions. Patients in these hospitals were reportedly given medicine against their will and forcibly subjected to electric shock treatment. The regulations for committing a person into an ankang psychiatric facility were not clear. Credible reports indicated that a number of political and trade union activists, underground religious believers, persons who repeatedly petitioned the government, members of the banned China Democratic Party, and Falun Gong adherents were incarcerated in such facilities during the year. These included Wang Miaogen, Wang Chanhao, Pan Zhiming, and Li Da, who were reportedly held in an ankang facility run by the Shanghai Public Security Bureau. In August Wang Wanxing, who unfurled a banner in Tiananmen Square on the third anniversary of the 1989 massacre, was released from a Beijing ankang run by the Ministry of Public Security and sent abroad. After his release, he described conditions in the ankang as "basically sadistic" and said he witnessed a petitioner held in the facility who choked to death from force-feeding.

In 2004 the government attempted to resolve a motion that would have expelled China from the World Psychiatric Association (WPA) for using psychiatric facilities to incarcerate political prisoners. During the year, a WPA delegation visited the country without reaching a consensus

Administrative detention was frequently used as a vehicle to intimidate political activists and prevent public demonstrations (see section 2.b.).

Authorities arrested persons on charges of revealing state secrets, subversion, and common crimes to suppress political dissent and social advocacy. Citizens also were detained and prosecuted under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, and government activity. The number of persons executed each year has been deemed by the government to be a state secret. Information could retroactively be classified a state secret by the government. Approximately 10 citizens writing on the Internet were detained on state secrets and subversion charges during the year (see section 2.a.).

The government used house arrest as a nonjudicial punishment and control measure against dissidents, released political prisoners, family members of political prisoners, petitioners, underground religious figures, and others it deemed politically sensitive or troublemakers. House arrest was characterized by complete isolation in one's own home or another location under lock and guard. In some cases house arrest involved constant monitoring, but the target of house arrest was occasionally permitted to leave the home to work or conduct errands. When outside the home, the subject of house arrest was usually, but not always, under surveillance. No publicly available laws or regulations governed conditions for house arrest.

Former senior leader Zhao Ziyang died in January after spending more than 15 years under house arrest in Beijing for his support of students during Tiananmen in 1989. Zhao's former aide Bao Tong remained under similar surveillance in his home. In March Jiang Yanyong was released after spending more than eight months in house arrest because he wrote to government leaders in 2004 requesting an official reassessment of the 1989 crackdown. He was formally detained for two months in June 2004 and was monitored in his home after release. His wife, who was detained at the same time as Jiang, was released earlier but forbidden to travel abroad until mid-year. At year's end Jiang remained unable to travel abroad. In September blind legal advisor and family planning whistleblower Chen Guangcheng was released by security authorities after four days of formal detention, but he was immediately placed under house arrest in Yinan County, Shandong Province. Local police and other government officials took turns monitoring him. Several underground Catholic priests and bishops were under house arrest for varying periods during the year. The longest serving among them may be Bishop Su Zhimin, who has reportedly been detained in a form of house arrest in Baoding, Hebei Province, since 1997. Government officials claimed they took no coercive actions against him (see section 2.c.). Tibetan nun Phuntsog Nyidrol remained under constant surveillance and could not travel freely despite expiration of her parole in February (see Tibet addendum).

Scores of other dissidents and activists reported regularly being placed under house arrest during sensitive political events, such as the NPC session or visits by foreign dignitaries, including the visit of the UN high commissioner for human rights in August and the November visit of the UN special rapporteur on torture. Authorities in Xinjiang used house arrest and other forms of arbitrary detention against those accused of the "three evils" of extremism, splittism, and terrorism, including at the time of Xinjiang's 50th anniversary celebration in October. Because authorities failed to distinguish carefully between peaceful activities supporting independence, "illegal" religious activities, and violent terrorism, it was difficult to determine whether raids, detentions, arrests, or judicial punishments were targeted at those peacefully seeking political goals, those seeking worship, or those engaged

in violence (see section 5). Others held under house arrest for varying periods during the year included Tiananmen activist Qi Zhiyou, Internet writer Liu Di, underground Catholic bishops Jia Zhiguo and Wei Jingyi, members of the Tiananmen Mothers organization and the Independent PEN Center for Freedom to Write. Family members of some detained political prisoners reported being under house arrest or other surveillance for nearly one-third of the year.

The CCP used a form of discipline known as *shuang gui* for violations of CPC discipline, but there were reports of its use against nonparty members. Shuang gui is similar to house arrest and can be authorized without judicial involvement or oversight.

e. Denial of Fair Public Trial.—The law states that the courts shall exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice the judiciary was not independent. It received policy guidance from both the government and the CCP, whose leaders used a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases. At both the central and local levels, the government frequently interfered in the judicial system and dictated court decisions. Trial judges decide individual cases under the direction of the trial committee in each court. In addition the CCP's law and politics committee, which include representatives of the police, security, procuratorate, and courts, had the authority to review and influence court operations at all levels of the judiciary; in some cases the committee altered decisions. Party and political leaders were known to instruct courts and judges on the handling of individual cases. People's congresses also had authority to alter court decisions, but this happened rarely. Corruption often influenced judicial decision-making and safeguards against corruption were vague and poorly enforced (see section 3). The people's congresses appointed judges at the corresponding level of the judicial structure. Judges received their court finances and salaries from those government bodies and could be replaced by them. This sometimes resulted in local authorities exerting undue influence over the judges they appointed and financed.

The SPC is the highest court, followed in descending order by the higher, intermediate, and basic people's courts. These courts handle criminal, civil, and administrative cases, including appeals of decisions by police and security officials to use reeducation through labor and other forms of administrative detention. There were special courts for handling military, maritime, and railway transport cases.

Trial Procedures.—Trials took place before a judge, who was often accompanied by "people's assessors," lay persons hired by the court to assist in decision-making. According to law, people's assessors had authority similar to judges, but in practice they deferred to judges and did not exercise an independent jury-like function.

There was no adversary system, no presumption of innocence, and judges and prosecutors typically used an inquisitorial style of questioning the defendant, who was often the only witness. The law affords no right to remain silent, no protection against double jeopardy, and no law governing the type of evidence that may be introduced.

The mechanism that allows defendants to confront their accusers was inadequate; according to one expert, only 1 to 5 percent of trials involved witnesses. Accordingly, most criminal trials consisted of the prosecutor reading statements of witnesses who neither the defendant nor his lawyer had an opportunity to question. Defense attorneys had no authority to compel witnesses to testify or to mandate discovery, although they could apply for access to government-held evidence relevant to their case. In practice, pretrial access to information was minimal and the defense often lacked adequate opportunity to prepare for trial.

The law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation, although police often circumvented defendants' right to seek counsel. Individuals who faced administrative detention were not granted the right to seek legal counsel. Government-employed lawyers were often reluctant to represent defendants in politically sensitive cases and defendants frequently found it difficult to find an attorney. In some sensitive cases, lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to speak during trials. In practice criminal defendants often were not assigned an attorney until a case was brought to court. Even in nonsensitive criminal trials, only one of every seven defendants had legal representation, according to credible reports citing internal government statistics.

Although the government did not publish a conviction rate, more than 98 percent of defendants whose cases were closed in 2004 were sentenced to criminal punishment; less than 0.5 percent of all defendants were found not guilty. In many politically sensitive trials, which rarely lasted more than several hours, the courts hand-

ed down guilty verdicts immediately following proceedings. Defendants who refused to acknowledge guilt often received harsher sentences than those who confessed. There was an appeals process, but appeals rarely resulted in reversed verdicts. Appeals processes failed to provide sufficient avenue for review, and there were inadequate remedies for violations of defendants' rights. Nationwide, original verdicts were changed on appeal in only 0.34 percent of all cases, including capital cases.

SPC regulations require all trials to be open to the public, with certain exceptions, such as cases involving state secrets, privacy, and minors. The legal exception for cases involving state secrets was used to keep politically sensitive proceedings closed to the public and in some cases even to family members. Under the regulations, foreigners with valid identification are allowed the same access to trials as citizens, but in practice foreigners were permitted to attend court proceedings by invitation only. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as "state secret" cases, fill all available seats with security officials, or otherwise close them to the public. Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the Internet.

The government still had not implemented recommendations from the UN Working Group on Arbitrary Detention's 1997 visit, and the issues identified in 1997 continued to be serious problems. First, the law lacks a presumption of innocence until proven guilty. Second, it fails to define "endangering national security," so overly broad prosecutions could and did occur. Third, the law includes no protection for those peacefully exercising rights protected by the Universal Declaration of Human Rights. Fourth, there is no real judicial control of the reeducation-through-labor system. During a return 2004 visit, the Working Group noted that the government announced plans to address deficiencies in reeducation through labor and regulate the use of psychiatric institutions in administrative detention through legislation, but there was no action on such legislation during the year.

The government offered limited legal aid and reduced fees for poor litigants. According to the Ministry of Justice, during the year 433,965 litigants in 253,665 cases received legal aid, up 48 percent and 33 percent, respectively, from the previous year. The four thousand government lawyers providing legal aid remained inadequate to meet demand. Nonattorney legal advisors and government employees provided the only legal aid options in many areas. According to government statistics, 10,458 employees provided legal aid at 3,023 legal aid institutions. New regulations required law firms and private attorneys to provide some legal aid. Criminal and administrative cases remained eligible for legal aid, although the vast majority of defendants still went to trial without a lawyer. During 2004 courts waived over $130 million (RMB 1.09 billion) in litigation costs.

Police and prosecutorial officials often ignored the due process provisions of the law. The lack of due process was particularly egregious in death penalty cases. There were over 60 capital offenses, including nonviolent financial crimes such as counterfeiting currency, embezzlement, and corruption. Executions were often carried out on the date of conviction. The SPC reported that in 2004 it reviewed 400 serious criminal cases, including capital cases, and began the process of taking back from provincial courts the authority to approve all death sentences to ensure that more uniform standards were used (see section 1.a.). From 2003 to October, the SPC rejected 7.2 percent of death sentences it reviewed and changed 22 percent of death penalty verdicts to life imprisonment. The government regarded the number of death sentences it carried out as a state secret. Minors and pregnant women were expressly exempt from the death sentence, although in the past the government executed a few criminals who were under age 18 at the time they committed an offense.

During the year lawyers, law professors, legal journals, and jurists held seminars and publicly debated systemic legal reform.

Courts lacked the independence and authority to rule on the constitutionality of laws. In December a law was enacted permitting any organization or individual to question laws and regulations they believe contradict the constitution. Under the new law, a constitutional challenge first requires consultation with the body drafting the questioned regulation and allows only an appeal to the NPC. During the year lawyers saw little opportunity to use the constitution in litigation.

Some lawyers who tried to defend their clients aggressively faced serious intimidation and abuse by police and prosecutors, and some were detained. According to Article 306 of the Criminal Law, defense attorneys can be held responsible if their clients commit perjury, and prosecutors and judges have wide discretion in determining what constitutes perjury. According to the All-China Lawyers Association, since 1997 more than 500 defense attorneys have been detained under Article 306 and similar charges. Although over 80 percent were ultimately acquitted, the prosecutions had a chilling effect on attorneys' willingness to handle controversial de-

fense cases. In 1990 Beijing attorneys handled an annual average of 2.64 criminal cases; by 2000, the figure had dropped to 0.78. Nationwide, attorneys handled an average of only 0.72 criminal cases in 2004.

Harassment and detention of defense attorneys continued during the year. In February, Shanghai defense attorney Guo Guoting had his law license suspended and ultimately fled the country. His suspension came only days before the trial of journalist Shi Tao, whom Guo had agreed to defend against charges of leaking state secrets (see section 2.a.). The attorney who replaced Guo handling Shi's defense was unwilling to enter a not guilty plea on Shi's behalf. Guo previously defended several controversial clients, including forced eviction victims in Shanghai and their legal advisor Zheng Enchong. Zheng was sentenced in 2003 to three years' imprisonment for providing state secrets to overseas entities. After Zheng won a human rights award from the German Association of Judges in December, security officials harassed those who represented Zheng at the awards ceremony and prevented his wife from visiting him in prison.

In May Beijing attorney Zhu Jiuhu was detained in Shaanxi Province and held for four months after meeting with clients protesting land seizures involving private oil fields. Zhu was charged with unlawful assembly based on a meeting he had with his clients (see section 2.b.). The Beijing Bar Association made several unsuccessful attempts to secure Zhu's release, and attorneys hired by the bar association were refused access to him on several occasions. One of the attorneys defending Zhu, Gao Zhisheng, had his law license suspended later in the year. Zhu was released in September, but several of his clients remained detained. Among those clients, the leading organizer of the oil field protests, Feng Bingxian, was tried in December for instigating "mass social disorder" and sentenced to three years' imprisonment. The chief prosecutor at Feng's trial was part of a government working group investigating the seizure of the private oil fields and had been sued by Feng in a civil lawsuit. The prosecutor refused to stand down amid charges of conflict of interest.

In September blind legal activist Chen Guangcheng, who publicized family planning (see section 1.f.) and other abuses by local officials in Linyi City, Shandong Province, was detained in Beijing and held for four days before being forced to return to Shandong and placed under house arrest. Local officials physically abused Chen on several occasions after he tried to file lawsuits objecting to the abuses by local officials, including those involving family planning and police abuse of power. Attorneys and law professors who rallied to defend Chen were threatened with retaliation, including dismissal from university posts. In October local authorities and hired thugs beat attorneys Xu Zhiyong and Li Fanping when they tried to meet Chen at his home. Other attorneys attempting to appear in court on lawsuits Chen initiated were detained and forced to leave town. Chen remained under a form of house arrest at year's end, and the central government took no action.

In September authorities detained writer Guo Feixiong, an employee of the Gao Zhisheng law firm, as he was helping villagers attempt to recall the elected village head of Taishi, Guangdong Province. He was charged with gathering a crowd to disturb social order and held until December 29 (see section 2.b.). In December two attorneys assisting the Taishi villagers, Guo Yan and Tang Jingling, were fired by their law firms, allegedly due to government pressure.

In November the Beijing justice department closed the law firm of defense attorney Gao Zhisheng and suspended his license for one year. Authorities claimed Gao's suspension was due to his refusal to retract an open letter he wrote to Hu Jintao in October condemning abuse of Falun Gong practitioners. He was suspended shortly before the sentencing of another controversial client, house Christian pastor Cai Zhuohua (see section 2.c.). After Gao continued to fight his suspension, security officials rammed his car and threatened his life. Gao was detained, questioned, and released on several occasions.

Political Prisoners.—Government officials continued to deny holding any political prisoners, asserting that authorities detained persons not for their political or religious views, but because they violated the law; however, the authorities continued to confine citizens for reasons related to politics and religion. Tens of thousands of political prisoners remained incarcerated, some in prisons and others in reeducation-through-labor camps and other forms of administrative detention. The government did not grant international humanitarian organizations access to political prisoners.

Western NGOs estimated that approximately 500 persons remained in prison for the repealed crime of "counterrevolution," and thousands of others were serving sentences under the state security law, which Chinese authorities stated covers crimes similar to counterrevolution. Persons detained for counterrevolutionary offenses included labor activist Hu Shigen; Inner Mongolian activist Hada; and dissidents Yu Dongyue, Zhang Jingsheng, and Sun Xiongying. Foreign governments urged the

government to review the cases of those charged before 1997 with counterrevolution and to release those who had been jailed for nonviolent offenses under the old statute. During the year the government held expert-level discussions with foreign officials on conducting such a review, but no formal review was initiated. However, a number of "counterrevolutionary" prisoners were released during the year, some after receiving sentence reductions. Editor Chen Yanbin, who received a sentence reduction several years ago, was released on April 12 after spending more than 14 years in prison. The government maintained that counterrevolutionary prisoners were eligible for parole and early release on an equal basis with other non-counterrevolutionary prisoners but provided no evidence to support this assertion.

The reeducation-through-labor system allows nonjudicial panels of police and local authorities, called labor reeducation committees, to sentence persons to up to three years in prison-like facilities. The committees can also extend an inmate's sentence for an additional year. Defendants were legally entitled to challenge reeducation-through-labor sentences. They could appeal for a reduction in, or suspension of, their sentences; however, appeals rarely were successful. Many other persons were detained in similar forms of administrative detention, known as "custody and education" (for prostitutes and their clients) and "custody and training" (for minors who committed crimes). Li Guoqing was detained for three months in a forced drug rehabilitation center in Pingdingshan, Henan Province. Published reports said Li was given electric shocks until he signed a confession saying he took drugs and was then incarcerated at the center. A special form of reeducation center was used to detain Falun Gong practitioners who had completed terms in reeducation through labor, but whom authorities decided to continue detaining.

Amnesty International has identified more than 80 persons by name all of who remained imprisoned or on medical parole for their participation in the 1989 Tiananmen demonstrations; other NGOs estimated that as many as 200 persons remained in prison for political activities connected to the demonstrations.

The authorities granted early release from prison to Uighur businesswoman Rebiya Kadeer in March. Many others, including journalists Zhao Yan, Shi Tao and Jiang Weiping; Internet writers Yang Zili and Xu Wei; labor activists Yao Fuxin and Xiao Yunliang; China Democracy Party cofounder Qin Yongmin; political dissident Yang Jianli; family planning whistleblower Chen Guangcheng; Su Zhimin and other underground Catholic Bishops; house Christian activists Zhang Rongliang, Cai Zhuohua, Liu Fenggang and Xu Yonghai; Uighurs Tohti Tunyaz and Dilkex Tilivaldi; Tibetans Jigme Gyatso, Tenzin Deleg, and Gendun Choekyi Nyima; and Inner Mongolian cultural activist Hada remained imprisoned or under other forms of detention during the year. Political prisoners generally benefited from parole and sentence reduction at significantly lower rates than ordinary prisoners.

Criminal punishments could include "deprivation of political rights" for a fixed period after release from prison, during which the individual is denied the already limited rights of free speech and association granted to other citizens. Former prisoners also sometimes found their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment, and some encountered difficulty in obtaining or keeping employment and housing (see section 1.f.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law states that the "freedom and privacy of correspondence of citizens are protected by law"; however, the authorities often did not respect the privacy of citizens in practice. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored; moreover, the Public Security Bureau and the Procuratorate could issue search warrants on their own authority without judicial consent, review, or consideration. Cases of forced entry by police officers continued to be reported.

During the year authorities monitored telephone conversations, facsimile transmissions, e-mail, text messaging, and Internet communications. Authorities also opened and censored domestic and international mail. The security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines. All major hotels had a sizable internal security presence, and hotel guestrooms were sometimes bugged and searched for sensitive or proprietary materials.

Some citizens were under heavy surveillance and routinely had their telephone calls monitored or telephone service disrupted. The authorities frequently warned dissidents and activists, underground religious figures, former political prisoners, and others whom the government considered to be troublemakers not to meet with foreigners. During the year police ordered many such citizens not to meet with for-

eign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or party meetings, and during the visits of high-level foreign officials. Security personnel also harassed and detained the family members of political prisoners, including following them to meetings with foreign reporters and diplomats, and urging them to remain silent about the cases of their relatives. Family members of prisoners were discouraged or prevented from meeting with the UN special rapporteur for torture.

Forced relocation because of urban development continued, and in some locations, increased during the year. Protests over relocation terms or compensation, some of which included thousands of participants, were common, and some protest leaders were prosecuted during the year (see sections 2.b. and 3). Some evictions in Beijing were linked to construction for the 2008 Olympics. In rural areas, relocation for major state projects, such as dams, and for commercial development resulted in the forced relocation of millions of persons.

The country's birth planning policies retained harshly coercive elements in law and practice. The laws restrict the rights of families to choose the number of children they have and the period of time between births. The penalties for violating the law are strict, leaving some women little choice but to abort pregnancies. In addition implementation of the policy by local officials resulted in serious violations of human rights. Reports of forced sterilizations and abortions, in violation of the national law, continued to be documented in rural areas.

The law standardizes the implementation of the government's birth limitation policies; however, enforcement varied significantly from place to place. The law grants married couples the right to have one birth and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. Many provincial regulations require women to wait four years or more after their first birth before making such an application. According to the UN Population Fund (UNFPA), the spacing requirement was removed in 5 and relaxed in 10 of the 30 counties across 30 provinces participating in UNFPA's "Fifth Country Program." The law requires couples that have an unapproved child to pay a "social compensation fee," which sometimes reached 10 times a person's annual income, and grants preferential treatment to couples who abide by the birth limits. Although the law states that officials should not violate citizens' rights, these rights, as well as penalties for violating them, are not clearly defined. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

Social compensation fees are set and assessed at the local level. The law requires family planning officials to obtain court approval before taking "forcible" action, such as confiscation of property, against families who refuse to pay social compensation fees. However, in practice this requirement was not always followed.

The one-child limit was more strictly applied in the cities, where only couples meeting certain conditions (e.g., both parents are only children) were permitted to have a second child. In most rural areas (including towns of under 200 thousand persons), which included approximately two-thirds of the country's population, the policy was more relaxed, generally allowing couples to have a second child if the first was a girl or had a disability. Central government policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization, although reports of physical coercion to meet birth targets continued.

Provinces have responsibility to enforce the law through the implementation of regulations. All provincial-level governments except the Tibet Autonomous Region (TAR) have amended their regulations to conform to the new law. For example, Anhui Province passed a law permitting 13 categories of couples, including coal miners, some remarried divorcees, and some farm couples, to have a second child. Ethnic minorities like the Uighurs and the Tibetans are also allowed more than one child.

Seven provinces—Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin and Ningxia—require "termination of pregnancy" if the pregnancy violates provincial family planning regulations. An additional 10 provinces—Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi and Yunnan—require unspecified "remedial measures" to deal with out-of-plan pregnancies.

In order to delay childbearing, the law sets the minimum marriage age for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to have a child. Social compensation fees have been levied on unwed mothers.

The country's population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures such as the threat of job loss or demotion and social compensation fees. Psychological and economic pressures were very common. According to provincial regulations, the fees ranged from one-

half to 10 times the average worker's annual disposable income. Those who violated the child limit policy by having an unapproved child or helping another to do so faced disciplinary measures such as job loss or demotion, loss of promotion opportunity, expulsion from the party (membership in which was an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of property. In the case of families that already had two children, one parent was often pressured to undergo sterilization. These penalties sometimes left women with little practical choice but to undergo abortion or sterilization. There were several rewards for couples who adhered to birth limitation laws and policies, including monthly stipends and preferential medical and educational benefits. The National Population and Family Planning Commission (NPFPC) expanded a number of programs to encourage smaller families. For example, new pension benefits were made available nationwide for those who adhered to birth limitation laws.

The law states that Family Planning Bureaus will conduct pregnancy tests on married women and provide them with unspecified "follow-up" services. Some provincial regulations provide for fines if women do not undergo periodic pregnancy tests. For example, in Hebei the range was $25 to $62 (RMB 200 to 500), and in Henan it was $6 to $62 (RMB 50 to 500).

Officials at all levels remained subject to rewards or penalties based on meeting the population goals set by their administrative region. There continued to be sporadic reports of violations of citizens' rights by local officials attempting to reduce the number of births in their region. The most egregious reports occurred in Linyi, Shandong Province. International press reports alleged that some 130 thousand persons were detained by local officials in "population schools" to force them or their relatives to submit to abortions or sterilization procedures. Local officials profited from this illegal system by charging fees, according to media reports. At least seven thousand people were forcibly sterilized. Local rights activists documented several cases of forced late-term abortions. According to law, citizens may sue officials who exceed their authority in implementing birth-planning policy. Legal activist Chen Guangcheng remained under investigation and house arrest as a result of his work exposing the abuses in Linyi (see section 1.e.). Use of population schools as detention centers was reported in 2004 in Anhui Province.

A subsequent NPFPC investigation revealed that local officials in Linyi had violated the law. Some officials were removed from office. The NPFPC announced it would take steps to enhance the rule of law and safeguard the rights of citizens. However, promotions for local officials still depended in part on meeting population targets.

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations with the traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate these pregnancies (see section 5). The most recent official figures put the overall male to female sex ratio at birth at 116.9 to 100 (compared with the statistical norm of 106 to 100), and in some parts of the country, the ratio was even more skewed. For second births, the national ratio was 151.9 to 100. During the year the NPFPC expanded programs to raise awareness of the sex ratio imbalance and to improve protection of the rights of girls.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, although the government generally did not respect these rights in practice. The government interpreted the CCP's "leading role," as mandated in the constitution, as circumscribing these rights. The government continued to threaten, arrest, and imprison many individuals for exercising rights to free expression. Internet essayists and journalists in particular were targeted, including Hunan writer Shi Tao and *New York Times* employee Zhao Yan. The government continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. Such controls tightened during the year, and new regulations made it increasingly difficult to express views that differed from those authorized by the government on the Internet, through broadcast media and in print. Media outlets received regular guidance from the Central Propaganda Department listing topics that should not be covered, including politically sensitive topics. All media employees were under explicit orders to follow CCP directives and guide public opinion. These measures greatly restricted the freedom of journalists and Internet writers to report the news and led to a high degree of self-censorship.

The scope of permissible private speech continued to expand. Political topics could be discussed privately and in small groups without punishment, and minor criticisms of the government were common topics of daily speech. So long as the speaker

did not publish views that challenged the Communist Party or disseminate such views to overseas audiences, the range of permissible topics for private speech continued to grow. However, public speeches, academic discussions, and speeches at meetings or in public forums covered by the media remained circumscribed. Those who aired views that disagreed with the government's position on controversial topics risked punishment ranging from disciplinary action at government work units to police interrogation and detention. These restrictions and more formal restrictions on freedom of the press and academic freedom had a chilling effect on freedom of speech.

Some citizens continued to speak out and publish on controversial topics, despite the government's restrictions. For example, Ding Zilin and other family members of those killed or missing at the 1989 Tiananmen demonstration wrote an open letter to legislators seeking an official reassessment of the verdict condemning the protests, including rehabilitation of recently deceased former Party Secretary Zhao Ziyang. Guangzhou Professor Ai Xiaoming wrote an open letter to Hu Jintao protesting the beating of villagers, including the elderly, in Taishi, Guangdong Province (see sections 2.b. and 4). Afterwards, Ai was reportedly beaten and threatened. In November Huang Jingao, party secretary of Lianjiang County, Fujian Province, was sentenced to life in prison for writing a 2004 open letter critical of endemic corruption. Li Changqing, a journalist from Fuzhou who helped Huang write the open letter, was detained and charged with subversion. Lawyer Gao Zhisheng wrote an open letter criticizing the persecution of Falun Gong, resulting in the suspension of his license to practice law (see section 1.d.).

Journalists who reported on topics that met with the government's or local authorities' disapproval continued to suffer harassment, detention, and imprisonment.

In July courts rejected an appeal by two editors from Guangdong Province's *Southern Metropolitan Daily* newspaper, despite receiving a petition from over 2,300 Chinese journalists claiming that conviction of the two editors on corruption charges in 2004 was punishment for the newspaper's muckraking news coverage. Yu Huafeng continued to serve an eight-year sentence on charges of embezzlement, and former editor Li Minying was serving a six-year sentence on bribery charges. The newspaper's editor-in-chief Cheng Yizhong, who was imprisoned for five months in 2004 on similar charges, which were subsequently dropped, was not allowed to travel abroad to accept a UN Educational, Scientific and Cultural Organization (UNESCO) press freedom award. Other journalists who remained in prison included Liaoning Province anticorruption reporter Jiang Weiping, Jiangsu Province journalist Huang Jinqiu, and Hunan Province journalist and Internet writer Shi Tao. During the year 32 journalists and Internet writers were imprisoned.

Detention of journalists and Chinese employees working for foreign media outlets increased concern that the government was attempting to intimidate foreign correspondents and newspapers. In April Hong Kong-born journalist Cheng Xiang (more commonly known as Ching Cheong) of the *Singapore Straits Times* was detained and charged with espionage. NGOs reported he was detained while researching a story about former leader Zhao Ziyang, while the government claimed he accepted money from overseas intelligence groups. In August security officials detained and questioned a Chinese employee of the *Washington Post*. The employee was released the same day. In November two Hong Kong journalists were harassed and expelled after attempting to interview Lin Mu, a secretary to former premier Hu Yaobang. *New York Times* employee Zhao Yan remained jailed without trial after being detained in September 2004 and later formally charged with fraud and leaking state secrets. Zhao Yan's detention came shortly after the newspaper published an article correctly forecasting the resignation of Jiang Zemin as chairman of the CMC. The newspaper denied that Zhao provided any information about Jiang's retirement. A handwritten note by Zhao that prosecutors highlighted as the key incriminating evidence said nothing about Jiang.

In addition to criminal prosecution of writers, some government officials used civil lawsuits and other punishments to intimidate authors and block controversial writings. In April writer Li Jianping was detained in Zibo, Shandong Province, for posting articles critical of the CCP on foreign Web sites. Originally charged with libel, he has since been formally arrested on subversion charges. There was still no verdict from the August 2004 libel trial of Anhui Province authors Chen Guidi and Wu Chuntao over their book *China Peasant Survey* (*Nongmin Diaocha*). The book, a best seller until it was banned, describes abuse and extortion of farmers by local officials, one of whom sued the authors and their publishing house for libel. Scholars and attorneys stated that the lawsuit and high damages sought of approximately $25 thousand (RMB 200 thousand) were intended to intimidate the publisher and inhibit criticism.

The government continued to close publications and punish journalists for printing material deemed too sensitive. In March Xiao Weibin, who in 2004 was dismissed as editor of *Tongzhou Gongjin* magazine, was stripped of his post as a member of the Guangdong Province Political Consultative Congress during the year. Zhang Jian, a reporter for the *Legal Daily* who in 2004 wrote about the beating death of bible distributor Jiang Zongxiu, was sanctioned by his work unit. In December three *Beijing News* editors, Yang Bin, Sun Xuedong and Li Duoyu, were fired. To protest the firing, over 100 of the newspaper's journalists held a brief work boycott. Published reports said the editors were fired because of the newspaper's reporting on controversial events, including a land protest in Shengyou, Hebei Province (see section 2.b.).

Newspapers could not report on corruption without government and party approval, although authorities approved reports about some high-profile cases. Publishers printed such material at their own risk. During the year journalists and editors who exposed corruption scandals frequently faced problems with the authorities. The 10-year sentence meted out to journalist Shi Tao in April was seen as a form of retaliation for Shi's past work exposing corruption in Hunan and Shanxi Provinces, according to published reports.

Propaganda authorities also restricted reporting about public protests (see section 2.c.). In December media were banned from reporting on an incident in Dongzhou, Guangdong Province, in which police fatally shot at least three protesters in a land dispute. Domestic and foreign reporters were also blocked from traveling to the area. Earlier in the year, authorities blocked reporting and prevented journalists from covering protests that turned violent, including July and August protests over the recall of the village chief in Guangdong's Taishi village and a May protest in Hebei Province's Shengyou village over a land dispute that left six dead and dozens injured.

Officials continued to censor and ban some reporting on labor, health, and environmental crises. In November local and central government authorities withheld information for several days about a toxic chemical spill into the Songhua River. Reporting was restricted and Web site comments were blocked concerning several fatal mining accidents (see section 6.e.). In August *Henan Commercial News* was closed for a month, and its editor was forced to resign after it publicized the government practice of paying journalists not to write about controversial stories. The article described how local officials paid journalists from $25 to $1,250 (RMB 201 to RMB 10,075) not to report about a coal mine accident. It claimed the practice was a common one and that journalists from Xinhua and large media outlets were paid more than local journalists for not reporting such events.

Transparency in the health sector improved compared with the government's cover up of the initial Severe Acute Respiratory Syndrome (SARS) outbreak in 2003. Central government officials pledged to promptly report cases of avian flu but acknowledged that local authorities did not promptly report some cases. International observers acknowledged that transparency had improved with regard to avian influenza but expressed concern about delays in reporting some human and animal cases. Some academics were unable to publish results of independent research into contagious disease cases. In September authorities announced that the number of people who died in natural disasters would no longer be considered a state secret and presumably could be reported by media.

There were a few privately funded print publications but no privately owned television or radio stations or Internet portals. The censorship process for private and government media continued to shift so that censors relied mostly on self-censorship and, in a few cases, post-publication sanctions. Nonetheless, the Central Propaganda Department continued to list areas that were off limits to media, and the government maintained authority to approve all programming.

Government-approved publishing houses were the only organizations legally permitted to print books. The State Press and Publications Administration (PPA) controlled all licenses to publish. No newspaper, periodical, book, audio, video, or electronic publication may be printed or distributed without the PPA and relevant provincial publishing authorities' approval of both the printer and distributor. Individuals who attempted to publish without government approval faced imprisonment, fines, confiscation of their books, and other sanctions. The CCP exerted control over the publishing industry by preemptively classifying certain topics as off-limits; selectively rewarding with promotions and perks those publishers, editors, and writers who adhered to CCP guidelines; and punishing with administrative sanctions and blacklisting those who did not.

Underground printing houses were targets of periodic campaigns to stop all illegal publications (including pornography and pirated computer software and audiovisual products).

Many intellectuals and scholars exercised self-censorship, anticipating that books or papers on political topics would be deemed too sensitive to be published. Overt intervention by the PPA, which was responsible for all printing and distribution in the country, and by the Party Central Propaganda Department, which provides editorial guidelines for all media, mostly occurred after publication. In November Christian pastor Cai Zhuohua was sentenced to three years in prison on charges related to his unapproved publication of religious literature (see section 2.c.). Sichuan Province scholar Wang Yi filed suit to reclaim hundreds of books he wrote that were confiscated by authorities.

In past years officials reportedly destroyed Uighur books on the grounds that Uighur groups used art and literature to distort historical fact and advocate ethnic separatism. Uighur writers and editors, including the editor of the Kashgar Literature Journal Korash Huseyin, were jailed during the year for publishing stories that authorities maintained advocated separatism (see section 5). Authorities continued to ban books containing content they deemed controversial. Among the most notable was *Serve the People*, a sexually explicit novel that officials said debased Chairman Mao's image and *Notes on Party History*, which exposed historical incidents that were embellished or purportedly fabricated by the CCP.

The authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America (VOA), Radio Free Asia (RFA) and the BBC. English-language broadcasts on VOA generally were not jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. Internet distribution of "streaming radio" news from these sources often was blocked. Despite jamming overseas broadcasts, VOA, BBC, RFA, and Radio France International had a large audience, including activists, ordinary citizens, and government officials.

The government prohibited some foreign and domestic films from legally appearing in the country. Television broadcasts of foreign news, largely restricted to hotel and foreign residence compounds, occasionally suffered censorship. Politically sensitive coverage in Chinese, and to a lesser extent in English, suffered more censorship than in other languages. In the south, where television programming from Hong Kong was available, "public service announcements" frequently interrupted news items critical of the government.

In July the State Administration for Radio, Film, and Television announced regulations that banned cooperation between domestic broadcasting companies and foreign broadcasters in producing news content.

The government continued to encourage expanded use of the Internet, while monitoring use and control of content. It also took steps to increase monitoring of the Internet, restricted the information available online, and punished those who violated regulations. In March new regulations required all Web sites in the country to reregister with authorities or be closed. In July authorities required that Web sites operating under pseudonyms be reregistered using the sponsors' real names or face closure. In September the government issued Rules on the Administration of Internet News Information Services to enhance official control of online content. The regulations establish stricter registration procedures for Internet news portals and define information in online bulletin board systems and in text messages as news so that they are subject to the same regulations. In addition the guidelines include new restrictions on some content, specifically a ban against "inciting illegal assemblies, associations, marches, demonstrations, or gatherings that disturb social order." The guidelines also forbid "conducting activities in the name of an illegal civil organization."

The country's Internet control system reportedly employed between 30 thousand and 50 thousand persons and was allegedly the largest in the world. According to a 2002 Harvard University report, the government blocked at least 19 thousand sites during a six-month period and may have blocked as many as 50 thousand. At times the government blocked the sites of some major foreign news organizations, health organizations, educational institutions, Taiwanese and Tibetan businesses and organizations, religious and spiritual organizations, democracy activists, and sites discussing the 1989 Tiananmen massacre.

The number of blocked sites appeared to increase around major political events and sensitive dates. The authorities reportedly began to employ more sophisticated technology enabling the selective blocking of specific content rather than entire Web sites. Such technology was also used to block e-mails containing sensitive content (see section 1.f.). The government generally did not prosecute citizens who received dissident e-mail publications, but forwarding such messages to others sometimes did result in detention. Individuals using the Internet in public libraries were required to register using their national identity card. Internet usage reportedly was monitored at all terminals in public libraries.

The Ministry of Information Industry regulated access to the Internet while the Ministries of Public and State Security monitored its use. Regulations prohibit a broad range of activities that authorities interpreted as subversive or as slanderous to the state, including the dissemination of any information that might harm unification of the country or endanger national security. Promoting "evil cults" was banned, as was providing information that "disturbs social order or undermines social stability." Internet service providers (ISPs) were instructed to use only domestic media news postings, record information useful for tracking users and their viewing habits, install software capable of copying e-mails, and immediately end transmission of so-called subversive material. Many ISPs practiced extensive self-censorship to avoid violating broadly worded regulations. According to a 2003 study by Reporters Without Borders of messages deemed to have "controversial content," only 30 percent were allowed onto Chinese "chat rooms." The site host filtered out or removed the remaining 70 percent.

Several individuals were jailed for their Internet writing during the year. Perhaps most notable was the 10-year sentence meted out to Hunan Province journalist Shi Tao in April for disclosing state secrets. According to the verdict in Shi's case, police searched his e-mail files and found that Shi had described to an overseas Internet discussion forum a propaganda department directive barring Chinese media from covering the 15th anniversary of the Tiananmen massacre. That directive, widely circulated to Chinese journalists, was deemed a state secret. Shi had previously written extensively about corruption for *Contemporary Trade News*, and his jailing was also viewed as retaliation for such reporting. His attorney was jailed days before Shi's March 11 trial, and a substitute attorney entered a guilty plea on Shi's behalf.

Internet essayist Zhang Lin was detained in January and convicted in July on charges of endangering national security. The primary evidence against Zhang consisted of excerpts from 192 articles he posted online, including the words to a rock music song. Zhang was detained immediately upon returning from Beijing to mourn China's Tiananmen-era Premier Zhao Ziyang. Zhang used the country's constitutional guarantee of free expression in his defense, but was convicted and sentenced to five years in prison. He began a hunger strike in September.

Tsewangnorbu, a webmaster for a Web site run by the Snow Country Tibetans, was not heard from after Gansu Province security authorities shut down the Web site March 25, according to NGOs. His whereabouts remained unknown. In July, Internet writer and poet Zheng Yichun was sentenced to seven years in prison in Liaoning Province for inciting subversion. Evidence against him consisted of 63 articles and several essays he wrote calling for political reform, greater economic freedom and the end of imprisonment of writers. In December an intermediate court rejected Zheng's appeal. In October, Shi Xiaoyu was reportedly detained in Zhejiang Province after writing about labor disputes online. His status at year's end was unknown.

In April cyber dissident Yan Jun was released in Xian after serving a two-year sentence. Yan reportedly fled to Taiwan after his release. In June cyber dissident Huang Qi was released after serving his full five-year term for running a Web site discussing the 1989 Tiananmen massacre. Upon release he was supervised and his movements restricted. Some who supported Huang during his imprisonment, including previously detained university Internet essayist Liu Di, continued to suffer harassment and house arrest around sensitive political occasions. In August Shanghai petitioner activist Ma Yalian was released from a reeducation camp, where she had been held after posting articles online stating that individuals were committing suicide in front of government petitioning offices.

The government continued its efforts to get companies to sign a "Public Pledge on Self Discipline for China's Internet Industry." More than 300 companies had signed the pledge, including the popular Sina.com and Sohu.com, as well as foreign-based Yahoo's China division. Those who signed the pledge agreed not to spread information that "breaks laws or spreads superstition or obscenity." They also promised to refrain from "producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability." According to court documents Yahoo provided information to security authorities, including access to private e-mail accounts, used in the prosecution of journalist Shi Tao for leaking state secrets,. The company said it was required to provide the information under national law and customs. In December Microsoft deleted a blog reporting on the firing of journalists and a controversial strike at the *Beijing News*, stating that it did so at the government's request

The China Internet Association adopted a "self-regulatory pledge" for search engine services in 2004 that was viewed by many as even more strict than the government's self discipline pledge.

At year's end the China Internet Network Information Center reported that more than half of the country's 111 million Internet users had broadband access to the Internet, up 50 percent from the previous year. As of 2002 the country had more than two hundred thousand licensed Internet cafes, as well as a number of unlicensed ones. A campaign to crack down on illegal Internet cafes resulted in the closure of more than 12,575 venues during the last three months of 2004. Under regulations passed in 2004, Internet cafes must install software that allows government officials to monitor customers' Web usage. Internet users at cafes were often subject to surveillance. Most places sporadically enforced regulations requiring patrons to provide identification when using Internet cafes.

In March the government initiated a new campaign to "clean up" Web sites on university campuses. As part of the campaign, popular online bulletin boards at Beijing, Tsinghua and Nanjing Universities were closed. Students held public demonstrations to urge officials to reopen the Web sites. Campus groups supporting gay rights said their Web sites were also closed at the time, and many remained closed later in the year (see section 5). During anti-Japanese demonstrations in April, many university Web sites were closed. Some persons were detained and interrogated for discussing the anti-Japan demonstrations online or distributing e-mails and text messages about the demonstrations.

In 2004 the government announced it would invest nearly $6 million (RMB 49.8 million) to create a new system to control political publications on the Internet. The government also began censoring text messages distributed by mobile telephone in 2004. According to the state-run media, the campaign was designed to stop the spread of pornographic and fraudulent messages by telephone. During the year authorities launched a "strike hard" campaign against illegal text messages. All text messaging service providers were required to install filtering equipment to monitor and delete messages deemed offensive by authorities.

The government did not respect academic freedom and increased controls on political and social discourse at colleges, universities, and research institutes. Scholars and researchers reported varying degrees of control regarding issues they could examine and conclusions they could draw. In April new measures regulating nongovernment research institutes took effect, resulting in the closure of some institutes deemed politically sensitive, including the Unirule Institute run by economist Mao Yushi. Also in April authorities blocked the opening of the Beijing Chinese Citizens' Rights Information Center even though organizers, including recently released dissident Liu Jingsheng, had received the necessary administrative approval. Beijing University professor Jiao Guobiao was suspended indefinitely from teaching after criticizing censorship and ultimately left the university's employment. Law professors were warned not to propose abolition of the reeducation-through-labor system. At least one professor's university threatened him with dismissal because he represented politically sensitive clients. Scholar Xu Zerong remained in prison for "illegally providing state secrets" by sending sensitive reference materials on the Korean War to a contact in Hong Kong. Scholars studying religion reported that the official Protestant church blocked some publications it found objectionable.

University conferences involving foreign and domestic academics were canceled on short notice by authorities who decided the topics at issue were too sensitive. Conferences canceled during the year included those discussing corporate social responsibility, political reform, and the death penalty.

The government continued to use political attitudes as criteria for selecting persons for the few government-sponsored study abroad programs but did not impose such restrictions on privately sponsored students.

Researchers residing abroad also were subject to sanctions from the authorities when their work did not meet with official approval.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of peaceful assembly; however, the government severely restricted this right in practice. The law stipulates that such activities may not challenge "party leadership" or infringe upon the "interests of the state." Protests against the political system or national leaders were prohibited. Authorities denied permits and quickly moved to suppress demonstrations involving expression of dissenting political views.

Freedom of Assembly.—At times police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently. The vast majority of demonstrations during the year concerned land disputes, housing issues, industrial, environmental, and labor matters, and other economic and social concerns. During the year over 87 thousand "public order disturbances" were reported, according to government statistics, up 6.6 percent from 2004. Some of these demonstrations included thousands of participants. Incidents described as mob violence rose by 13 percent over 2004, according to the Ministry

of Public Security, which said that the number of demonstrations continued to grow and protesters were becoming more organized. Land protests involving thousands of residents occurred throughout the year, including violent incidents in Hebei Province's Shengyou village and in Guangdong Province's Nanhai District, Dongzhou and Taishi villages (see section 1.a.). In April thousands of villagers in Zhejiang Province's Huaxi village battled with security thugs in demonstrations over polluting factories, while in October, 10 thousand workers in Chongqing took to the streets to protest corruption surrounding the bankruptcy of a local steel plant.

Authorities detained potential protesters before the June 4 anniversary of the Tiananmen massacre, after the death of former Premier Zhao Ziyang in January, at the time of the NPC session in March, and during the August visit by UN High Commissioner for Human Rights Louise Arbour. Dissidents were detained around the time of other sensitive events to head off public demonstrations (see section 1.d.). Labor protests over restructuring of state-owned enterprises' (SOEs) and resulting unemployment continued, as did protests over environmental degradation and major infrastructure projects, such as dams. Protests, some of which included thousands of participants, were also widespread and usually concerned land, housing, and forced evictions. All concerts, sports events, exercise classes, or other meetings of more than 200 persons required approval from public security authorities. In practice much smaller gatherings also ran the risk of being disrupted by authorities.

Large anti-Japanese protests occurred in April in many cities, but the government brought them under control after a few weeks and refused to issue permits for further demonstrations. On December 23, Chongqing-based activist Xu Wenping was sentenced to 12 years' imprisonment for inciting subversion stemming from his role in organizing petitions concerning the anti-Japanese rallies.

The government continued to wage a severe campaign against the Falun Gong movement, but there were no reports of public Falun Gong protests during the year. In many cases Falun Gong practitioners were subject to close scrutiny by local security personnel, and their personal mobility was tightly restricted, particularly at times when the government believed public protests were likely.

Persons petitioning the government continued to face restrictions on their rights to assemble and raise grievances. Hundreds of thousands of petitions were filed each year, according to domestic experts, but only a small fraction received any action by authorities. Most petitions mentioned grievances about land, housing, entitlements, the environment, or corruption. Petitioners largely sought to present their complaints at national and provincial "letters and visits" offices but also targeted foreign embassies and media to bring attention to their complaints.

Petitioners continued to face harassment, detention, and incarceration. According to a published report, in April a petitioner was beaten to death while petitioning in Beijing. In July Shanghai petitioners Yang Weiming and Liang Yuling were detained for protesting the new petition regulations, and petitioner Wang Qiaojuan was sentenced to one year of reeducation. Police said she assaulted them, but eyewitnesses said police beat her for protesting forced evictions and left her bleeding and unconscious. In September Shanghai petition leader Xu Zhenging was tried in connection with his work on forced evictions and his attempt to attend a memorial service for Zhao Ziyang. Over 100 other petitioners, many of whom were Xu's supporters, reportedly were detained shortly after the trial and some were threatened with the possibility of being sent to psychiatric hospitals. Among them was activist Mao Hengfeng, who had been released from a reeducation facility earlier in September. Beijing and provincial officials moved petitioners out of the capital at the time of the March NPC session and again in April just before the new regulations took effect. Some were reportedly sent to psychiatric facilities.

In December 2004 Beijing-based petitioner leader Ye Guozhu was sentenced to four years in prison for attempting to hold a rally to protest forced evictions. He was not permitted to meet with family members or meet with lawyers to file an appeal, and his whereabouts remained unknown.

On May 1, new regulations urging local officials to resolve petitioners' legitimate problems and protect their legitimate rights came into effect. State-run media said that more than 80 percent of petitions were reasonable and could be, but were not, resolved by local governments. The regulations were accompanied by a public relations campaign in which public security chiefs nationwide were urged to meet petitioners face-to-face. Although the regulations banned retaliation against petitioners, reports of retaliation continued. This was partly due to incentives provided to local officials by the central government to prevent petitioners in their regions from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also

resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces. Such detentions occurred both before and after the enactment of the new regulations and often went unrecorded.

One provision of the new regulations reportedly limits to six the number of petitioner representatives in a single matter. In May Beijing defense attorney Zhu Jiuhu was detained in Shaanxi Province and held for four months after meeting with clients protesting land seizures involving private oil fields. He was charged with illegal assembly because he met with too many petitioner clients at one time. Zhu was ultimately released without charges. One of his clients, investor Feng Bingxian, was sentenced in December to three years in prison on charges of instigating mass social disorder in connection with the protests and other legal efforts to obtain compensation for confiscation of the private oil fields (see section 1.e.).

Freedom of Association.—The law provides for freedom of association, but the government restricted this right in practice. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the government. In practice these regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that might challenge government authority. Implementation of these regulations tightened during the year. As a result, some domestic NGOs were denied registration or deregistered, while other social groups previously registered as for-profit businesses were required to reregister as not-for-profit organizations with government sponsorship (see section 2.a.).

Authorities established a task force during the year to increase scrutiny over NGOs, especially those with links overseas. Published reports said the task force was part of a campaign initiated in response to "color revolutions" in former Soviet republics and aimed to block NGOs from fomenting political change. Security ministries participated in this task force and interrogated representatives of domestic and international NGOs about their activities. International foundations, NGOs involved in social and charitable activities, and groups dedicated to combating discrimination against women, persons with disabilities, and minorities were targets of the campaign, along with organizations focused on rights issues.

The NGO Empowerment and Rights Institute (EARI), which worked on petitioner issues, appeared to come under particular scrutiny, as its employees were often monitored and its offices raided. During November visits by foreign officials to Beijing, security officials asked EARI Executive Director Zhao Xin to leave Beijing. When Zhao complied with their request and traveled to Sichuan Province, he was beaten severely and had to be hospitalized for several weeks. He claimed police witnessed the beating but took no action, although officials later apologized to him. The group's previous director, Hou Wenzhuo, left the country during the year after being harassed, interrogated and detained by security officials.

No laws or regulations specifically govern the formation of political parties. But the China Democracy Party remained banned, and the government continued to surveil, detain, and imprison current and former CDP members (see section 3).

As in past years, individuals were charged with and often convicted of "disclosing state secrets" after passing information to human rights NGOs based abroad (see sections 1.c. and 2.a.).

According to government statistics, at the end of 2004 there were approximately 153 thousand social organizations, including 1,673 national-level and cross-provincial organizations, 20,563 provincial organizations, 50,424 local and county-level organizations registered with the Ministry of Civil Affairs, and others. NGOs were required to register with the government. To register, an NGO must find a government agency to serve as the NGO's organizational sponsor, have a registered office, and hold a minimum amount of funds. Organizations with social or educational purposes that had previously been registered as private or for-profit businesses reportedly were requested to find a government sponsor and reregister as NGOs during the year (see section 4). Experts estimated that there were over one million unregistered NGOs.

Although the registered organizations all came under some degree of government control, various NGOs were able to develop their own agendas. A number of NGOs had support from foreign secular and religious NGOs, and several were able to undertake limited advocacy roles in public interest areas like women's issues, the environment, health, and consumer rights. According to government guidelines, NGOs must not advocate nonparty rule, damage national unity, or upset ethnic harmony. Groups that disregarded guidelines and unregistered groups that continued to operate could face administrative punishment or criminal charges.

c. Freedom of Religion.—The law provides for freedom of religious belief and the freedom not to believe. However, the government sought to restrict religious practice

to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of religious groups. The government recognized five main religions: Buddhism, Taoism, Islam, Protestantism, and Catholicism. A government-affiliated association monitored and supervised the activities of each of these faiths. Membership in these faiths as well as unregistered religious groups grew rapidly. The government tried to control and regulate religious groups, especially groups that were unregistered, to prevent the rise of sources of authority outside the control of the government and the party.

The government's respect for religious freedom remained poor, although the extent of religious freedom continued to vary widely within the country. Freedom to participate in officially sanctioned religious activity continued to increase in most areas. Religious activity grew not only among the five main religions, but also among Korean Christians, Russian Orthodox, and folk religions. Bibles and other religious texts were available in most parts of the country. At the same time, crackdowns against unregistered Protestants and Catholics, Muslim Uighurs, and Tibetan Buddhists (see Tibet Addendum) continued. The government continued its repression of groups that it determined to be "cults" and of the Falun Gong spiritual movement in particular.

All religious venues were required to register with the State Administration for Religious Affairs (SARA) or its provincial or local offices (known as Religious Affairs Bureaus (RABs). SARA and the RABs were responsible for monitoring and judging whether religious activity was "normal" and therefore lawful. SARA and the CCP's united front work department provided policy guidance and supervision over implementation of government regulations on religious activity.

On March 1, new regulations governing religious affairs came into effect. Officials said the regulations were an attempt to bring regulatory practices governing religious affairs within a legal framework. Unlike previous regulations, the new regulations protect the rights of registered religious groups, under certain conditions, to possess property, publish literature, train and approve clergy, and collect donations. Analysts and some government officials said the new regulations would create greater space for lawful religious activity by groups not affiliated with the five main religions. However, critics stated the new regulations merely codify past practices and give authorities broad discretion to define which religious activities are permissible.

The new regulations require religious groups to register places of worship and authorized the government to define what religious activity is "normal" and therefore lawful. Spiritual activities in places of worship that have not registered may be considered illegal and participants can be punished. Government officials stated that private homes where family and friends meet to study the Bible would not be required to register, but venues for formal worship services should be registered, even if such formal worship takes place in a private home. Under the new regulations, clergy need not be approved by the government, but must be reported to the government after being selected pursuant to the rules of the relevant government-affiliated religious association. A national campaign requiring religious groups to register or to come under the supervision of official "patriotic" religious organizations continued during the year. Some groups registered voluntarily, while a number registered under pressure; several groups avoided officials in an attempt to avoid registration, and authorities refused to register others. Various unofficial groups reported that authorities refused them registration without explanation. The government contended that these refusals were mainly the result of failure to meet requirements concerning facilities and meeting spaces. Some religious groups were reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they revealed, as required, the names and addresses of church leaders and members.

A campaign to prevent "foreign infiltration" continued during the year. On July 7, Protestant Pastor Cai Zhuohua, his wife, and two other relatives were convicted of operating an illegal business, stemming from their large-scale publishing of bibles and Christian literature without government approval. Cai and two family members were sentenced to three years, two years, and 18 months in prison, respectively, while a fourth defendant was released after the trial for time served. Reports indicated that Cai and his two codefendants did not file an appeal because they were threatened with longer sentences. The four were detained in September 2004, after authorities seized over 200 thousand volumes of religious literature from a warehouse they owned. According to reliable reports, the central government and CCP officials described the prosecution of Cai as one of the most important cases in the campaign to prevent foreign infiltration under the cover of religion. Other churches, mosques and temples also came under scrutiny because of their contacts with foreign groups.

Local authorities' handling of unregistered religious groups, especially Protestant "house churches," varied widely. In certain regions, government supervision of religious activity was minimal and registered and unregistered Protestant and Catholic churches existed openly side-by-side and were treated similarly by the authorities. In such areas many congregants worshipped in both types of churches; congregants in unregistered churches were also able to procure Bibles at official churches. In some parts of the country, unregistered house churches with hundreds of members met openly, with the full knowledge of local authorities, who characterized the meetings as informal gatherings to pray, sing, and study the Bible. In other areas house church meetings of more than a handful of family members and friends were strictly proscribed. House churches often encountered difficulties when their membership grew, when they arranged for the regular use of facilities for the purpose of conducting religious activities, or when they forged links with other unregistered groups.

Leaders of unauthorized groups were sometimes the target of harassment, interrogation, detention, and physical abuse. Police closed "underground" churches and other places of worship, including some with significant memberships, properties, financial resources, and networks. Local officials destroyed several unregistered places of worship around the country. Authorities particularly targeted unofficial religious groups in locations where there were rapidly growing numbers of unregistered churches, or in places of long-seated conflict between official and unofficial churches, such as with Catholics in Baoding, Hebei Province, or with evangelical underground Protestant groups in Henan Province and elsewhere.

Protestant house churches and their leaders were subject to a selective crackdown in many areas. Authorities frequently disrupted house church meetings and retreats and detained leaders and church members. In May authorities reportedly detained hundreds of house church members from different groups in Jilin Province. In June authorities reportedly held approximately 100 pastors at Henan Province's Qi County detention center after detaining them at religious retreats in the province. On July 1, some 70 Christians were detained administratively in Henan Province's Sui County. On August 2, authorities reportedly abused some of 40 worshippers detained in Hubei Province's Zaoyang City. On August 7, a house church in Hejing County, Xinjiang Province, was reportedly raided and several worshippers were detained. In late September security officials reportedly broke a chest bone of Xinjiang businessman Tong Qimiao while interrogating him about the activities of house churches in Xinjiang. A number of leaders detained in previous years, including Henan Province underground church leader Zhang Rongliang and Beijing-based Christian activists Liu Fenggang, Xu Yonghai, and Yan Haibing, remained in prison or in reeducation-through-labor camps. The government refused to confirm Zhang Rongliang's whereabouts or the charges against him. Xu Yonghai, who had been sentenced to two years in prison, had not been released at year's end although more than two years had passed since his December 2003 arrest. In September house church historian Zhang Yinan, who was detained in 2003, was released from a reeducation-through-labor camp in Pingdingshan County, Henan Province.

Detention of "underground" Catholic bishops, priests, and lay leaders who refused to join the government-approved Chinese Patriotic Catholic Church continued during the year. In April a Vatican spokesman complained of the January detention of Hebei Province Bishop Zhao Zhendong, and the separate March detentions of Zhejiang Province Bishop Lin Xili, Hebei Province priest Zhao Kexun and lay-worker Gao Xinyou. On April 1, Bishop Yao Liang of Xiwanzi in Hebei Province and Father Wang Jinling were detained for a few days prior to the pope's death. Other underground bishops reportedly were kept under heightened surveillance at the same time. In July one such bishop, Jia Zhiguo of Hebei Province, was confined to his home, the sixth time authorities had detained him in an 18-month period. In July Fujian Province police reportedly detained and abused a priest, Lin Daixian, and 10 other Catholics. In November six priests from Zhengding, Hebei Province, were detained. Two of them, Wang Jingshan and Gao Lingshen, were reportedly beaten. Seven underground Catholics from Zhaoxian, Hebei reportedly were detained in late November. Six were released, but priest Gao Baojin remained unaccounted for. In November the Vatican condemned the beating of 16 nuns, one of whom was blinded and another partially paralyzed. The nuns, from an officially recognized church order, were attacked as they attempted to prevent demolition of a Catholic school in Xian.

In Hebei Province, where approximately half of the country's Catholics reside, friction between unofficial Catholics and local authorities continued, as authorities punished many underground priests and believers who refused to join the official Chinese Church. On September 2, priests Pang Yongxing and Ma Yongjiang reportedly were detained for providing religious services to underground Catholics in

Hebei Province's Qingyuan County. Reliable sources also reported that Bishop An Shuxin, Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Quanjun remained detained in Hebei Province. According to reliable reports, Bishop An was last seen four years ago. There was no new information about underground Bishop Su Zhimin, who has been unaccounted for since his reported detention in 1997. Reports suggested that he had been held in a government-run guesthouse near Baoding, Hebei Province. The government continued to deny taking coercive measures against him.

The law does not prohibit religious believers from holding public office; however, party membership is required for almost all high-level positions in government, state-owned businesses, and many official organizations. During the year Communist Party officials again stated that party membership and religious belief were incompatible. Government and CCP officials reiterated that religious believers should resign their party membership. The Routine Service Regulations of the People's Liberation Army state explicitly that service members "may not take part in religious or superstitious activities." CCP and PLA personnel have been expelled for adhering to Falun Gong beliefs.

Despite regulations encouraging officials to be atheists, some party officials engaged in religious activity, most commonly Buddhism or a folk religion. The NPC included several religious representatives. NPC Standing Committee vice chairmen included Fu Tieshan, a bishop and vice-chairman of the Chinese Catholic Patriotic Association, and Pagbalha Geleg Namgyal, a Tibetan reincarnate lama. Religious groups also were represented in the Chinese People's Political Consultative Conference, an advisory forum for "multiparty" cooperation and consultation led by the CCP, and in local and provincial governments.

Official religious organizations administered local religious schools, seminaries, and institutes to train priests, ministers, imams, Islamic scholars, and Buddhist monks. Students who attended these institutes had to demonstrate "political reliability," and all graduates must pass an examination on their political as well as theological knowledge to qualify for the clergy. The government permitted registered religions to train clergy and allowed an increasing number of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies, but some religion students had difficulty getting passports or obtaining approval to study abroad. In most cases foreign organizations provided funding for such training programs.

Religious organizations of all faiths, including those composed of foreigners, were encouraged to engage in charitable activities and social services. Religious organizations engaged in social services faced obstacles registering with local authorities. These difficulties were similar to those faced by nonreligious NGOs (section 2.b.).

Traditional folk religions such as Fujian Province's "Mazu cult" were still practiced in some locations. They were tolerated to varying degrees, often seen as loose affiliates of Taoism or as ethnic minority cultural practices. However, the government has labeled folk religions "feudal superstition" and sometimes repressed them. SARA established a new administrative division responsible for activities of folk religions and religions outside the main five, including the Russian Orthodox Church and the Church of Jesus Christ of Latter-day Saints.

Buddhists made up the largest body of organized religious believers. The traditional practice of Buddhism continued to expand among citizens in many parts of the country. Tibetan Buddhists in some areas had growing freedom to practice their faith. However, government restrictions remained, particularly in cases in which the government interpreted Buddhist belief as supporting separatism, such as in some Tibetan areas and parts of the Inner Mongolian Autonomous Region. In July emissaries of the Dalai Lama met with government officials, the fourth round of consultations to take place since 2002 (see Tibet Addendum).

Regulations restricting Muslims' religious activity, teaching, and places of worship continued to be implemented forcefully in Xinjiang. Xinjiang authorities used counter terrorism as an excuse for religious repression of Uighur Muslims, as documented in an NGO report released in April (see section 5). Xinjiang authorities often charged religious believers with committing the "three evils" of terrorism, separatism, and Muslim extremism. While targeted at Muslims, this tight control of religion in Xinjiang affected followers of other religions as well.

Authorities continued to prohibit the teaching of Islam to elementary and middle school-age children in some areas, although children studied Arabic and the Koran without restriction in many others. Local officials stated that school-age children may not study religion or enter mosques in Xinjiang. In August a teacher, Aminan Momixi, and over 30 students were reportedly detained for holding Koran study sessions during school vacation. Authorities confiscated their Korans and Muslim textbooks and the government declined to clarify Momixi's status. According to media

reports, Xinjiang authorities confiscated religious publications on many other occasions, sometimes detaining those who possessed unapproved religious texts.

Authorities reserved the right to censor imams' sermons. In particular, imams were urged to emphasize the damage caused to Islam by terrorist acts in the name of the religion. Certain Muslim leaders received particularly harsh treatment. In 2000 authorities began conducting monthly political study sessions for religious personnel and the program continued through the year.

According to an overseas organization, 179 practitioners of the Sala order, a local Sufi branch of Islam, were arrested in August following a government ban on the movement. A Xinjiang official denied the existence of the movement but said a separate movement of Islam called Salafism was restricted around the National Day and New Year's holidays due to concerns that followers of the movement supported extremism. In August, 2004 eight Uighur Muslims in Hotan were reportedly charged with endangering state security and scores were detained on charges of engaging in "illegal religious activities." Because of government control of information coming from Xinjiang, such reports were difficult to confirm.

In addition to the restrictions on practicing religion placed on party members and government officials throughout the country, teachers, professors, and university students in Xinjiang were not allowed to practice religion openly.

The government permitted Muslim citizens to make the Hajj to Mecca and in some cases subsidized the journey. More than 10 thousand Chinese Muslims made the Hajj journey during the year, nearly half of them on government-organized delegations. During the year 6,900 Chinese Muslims traveled to Saudi Arabia in preparation for the 2006 Hajj, according to the China Islamic Association.

Media reports stated that authorities confiscated illegal religious publications in Xinjiang. The Xinjiang People's Publication House was the only publisher allowed to print Muslim literature. In addition to national restrictions on party members and government officials' religious practice, teachers, professors, and university students in Xinjiang were not allowed to practice religion openly.

The government and the Holy See have not established diplomatic relations and there was no Vatican representative on the Mainland. The government stated that the role of the pope in selecting bishops, the status of underground Catholic clerics, and Vatican recognition of Taiwan remained obstacles to improved relations.

After the death of Pope John Paul II in April, government and Patriotic Church officials made conciliatory statements but did not send a delegation to the pope's funeral. Official Catholic churches were encouraged to hold masses remembering Pope John Paul II and tens of thousands of residents took part. Official Catholic Churches welcomed Pope Benedict XVI and his picture was displayed prominently in many official and unofficial Catholic venues across the country. The government also minimized historical disputes with the Vatican. Nonetheless, the government rejected the Vatican's invitation to send a delegation of three bishops from the official church and one from the "underground" church to an October synod meeting in Rome.

The government insisted it retains sole power to appoint bishops, but the Vatican has recognized most bishops of the official Catholic Church, either before or after their appointment by the government. In a few cases, the bishop named by the government-affiliated church conflicted directly with the bishop recognized by the Vatican, contributing to tensions between the official and unofficial Catholic churches and between the Vatican and the government. There was friction between some bishops of the Patriotic Church who have been consecrated with secret Vatican approval (or who obtained such secret approval after their consecration) and others consecrated without such approval. Despite these tensions, some bishops and priests publicly acknowledged during the year that the Vatican had approved their appointment. They suffered no punishment for this public stance, although the government denied that the Vatican played any role in approving bishops.

The supply of Bibles is adequate in most parts of the country, but some members of underground churches complained that the supply and distribution of Bibles, especially in rural locations, was inadequate. Individuals could not order Bibles directly from publishing houses.

Customs officials continued to monitor for the "smuggling" of religious materials into the country. There have been credible reports that the authorities sometimes confiscated Bibles, Korans and other religious material.

Authorities displayed increasing tolerance of religious practice by foreigners in many places, provided their religious observance did not involve Chinese nationals. Weekly services of the foreign Jewish communities in Beijing and Shanghai have been held for years with minimal interruption. Expatriate members of the Church of Jesus Christ of Latter-day Saints (Mormons) met regularly in a number of cities.

The authorities permitted officially sanctioned religious organizations to maintain international contacts that do not involve "foreign control." However, what constitutes "control" is not defined. Regulations on religious practice by foreigners include a ban on proselytizing. Authorities generally allowed foreign nationals to preach to other foreigners, bring in religious materials for personal use, and preach to citizens at the invitation of registered religious organizations. Despite a ban on missionary activities, many foreign Christians teaching on college campuses openly professed their faith with minimum interference from authorities provided their religious activity remains discreet.

Foreign church organizations came under pressure to register with government authorities, and several foreign missionaries whose activities extended to Chinese nationals were expelled or asked to leave the country. The government stated that those asked to leave had violated the law.

The authorities continued a general crackdown on groups considered to be "cults." These "cults" included not only Falun Gong and various traditional Chinese meditation and exercise groups (known collectively as *qigong* groups), but also religious groups that authorities accused of preaching beliefs outside the bounds of officially approved doctrine. Groups that the government labeled cults included Eastern Lightning, the Servants of Three Classes, the Shouters, the South China Church, the Association of Disciples, the Full Scope Church, the Spirit Sect, the New Testament Church, the Way of the Goddess of Mercy, the Lord God Sect, the Established King Church, the Unification Church, and the Family of Love. Authorities accused some in these groups of lacking proper theological training, preaching the imminent coming of the apocalypse or holy war, or exploiting the reemergence of religion for personal gain. The Eastern Lightning group was accused by the government and some other unregistered Christian groups of involvement in violence.

Actions against such groups continued during the year. There were no further developments following the April 2004 detention of more than 100 members of the evangelical group the "Servants of Three Classes" in Harbin, Heilongjiang Province. Most were released, but Gu Xianggao died in custody, allegedly as a result of beatings by police. Police also continued their efforts to close down an underground evangelical group called the "Shouters," an offshoot of a pre-1949 indigenous Protestant group. Action against the South China Church (SCC) continued during the year, especially in Hubei Province where it was founded. In August approximately 40 church members were detained there after meeting with foreigners. SCC founder Gong Shengliang continued to allege that he suffered abuse in prison. He is serving a life sentence for rape, arson, and assault, even though the women who testified against him in his original trial in 2001 reported that police had tortured them into signing statements accusing Gong of raping them. During the year elderly SCC leader Chen Jingmao was released from a Chongqing prison after serving his full term.

The extent of public Falun Gong activity in the country remained negligible, and practitioners based abroad reported that the government's crackdown against the group continued. Since the government banned the Falun Gong in 1999, the mere belief in the discipline (even without any public manifestation of its tenets) has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Although the vast majority of practitioners detained have been released, many were detained again after release (see section 1.e.), and thousands reportedly remained in reeducation-through-labor camps. Those identified by the government as "core leaders" were singled out for particularly harsh treatment. More than a dozen Falun Gong members have been sentenced to prison for the crime of "endangering state security," but the great majority of Falun Gong members convicted by the courts since 1999 have been sentenced to prison for "organizing or using a sect to undermine the implementation of the law," a less serious offense. Among them, Yuan Yuju and Liang Hui in Luzhou, Sichuan Province, faced such criminal charges during the year. Most practitioners, however, were punished administratively. Liu Yawen of Beijing and Zheng Ruihuan and Liu Yinglan of Shandong Province were among those reportedly detained administratively for Falun Gong activity. In addition to being sentenced to reeducation-through-labor, some Falun Gong members were sent to detention facilities specifically established to "rehabilitate" practitioners who refused to recant their belief voluntarily after release from reeducation-through-labor camps. In addition hundreds of Falun Gong practitioners have been confined to mental hospitals, according to overseas groups (see section 1.d.).

During the year allegations of abuse of Falun Gong practitioners by the police and other security personnel continued to be made. Groups based abroad estimated that as many as two thousand practitioners have died in custody (see section 1.c.).

Police continued to detain current and former Falun Gong practitioners and place them in reeducation camps. Police reportedly had quotas for Falun Gong arrests and targeted former practitioners, even if they were no longer practicing. The government continued its use of high-pressure tactics and mandatory anti-Falun Gong study sessions to force practitioners to renounce Falun Gong. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend anti-Falun Gong classes or were sent directly to reeducation-through-labor camps, where in some cases beatings and torture reportedly were used to force them to recant. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement. During the year a former Chinese diplomat based in Australia publicly described how government operatives based overseas reported on the activities of Falun Gong practitioners.

The government supported atheism in schools. On March 15, a Foreign Ministry spokesman said the country has no national regulations preventing children from receiving religious instruction, but said religion should not interfere with public education. In practice local authorities in many regions barred school-age children from attending religious services at mosques, temples, or churches and prevented them from receiving religious education outside the home.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts during the year. The government does not recognize Judaism as an ethnicity or religion.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for some of these rights, although the government generally did not respect them in practice. Although the government maintained restrictions on the freedom to change one's workplace or residence, the national household registration system continued to erode, and the ability of most citizens to move within the country to work and live continued to expand. However, the government retained the ability to restrict freedom of movement through other mechanisms. Authorities heightened restrictions periodically, particularly curtailing the movement of individuals deemed politically sensitive before key anniversaries and visits of foreign dignitaries and to forestall demonstrations.

The system of national household registration (*hukou*) underwent further change during the year, as the country accumulated a more mobile labor force. Rural residents continued to flock to the cities, where the per capita disposable income was more than triple the rural per capita cash income. Nonetheless, many could not officially change their residence or workplace within the country. Government and work unit permission were often required before moving to a new city. Most cities had annual quotas for the number of new temporary residence permits that would be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for peasants from rural areas to obtain household registration in economically more developed urban areas. There remained a floating population of between 100 and 150 million economic migrants who lacked official residence status in cities. Without official residence status, it was difficult or impossible to gain full access to social services, including education. Furthermore, law and society generally limited migrant workers to types of work considered least desirable by local residents, and such workers had little recourse when subjected to abuse by employers and officials. In some major cities, access to education for children of migrant workers continued to improve, and some cities offered migrants other social services free of charge. Many cities and provinces continued experiments aimed at abolishing the distinction between urban and rural residents in household registration documents.

House arrest continued to be used as a nonjudicial punishment and control measure against dissidents, family members of political prisoners, petitioners, and others whom the government or party deemed politically sensitive or "troublemakers" (see section 1.d.).

Under the "staying at prison employment" system applicable to recidivists incarcerated in reeducation-through-labor camps, authorities denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home but were not permitted freedom of movement.

The government permitted legal emigration and foreign travel for most citizens. Most citizens could obtain passports, although those whom the government deemed threats, including religious leaders, political dissidents, and some ethnic minority members continued to have difficulty obtaining passports (see Tibet Addendum). There were reports that some academics faced travel restrictions around the year's sensitive anniversaries, particularly the June 4 anniversary of the Tiananmen

Square massacre. There were instances in which the authorities refused to issue passports or visas on apparent political grounds. Cheng Yizhong, the editor of Guangdong Province's *Southern Metropolitan Daily* newspaper, was banned by authorities from traveling abroad during the year to accept a UNESCO press freedom award. Members of underground churches, Falun Gong members and other politically sensitive individuals sometimes were refused passports and other necessary travel documents.

Visas to enter the country were sometimes denied for political reasons. For example, some foreign academics and journalists who had been critical of the country continued to be denied visas. Others who intended to discuss human rights or rule of law issues also were denied visas. In July security authorities interrogated and harassed a representative of a western human rights NGO after she participated in an international seminar on free expression sponsored by the government (see section 4).

The law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The government continued to refuse reentry to numerous citizens who were considered dissidents, Falun Gong activists, or troublemakers. Although some dissidents living abroad have been allowed to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Activists residing abroad have been imprisoned upon their return to the country. Writer Liu Hongbin was detained briefly in 2004 upon return for a family visit. He was released and allowed to visit an ill family member, but the ban on his return was then reinstated, according to NGO reports.

The government's refusal to permit some former reeducation-through-labor camp inmates to return to their homes constituted a form of internal exile.

Protection of Refugees.—Although a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the law does not provide for the granting of refugee or asylum status. The government largely cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country. During the year the government and UNHCR continued ongoing discussions concerning the granting of citizenship to these residents. Since the late 1980s, the government has adopted a de facto policy of tolerance toward the small number of persons, fewer than 100 annually, from other nations who registered with the Beijing office of the UNHCR as asylum seekers. The government permitted these persons to remain in the country while the UNHCR made determinations as to their status and, if the UNHCR determined that they were bona fide refugees, while they awaited resettlement in third countries. However, the government continued to deny the UNHCR permission to operate along its northeastern border with North Korea, arguing that North Koreans who crossed the border were illegal economic migrants, not refugees.

During the year several thousand North Koreans were reportedly detained and forcibly returned to North Korea. Many faced persecution and some may have been executed upon their return, as provided by North Korean law. Several hundred North Koreans were permitted to travel to Seoul after they had entered diplomatic compounds or international schools in China, and approximately 1,400 arrived in South Korea via third countries such as Mongolia, Vietnam, Thailand, and Cambodia, most after transiting through China. There were numerous credible reports of harassment and detention of North Koreans in the country. The government also arrested and detained foreign journalists, missionaries, and activists, as well as some Chinese citizens, for providing food, shelter, transportation, and other assistance to North Koreans. The government continued to detain several foreigners in Northeast China, some on charges of alien smuggling, but most for helping North Koreans enter the country. Among them a foreign citizen was detained on May 9, and was held in Yanji on suspicion of helping North Koreans leave China. Jilin Province's public security Web site reported that it had deported about two thousand "foreigners" in 2004, most of whom were believed to be North Korean. According to NGOs, during the year North Korean agents operated within the country to forcibly repatriate North Korean citizens.

While UNHCR reported that more than two thousand Tibetans each year crossed into Nepal, the government continued to try to prevent many Tibetans from leaving (see Tibet Addendum).

In October 2003 the government executed Uighur Shaheer Ali after he and another Uighur were forcibly returned to China in 2002 from Nepal, where they had been granted refugee status by UNHCR (see section 5).

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law does not provide citizens with the right to change their government peacefully and citizens cannot freely choose or change the laws and officials that govern them. The CCP continued to control appointments to positions of political power, but recent reforms allowed citizens to elect members of nongovernment village committees and representatives to local people's congresses.

Elections and Political Participation.—According to the law, the NPC is the highest organ of state power. Formally, it elects the president and vice president, selects the premier and vice premiers, and elects the chairman of the State Central Military Commission. In practice the NPC Standing Committee, which is composed of 153 members, oversees these elections and determines the agenda and procedure for the NPC. The NPC Standing Committee remains under the direct authority of the CCP's 9-member Politburo Standing Committee. The NPC does not have the power to set policy or remove government or party leaders.

In 2003 the NPC confirmed CCP General Secretary Hu Jintao as president and in 2004 Hu consolidated his power when he was also appointed chairman of the Central Military Commission (CMC), following the retirement of former president and chairman Jiang Zemin.

Under the 1987 Organic Law of Village Committees and its 1998 amendments, all of the country's approximately one million villages are expected to hold competitive, direct elections for subgovernmental village committees. Rural citizens vote directly for their local village committees, which are not considered to be government bodies. Most provinces already have held four or five rounds of village committee elections, according to the Ministry of Civil Affairs. Foreign observers who monitored local village committee elections judged those they observed to have been generally fair. However, the government estimated that one-third of all elections had serious procedural flaws. Corruption, vote buying, and interference by township level and party officials continued to be problems. The law permitted each voter to cast proxy votes for up to three other voters. Many rural voters cast the maximum number of proxy votes, especially in areas with significant out-migration.

Although the 1998 amendments include a provision for recalling village committee members, local implementing regulations have proven sufficiently vague or cumbersome so as to prevent most successful recalls. In cases of alleged corruption, a handful of local legislative deputies have been recalled, but not village heads. During the year villagers in Guangdong Province's Taishi Village were subjected to severe abuse after they tried to recall village chief Chen Jinsheng, whom villagers accused of embezzling village funds. In August villagers submitted a petition and elected a recall election committee, in accordance with local regulations, calling for Chen's removal. Villagers and committee members were intimidated, beaten, and in some cases, detained by hired thugs until all seven committee members resigned their posts, effectively nullifying the recall attempt. Villagers started a hunger strike, a news blackout was instituted, and foreign journalists who attempted to travel to Taishi were interrogated and detained. On September 12, local police raided the village, reportedly beating and detaining some 50 villagers. Among those detained was legal advisor Guo Feixiong, who was ultimately charged with gathering a crowd to disrupt public order. He was held in the Panyu District Public Security Bureau (PSB) detention center, where he was fed intravenously after staging a hunger strike from September through November. On December 29, Guo was released. In October Lu Banglie, a local legislator from Hubei Province who had been helping the villagers organize their recall action, was severely beaten after escorting foreign journalists to the outskirts of Taishi. Government officials took no action to punish those accused of beating him. After such incidents, villagers appeared to have abandoned the recall attempt.

The election law governs elections of legislative bodies at all levels. Under this law, citizens have the opportunity to vote for local people's congress representatives at the county level and below, although in most cases the nomination of candidates in those elections was strictly controlled. Legislators select people's congress delegates above the county level. For example, provincial-level people's congresses select delegates to the NPC. Beginning in late 2002, a practice began of naming local CCP secretaries to serve concurrently as the head of the local people's congress, a move that dramatically strengthened party control over these legislatures.

Although the party controls appointments of officials to government and party positions at all levels, some township, county, and provincial elections featured experiments with increased competition, including self-nomination of candidates, campaign speeches by candidates, public vetting of nominees, and a two-tiered indirect election system. During a September visit by British Prime Minister Tony Blair,

Premier Wen Jiabao said that local elections will be expanded to the township level, but he did not specify when such a reform would be implemented. Separately, officials continued experimenting with the election of party leaders in balloting among party members. In October, the state council information office issued a white paper, *China's Democratic Political Construction*, discussing the government's version of its efforts towards building democracy.

The CCP retained a monopoly on political power and forbade the creation of new political parties. In its white paper, the government said nine political parties existed, all of which were founded prior to the establishment of the PRC in 1949. The white paper did not discuss the China Democracy Party (CDP), an opposition party that had attracted hundreds of members nationwide within a few months of its founding in 1998 and that the CCP declared to be illegal. Dozens of CDP leaders, activists, and members have been arrested, detained, or confined, including over 40 CDP leaders imprisoned for subversion. in 1998 CDP founders Xu Wenli, Wang Youcai, and Qin Yongmin were sentenced to prison terms of 13, 12, and 11 years, respectively. Xu Wenli and Wang Youcai were released on medical parole to a foreign country in December 2002 and March 2004, respectively. Qin remained in prison at year's end, as did others connected with a 2002 open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre signed by 192 activists. In May former CDP member Xu Wanping of Chongqing was arrested on charges of subversion. Shandong's Ren Ziyuan reportedly was charged with subversion for attempting to organize an opposition group called the "Mainland Democratic Front." More than 40 current or former CDP members remained imprisoned or held in reeducation-through-labor camps during the year, including Zhang Lin, Zhao Changqing, Sang Jiancheng, He Depu, Yao Zhenxiang, Han Lifa, Dai Xuezhong, Yang Tianshui, Wang Rongqing, and Jiang Lijun.

The government placed no special restrictions on the participation of women or minority groups in the political process. However, women still held few positions of significant influence at the highest rungs of the CCP or government structure. There was one woman on the 24-member Politburo. There was also one woman among the five state councilors. The head of a key CCP organization, the United Front Work Department, was a woman. During the year, women headed 2 of the country's 28 ministries, and 25 women served at the level of vice minister or higher, nearly double the number in 2004. The government encouraged women to exercise their right to vote in village committee elections and to stand for those elections, although only a small fraction of elected members were women. In many locations, a seat on the village committee was reserved for a woman, who was usually given responsibility for family planning. At the end of 2004, there were 12.9 million female party members, making up 18.6 percent of the 69.6 million members of the Communist Party. Women constituted 20.2 percent of the NPC and 13.2 percent of the NPC Standing Committee. In November 2002 the 16th Party Congress elected 27 women to serve as members or alternates on the 198-person Central Committee, a slight increase over the total of the previous committee.

Minorities constituted 14 percent of the NPC, although they made up approximately 9 percent of the population. All of the country's 55 officially recognized minority groups were represented in the NPC membership. The 16th Party Congress elected 35 members of ethnic minority groups as members or alternates on the Central Committee. The only ministerial-level post, held by an ethnic minority was the Ethnic Affairs post and there was one ethnic minority, Vice Premier Hui Liangyu, on the Politburo. Minorities held few senior party or government positions of significant influence (see section 5).

Government Corruption and Transparency.—Corruption remained an endemic problem. The National Audit Office determined that approximately $400 million (RMB 3.21 billion) from the central government's 2004 budget was misused or embezzled, nearly triple the amount reported in 2003. Corruption plagued courts, law enforcement agencies and other government agencies. In 2004 economists estimated that the cost of corruption might exceed 14 percent of gross domestic product.

The courts and party agencies took disciplinary action against many public and party officials during the year. According to the SPP, in the first 11 months of the year, prosecutors filed and investigated 33,821 cases of embezzlement, bribery, or dereliction of duty, including 22,503 that were prosecuted. In 2004, 30,788 officials were prosecuted for corruption, resulting in the government recovering more than $500 million (RMB 4.02 billion) in economic losses. From 2001 through July, prosecutors investigated 152,440 such cases, involving over 170 thousand persons. In Guangdong Province alone, 32 senior officials and 295 mid-level officials were arrested for taking bribes or dereliction of duty, some related to coalmine accidents. The CCP's Central Discipline and Inspection Commission (CDIC) reported that 164,831 officials were disciplined for breaking laws and party discipline in the 12

months ending November 2004. During the year at least seven current or former high-ranking officials were executed or given suspended death sentences on corruption-related charges. Of those, 4,775 lost CCP membership and were prosecuted, only half as many as in the previous year. In some cases the CDIC reportedly acted as a substitute for sanctions by the courts and other legal agencies.

The country had no national freedom of information law, but many local jurisdictions continued to enact freedom of information regulations, aimed at improving the public's communication with and supervision over local government initiatives. Shanghai's local freedom of information process was viewed as particularly well developed. Some 95 percent of government ministries, provincial governments and prefecture-level cities had Web sites, providing some, albeit controlled, public information. However, citizens, local media, and foreign journalists found it difficult to get information about government decision-making, especially before decisions were formally announced.

The government experimented with various forms of public oversight of government, including telephone hot lines and complaint centers, administrative hearings, increased opportunity for citizen observation of government proceedings, and other forms of citizen input in the local legislative process, such as hearings to discuss draft legislation. Citizens continued to file administrative lawsuit to seek legal redress against government malfeasance. According to official statistics, 92,192 administrative lawsuits were filed against the government in 2004, slightly more than in the previous year. Over one-third of the cases related to individual rights and economic interests, an increase of 19 percent over 2003. Petitioning officials directly and outside the court system was also a common avenue used by citizens to redress grievances (see section 2.b.).

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions; existing domestic NGOs were harassed. The government tended to be suspicious of independent organizations and increased scrutiny of NGOs with links overseas. Most large NGOs were quasi-governmental in nature, and all NGOs had to be sponsored by government agencies (see section 2.b.). Authorities established a task force during the year to monitor the activities of domestic and foreign NGOs, including those involved in human rights issues. Some NGOs were forced to reregister and others had their registrations cancelled as a result of this campaign (see section 2.b.).

An informal network of activists around the country continued to serve as a credible source of information about many human rights violations. The information was disseminated through organizations such as the Hong Kong-based Information Center for Human Rights and Democratic Movement in China and the New York-based Human Rights in China.

When permitted by authorities, the press reported about officials who exceeded their authority and infringed on citizens' rights. However, the government remained reluctant to accept criticism of its human rights record by other nations or international organizations. It criticized reports by international human rights monitoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. The government-established China Society for Human Rights is a "nongovernmental" organization whose mandate was to defend the government's human rights record. The government maintained that each country's economic, social, cultural and historical conditions influence its approach to human rights.

The government had active human rights dialogues with Australia, Canada, Germany, Hungary, Mexico, Norway, Switzerland, the United Kingdom, and the European Union (EU). During a July seminar on freedom of expression, part of the EU's human rights dialogue, security officials interrogated and threatened a member of the EU delegation. After intervention by representatives of foreign governments, the individual was permitted to leave the country. Government officials claimed security officials acted properly in interrogating the NGO representative. Representatives of other international human rights organizations reported that authorities denied their visa requests or restricted the length of visas issued to them.

The government continued its unofficial dialogue on human rights and prisoner issues with a San Francisco-based human rights group. Visits by the group's executive director continued, but the government suspended cooperation with the group on responding to prisoner lists.

The government hosted visits by the UN high commissioner for human rights and the US Committee for International Religious Freedom in August and by the UN special rapporteur for torture in November. The government permitted the Inter-

national Committee of the Red Cross (ICRC) to open an office in Beijing, although it did not authorize the ICRC to visit prisons. The government submitted to the UN its first compliance report on the International Covenant on Economic, Cultural and Social Rights.

Section 5. Discrimination, Societal Abuse, and Trafficking in Persons.

There were laws designed to protect women, children, persons with disabilities, and minorities. However, in practice, some discrimination based on ethnicity, gender, and disability persisted.

Women.—Violence against women remained a significant problem. There was no national law criminalizing domestic violence, but the Marriage Law provides for mediation and administrative penalties in cases of domestic violence. In August the NPC amended the Law on the Protection of Women's Rights specifically to prohibit domestic violence, although critics complained that the provision fails to define domestic violence. Over 30 provinces, cities, or local jurisdictions passed legislation aimed at addressing violence. According to a 2004 survey by the All-China Women's Federation (ACWF), 30 percent of families had experienced domestic violence, and 16 percent of husbands had beaten their wives. The ACWF reported that it received some 300 thousand letters per year complaining about family problems, mostly domestic violence. The actual incidences were believed to be higher because spousal abuse went largely unreported. According to experts, domestic abuse was more common in rural areas than in urban centers. In response to increased awareness of the problem of domestic violence, there were a growing number of shelters for victims. Rape is illegal, and some persons convicted of rape were executed. The law does not expressly recognize or exclude spousal rape.

The law prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations has resulted in instances of local birth planning officials using physical coercion to meet government goals (see section 1.f.). In addition women faced a disproportionate burden due to the government's enforcement of its birth limitation laws and practices. Such laws and practices require the use of birth control methods (particularly IUDs and female sterilization, which according to government statistics, accounted for over 80 percent of birth control methods employed) and the abortion of certain pregnancies.

According to expert estimates, there were 1.7 to 5 million commercial sex workers in the country. The commercialization of sex and related trafficking in women trapped tens of thousands of women in a cycle of crime and exploitation and left them vulnerable to disease and abuse. According to state-run media, one out of every five massage parlors in the country was involved in prostitution, with the percentage higher in cities. A 2004 Guangdong Province survey found that 74.2 percent of massage parlor workers were involved in prostitution. Unsafe working conditions were rampant among the saunas, massage parlors, clubs, and hostess bars in cities. Research indicated that up to 80 percent of prostitutes in some areas had hepatitis.

Although the government made some efforts to crack down on the sex trade, credible media reports claimed that some local officials were complicit in prostitution, owned prostitution venues or received proceeds from such businesses. Prostitution involved organized crime groups and businesspersons as well as the police and the military. Actions to curtail prostitution had limited results. In 2004 an investigation of prostitution at entertainment facilities in Guangdong Province led to the permanent closure of 15 percent and temporary closure of another 40 percent of the facilities investigated, according to state-run media. Courts have prosecuted persons involved in organizing and procuring prostitutes.

The amended Law on the Protection of Women's Rights included a ban on sexual harassment, stating "The injured woman has the right to complain to the work unit and the relevant department" and may "bring a civil action in court for damages." Legal scholars and activists praised the amendment but emphasized the law should also specifically define what constitutes abusive behavior. Experts continued to suggest that many victims did not report sexual harassment out of fear of losing their jobs.

The government has made gender equality a policy objective since 1949. The constitution states "women enjoy equal rights with men in all spheres of life." The Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. Policies that once allotted work unit housing only to the husband have become gender-neutral, and an April Supreme Court interpretation emphasized that housing rights are shared equally, even in cases of divorce. The State Council's National Working Committee on Children and Women has coordinated women's policy since 1990. The ACWF is the leading implementer of women's policy for the government. Nonetheless, many

activists and observers are concerned that the progress made by women over the past 50 years was eroding. They asserted that the government appeared to have made the pursuit of gender equality a secondary priority as it focused on economic reform and political stability.

The Law on the Protection of Women's Rights and Interests was designed to assist in curbing gender-based discrimination. However, women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. Efforts have been made by social organizations as well as by the government to educate women about their legal rights, and there was anecdotal evidence that women increasingly were using laws to protect their rights.

Women's networks, involving lawyers, activists, and the press, were active in Beijing, Shanghai, and other cities, highlighting problems and calling for solutions to gender-based discrimination.

Nevertheless, women frequently encountered serious obstacles to the enforcement of laws. According to legal experts, it was very hard to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages. As a result very few cases were brought to court. Some observers noted that the agencies tasked with protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment. Women's rights advocates indicated that in rural areas, women often forfeited land and property rights to their husbands after marriage and in divorce.

The All China Women's Federation reported that 47 percent of laid-off workers were women, a percentage significantly higher than their representation in the labor force. Many employers preferred to hire men to avoid the expense of maternity leave and childcare, and some lowered the effective retirement age for female workers to 40 years of age (the official retirement age for men was 60 years and for women 55 years). Lower retirement ages also reduced pensions, which generally were based on the number of years worked. Job advertisements sometimes specified height and age requirements for women.

The law provides for equal pay for equal work. However, a 1999 government survey found that urban women were paid only 70 percent of what men received for the same work, while women in rural areas received only 60 percent of male peasants' incomes. Average incomes of female executives and senior professionals were only 58 percent and 68 percent of their male colleagues' salaries. Most women employed in industry worked in lower-skilled and lower-paid jobs and in sectors, such as textiles, which were particularly vulnerable to restructuring of state-owned enterprises and layoffs. Women accounted for 60 percent of those below the poverty line in the country.

UNESCO reported that less than 2 percent of women between the ages of 15 and 24 were illiterate, adding that 15 percent of women 15 years and older were illiterate. The female illiteracy rate was double that for men. Official government statistics claimed that the illiteracy rate among women ages 15 to 40 was 4.2 percent.

A high female suicide rate continued to be a serious problem. According to the World Bank and the World Health Organization, there were approximately five hundred female suicides per day, estimated to be nearly five times the global rate. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, the country's birth limitation policies, and other societal factors contributed to the especially high female suicide rate. Women in rural areas were especially vulnerable.

While the gap in the education levels of men and women was narrowing, men continued to constitute a disproportionate number of the relatively small percentage of the population that received a university-level education. According to the State Council Information Office, in 2004 women accounted for 45.7 percent of students in institutions of higher learning, 44.2 percent of postgraduate students and 31.4 percent of doctoral students. However, women with advanced degrees reported discrimination in the hiring process as the job distribution system became more competitive and market driven.

Children.—The law prohibits maltreatment of children and provides for compulsory education. The State Council's National Working Committee on Children and Women was tasked with carrying out policy toward children.

The law provides for nine years of compulsory education for children. However, in economically disadvantaged rural areas many children did not attend school for the required period and some never attended. Public schools were not allowed to charge tuition, but after the central government largely stopped subsidizing primary education in the early 1990s, many public schools began to charge mandatory

school-related fees to meet revenue shortfalls. Such fees made it difficult for poorer families and some migrant workers to send their children to school.

The government campaign for universal primary school enrollment by 2000 helped to increase enrollment in some areas. It also reportedly led some school officials to inflate the number of children actually enrolled. According to government statistics, 98.6 percent of children nationwide were enrolled in elementary school. In 2002 the government reported a girl/boy ratio of approximately 90 percent for primary education and 85 percent for secondary education. It was widely believed that the proportion of girls attending school in rural and minority areas was far smaller than in cities.

In 2003, the UN special rapporteur on the right to education visited and found that the government failed to provide education to many children of migrant workers and prohibited children from receiving religious education. The special rapporteur expressed serious concern about privatization of the costs of public education, reporting that the government compels parents to pay nearly half the costs of public education, making education inaccessible to many children. The special rapporteur also recommended the government immediately ban the practice of children performing manual labor at their schools to raise funds.

An extensive health care delivery system led to improved child health and a continued decline in infant mortality rates. According to the 2000 census, the infant mortality rate was 28.4 per 1,000. According to the UN International Children's Emergency Fund (UNICEF) statistics, the mortality rate for children under 5 years of age was 39 per 1,000 live births. The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the National Population and Family Planning Commission, a handful of doctors have been charged with infanticide under this law. The law prohibits discrimination against disabled minors and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution.

More than half of all boys and almost a third of all girls have been physically abused, according to survey results released at a May conference in Beijing. The survey reported that 10 percent of boys and 15 percent of girls have been sexually abused. These statistics were among those publicized at a National Consultation on Violence against Children, which the government and UNICEF sponsored. However, journalists were sanctioned for reporting on the rape of girl students as young as 10 in Shanxi and Guangdong Provinces. A media ban was also issued after a Nanjing newspaper publicized the forced sterilization of mentally challenged teenagers in Nantong, Jiangsu Province.

Despite government efforts to prevent kidnapping and the buying and selling of children, these problems persisted in some rural areas, and children were trafficked for labor purposes (see section 5, Trafficking).

Juvenile crime increased sharply, prompting calls to establish an independent, nationwide juvenile justice system. During the first seven months of the year, 23 percent more juveniles were convicted of crimes than during the same period in 2004. From 2000 to 2004, the annual increase in juvenile crime was 14 percent. Authorities arrested 69,780 juveniles in 2003, and approximately 19 thousand juveniles were incarcerated in formal prisons. Abolition of the system of custody and repatriation in 2003 reduced the number of children detained administratively (see section 1.c.). Nonetheless, more than 150 thousand homeless "street children" lived in cities, according to state-run media. Many did not live with their parents and survived by begging. Juveniles were required by law to be held separately from adults, except when facilities were insufficient. In practice children sometimes were detained without their parents, held with adults, and required to participate in forced labor (see sections 1.d. and 6.c.).

Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the birth limitation policy (see section 1.f.). Many families, particularly in rural areas, used ultrasound to identify female fetuses and terminate pregnancies, even though this practice remained illegal. An official study in Hainan Province found that 68 percent of abortions were of female fetuses. According to a 2002 survey, 35 percent of women in one rural township admitted to having an abortion because of a preference for a male child. Female babies also suffered from a higher mortality rate than male babies, contrary to the worldwide norm. State media reported that infant mortality rates in rural areas were 27 percent higher for girls than boys. Neglect of baby girls was one factor in their lower survival rate. One study found the differential mortality rates were highest in areas where women had a lower social status and economic and medical conditions were poor.

The law forbids the mistreatment or abandonment of children. According to the latest available figures, compiled in 1994, the number of children abandoned annu-

ally was approximately 1.7 million. The number may have grown over the subsequent decade despite the fact that, under the law, child abandonment is punishable by a fine and a five-year prison term. The vast majority of children in orphanages were female; males in orphanages were usually disabled or in poor health. Medical professionals sometimes advised parents of children with disabilities to put the children into orphanages.

The government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, particularly those with serious medical problems. Adopted children were counted under the birth limitation regulations in most locations. As a result, couples that adopted abandoned baby girls were sometimes barred from having additional children.

Trafficking in Persons.—The law prohibits trafficking in women and children; however, trafficking in persons and the abduction of women for trafficking remained serious problems. The country was both a source and destination country for trafficking in persons. Most trafficking was internal for the purpose of providing lower-middle income farmers with brides or sons. Some cases involved trafficking of women and girls into forced prostitution in urban areas, and some reports suggested that certain victims, especially children, were sold into forced labor.

Internal trafficking was a significant problem. Ministry of Public Security (MPS) statistics show that during the first 10 months of the year, there were 1,949 cases of trafficking involving women and children. Over this same period, there were 3,574 women and children rescued compared with 8,949 women and children rescued in 2004.

Some experts suggested that the demand for abducted women was fueled by the shortage of marriageable brides, especially in rural areas. The serious imbalance in the male-female sex ratio at birth, the tendency for many village women to leave rural areas to seek employment, and the cost of traditional betrothal gifts all made purchasing a bride attractive to some poor rural men. Some men recruited brides from poorer regions, while others sought help from criminal gangs. Criminal gangs either kidnapped women and girls or tricked them with promises of jobs and higher living standards, only to be transported far from their homes for delivery to buyers. Once in their new "family," these women were "married" and raped. Some accepted their fate and joined the new community; others struggled and were punished; a few escaped.

There were reports that women and girls from Burma, Laos, North Korea, Vietnam, and Russia were trafficked into the country either to work in the sex trade or for forced marriages. Past reports noted that trafficking of North Korean women and girls into the country to work in the sex industry was widespread in the northeastern part of the country, but reliable sources suggested that the practice has decreased. North Korean women reportedly were sold as brides for approximately $38 to $375 (RMB 315 to 3,000). Women reportedly also were trafficked from Vietnam for the purpose of forced marriage. Citizens were trafficked from the country for sexual exploitation and indentured servitude in domestic service, sweatshops, restaurants, and other services. There were reports that citizens were trafficked to Australia, Belgium, Burma, Canada, Hungary, Italy, Japan (illegal immigrants held in debt bondage), Malaysia, the Netherlands (for the purpose of sexual exploitation), Singapore, Sri Lanka (for sexual exploitation), Taiwan, the United Kingdom (for sexual exploitation), and the United States.

Trafficked persons became entangled with alien smuggling rings, which often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped that their economic prospects would improve. There were credible reports that some promised to pay from $30 thousand to $50 thousand (RMB 248 thousand to RMB 415 thousand) each for their passage. Upon arrival, many reportedly were forced to repay traffickers for the smuggling charges and their living expenses by working in specified jobs for a set period of time. Living and working conditions for trafficked persons were generally poor. Traffickers restricted their movements and confiscated their often-fraudulent travel documents. Threats to report trafficking victims to the authorities or to retaliate against their families if they protested made trafficked persons even more vulnerable. Alien smugglers were fined $6 thousand (RMB 49,600), and most were sentenced to up to three years in prison; some were sentenced to death. MPS officials stated that repatriated victims of trafficking were no longer fined upon their return. However, experts acknowledged that fining might have occurred inadvertently because of the difficulty in identifying victims.

Kidnapping and the buying and selling of children continued to occur, particularly in poorer rural areas. There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to

have children; in particular, boys were trafficked to couples unable to have a son. In 2004 media reported arrests in the case of 76 baby boys sold in Hohhot, Inner Mongolia, and a case of 200 children, mostly boys, who were kidnapped in Kunming, Yunnan Province. In December, 16 people were arrested in connection with the kidnapping of 31 baby girls, whose ages ranged from newborn to three months old. Reports stated the babies were to be sold to foreigners for $100 to $500 (RMB 807 to RMB 4,037) each. The kidnapping ring was believed to have been in operation for two years Children were also trafficked for labor purposes. Children trafficked to work usually were sent from poorer interior areas to relatively more prosperous areas; traffickers reportedly often enticed parents to relinquish their children with promises of large remittances their children would be able to send to them.

The purchase of women was criminalized in 1991 when the NPC Standing Committee enacted its "Decision Relating to the Severe Punishment of Criminal Elements Who Abduct and Kidnap Women and Children." This decision made abduction and sale separate offenses.

During 2004 police arrested 5,043 suspected traffickers and referred 3,144 for prosecution. In October 2004, 36 members of a child trafficking ring in Yunnan Province were given sentences, which ranged from two years to death. In Guangdong Province, 68 prosecutions were undertaken against traffickers from 2002 to June 2004 and officials rescued more than 100 children. During the year 10 members of a Guangzhou baby smuggling ring were convicted of smuggling 37 male infants. According to several media reports the average price was US$1,239 (RMB 10 thousand) per child, although other media reports quoted a range of prices from several thousand to a few hundred dollars per child.

Despite government efforts to eliminate trafficking in women and children, the problem persisted. There were reports of local officials' complicity in both alien smuggling and in prostitution, which sometimes involved trafficked women. In some cases, village leaders sought to prevent police from rescuing women who had been sold as brides to villagers.

Agencies involved in combating trafficking included the MPS, the SPC, the SPP, the Ministry of Civil Affairs, the Central Office in Charge of Comprehensive Management of Public Order, and the Legislative Office of the State Council. It was central government policy to provide funds to provincial and local police to house victims and return them to their homes. Government-funded women's federation offices provided counseling on legal rights, including the options for legal action against traffickers, to some victims. The ACWF assisted Chinese victims in obtaining medical and psychological treatment.

Persons with Disabilities.—The law protects the rights of persons with disabilities and prohibits discrimination; however, conditions for such persons lagged far behind legal dictates, failing to provide persons with disabilities with access to programs designed to assist them. According to the official press, all local governments have drafted specific measures to implement the law.

As attention began to focus on the 2007–08 Special Olympics and Paralympics, the press increasingly publicized the plight of persons with disabilities and the government's efforts to assist them. In 2004 16.2 million of the country's 60 million persons with disabilities found jobs, but the China Disabled Person's Federation estimated that another 12 million employable persons with disabilities remained unemployed. Some 1.7 million persons with disabilities escaped poverty and 3,821 youth with disabilities from poor families entered colleges, state-run media reported. Nearly 100 thousand organizations exist, mostly in urban areas, to serve those with disabilities and protect their legal rights. The government, at times in conjunction with NGOs, sponsored programs aimed at integrating persons with disabilities into society. However, misdiagnosis, inadequate medical care, stigmatization, and abandonment remained common problems.

According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, where care was often seriously inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty in getting adequate medical care, day care, and education for their children. Government statistics showed that almost one-quarter of persons with disabilities lived in extreme poverty. Unemployment among disabled adults remained a serious problem. Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; compliance with the law was lax. Students with disabilities were discriminated against in access to education. The law permits universities legally to exclude otherwise qualified candidates from higher education.

The law forbids the marriage of persons with certain acute mental illnesses, such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling

congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of healthy births. Media reports publicized the forced sterilization of mentally challenged teenagers in Nantong, Jiangsu Province.

National/Racial/Ethnic Minorities.—According to the 2000 census, the population of the country's 55 officially recognized ethnic minorities totaled 106.4 million, or 8.4 percent of the total population. Additionally some citizens identified themselves as members of unrecognized ethnic minorities. Most minority groups resided in areas they traditionally have inhabited. Government policy provides members of recognized minorities with preferential treatment in birth planning, university admission, access to loans, and employment. In May new regulations designed to enhance minority preferences in education became effective. Nonetheless, in practice the majority Han culture often discriminated against minorities. Most minorities in border regions were less educated than the national average, and job discrimination in favor of Han migrants remained a serious problem. Racial discrimination was the source of deep resentment in some areas, such as Xinjiang, Inner Mongolia, and Tibetan areas. For example, ethnic Uighurs in Xinjiang did not have equal access to newly created construction jobs; Han workers were brought in to work, particularly on road construction and oil and gas pipelines. As part of its emphasis on building a "harmonious society," the government downplayed racism against minorities and tension among different ethnic groups. But even in the Yanbian Korean Autonomous Prefecture of Jilin Province, which the government recognized as the most "harmonious" ethnic area, there is a perceived ceiling in career advancement for ethnic Koreans.

Incomes in minority areas remained well below those in other parts of the country, particularly for minorities. Han Chinese benefited disproportionately from government programs and economic growth. Many development programs disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons (see section 2.d.).

The government's policy used since 1949 to encourage Han migration into minority areas resulted in significantly increasing the population of Han Chinese in Xinjiang. According to 2004 statistics published by Xinjiang officials, 9 million of Xinjiang's 19.6 million official residents were Uighur. Approximately 7.8 million Xinjiang residents were Han (40 percent of the total population), up from 300 thousand Han in 1949 (6 percent of the total population). Significant numbers of Kazakhs, Hui, Kyrgyz, and other minorities also live in Xinjiang. Official statistics underestimated the Han population because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers." The migration of ethnic Han into Xinjiang in recent decades caused the Han-Uighur ratio in the capital of Urumqi to shift from 20:80 to 80:20 and was a source of Uighur resentment. According to the 2000 census, non-Tibetan residents of the TAR comprised 6 percent of the population, but that figure did not include a large number of long-term Han Chinese "temporary" residents. Their presence also caused resentment among some Tibetans (see Tibet Addendum).

Minorities constituted 14 percent of the NPC, which was higher than their percentage in the population. According to a 1999 government report, 2.7 million minority officials served in the government. A Xinhua report claimed that more than 25 percent of Inner Mongolia's cadres were ethnic minorities, even though ethnic minorities constitute only 21 percent out of the region's population of 23.79 million. A 2003 government white paper stated that 348 thousand minority cadres serve in Xinjiang, accounting for 51.8 percent of all party members in the autonomous region. Ethnic minorities constituted 63 percent of Xinjiang's deputies to the NPC.

Nonetheless, Han officials held the most powerful party and government positions in minority autonomous regions, particularly Xinjiang. In April the government announced that 500 of 700 new government jobs in Southern Xinjiang would be reserved for Han Chinese. In September the *Xinjiang Daily* announced that 947 Han cadres were being sent to areas where ethnic unrest had occurred. Han Chinese also held a majority of positions in security services, including special border brigades and new counter-terrorism brigades that had some police powers. Even in the government-run Production and Construction Corps, Han received preference in employment. In April nine thousand workers from Han areas of Gansu Province signed long-term contracts to work on the corps farms in Xinjiang, even though unemployment among local minorities remained very high.

The government began moving away from the two-track school systems that used either standard Chinese or the local minority language and toward a new system that will require schools to teach both standard Chinese and local minority languages or to teach standard Chinese only. Prior to adopting the new policy, the vast

majority of Uighur children in Xinjiang attended Uighur-language schools and generally received an hour's Chinese-language instruction per day. Graduates of minority language schools typically needed intensive Chinese study before they could handle course work at a Chinese-language university. The dominant position of standard Chinese in government, commerce, and academia put graduates of minority-language schools who lacked standard Chinese proficiency at a disadvantage. Koranic education was tightly controlled and use of Arabic in public schools is forbidden (see section 2.c.). During the year the government allocated an additional US$15 million (RMB 120 million) to build new schools and support technical training for minority students who drop out before high school. In January Party Secretary Wang Lequan urged the CCP to rewrite textbooks and increase regulation of classroom activities because schools had become the "battlefront" for strengthening the party.

A campaign in Xinjiang targeting the "three evils" of religious extremism, splittism, and terrorism continued and showed no signs of abating. Before celebrations marking the 50th anniversary of the founding of the Xinjiang Autonomous Region, authorities reemphasized the need to "strike hard" against these three evils and made numerous arrests, according to state-run media. Authorities in Xinjiang regularly grouped together individuals or organizations involved in the three evils, making it difficult to determine whether particular raids, detentions, or judicial punishments were targeted at those peacefully seeking to express their political and religious views or those who engaged in violence (see section 2.c.). The government's war on terror continued to be used as a pretext for cracking down harshly on Uighurs expressing peaceful political dissent and on independent Muslim religious leaders. In December 2003 the government published an "East Turkestan Terrorist List," which labeled organizations such as the World Uighur Youth Congress and the East Turkestan Information Center as terrorist entities. These groups openly advocated East Turkestan independence, but only one group, the East Turkestan Islamic Movement (ETIM) was designated by the UN as a terrorist organization.

Uighurs were sentenced to long prison terms and many were executed on charges of separatism. During a previous strike-hard campaign, which officially concluded in 2003, authorities stated they prosecuted more than three thousand cases in Xinjiang and held mass sentencing rallies attended by more than three hundred thousand persons. By its own account, from January to August 2004 the government broke up 22 groups engaged in what it claimed were separatist and terrorist activities and meted out 50 death sentences to those charged with separatist acts. In February Uighur writer Nurmuhemmet Yasin was sentenced to 10 years in prison after publishing a short story, called *The Wild Pigeon*, which authorities claimed advocated separatism. In August, 10 individuals reportedly were arrested for "splittist" activities, which included possession of pamphlets and audiotapes calling for an independent state. Later in the year, editor of the *Kashgar Literature Journal* Korash Huseyin was sentenced to three years in prison for publishing *The Wild Pigeon*. In April, writer Abdulla Jamal was detained in Xinjiang, reportedly for writings that promoted Uighur independence. In October 2003 Uighur Shaheer Ali was executed after being convicted of terrorism. He had been repatriated forcibly from Nepal in 2002, where he had been interviewed by the UNHCR and granted refugee status.

In March Uighur businesswoman Rebiya Kadeer, a long-time symbol of the government's mistreatment of Uighurs, was released on medical parole to a foreign country. Kadeer, a former member of the provincial-level Chinese People's Political Consultative Conference, had been sentenced to eight years in prison on charges of "passing state intelligence" to foreigners. According to press reports, the intelligence she was accused of passing included newspaper articles and names of persons whose cases had been handled by the courts. After her release, Xinjiang officials investigated the activities of her family members and business associates who remained in the country, frequently questioning and harassing them. Two of Kadeer's former employees were detained from May 11 until December 14 in connection with the investigation. Authorities maintained that Kadeer's family members and business associates were not harassed, but were being investigated for financial crimes committed in the mid-1990s.

In October 2004 Uighur Dilkex Tilivaldi was detained after meeting a foreign journalist. The government refused to clarify his whereabouts.

Other Uighurs whose work emphasized pride in cultural identity have also been harassed and detained by the government. There were no new developments in the cases of Abdulghani Memetemin, convicted in 2003 and sentenced to 9 years in prison for translating news articles and forwarding official speeches to the East Turkestan Information Center; Abduhelil Zunun, sentenced in 2001 to 20 years in prison for translating the Universal Declaration of Human Rights into the Uighur language; or scholar Tohti Tunyaz, sentenced to 11 years imprisonment in 1999.

Possession of publications or audiovisual materials discussing independence or other sensitive subjects was not permitted. According to reports, possession of such materials resulted in lengthy prison sentences.

Officials in the region defended the campaign against separatism as necessary to maintain public order. In March 2004 Xinjiang's chairman Ismail Tiliwaldi asserted the campaign had improved security, and officials acknowledged there have been no acts of separatist violence or terrorism in Xinjiang since 1999. However, officials continued to use the threat of violence as justification for extreme security measures directed at the local population and visiting foreigners.

Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies brought economic improvements to Xinjiang, Han residents have received a disproportionate share of the benefits.

Inner Mongolian cultural activist Hada continued to serve a 15-year sentence during the year.

Other Societal Abuses and Discrimination.—No laws criminalize private homosexual activity between consenting adults. In 2004 prohibitions on homosexuality were dropped from regulations governing the behavior of individuals serving sentences.

Gay men and lesbians stated that official tolerance had improved in recent years. In September a university in Shanghai offered the first undergraduate course on gay and lesbian studies. In June the Beijing Gay and Lesbian Culture Festival took place; however, postponement and venue changes were threatened, which organizers claimed was due to discrimination. A subsequent festival in December was cancelled, and police raided the venue where organizers subsequently attempted to gather. Societal discrimination and strong pressure to conform to family expectations deterred most gay individuals from publicly discussing their sexual orientation. Published reports said that more than 80 percent of gay men married because of social pressure. In what officials said was a campaign against pornography, authorities blocked the US-based Web site gaychinese.net for three months. Other Internet sites on gay issues that were not sexually explicit were also blocked during the year.

In 2004 the government officially outlawed discrimination against persons with HIV/AIDS and Hepatitis B. Under the new contagious disease law and adopted regulations, employment discrimination against persons with HIV/AIDS and Hepatitis B is forbidden, and provisions allow such persons to work as civil servants. However, discrimination against persons with HIV/AIDS remained widespread in many areas. Hospitals and physicians sometimes refused to treat HIV-positive patients. The government stated that there were 650 thousand persons living with HIV/AIDS, a downward revision from a 2002 estimate of 840 thousand people. The government stated the change resulted from improved data analysis and collection involving an international committee of experts.

The NGO Human Rights Watch reported discrimination against some NGOs working on HIV/AIDS and against infected persons seeking care and treatment, especially in some areas of Henan Province where thousands had been infected in government-run blood selling stations during the 1990s. Some NGOs criticized the government for failing to distribute funding, medicine, and services promised by a national program to all rural and urban poor residents with HIV/AIDS. The government and many foreign experts emphasized that the promise to provide free care to such residents was a major advance and that any problems were largely logistical as the government worked to meet its goals in care and treatment for people with HIV/AIDS. In April, 15 people were arrested as part of the illegal blood-selling schemes from the 1990s that caused the HIV infection of thousands. State-run media reported that the government closed 147 illegal blood-selling stations during the year. While the government continued to build some special detention facilities for those with HIV/AIDS, there were no public reports of discrimination against infected prisoners, such as Wang Guofang and Li Suzhou, whose mistreatment and difficulty receiving medication while in detention was a subject at the 2004 International AIDS Conference.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the freedom of association, although in practice workers were not free to organize or join unions of their own choosing. The All-China Federation of Trade Unions (ACFTU), which was controlled by the CCP and headed by a high-level party official, was the sole legal workers' organization. The trade union law gives the ACFTU control over all union organizations and activities, including enterprise-level unions. Independent unions are illegal. The ACFTU and its constituent unions influenced and implemented government

policies on behalf of workers. The CCP used the ACFTU to communicate with and control workers.

Already established in the state-owned sector, where union representatives frequently held senior management positions, the ACFTU worked throughout the year to establish its unions in the non-state-owned sector. Organizing in the nonpublic sector continued to be difficult. However, by the end of 2004, the ACFTU reported that its membership had reached 136.9 million members or 53 percent of the 264 million urban workers, an increase of 5 percent over the previous year. Analysis by a Hong Kong-based NGO indicates that 38 percent of corporate units and 25 percent of private enterprises had registered under the ACFTU.

A large rural labor force, consisting of approximately 540 million persons, including 300 million primary sector workers, was unorganized; farmers had no union or similar organization. Few of the 130 million rural residents working in township and village enterprises were unionized. Of the 100 to 150 million rural migrants who worked in the cities, the ACFTU claimed that a total of 14 million had joined the union. The Ministry of Construction reported that 11 million of the 40 million migrant workers in the construction industry were union members. However, most migrants working in low-value-added jobs in the manufacturing and service sectors were not represented and were easily exploited. Employers controlled most unions that existed in these sectors and often appointed the trade union representative.

Some workers acted outside the ACFTU structure to demand back wages, pension or health insurance contributions or other benefits owed by employers. The government took action against these workers, either because the union refused or was powerless to help them. In May Kong Jun and Li Xintao, employees of the bankrupt state-owned Huamei Garment Company, were convicted of disturbing social order and government institutions after they asked the Shandong provincial government to act against their employer for failure to pay workers' wages and insurance benefits.

Other labor activists, detained in previous years, were reportedly still in detention at year's end. These included Yao Fuxin, Xiao Yunliang, Shao Liangchen, Hu Shigen, Wang Sen, Zhang Shanguang, He Zhaohui, Yue Tianxiang, Miao Jinhong, Ni Xianfei, Huang Xiangwei and colleagues, Li Xintao, Kong Jun, and Du Hongqi. Although legal action and the intervention of foreign investors resulted in the 2004 release from prison of 10 workers from the Stella International factories, these workers' convictions were not overturned.

The trade union law provides specific legal remedies against anti-union discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Collective contract regulations provide similar protections for employee representatives during collective consultations. The degree to which these provisions were enforced was unknown.

In August, the NPC Standing Committee ratified ILO Convention 111 prohibiting discrimination in employment. Previously, the country had ratified core ILO conventions prohibiting child labor, the worst forms of child labor, and discrimination in remuneration between male and female workers, but had not ratified other core conventions regarding the right of association, the right to collective bargaining, and the prohibition against compulsory labor.

In May the International Confederation of Free Trade Unions (ICFTU) issued a report to the UN condemning China's violations of core labor standards, in particular the freedom of association and collective bargaining. The government still had not replied to an ICFTU complaint to the ILO alleging that the government had violated freedom of association in the handling of the Tieshu Textile Factory matter.

b. The Right to Organize and Bargain Collectively.—The labor law permits collective bargaining for workers in all types of enterprises; however, in practice, collective bargaining fell far short of international standards. In 2004 the Ministry of Labor and Social Security (MOLSS) promulgated regulations clarifying the consultation process for establishing collective contracts. Beijing municipality passed its own regulation, which mirrored the national provisions. Under the law and regulations, collective contracts are to be developed through collaboration between the labor union (or in the absence of a union, worker representatives) and management and should specify such matters as working conditions, wage scales, and hours of work. Regulations required the union to gather input from workers prior to consultation with management and to submit collective contracts to workers or their congress for approval, but it was not clear to what extent these provisions were carried out in practice. The collective contract acted as a minimum standard for individual contracts between employers and employees.

The trade union law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests. The union claimed to have signed 107 thousand collective contracts, most in state-owned enterprises, covering 25.8 million

workers by the end of 2004. However, given the non-democratic, party-dominated nature of the country's unions, collective bargaining fell far short of international standards. Moreover, without the right to strike, workers had only a limited capacity to influence the negotiation process. The ICFTU reported cases in which the local ACFTU refused to negotiate on behalf of workers because it had not received permission to do so from the municipal government. In the private sector, where official unions were few and alternative union organizations were unavailable, workers faced substantial obstacles to bargain collectively with management. The revised company law, which was passed in October, recognizes the role of the labor union in representing employees in signing a collective agreement with a company. It also provides for employee congresses to enable employees to play a role in the democratic management of the company.

The law does not provide for the right to strike. The trade union law acknowledges that strikes may occur, in which case the union is to reflect the views and demands of workers in seeking a resolution of the strike. Some observers interpreted this provision to offer a theoretical legal basis for the right to strike. However, the government continued to treat worker protests as illegal demonstrations, indicating that there was still no officially accepted right to strike.

Worker protests occurred throughout the year (see section 2.b. and section 3). Most involved actual or feared job loss, wage or benefit arrears, allegations of owner/management corruption, dissatisfaction with new contracts offered in enterprise restructuring, or discontent over substandard conditions of employment. While some were tolerated, the government took swift action to halt protests that became large or that officials deemed embarrassing. Police sometimes detained protest leaders and dispersed demonstrations. In some cases workers were offered payments that met at least a portion of their demands.

There are no special laws or exemptions from regular labor laws in export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children, and the government denied that there was a problem; however, forced labor was a serious problem in penal institutions. Detainees in reeducation-through-labor facilities were required to work, often with little or no remuneration. In some cases prisoners worked in facilities directly connected with penal institutions; in other cases they were contracted to non-prison enterprises. Facilities and their management profited from inmate labor.

The government cooperated throughout the year to resolve a number of cases that alleged products produced with prison labor were exported to a foreign country. Although the government prohibits forced and compulsory labor by children, some child trafficking victims were reportedly sold into forced labor (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under the age of 16, but the government had not adopted a comprehensive policy to combat child labor. The labor law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors. The law also stipulates that parents or guardians should provide for children's subsistence. Workers between the ages of 16 and 18 were referred to as "juvenile workers" and were prohibited from engaging in certain forms of physical work, including labor in mines.

A decree prohibiting the use of child labor provides that businesses illegally hiring minors or in whose employ a child dies will be punished via administrative review, fines, or revocation of their business license. The decree further provides that underage children found working should be returned to their parents or other custodians in their original place of residence.

The government continued to maintain that the country did not have a widespread child labor problem and that the majority of children who worked did so to supplement family income, particularly in impoverished rural areas. Although 9 years of education (through age 16) is compulsory, the high cost of basic education caused some children to drop out of school to seek work; other children worked while in school. Families alleged that child labor was widely employed at the Lihua Textile Factory in Shijiazhuang, Hebei Province, where five teenage girls died of asphyxiation in the factory dormitories, according to a lawsuit filed in March. NGOs alleged that the employer, fearful of being punished for hiring child workers, placed two of the girls in coffins while they were still alive. State-run media denied the claims, but the government sent officials to investigate the charges. In Xinjiang children were forced to pick cotton for army-based production brigades under the guise of a "work-study" program, according to foreign media reports.

State-run media reported on provincial bureau investigations into child labor cases, as well as punishment of factory owners who employed children. However,

there was little follow-up on whether children involved in such cases continued to work outside the home.

e. Acceptable Conditions of Work.—There was no national minimum wage. The labor law allows local governments to set their own minimum wage according to standards promulgated by the MOLSS. According to a 2004 regulation, these standards include the minimum cost of living for workers and their families, levels of economic development and employment in the area, as well as the level of social insurance and other benefits contributions paid by the employees themselves. The regulation states that the bureaus of labor and social security at or above the county level are responsible for enforcement of the law. It provides that where the ACFTU finds an employer in violation of the regulation, it shall have the power to demand that the department of labor and social security deal with the case, although it was not clear how that provision was implemented in practice. State-run media reported that provincial and municipal governments adjusted their minimum wages and took steps to enforce them.

Wage arrearages to employees of state-owned and private enterprises were common. State-run media reported that localities took increasingly stringent action to remedy the wage arrearages problem. Some provinces promulgated regulations requiring companies to establish wage guaranty funds, and one municipality criminally prosecuted employers accused of intentionally defaulting on workers' wages. The press reported on incidents of violence against migrants demanding back pay, and on the investigation and punishment by the State Council of those who committed such violence.

The labor law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of 3 hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, these standards were regularly violated, particularly in the private sector and in enterprises that use low-skilled migrant labor. In the manufacturing sector, compulsory overtime reportedly was common, often without overtime pay. Many areas of the country experienced shortages of migrant and skilled workers during the year, in part due to worker dissatisfaction with low wages and poor working conditions. Social auditors found that factories routinely falsified overtime and payroll records.

Occupational health and safety concerns remained serious. The poor enforcement of occupational health and safety laws and regulations continued to put workers' lives at risk. The State Administration for Work Safety (SAWS), which was elevated to ministry status, and the State Administration for Coal Mine Safety Supervision SACMSS continued to develop the national framework for work safety. SAWS promulgated regulations on gas control by state-owned mines, on worker protection equipment and on closing dangerous mines. The Ministry of Health was responsible for the prevention and treatment of occupational illness, while SAWS was responsible for workplace health supervision. Some provincial and local governments have followed the national pattern of establishing separate work safety agencies. Enforcement of national health and safety standards, which was the responsibility of governments below the national level, remained very weak.

Workplace health and safety did not improve significantly during the year, and there continued to be numerous industrial accidents. According to official statistics, during the year industrial accidents killed 126,760 workers, 7.3 percent fewer than in 2004. There were also 17 major accidents (defined as those killing more than 30 people), causing 1,200 deaths, which increased 6.3 percent and 28.2 percent, respectively, over the previous year. Eleven of these major accidents occurred in coalmines, causing 961 deaths. This was an increase of 57 percent over the number of coalmine accidents in the same category last year and an increase of 97 percent over the number of deaths in the same category last year. During the year a total of 5,986 workers died in the nation's coalmines. Soaring demand and increasing prices drove companies to increase production of coal.

Direct worker involvement in coal mine safety remained limited. In May, the ACFTU and SAWS announced that 100 thousand coal miners would be selected to work as grassroots safety supervisors in coalmines, but at year's end the degree to which the program had been implemented was still unclear. The government took steps throughout the year to improve mine safety. In response to serious methane explosions in state-owned mines, the government allocated $ 375 million (RMB 3 billion) to improve gas control in mines, and required local governments and companies to set aside funds for the same purpose. The government also required that companies step up efforts to draw off coal bed methane before mining. SAWS and the Ministry of Supervision announced that more than 200 officials and other persons responsible for six major coalmine accidents that occurred since November 2004 received disciplinary penalties, were removed from their posts or were referred

to judicial departments for criminal investigation. However, allegations of local government complicity in the cover-up of mining disasters continued. In August, a Henan Province newspaper was closed after it publicized how local officials and mine operators paid journalists not to report a coalmine accident, a practice the article claimed was common (see section 2.a.).

Independent observers reported that the government's efforts to close small illegal and unsafe mines had been successful in some areas. To further reduce accidents, the government ordered 12,000 small mines to stop production, and closed 2,411 of those that could not meet safety licensing standards. In August, following a mine flooding accident in Guangdong Province in which 123 miners were killed, the State Council issued a notice requiring all government officials to withdraw their investments in private coalmines; by year-end 3,200 officials had complied, according to a Hong Kong-based NGO.

Many factories that used harmful materials or processes not only failed to protect their workers against the ill effects of such materials or processes but failed to inform them about the hazards, neglected to provide them with health inspections as required by law, and when they fell ill, denied their claims for compensation. The Ministry of Health said that pneumonoconiosis, a chronic respiratory disease caused by inhaling metallic or mineral particles, remains the single most prevalent occupational disease in China. It was estimated that pneumonoconiosis may affect as many as five million workers, including coal miners and jewelry workers. By the end of the year nearly 78 million workers participated in the country's work-injury insurance system, an increase of 20 million workers over the previous year. However, NGOs reported that local labor and social security bureaus frequently rejected claims for compensation by workers because employers failed to provide them with documentation as required by law. Workers showed a willingness to use lawsuits to pursue injury and illness claims against employers, but there were few sources of legal aid available.

The work safety law states that employees have the right, after spotting an emergency situation that threatens their personal safety, to evacuate the workplace. Employers are forbidden to cancel the labor contracts, or reduce the wages or benefits of any employee who takes such action. There were reports of serious accidents in which miners were killed when mine managers forced them to continue work under unsafe conditions.

TIBET

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People's Republic of China. The Tibetan population within the TAR was 2.4 million, while in autonomous prefectures and counties outside the TAR the Tibetan population was 2.9 million.

The preservation and development of the unique religious, cultural, and linguistic heritage of Tibetan areas and the protection of Tibetan people's fundamental human rights continued to be of concern. The government strictly controlled information about, and access to Tibetan areas, making it difficult to determine accurately the scope of human rights abuses.

The government's human rights record in Tibetan areas of China remained poor, and the level of repression of religious freedom remained high. The government continued to view the Dalai Lama with suspicion and tended to associate Tibetan Buddhist religious activity with separatist sympathies.

Authorities continued to commit serious human rights abuses, including torture, arbitrary arrest and detention, house arrest and other nonjudicial surveillance of dissidents, detention without public trial, repression of religious freedom, and arbitrary restrictions on free movement.

Positive developments in Tibetan areas included a fourth round of dialogue between the government and envoys of the Dalai Lama. In August the government permitted an international delegation to meet with released political prisoner Phuntsog Nyidrol in the TAR for the first time. In November the UN special rapporteur on torture visited Lhasa, the capital of the TAR, for the first time.

Deprivation of Life.—In early October Ngawang Jangchub, a 28-year-old Tibetan monk, was found dead in his room at the Drepung Monastery in Lhasa. According to reports, Ngawang Jangchub's death followed a heated dispute with the monastery's "work team" over his refusal to denounce the Dalai Lama. The government claimed Ngawang Jangchub's death was due to medical complications relating to serious heart disease and epilepsy he had suffered from since childhood.

During the year Sichuan authorities did not respond to international calls for an inquiry into the case of Nyima Dragpa. A monk from Nyatso Monastery in Sichuan's

Ganzi (Kardze) Prefecture, Nyima Dragpa died in custody in 2003, allegedly from injuries sustained during severe beatings.

Torture.—The security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. Tibetans repatriated from Nepal reportedly suffered torture, including electric shocks, exposure to cold, severe beatings, and were forced to perform heavy physical labor. Prisoners were subjected routinely to "political investigation" sessions and were punished if deemed to be insufficiently loyal to the state.

Prison Conditions.—Prisoners in Tibetan areas were generally subject to the same prison conditions as existed in other areas of the country. Forced labor was used in some prisons, detention centers, reeducation-through-labor facilities, and prison work sites. The law states that prisoners may be required to work up to 12 hours per day, with 1 rest day every 2 weeks, but these regulations often were not enforced. Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons.

Tibetan political prisoner Rinzin Wangyal, also known as Rinwang, age 59, reportedly died in prison in late 2004 of unknown causes. There was no official confirmation of Rinzin Wangyal's death, nor was his body handed over to his family. Rinzin was serving a life imprisonment term, imposed in the late 1990s while he was already serving a 16-year sentence in TAR Prison Number Two (Pawo Tramo Prison). Local authorities alleged that he was involved in a plan to disrupt the 30th anniversary of the TAR and while in prison he participated in "serious prison protests," leading to an extension of his sentence. Previously, he was imprisoned from 1967 until 1983 for political activities.

Arbitrary Arrest.—In January the Tibet Information Network (TIN) reported the detention in December 2004 of monk Sonam Phuntsog in Sichuan Province, following a fire in the hall of the local People's Congress in the Ganzi Prefecture. TIN's sources said that local authorities accused him of starting the fire. They also said that local authorities suspected him of being a Free Tibet activist. Prior to his arrest, Sonam Phuntsog reportedly filmed the long life prayer ceremonies held for the Dalai Lama as well as the arrival of police sent to suppress the ceremonies at the Ganzi Monastery.

In mid-January local authorities in Hainan (Tsolho) Prefecture of Qinghai Province reportedly arrested five monks from the Dakar Treldzong Monastery for publishing politically sensitive poems. The jailed monks were identified as Tashi Gyaltsen, Tsultrim Phelgyal, Tsesum Samten, Jhamphel Gyatso, and Lobsang Thargyal; they were sentenced from two to three years in prison.

In May according to the London-based Free Tibet Campaign, authorities in the Gansu Province detained three Tibetan nuns and two monks. Nuns Yonten Drolma, Tadrin Tsomo, and Choekyi Drolma and monks Jamyang Samdrub and Dargye Gyatso were reportedly arrested for distributing letters calling for Tibetan independence at a local monastery, market, and other areas. The Congressional Executive Commission on China Political Prisoner Database (CECC PPD) also listed monk Sherab detained as part of this group.

Radio Free Asia (RFA) reported in June that local authorities detained Jigme Dasang, a Tibetan monk from Kumbum Monastery in Qinghai Province. No charges were reported.

In a case of apparent preventative detention, state security detained a tailor, Sonam Gyalpo, as he returned from work on August 25. Officials reported he was detained on suspicion of endangering national security. On September 28, Sonam Gyalpo was officially arrested on charges of separating the country and destroying national unity.

A number of former political prisoners and other suspected activists were reportedly detained in the period prior to the 40th anniversary of the founding of the TAR on September 1. According to Human Rights Watch, Sonam, a monk from the Potala Palace, was detained by security forces on August 21; officials claimed no action had been taken against him.

According to the Tibetan Centre for Human Rights and Democracy (TCHRD), authorities arrested five monks who refused to take part in the "patriotic campaign" that began in October at the Drepung Monastery in Lhasa. The monks, who were identified as Ngawang Namdrol, Ngawang Nyingpo, Ngawang Thupten, Ngawang Phelgey, and Phuntsok Thupwang reportedly refused to denounce the Dalai Lama and recognize Tibet as part of China.

In August Tibetan Buddhist nun Phuntsog Nyidrol, who was released early from Lhasa's TAR Prison in February 2004, was permitted to meet with visiting foreign government officials. Phuntsog Nyidrol received a nine-year sentence for taking part in peaceful demonstrations supporting the Dalai Lama in 1989. In 1993 her sen-

tence was extended to 17 years after she and other nuns recorded songs about their devotion to Tibet and the Dalai Lama. Since her release authorities restricted Phuntsog Nyidrol's movements and associations. Although she expressed interest in traveling abroad for medical treatment, the government refused to issue her a passport.

Chadrel Rinpoche, released in 2002 after six years and six months in prison for leaking information about the selection of the Panchen Lama, was reportedly still under house arrest near Lhasa.

Political Prisoners.—The lack of independent access to prisoners and prisons made it difficult to ascertain the number of Tibetan political prisoners or to assess the extent and severity of abuses. According to the CECC PPD, there were 117 Tibetan political prisoners and 65 percent of them were monks and nuns. The CECC reported that the number of political prisoners declined this year to less than one fifth the number 10 years ago.

Approximately 50 political prisoners remained in the TAR Prison in Lhasa, most serving sentences on the charge of "counterrevolution," which was dropped from the criminal law in 1997. Chinese authorities have stated that acts previously prosecuted as counterrevolutionary crimes continue to be considered crimes under China's antisubversion laws. The CECC PPD estimated that nearly 70 Tibetan political prisoners were imprisoned in the TAR, nearly 35 in Sichuan Province, fewer than 15 in Qinghai Province, and 6 in Gansu. None were documented in Yunnan Province. The overall number of political prisoners in Tibetan areas dropped to 117 from 145 in 2004.

An unknown number of Tibetans were serving sentences in "reeducation-through-labor" camps and other forms of administrative detention not subject to judicial review.

In March the World Tibet Network News (WTN) reported that local authorities extended Tibetan Buddhist monk Jigme Gyatso's prison term from 15 to 17 years. He was arrested in Lhasa in 1996 for alleged "political activities."

TCHRD reported that monks Lobsang Khedrub and Gyalpo were detained in Ganzi Prefecture in February 2004 and subsequently sentenced to 11 years in prison for raising a banned Tibetan national flag.

The status of the following persons arrested in 2004 remained unconfirmed at year's end: Nyima Dorjee and Lobsang Dorjee who were arrested for hanging pro-independence posters on government buildings; Choeden Rinzen who was arrested for possessing pictures of the Dalai Lama and the Tibetan National flag; Dejor, Tsering Dawa, and Datsok who were detained after clashing with Chinese workers over a mining project, and Nyima Tenzen and Sonam Nyidup who protested their detention by shouting pro-independence slogans in a bar.

On January 6, authorities released Tibetan monk Tashi Phuntsog, who served two years and nine months of his seven-year sentence. Tashi Phuntsog was detained in 2002 following the arrest of his colleague, prominent Buddhist leader Tenzin Delek. Tashi Phuntsog was detained in conjunction with a series of bombings in Sichuan Province.

In April Drepung monk Jamphel Jangchub was released after serving 16 years in prison.

Tibetan Buddhist monks Chogri and Topden, who were detained in July for unfurling a Tibetan flag in Chogri Monastery in Draggo County, Ganzi, were released later in the year. At year's end Chogri was in the Chogri Monastery, while Topden was reportedly no longer a monk.

Denial of Fair Public Trial.—Legal safeguards for Tibetans detained or imprisoned were inadequate in both design and implementation. Most judges had little or no legal training. According to an official of the TAR higher people's court, all seven cities and prefectures had established legal assistance centers, although these centers did not offer services in Tibetan language. Some accused persons did not have access to legal representation. Moreover, their trials were cursory and closed if issues of state security were involved. Under the law, maximum prison sentences for crimes such as "endangering state security" and "splitting the country" were 15 years for each count, not to exceed 20 years in total. Such cases mainly concerned actions perceived to be in support of Tibetan independence, and activities did not have to be violent to be illegal or to draw a heavy sentence.

In January the government commuted the death sentence of Tenzin Delek, a prominent lama from Ganzi, to life in prison. Foreign governments and international organizations raised concerns about the lack of due process and transparency in Tenzin Delek's legal proceedings. Tenzin Delek was originally detained in 2002.

Freedom of Religion.—The level of repression in Tibetan areas remained high, and the government's record of respect for religious freedom remained poor during the year. The law provides for freedom of religious belief, and the government's 2004 white paper on Regional Ethnic Autonomy in Tibet states "Tibetans fully enjoy the freedom of religious belief." However, the government maintained tight controls on religious practices and places of worship in Tibetan areas. Although authorities permitted many traditional practices and public manifestations of belief, they promptly and forcibly suppressed activities they viewed as vehicles for political dissent or advocacy of Tibetan independence, such as religious activities venerating the Dalai Lama (which the government described as "splittist").

Approximately 615 Tibetan Buddhist religious figures held positions in local people's congresses and local Chinese people's political consultative conferences in the TAR. However, the government continued to insist that CCP members and senior employees adhere to the CCP's code of atheism, and routine political training for cadres continued to promote atheism. TAR officials confirmed that some Religious Affairs Bureau (RAB) officers were members of the CCP and that religious belief is incompatible with CCP membership. However, some lower-level RAB officials practiced Buddhism.

The atmosphere for religious freedom varied from region to region. Conditions were generally more relaxed in Tibetan areas outside the TAR.

Monks outside the TAR who want to study in the TAR are required to get official permission from government religious bureaus, which were not readily granted. Sources said that ethnic Han Chinese monks were generally not allowed to undertake religious study in the TAR. Although Tibetan monks were not allowed to conduct large-scale religious teachings outside Tibetan areas, many monks continued to give private teachings to audiences in non-Tibetan regions of China.

Monasteries in the TAR are not allowed to establish any relationship with other monasteries or hold joint religious activities. Monasteries are required to report to the local government and request permission to hold any large or important religious events or to build new temples.

On June 30 and July 1, Lodi Gyari, the Dalai Lama's special envoy, and several other representatives, met with Chinese authorities in Bern, Switzerland, the fourth such meeting since 2002. The idea of periodic meetings at venues outside of China was discussed during the third session of talks in September 2004. In his public remarks, the Dalai Lama continued to call for a "middle way" approach, which included "meaningful autonomy" for Tibet but not independence.

Security was intensified during the Dalai Lama's birthday, sensitive anniversaries, and festival days in the TAR and in some other Tibetan areas as well. The prohibition on celebrating the Dalai Lama's birthday on July 6 continued.

Government officials maintained that possessing or displaying pictures of the Dalai Lama was legal. However, authorities appeared to view possession of such photos as evidence of separatist sentiment when detaining individuals on political charges. Pictures of the Dalai Lama were not openly displayed in major monasteries and could not be purchased openly in the TAR. In January TAR authorities from Lhatse Dzong in Shigatse Prefecture reportedly arrested Phuntsok Tsering, the chant master of Magar Dhargyeling Monastery, on charges of possessing a portrait of the Dalai Lama. In April the TIN reported raids on Tibetan homes in the TAR border town of Dram. Officials reportedly entered the houses of the Tibetan residents and confiscated pictures and books that contained speeches of the Dalai Lama.

During the year international observers saw pictures of a number of religious figures, including the Dalai Lama, displayed more widely in Tibetan areas outside the TAR. The government continued to ban pictures of Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the Panchen Lama. Photos of the "official" Panchen Lama, Gyaltsen Norbu, were not widely displayed, most likely because most Tibetans do not recognize him as the Panchen Lama.

The government's 2004 white paper stated that the TAR had more than 46 thousand Tibetan Buddhist monks and nuns and more than 17 hundred venues for Tibetan Buddhist activities. Officials have cited almost identical figures since 1996, although the number of monks and nuns has dropped at many sites due to the patriotic education campaign and the expulsion of many monks and nuns who refused to denounce the Dalai Lama or who were found to be "politically unqualified." These numbers represented only the TAR, where the number of monks and nuns was very strictly controlled. According to statistics collected by the China Center for Tibetan Studies, a government research institution, there are 1,535 monasteries in Tibetan areas outside the TAR.

Government officials closely associated Buddhist monasteries with pro-independence activism in Tibetan areas of China. Spiritual leaders encountered difficulty reestablishing historical monasteries due to lack of funds, general limitations on mo-

nastic education, and lack of authorization to build and operate religious institutions; officials in some areas contended such religious institutions were a drain on local resources and a conduit for political infiltration by the Tibetan exile community.

The government stated there were no limits on the number of monks in major monasteries and that each monastery's democratic management committee (DMC) decided independently how many monks the monastery could support. However, the government exercised strict control over most monasteries through the DMCs and imposed strict limits on the number of monks in major monasteries, particularly within the TAR. The government had the right to disapprove any individual's application to take up religious orders, although there were no reports of the government exercising this right during the year. Authorities limited the traditional practice of sending young boys to monasteries for religious training by means of regulations that forbade monasteries from accepting individuals under the age of 18. Nevertheless, many monasteries continued to admit younger boys, often delaying their formal registration until the age of 18.

The government continued to oversee the daily operations of major monasteries. The government, which did not contribute to the monasteries' operating funds, retained management control of monasteries through the DMCs and local RABs. Regulations restricted leadership of many DMCs to "patriotic and devoted" monks and nuns and specified that the government must approve all members of the committees. At some monasteries government officials also sat on the committees.

The quality and availability of high-level religious teachers in the TAR and other Tibetan areas remained inadequate; many teachers were in exile, older teachers were not being replaced, and those remaining in Tibetan areas outside the TAR had difficulty securing permission to teach in the TAR. DMCs at several large TAR monasteries used funds generated by the sales of entrance tickets or donated by pilgrims for purposes other than the support of monks engaged in full-time religious study. As a result, some "scholar monks" who had formerly been fully supported had to engage in income-generating activities. Some experts were concerned that, as a result, fewer monks will be qualified to serve as teachers. However, in July 2004, for the first time in 16 years authorities permitted resumption of the Geshe Lharampa examinations, the highest religious examinations in the Gelug sect of Tibetan Buddhism.

Government officials claimed that the patriotic education campaign, which often consisted of intensive, weeks-long sessions conducted by outside work teams, ended in 2000. However, monks and nuns continued to undergo political education on a regular basis. Numerous credible sources reported that the political education sessions intensified in the Lhasa area beginning in April. In July, 18 monks were expelled from Sera Monastery, and 8 others were detained before they were to be tested. In October RFA reported that 40 of the approximately 50 nuns residing at the Gyarak Nunnery near Lhasa were expelled for refusing to participate in political education. Because the primary responsibility for conducting political education shifted from government officials to monastery leaders, the form, content, and frequency of training at each monastery appeared to vary widely. However, conducting such training remained a requirement and has become a routine part of monastic management.

During the year the Ganzi Prefecture Web site reported that the Permanent Work Team at Serthar destroyed 74 illegal houses in the monastery during its "management of religious work."

The Karmapa Lama, leader of Tibetan Buddhism's Karma Kagyu sect and one of the most influential religious figures in Tibetan Buddhism, remained in exile following his 1999 flight to India. The Karmapa Lama stated that he fled because of the government's controls on his movements and its refusal either to allow him to go to India to be trained by his spiritual mentors or to allow his teachers to come to him. During the year, an official international delegation was permitted to visit Tsurphu Monastery, the seat of the Karmapa Lama, for the first time since 2001. While they did not meet with monastery officials, they were able to talk to some monks and learned that the current population was less than it was five years ago.

The government routinely asserted control over the process of finding and educating reincarnate lamas. The Panchen Lama is Tibetan Buddhism's second most prominent figure, after the Dalai Lama. The government continued to insist that Gyaltsen Norbu, the boy it selected in 1995, is the Panchen Lama's 11th reincarnation. The government continued to refuse to allow access to Gendun Choekyi Nyima, the boy recognized by the Dalai Lama in 1995 as the 11th Panchen Lama (when he was six years old), and his whereabouts were unknown. Government officials claimed the boy was under government supervision at an undisclosed location for his own protection and attends classes as a "normal schoolboy." All requests from

the international community to access the boy, in order to confirm his well-being, have been refused. While the overwhelming majority of Tibetan Buddhists recognized the boy identified by the Dalai Lama as the Panchen Lama, Tibetan monks claimed that they were forced to sign statements pledging allegiance to the boy the government selected. The CCP also urged its members to support the "official" Panchen Lama.

The government-recognized Panchen Lama, Gyaltsen Norbu, made his first visit to Tibetan areas of Sichuan Province from June 12 to 28. According to official media reports, during his stay Gyaltsen Norbu held head-touching ceremonies to bless more than 60 thousand persons, some of whom reported being screened by security forces prior to receiving the head touching blessing. Gyaltsen Norbu reportedly toured dozens of counties in Sichuan and held religious rituals in more than 10 Tibetan Buddhist Monasteries.

In April Chinese authorities permitted diplomatic officials to meet the seven-year-old child approved by the government as the seventh reincarnation of Reting Rinpoche. His appointment was reportedly disputed by many of the monks at Reting Monastery in 2000 because the Dalai Lama did not recognize the selection. The Reting Rinpoche's religious training, which began during the year, was closely supervised by the government through the selection of his religious and lay tutors.

Pawo Rinpoche, who was recognized by the Karmapa Lama in 1994, lived under strict government supervision at Nenang Monastery.

The government claimed that since 1949 it has contributed approximately $36 million (RMB 300 million) to renovate and open more than 1,400 monasteries and to repair cultural relics, many of which were destroyed before and during the Cultural Revolution.

Despite the government's efforts, many monasteries destroyed during the Cultural Revolution were never rebuilt or repaired, and others remained only partially repaired. Government funding of restoration efforts ostensibly supported the practice of religion but also promoted the development of tourism in Tibetan areas. Most recent restoration efforts were funded privately, although a few religious sites also received government support for reconstruction projects during the year.

Freedom of Movement.—The government strictly regulated travel and freedom of movement of Tibetans, especially within the TAR. Many Tibetans, particularly those from rural areas, continued to report difficulties obtaining passports.

The government also regulated foreign travel to the TAR. In accordance with a 1989 regulation, foreign visitors (excluding individuals from Hong Kong, Macau, and Taiwan) were required to obtain an official confirmation letter issued by the government before entering the TAR. Most tourists obtained such letters by booking tours through officially registered travel agencies. In 2004, state media announced that foreign tourists would enjoy "unrestricted access to all 70 counties of the TAR." However, TAR authorities were unable to confirm the change, and travelers reported that many restrictions remained in place. During the 40th anniversary of the 1965 founding of the TAR in September, there were reports that foreigners were refused permission to travel to Tibetan areas from August 20 to September 10.

Official visits to the TAR were supervised closely and afforded delegation members very few opportunities to meet local persons not previously approved by the authorities. However, during the year several large official foreign delegations were permitted to visit the TAR. One international delegation was able to meet with monastery management committees and raise official concerns about human rights and religious freedom. Foreigners could travel freely in most Tibetan areas outside the TAR.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious and other purposes. The government placed restrictions on the movement of Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were reports of arbitrary detention of persons, particularly monks, returning from Nepal. Detentions generally lasted for several months, although in most cases no formal charges were brought.

In January RFA reported that Tibetan pilgrims heading for Nepal and India on pilgrimage from Ganzi were asked to return home after the TAR authorities in Lhasa revoked their travel permits. The authorities gave no explanation for the revocation.

In September RFA reported that Chinese border forces opened fire on a group of 51 Tibetan asylum-seekers trying to travel to Nepal by way of Dhingri, in Shigatse Prefecture. All but three were taken into custody, and their whereabouts remained unknown. The group included six children between the ages of 10 and 11, two nuns and one monk. On November 3, TIN reported the detention in the TAR of 14 Tibetans from Amdo who were attempting to travel to India via Nepal.

The Office of the UN High Commissioner for Refugees (UNHCR) reported that 3,395 Tibetan new arrivals approached UNHCR in Nepal during the year; 3,352 Tibetans departed for India, of whom 2,340 received UNHCR transit assistance, and 1,012 Tibetans left for India by their own means.

Nevertheless, thousands of Tibetans, including monks and nuns, visited India via third countries and returned to China after temporary stays. In 2004 RFA reported that the majority of Tibetans who transited via Nepal to India were young, whose ages ranged from 6 to 30, and that the main reason they migrated was the lack of Tibetan-language educational facilities and opportunities for religious education.

National Minorities.—According to China's 2000 census, the population of Tibetans in the TAR was 2.4 million while the population of Tibetans in autonomous prefectures and counties outside the TAR was 2.9 million. Tibetans made up 94 percent of the population of the TAR. Government-sponsored development and new economic opportunities attracted migrant workers from China's large transient population to Tibetan areas. The result was a net increase in the non-Tibetan share of the TAR population from approximately 4 percent in 1990 to 6 percent in 2000. However, TAR census figures did not include a large number of long-term Han residents, such as cadres, skilled workers, unskilled laborers, military and paramilitary troops, and their dependents.

In Tibetan areas outside the TAR, Tibetans increased their majority share as natural population growth outpaced net migration by non-Tibetans. Migrants to the TAR were overwhelmingly concentrated in cities and towns, while Tibetans continued to make up nearly 98 percent of the rural population. One official estimate put the number of Han residents in Lhasa at 100 thousand out of a total population of approximately 409,500, although many observers estimated that more than half of Lhasa's population was Han Chinese. Small businesses run by Han and Hui migrants—mostly restaurants and retail shops—predominated in cities throughout the Tibetan areas.

Family planning policies permitted Tibetans and members of other minority groups to have more children than Han. Urban Tibetans, including Communist Party members, and some ethnic Han Chinese living in Tibetan areas were generally permitted to have two children. Rural Tibetans were encouraged, but not required, to limit births to three children.

The TAR is one of China's poorest regions, and Tibetans are one of the poorest groups; malnutrition among Tibetan children continued to be widespread in many areas of the TAR.

In August state media reported that Tibetans and other minority ethnic groups made up 70 percent of all government employees in the TAR. However, Han Chinese continued to hold key positions, including party secretary of the TAR.

Some Tibetans reported that they experienced discrimination in employment and claimed Han Chinese were hired preferentially for many jobs and received greater pay for the same work. In recent years some Tibetans reported that it was more difficult for Tibetans than Han to get permits and loans to open businesses. The widespread use of the Chinese language in urban areas and many businesses limited employment opportunities for Tibetans who did not speak Chinese.

The TAR tourism bureau continued its policy of refusing to hire Tibetan tour guides educated in India or Nepal. Government officials have stated that all tour guides working in the TAR were required to seek employment with the Tourism Bureau and pass a licensing exam on tourism and political ideology. The government's stated intent was to ensure that all tour guides provide visitors with the government's position opposing Tibetan independence and the activities of the Dalai Lama.

Women.—There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. However, women were underrepresented at the provincial and prefectural levels of government. According to an official Chinese Web site, there were 28,197 female cadres in the TAR, accounting for 32 percent of the TAR's total cadres; 16 percent of those were county-level female cadres.

Prostitution was a growing problem in Tibetan areas, and hundreds of brothels operated semi-openly in Lhasa. Up to 10 thousand commercial sex workers may have been employed in Lhasa alone. Some of the prostitution occurred at sites owned by the CCP, the government, and the military. Most prostitutes in the TAR were Han Chinese women, mainly from Sichuan. However, some Tibetans, mainly young girls from rural or nomadic areas, also worked as prostitutes. The incidence of HIV/AIDS among prostitutes in Tibetan areas was unknown, but lack of knowledge about HIV transmission and economic pressures on prostitutes to engage in unprotected sex made an increase in the rate of HIV infection likely.

Protection of Cultural Heritage.—Rapid economic growth, the expanding tourism industry, and the introduction of more modern cultural influences have disrupted traditional living patterns and customs and threatened traditional Tibetan culture. Residents lacked the right to play a role in protecting their cultural heritage.

The Dalai Lama, Tibetan experts, and other observers expressed concern that development projects and other central government policies would continue to promote a considerable influx of Han Chinese, Hui, and other ethnic groups into the TAR. They feared that the TAR's traditional culture and Tibetan demographic dominance would be negatively affected by such migration. Development projects and policies were reemphasized and expanded at the "Fourth Tibet Work Conference" in 2001, including the recently opened Qinghai-Tibet railroad.

Both Tibetan and Chinese are official languages in the TAR, and both languages were used on public and commercial signs. However, the Chinese language was spoken widely and was used for most commercial and official communications.

The CECC Annual Report said that the rate of illiteracy among Tibetans (47.55 percent) was more than five times higher than China's national average (9.08 percent), according to the 2000 census data. The TAR rate of illiteracy (47.25 percent) is the highest in the country and is nearly twice as high as the second-ranked Qinghai Province (25.22 percent). Primary school is the only level of educational attainment for which data show Tibetans nearly on par with the national average. In practice, many pupils in rural and nomadic areas received only one to three years of schooling. The illiteracy rate of youth and adults in the prime of life fell from 95 percent before 1959 to 22 percent at the end of 2004. However, the illiteracy rate for this group was much higher than 22 percent in some areas.

The government has established a comprehensive national Tibetan-language curriculum, and many elementary schools in Tibetan areas used Tibetan as the primary language of instruction. Tibetan students were also required to study Chinese language and Chinese was generally used to teach certain subjects, such as arithmetic. In middle and high schools—even some officially designated as "Tibetan" schools—teachers often used Tibetan only to teach classes in Tibetan language, literature, and culture and taught all other classes in Chinese. As a practical matter, proficiency in Chinese was essential to receive a higher education. China's most prestigious universities provided instruction only in Chinese, while the lower-ranked universities established to serve ethnic minorities allowed study of only some subjects in Tibetan. Opportunities to study at Tibetan-language schools were greater in the TAR, while opportunities to study at privately funded Tibetan-language schools and to receive a traditional Tibetan-language religious education were greater in Tibetan areas outside the TAR.

Authorities in Tibetan areas required professors and students at institutions of higher education to attend political education sessions and limited course studies and materials in an effort to prevent separatist political and religious activities on campus. Students at Tibet University were prohibited from engaging in religious practice. The government controlled curricula, texts, and other course materials.

The Tibetan-language services of Voice of America and RFA, as well as of the Oslo-based Voice of Tibet, suffered from the same jamming of their frequencies by Chinese authorities as their Chinese-language services. However, Tibetans were able to listen to the broadcasts at least some of the time. In April authorities shut down the Tibet culture Web site, a domestic Chinese site devoted to contemporary Tibetan culture.

Although the government made efforts in recent years to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continued to limit the fundamental freedoms of Tibetans and risked undermining Tibet's unique cultural, religious, and linguistic heritage.

HONG KONG

Hong Kong, with a population of approximately 6.9 million, is a Special Administrative Region (SAR) of the People's Republic of China (PRC). The 1984 Sino-British Joint Declaration on the Question of Hong Kong and the SAR's constitution, the Basic Law of the Hong Kong Special Administrative Region of the Peoples Republic of China (hereafter referred to as the basic law), specify that Hong Kong will enjoy a high degree of autonomy except in matters of defense and foreign affairs. The basic law provides for the protection of fundamental rights and calls for further democratization and progress toward universal suffrage after 2007.

The chief executive is chosen by an election committee composed of 800 directly elected, indirectly elected, or appointed individuals. The chief executive appoints and supervises a cabinet of principal officers. Following the resignation of former

Chief Executive Tung Chee-hwa in March, the National People's Congress (NPC) standing committee ruled that the acting chief executive should serve the remaining two years of Tung's term. The basic law significantly circumscribes the power of the Legislative Council (Legco), which is comprised of 60 members, only half of whom are elected through popular vote. Legco members were elected in 2004 to four-year terms. Although the elections were generally considered free and fair, there were allegations in the months leading up to the election with respect to intimidation of voters and political commentators. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, the following human rights problems were reported:

- limitations on residents' ability to change their government and limitations on the power of the legislature to affect government policies
- continuing concerns about self-censorship
- violence and discrimination against women
- restrictions on workers' rights to organize and bargain collectively

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful deprivations of life.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law forbids torture and other abuse by the police, and the government generally observed the prohibition in practice. However, there were allegations of police assaults during the year. Disciplinary action can range from warnings to dismissal. Criminal proceedings may be undertaken independently of the disciplinary process. The Complaints Against Police Office (CAPO) investigates allegations of excessive use of force and the Independent Police Complaints Council (IPCC), a body composed of public members appointed by the chief executive, monitors and reviews their work.

During the first half of the year, CAPO received 202 allegations of police officer assaults against persons in custody and 117 allegations of assault against persons not in custody, out of a total of 19,985 arrests. Of the 202 allegations of assault by police officers against persons in custody, 118 case investigations were completed and endorsed by the IPCC, and none were substantiated: 62 were withdrawn, 43 were deemed "not pursuable," 10 were judged to be false, 1 was judged "no fault," and 2 were judged "unsubstantiated." The remaining 84 cases were pending as of June 30. Of the 117 allegations of assault against persons not in custody, 86 case investigations were completed and endorsed by the IPCC, and none were substantiated: 47 were withdrawn, 33 were deemed "not pursuable," 4 were judged to be false, and 2 were judged "unsubstantiated." The remaining 31 cases were pending as of June 30.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. For the first 6 months of the year, the average prison occupancy rate for the 24 prisons was 108 percent. Overcrowding was most serious in maximum-security prisons, which operated at an average occupancy rate of 131 percent. The government continued to address the problem of prison overcrowding by remodeling existing buildings to provide space for additional prisoners and redistributing the prison population. In addition the Immigration Department opened a new detention center in Tuen Mun during the year, which held 400 additional persons and eliminated the need to put immigration offenders in prison or other correctional facilities.

The government permitted prison visits by human rights observers, although there were no requests for visits during the year.

d. Arbitrary Arrest or Detention.—Common law, legal precedent, and the basic law provide substantial and effective legal protection against arbitrary arrest or detention, and the government observed these provisions in practice.

Role of the Police and Security Apparatus.—The police force is led by a uniformed police commissioner who reports to the secretary for security—a member of the chief executive's cabinet. The force had approximately 28,700 officers and was divided into five departments with both headquarters and regional formations. Corruption was not a significant problem within the force. Police officers are subject to disciplinary review by CAPO and IPCC in cases of alleged misconduct (see section 1.c.).

Arrest and Detention.—Suspects must be charged within 48 hours or released, and the government respected this right in practice. The law provides accused persons with the right to a prompt judicial determination. During the year the average length of pre-conviction incarceration was 55 days. There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The judiciary, underpinned by the basic law's provision that the common law tradition be maintained, provided citizens with a fair and efficient judicial process. Under the basic law, the courts may interpret those provisions of the basic law that address matters within the limits of the SAR's autonomy. The courts also interpret provisions of the basic law that touch on PRC central government responsibilities or on the relationship between the central authorities and the SAR. However, before making final judgments on these matters, which are not subject to appeal, the courts must seek an interpretation of the relevant provisions from the standing committee of the NPC. The basic law requires the courts to follow the standing committee's interpretation of basic law provisions, although judgments previously rendered are not affected. As the final interpreter of the basic law, the standing committee of the NPC also has the power to self-initiate interpretations of the basic law, as it did in April 2004 when it ruled out universal suffrage in Hong Kong's 2007 and 2008 elections (see section 3). The NPC's mechanism for interpretation is its Committee for the Basic Law, composed of six mainland and six Hong Kong members. The chief executive, the president of the Legco, and the chief justice nominate the Hong Kong members. Human rights and lawyers' organizations have expressed concern that this process, which circumvents the Court of Final Appeal's power of final adjudication, could be used to limit the independence of the judiciary or could degrade the courts' authority. There were accusations during the year that the government effectively undermined the authority of the courts by requesting an interpretation of the basic law from the NPC standing committee on the question of Chief Executive Tung Chee-hwa's successor's term of office. In response to the request, the NPC standing committee ruled in April that Tung's successor should only serve out the remaining two years of Tung's term rather than a full five-year term. Critics argued that the request, and the resulting NPC interpretation, sought to circumvent the judicial process. The government argued that the need to resolve the issue quickly left insufficient time for a lengthy judicial review.

The Court of Final Appeal is the SAR's supreme judicial body. An independent commission nominates judges. The chief executive is required to appoint those nominated, subject to endorsement by the legislature. Nomination procedures ensure that commission members nominated by the private bar have a virtual veto on the nominations. The basic law provides that, with the exception of both the chief justice and the chief judge of the high court, who are prohibited from residing outside Hong Kong, foreigners may serve on the courts. During the year approximately 22 percent of judges and judicial officers were expatriates. Judges have security of tenure until retirement.

Under the Court of Final Appeal is the high court, composed of the court of appeal and the court of first instance. Lower judicial bodies include the district court, which has limited jurisdiction in civil and criminal matters; the magistrates' courts, which exercise jurisdiction over a wide range of criminal offenses; the coroner's court; the juvenile court; the lands tribunal; the labor tribunal; the small claims tribunal; and the obscene articles tribunal

Trial Procedures.—The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. Trials are by jury except at the magistrate court level. The judiciary provides citizens with a fair and efficient judicial process. An attorney is provided at the public's expense if defendants cannot afford counsel. Defendants can confront and question witnesses testifying against them and present witnesses to testify on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

Defendants generally enjoy a presumption of innocence. However, under prosecution rules, there is a presumption of guilt in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintains a standard of living above that commensurate with his official income, or controls monies or property disproportionate to his official income is, unless he can satisfactorily explain the discrepancy, guilty of an offense. The courts have upheld this ordinance in practice.

According to the basic law, English may be used as an official language by the executive, legislative, and judicial branches. For historical reasons and because of

the courts' reliance on common law precedents, almost all civil cases and most criminal cases were heard in English. In recent years the government has developed a bilingual legal system. It has increased the number of officers in the legal aid department proficient in spoken Cantonese and written Chinese and extended the use of bilingual prosecution documents and indictments. All laws are bilingual, with English and Chinese texts being equally authentic. All courts and tribunals may operate in either Cantonese or English. Judges, witnesses, the parties themselves, and legal representatives may each decide which language to use at any point in the proceedings.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits arbitrary interference with privacy, family, home, and correspondence, and the government generally respected these prohibitions in practice.

Interception of communications is conducted under the Telecommunications Ordinance and the Post Office Ordinance. Wiretaps require authorization from the chief executive for interception operations, but a court-issued warrant is not required. The government did not reveal the number of wiretaps and mail interceptions the chief executive authorized.

The Independent Commission against Corruption (ICAC) was criticized during the year for abusing its powers in using covert surveillance without legal authorization. In April a district court judge excluded tape-recorded evidence introduced by the ICAC during a corruption trial, saying there were no legal procedures governing the use of concealed microphones and cameras. The court said that under the basic law, the freedom of private communication could only be impinged in accordance with legal procedures. In July another district court judge threw out a corruption case, ruling that the ICAC had knowingly recorded conversations between a client and his lawyers in violation of ICAC procedures. In August, responding to these cases and to mounting public criticism of ICAC, the chief executive issued an executive order regulating the use of covert surveillance by law enforcement authorities. The order stipulated that law enforcement officials must get the approval of an "authorizing agent" before carrying out such surveillance. Some legislators criticized the order for making police officers above the rank of senior superintendent authorizing agents. They argued that only the courts should have such power. Legislators also criticized the order as a violation of the basic law because it bypassed the legislative process. One legislator filed suit to overturn the order as well as the existing wiretap law; the court of first instance is expected to hear the case in November. The Hong Kong Bar Association said the order was "constitutionally dubious." The government countered that the order was merely a temporary measure to regulate the use of covert surveillance until comprehensive legislation could be enacted.

The Office of the Privacy Commissioner for Personal Data (PCO), established under the Personal Data (Privacy) Ordinance (PDPO), works to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner. Some government departments are exempted to combat social welfare abuse and tax evasion. Violations of the PDPO can be either criminal or civil offenses. Between June and June 2004 the PCO investigated 1,172 complaints of suspected breaches of the ordinance and completed action on 984. The PCO found violations of the PDPO in 24 of these cases, with none resulting in prosecution. The remaining cases were resolved, rejected, or withdrawn after preliminary inquiries.

The PDPO is not applicable to PRC government organs in Hong Kong. At yearend the government was still considering whether it should be made applicable to PRC bodies. Under certain exemptions for purposes related to safeguarding the security, defense, or international relations of Hong Kong, and for the prevention, detection, or prosecution of a crime, Hong Kong authorities may be allowed to transfer personal data to a PRC body.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Accusations of media self-censorship continued during the year. Most media outlets are owned by businesses with interests on the mainland, making them vulnerable to self-censorship. The Hong Kong Journalist Association's (HKJA) 2005 annual report noted that there "is a continued perception that some sections of the media are engaged in self-censorship." During the year the HKJA cited a May poll by the University of Hong Kong showing that respondents were evenly split as to whether the media practiced self-censorship.

In November two employees of the local daily newspaper Ming Pao were slightly injured by a small package bomb that was addressed to the paper's editor. An ac-

companying letter denounced the paper's executives for publishing an unspecified article. As of year-end, the perpetrator's identity and exact motivation remained a mystery.

In March, the private printing company that Falun Gong used to publish the Hong Kong edition of its Epoch Times newspaper refused to renew the group's contract, which expired May 13. Falun Gong alleged the contract was canceled because the company feared business reprisals from its mainland clients, some of who had connections to the PRC government. A Falun Gong spokesperson said the printing company considered the content of the paper "sensitive" and was afraid that continued printing would negatively affect its business. Falun Gong found another printer in late May, but said the company refused to sign a written contract—verbal orders are placed each day. They also said that at least 10 other printing companies had refused to print the paper.

In July a radio talk show host resigned his position, saying that he was denied a primetime slot because of his outspoken views. The same talk show host had previously resigned in 2004 for unexplained reasons, but later returned to his job and was given a Saturday evening time slot. This followed the resignation in 2004 of two other popular radio talk show hosts, who were known for their anti-government and anti-mainland rhetoric, due to alleged intimidation. The police investigated the allegations but determined there was not enough evidence to file charges.

Also in 2004 several journalist groups accused the ICAC of violating press freedom when it raided newspaper offices to seize evidence related to a corruption case. Although a legal challenge resulted in ICAC's search warrant being overturned, the courts ruled that ICAC had acted lawfully.

The editorial independence of the government-owned Radio Television Hong Kong (RTHK) was questioned during the year. The station discontinued live broadcasts of horse racing and a music award show following a suggestion by then-candidate for Chief Executive Donald Tsang in June that such programs were already being broadcast by commercial radio stations.

International media organizations operated freely. Foreign reporters needed no special visas or government-issued press cards for Hong Kong.

There were no restrictions on the use of the Internet.

The basic law provides for academic freedom, and the government generally respected that freedom in practice.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly and the government generally respected this right in practice. The government routinely issued the required permits for public meetings and demonstrations.

Under the Public Order Ordinance, demonstration organizers must notify the police of their intention to demonstrate one week in advance. The police accept shorter notice if groups can satisfy the commissioner of police that earlier notice could not have been given for a march involving more than 30 persons and for an assembly of more than 50 persons. The police must explicitly object within 48 hours and, if there is no reply, it is assumed there is no objection. The ordinance also empowers police to object to demonstrations on national security grounds, although that portion of the law has never been invoked. If the police object, demonstration organizers may appeal to a statutory appeals board comprising members from different sectors of society. Both the board's proceedings and the police's exercise of power are subject to judicial review.

The Public Order Ordinance has been criticized by civil rights activists for giving the police too much power to restrict marches and protests. In July the Court of Final Appeal dismissed a challenge of the Public Order Ordinance by a legislator and two others who were arrested in 2002 for staging a protest without notifying the police. In upholding the convictions, the court ruled that the prior notification system was constitutional.

In practice the police rarely reject requests for public marches or protests, and rejected none during the year. There were 834 public meetings and processions in the first half of the year, roughly half of which required notification. Many of these demonstrations concerned Hong Kong-related issues, but some also involved issues sensitive to the central authorities. For example on June 4 approximately 30 thousand persons attended the annual candlelight vigil to commemorate the anniversary of the 1989 massacre in Beijing's Tiananmen Square. On July 1, 15 thousand to 50 thousand persons marched through central Hong Kong in support of greater democracy, worker's rights, gay rights, and other social causes. On December 4, tens of thousands of persons marched in support of universal suffrage. Unlike demonstrations in the past, this protest seemed focused on demands for political reform, pressing for a timetable on the introduction of fully democratic elections for the post of

chief executive and Legco. These events were legally sanctioned and peaceful, although some protesters scuffled with police during the December 4 march. The protestors alleged that the police tried to contain the rally by closing too few lanes of traffic. During the World Trade Organization (WTO) ministerial meeting in December, one thousand protesters, mostly from outside Hong Kong, clashed with police. The police responded with tear gas, pepper spray, and water cannons. While some groups alleged police brutality, most observers said the police responded appropriately.

Falun Gong practitioners regularly conducted public protests against the crackdown on fellow practitioners in the PRC. In May, the Court of Final Appeal overturned the convictions of eight Falun Gong practitioners who had been charged with obstructing and assaulting police officers during a sit-in protest in 2002. The ruling was viewed as an important affirmation of Hong Kong's fundamental freedom of assembly, demonstration, and expression under the basic law.

Freedom of Association.—The basic law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The basic law provides for freedom of religion, the Bill of Rights Ordinance prohibits religious discrimination, and the government generally respected these provisions in practice.

Societal Abuses and Discrimination.—While Falun Gong practitioners freely and openly practiced their beliefs, they were routinely subjected to more subtle forms of discrimination. In September the Falun Gong's newspaper Epoch Times said an international hotel chain canceled its conference room booking due to a water leak. The newspaper had booked the room for a forum on the future of China. A Falun Gong spokesperson said that once it became widely known that the Falun Gong had sponsored the conference, a replacement facility could not be found. The group later held the forum in a public park. This is the second report in three years that an international hotel chain canceled a Falun Gong conference room booking.

Unlike previous years Falun Gong members were not denied entry into Hong Kong (see section 2.d.). Hong Kong's small Jewish community has excellent relations with the rest of society and there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.—The law provides residents freedom of movement, freedom of emigration, and freedom to enter and leave the territory, and the government generally respected these rights in practice, with some prominent exceptions. Most residents easily obtained travel documents from the SAR government. There were limits on travel to the mainland imposed by the PRC government.

The government does not recognize the Taiwan passport as valid for visa endorsement purposes.

The law does not provide for, and the government did not use, forced exile.

The government continued to deny entry to persons it considered politically controversial. In January Taipei Mayor Ma Ying-jeou was unexpectedly denied a visa to attend a University of Hong Kong seminar on culture and city management. The government refused to give a reason for the denial. Most observers linked it to Ma's comments that the PRC's enactment of an antisecession law was "unnecessary and unwise." Ma had previously visited Hong Kong in 1998 and 2001 and was received by the chief executive.

In December 2004 a New Zealand citizen and Falun Gong practitioner was denied entry to Hong Kong for unspecified reasons. The person was 1 of 16 Falun Gong members whose conviction for obstruction during a 2002 sit-in was overturned in November 2004.

Unlike in previous years, no Falun Gong members were denied entry. In 2004 the government barred 41 Falun Gong practitioners from entering the SAR for "security reasons," although approximately 350 practitioners were granted entry. Most of the practitioners were attempting to attend Falun Gong's annual conference, which attracted approximately seven hundred persons. Four of those denied entry filed a judicial review, which the Hong Kong branch of Falun Gong joined as a fifth applicant. As of year-end, the Court of Final Appeal had not yet issued a ruling in the case.

Also in 2004 the government denied a request to allow two 1989 Tiananmen Square student leaders to enter the SAR to participate in a conference focused on the Tiananmen Square massacre. Earlier in the year, other Tiananmen Square student leaders had been allowed to enter to engage in uncontroversial activities.

In the months leading up to the Sixth WTO Ministerial Conference in December, the government said it would not allow violent protesters to enter Hong Kong, although it denied having a blacklist. Apart from one French activist and three Filipino activists who were detained at the airport and eventually allowed to enter, there were no reports that immigration officials denied entry to demonstrators. To the contrary, media reports criticized the government for allowing entry to known activists.

PRC authorities do not permit some Hong Kong human rights activists and prodemocracy legislators to visit the mainland; however, this policy has been relaxed over the past two years. In April the PRC invited a group of moderate prodemocracy legislators, including two members of the Democratic Party who had previously been banned from traveling to the mainland, to Shenzhen to discuss with mainland officials the appropriate length of term for Tung Chee-hwa's replacement. In September the chief executive escorted 59 of 60 members of Legco, including some democrats who had been barred from the mainland since the 1989 Tiananmen Square crackdown, to Guangdong for a two-day trip to meet with provincial government and Chinese Communist Party (CCP) officials. In addition a handful of more moderate prodemocracy activists and legislators had their home return permits returned to them during the year.

Protection of Refugees.—The 1951 UN Convention relating to the Status of Refugees and its 1967 protocol do not extend to Hong Kong, and the SAR eliminated its temporary protection policy. On a case-by-case basis, the director of immigration has discretion to grant refugee status or asylum in cases of exceptional humanitarian or compassionate need, but the Immigration Ordinance does not provide foreigners any right to have asylum claims recognized. The government practice is to refer refugee and asylum claimants to a lawyer or to the Office of the UN High Commissioner for Refugees (UNHCR). Those granted refugee status, as well as those awaiting UNHCR assessment of their status, receive a UNHCR subsistence allowance but are not allowed to seek employment or enroll their children in local schools. The UNHCR worked with potential host country representatives to resettle those few persons designated as refugees. Government policy is to repatriate all illegal immigrants, including those who arrive from the mainland, as promptly as possible. During the first half of the year, 1,683 illegal PRC immigrants were repatriated to the mainland.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The right of residents to peacefully change their government is limited by the basic law, which provides for the selection of the chief executive by an 800-person election committee (composed of individuals who are directly elected, indirectly elected, or appointed). The basic law provides for the direct election of only 30 of the 60 Legco members, and the inclusion of appointed members to the elected district councils. The approval of the chief executive, two-thirds of the legislature, and two-thirds of Hong Kong's NPC delegates is required to place an amendment of the basic law on the agenda of the NPC which, under the basic law, has the sole power to amend the basic law.

The basic law states that "the ultimate aim is the selection of the chief executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." Similarly, the basic law states that the "ultimate aim is the election of all the members of Legco by universal suffrage." However, in 2004 the NPC standing committee rejected universal suffrage in Hong Kong in the 2007 and 2008 elections.

The government is authorized to exercise a high degree of autonomy and to enjoy executive, legislative, and independent judicial power. It contains an executive branch staffed by a professional and independent civil service, and a two-tiered legislative branch consisting of the Legco and 18 district councils.

Elections and Political Participation.—In March Chief Executive Tung Chee-hwa unexpectedly resigned citing health concerns. Tung's resignation sparked a debate over the appropriate length of term for his replacement under the basic law. In 2004 the Hong Kong government took the explicit position that the basic law stating that "the term of the chief executive of the Hong Kong SAR shall be five years," applied without exception to any chief executive. The government abruptly changed that position following Tung's resignation, holding that the legislative intent of the basic law was that a chief executive returned through a by-election should only serve out the remaining term of the outgoing chief executive. In explaining the change, Secretary for Justice Elsie Leung said that she had been persuaded by arguments put forth by mainland legal experts based on unpublished records from the committee that drafted the basic law. This decision was criticized by the Hong Kong Bar Asso-

ciation, the Legal Society, and prominent legal scholars in Hong Kong who argued that the basic law specifies only a five year term for a chief executive. After legislators raised the prospect of filing for judicial review by the Hong Kong courts, the government requested an interpretation by the NPC standing committee to clarify the issue. The Hong Kong government argued that there was no time for a lengthy judicial review given the constitutional requirement to elect a new chief executive within six months, and that clarity was required to avoid a constitutional crisis. In April the standing committee of the NPC issued an interpretation of the basic law stating that Tung's replacement should only serve the remaining two years of Tung's term. The interpretation, which was regarded by many as inconsistent with the basic law, raised questions about the central government's commitment to the rule of law in Hong Kong and respect for Hong Kong's high degree of autonomy.

In June after a 10-day campaign, former Chief Secretary Donald Tsang secured 710 of the 800 election committee nominating votes. This was enough to ensure that his two declared challengers, Democratic Party Chairman Lee Wing-tat and Independent legislator Chim Pui-cheng, could not obtain the 100 nominations required to contest the election. Tsang was sworn-in on June 24 in Beijing.

In April 2004 the NPC standing committee issued a self-initiated interpretation of the basic law, cutting short local debate and rejecting universal suffrage for Hong Kong in the 2007 and 2008 elections. The NPC also determined that the current 50–50 ratio for directly elected geographic seats and indirectly elected functional constituency seats in Legco must remain indefinitely in place. In addition the NPC narrowed the circumstances in which Legco members would be permitted to initiate legislation. The NPC decision left room for amendments to the election processes, albeit strictly within the limits dictated by the NPC standing committee. In October a task force on constitutional development issued a report outlining the government's plan for constitutional changes in the methods for selecting the chief executive and the Legco in 2007 and 2008. The plan called for an increase in the size of the chief executive election committee and the addition of five seats each to both the geographic and functional constituencies. In December the government failed to garner the two-thirds support in Legco necessary to pass the reform package. All "no" votes came from prodemocracy members, who decried the legislation's failure to introduce a timeline for the introduction of universal suffrage.

Legco members were elected in 2004 to four-year terms, and despite some minor problems, including an insufficient supply of ballot boxes and intimidation of voters and political commentators, the elections were considered free and fair. Prodemocracy candidates won 18 of the 30 directly elected geographic seats and 25 seats overall. There were 199,539 persons eligible to vote in the functional constituencies.

The basic law substantially limits the ability of the legislature to influence policy by requiring separate majorities among members elected from geographical and functional constituencies to pass a bill introduced by an individual member. Another basic law provision prohibits Legco from putting forward bills that affect public expenditure, political structure, or government operations. Bills that affect government policy cannot be introduced without the chief executive's written consent. The government has adopted a very broad definition of "government policy" in order to block private member bills, and the president of Legco has upheld the government's position.

District councils are responsible for advising the government on matters affecting: (1) the well being of district residents; (2) the provision and use of public facilities; and (3) the use of public funds allocated for local public works and community activities. The District Council Ordinance gives the chief executive authority to appoint 102 out of 529 of the district councilors, and he exercises this power in practice.

Hong Kong sends 36 delegates to the PRC's National People's Congress. In 2002 Hong Kong's NPC delegates were elected to a 5-year term by an NPC-appointed committee of 955 residents. Politicians and human rights activists criticized the election process as undemocratic and lacking transparency. In 2004 two local NPC delegates won directly elected seats in the Legco. One NPC delegate lost his bid for a directly elected Legco seat.

Women held 11 of the 60 Legco seats and made up between 17 and 23 percent of membership in the major political parties. The president of the Legco was a woman, as were the heads of several government departments. More than one-third of civil servants were women, and 2 of the 15 most senior government officials were women.

There were no ethnic minorities in the Legco, but there were a number of ethnic minorities in senior civil service positions.

Government Corruption and Transparency.—The government vigorously and with apparent success combated official corruption through the Prevention of Bribery Or-

dinance and the ICAC. There were only isolated reports of corruption during the year.

The law provides for access to government information, and in practice such information was provided to both citizens and noncitizens, with exceptions that are narrowly defined and could be appealed.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Prominent human rights activists critical of the PRC also operated freely and maintained permanent resident status in Hong Kong, but overseas dissidents sometimes had difficulty gaining entry to the SAR.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons.

The law provides that all residents are equal and the government enforced these rights in practice.

Women.—The government was sharply criticized during the year for failing to adequately address the growing problem of domestic violence. Local public health officials remained concerned about violence against women, particularly among new immigrants from the mainland. The Domestic Violence Ordinance allows victims to seek a three-month injunction, extendable to six months, against an abuser. The ordinance does not criminalize domestic violence directly, although abusers may be liable for criminal charges under other ordinances, including the Crime Ordinance and the Offences Against the Person Ordinance. The government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders. During the first half of the year, there were 1,620 cases of domestic violence reported to the social welfare department, which receives reports from the police, social workers, the health department, and volunteer organizations.

In October the executive director of Harmony House, an NGO that provides services to victims of domestic violence, said that between April and April 2004, 263 women were admitted to shelters to escape domestic violence—the highest figure in five years. In July a University of Hong Kong survey found that one in five families had experienced some form of domestic violence. Figures from the social welfare department, however, showed that only 622 child-abuse cases and 3,371 cases of spousal abuse were reported in 2004. The survey found that most victims endured years of abuse before seeking help. A study released by the Family Crisis Support Center in 2004 showed that many women were reluctant to report cases of domestic violence, with 1 in 6 victims waiting as long as 10 years before reporting an attack.

In 2004 a mother and her two daughters were killed in an act of domestic violence hours after unsuccessfully seeking help at a police station. The mother had previously sought help from government social workers. In September a coroner's inquest into that murder recommended sweeping changes to existing guidelines to combat domestic violence. The police department said it had already implemented some of the recommendations and would study the others. The social welfare department announced a "zero tolerance policy" toward domestic violence and said it was examining ways to strengthen the Domestic Violence Ordinance. NGOs said there was an urgent need to amend the law to make domestic violence a crime directly under the Domestic Violence Ordinance. The legislator representing the social welfare sector accused the government of doing too little to fight domestic violence.

In October the chief executive announced several new measures to assist domestic violence victims and to provide counseling to offenders. The government also funded programs such as family life education counseling, a hot line service, temporary housing, legal aid, and child protective services. It also sponsored public education and media programs through the women's commission to promote public awareness of domestic violence and encouraged women to seek early professional assistance.

There were 45 cases of rape reported to the police during the first half of the year. The 2002 Statute Law (Miscellaneous Provisions) Bill criminalizes marital rape. In 2003 the legislature passed an amendment to the Crimes Ordinance expressly clarifying that the term "unlawful sexual intercourse" could be applied both outside and inside the bounds of marriage. During the first half of the year, 559 indecent assault cases were reported to the police.

Prostitution is legal, but there are laws against activities such as causing or procuring another to be a prostitute, living on the prostitution of others, or keeping a vice establishment. Hong Kong is a transit and destination point for persons trafficked for the purposes of sexual exploitation (see section 5, Trafficking.).

The Sex Discrimination Ordinance prohibits sexual harassment of women seeking employment or already working in an organization. The EOC reported 37 sexual harassment complaints in the first half of the year. In 2004 the government extended the definition of sexual harassment in schools to cover conduct not specifically directed at a person, such as chanting obscene slogans or displaying posters with sexual content. The change closed a loophole that allowed behavior in schools that was banned in the workplace.

Women faced discrimination in employment, salary, welfare, inheritance, and promotion. A survey released in 2004 found that nearly 80 percent of women workers believed they were the victims of discrimination.

The percentage of women employed in professional fields, including sciences and engineering, law, teaching, accounting, social sciences, health, and medicine, declined slightly during the year. As of June, 33.5 percent of professionals employed in these fields were women, versus 35.1 percent in June 2004. Approximately 21 percent of judicial officers and judges were women. In the Legco, women held 11 of the 60 seats. According to a survey released in 2004, approximately three-quarters of private companies had women in senior management positions, and women occupied more than a quarter of senior management posts. Women were still disproportionately represented in the lower echelons of the work force.

The law treats men and women equally in terms of property rights in divorce settlements and in inheritance matters, although women still faced discrimination based on traditional practices, such as in the inheritance of homes in rural areas of the New Territories.

Children.—The government supported children's rights and welfare through well-funded systems of public education, medical care, and protective services. The Education Department provided schooling for children between 6 and 15 years of age and placement services for non-Chinese speaking children. Education is free and compulsory through grade nine. Nearly 100 percent of school-aged children attended school, and boys and girls attended in equal proportions. The government supported programs for custody, protection, day care, foster care, shelters, small group homes, and assistance to families.

The Domestic Violence Ordinance mandates substantial legal penalties for acts of child abuse such as battery, assault, neglect, abandonment, sexual exploitation, and child sex tourism, and the government enforced the law.

During the first half of the year, there were 586 child abuse cases reported to the police: 222 involved physical abuses (referring to victims less than 14 years of age) and 364 involved sexual abuses (referring to victims less than 17 years of age). Between April and April 2004, 263 women and 250 children were admitted to shelters to escape domestic violence. In July a University of Hong Kong survey found that almost one in three children had been abused.

The government provided parent education programs in all 50 of the department of health's maternal and child health centers, which included instruction on child abuse prevention. It also provided public education programs to raise awareness of child abuse, and to alert children about how to protect themselves. The social welfare department provided child psychologists for its clinical psychology units and social workers for its family and child protective services units. The department also commissioned research on domestic violence, including child abuse. The police maintained a child abuse investigation unit and a child witness support program. A child care center law helps prevent unsuitable persons from providing childcare services and facilitates the formation of mutual help childcare groups.

In 2003 the government enacted the Prevention of Child Pornography Ordinance, which criminalizes the making, production, distribution, publication, advertising, and possession of child pornography. It also prohibits the procurement of children for making pornography, extends the application of certain sexual offense provisions to acts committed against children outside of Hong Kong, and prohibits any arrangement or advertising relating to commission of those acts. The law carries a penalty of up to five years imprisonment and a fine of up to $128,500 (HK$1 million) for possession of child pornography. In 2004 police used the new law to conduct a sweep of child pornography Web sites, in co-operation with enforcement agencies in other countries. Police arrested 18 persons locally and closed down an overseas Web site. As of year-end, at least 12 of those arrested had been convicted.

In September at a hearing in Geneva the UN Committee on the Rights of the Child (UNCRC) criticized Hong Kong's implementation of the UN treaty on children's rights. Hong Kong is required to implement the treaty as a dependent territory of China. The committee outlined a number of problem areas, including the persistence of corporal punishment, a lack of measures to prevent sexual exploitation and trafficking, a lack of measures to combat child poverty, the low age of criminal responsibility, and discrimination against undocumented migrant children. The com-

mittee recommended that the government: create a single unified law or policy pertaining to children; establish a body representing children's views; ban corporal punishment; establish a poverty line; abolish life sentences for minors; and increase funding for child welfare programs. The government said it would consider the committee's recommendations, but rejected the call for a single comprehensive policy or law concerning children. The government continued to stress this was not necessary as there were no serious problems with the existing arrangements. However, the government was reviewing the Domestic Violence Ordinance to determine if there were provisions of the law pertaining to children that could be strengthened. During the UNCRC hearing, the government also pledged to prepare Hong Kong for application of the optional protocol on the sale of children, child prostitution, and child pornography.

The government provided subsidized, quality medical care for all children who were residents.

In 2003 legislation raised the age of criminal responsibility for children from 7 to 10 years. During the first half of the year, there were 70 youths under the age of 16 who were incarcerated: 17 in prison; 10 in training centers; 13 in detention centers; and 30 in rehabilitation centers.

Trafficking in Persons.—There is no law prohibiting trafficking in persons. There are various laws and ordinances that allow law enforcement authorities to take action against traffickers. Despite robust efforts by the SAR government to stop such activities, Hong Kong was a point of transit and destination for a small number of persons trafficked for sexual exploitation from China and Southeast Asia. It was difficult for the government to identify trafficking victims from among the larger group of illegal immigrants.

Nearly all foreign prostitutes came to Hong Kong willingly to engage in prostitution. Most came from rural areas of the mainland, Thailand, or the Philippines on 14-day tourist visas, although a very small number entered using forged documents. The overwhelming majority were women, although an increasing number of young men were coming to Hong Kong to work as homosexual prostitutes. While many came on their own, some were lured to the SAR by criminal syndicates and promises of financial rewards. Prostitutes were typically required to repay the syndicates the cost of their airfare, lodging, and food. Some were forced to stay in Hong Kong longer than they anticipated, or work more than they expected, to repay their debts. Prostitutes were sometimes required to give their passports to the syndicates until the debt was paid. When their visas expired, many would travel to Macau or Shenzhen for a day, and then re-enter Hong Kong. Immigration officials were well aware of this practice and would deny re-entry if they suspected such abuse. Despite the involvement of syndicates in bringing prostitutes to Hong Kong, very few women were lured to the SAR with false promises of legitimate employment and then forced, or coerced, to work as prostitutes.

Traffickers have used forged or illegally obtained travel documents to attempt to smuggle persons through the Hong Kong airport. In 2004 the immigration department established the Anti-Illegal Migration Agency to target human smugglers and other travelers using fraudulent documents. The agency had 60 officers stationed at the Hong Kong International Airport. The number of fraudulent documents seized at the airport declined sharply during the first half of the year due to the presence of these officers. Authorities apprehended 834 persons with forged travel documents in the first half of the year, versus 1,288 during the same period in 2004.

During the year there were no known reports of persons being trafficked into the SAR to work as domestic workers.

Provisions in the Immigration Ordinance, the Crimes Ordinance, and other relevant laws enabled law enforcement authorities to take action against trafficking in persons. The courts can impose heavy fines and prison sentences up to 14 years for such activities as arranging passage of unauthorized entrants, assisting unauthorized entrants to remain, using or possessing a forged, false, or unlawfully obtained travel document, and aiding and abetting any person to use such a document. The security bureau is responsible for combating migrant trafficking and overseeing the police, customs, and immigration departments, which are responsible for enforcing antitrafficking laws. Law enforcement officials received special training on handling and protecting victims and vulnerable witnesses, including victims of trafficking.

The government provided legal aid to those taking legal action against an employer, and immunity from prosecution for those who assist in the investigation and prosecution of traffickers. The social welfare department and local NGOs also provided an array of social services to victims of trafficking. The government did not provide funding to foreign or domestic NGOs for services to victims. The government

also tried to prevent trafficking by distributing pamphlets, in a wide range of languages, to workers about their rights.

Persons with Disabilities.—Discrimination against persons with physical and mental disabilities persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance calls for improved building access and sanctions against those who discriminate. Also, the Buildings Ordinance was amended in 2003 to update design requirements. However, despite inspections and the occasional closure of noncompliant businesses, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities.

The government offered an integrated work program in sheltered workshops and provided vocational assessment and training. No comprehensive statistics were available on the number of persons with disabilities in the work force, but the last government survey conducted in 2000 estimated that there were approximately 269,500 persons with one or more disabilities, including 225,600 persons with physical disabilities and 52,700 with mental disabilities. According to the survey, of the 269,500 persons with disabilities, 52,500 were employed and 59,700 were considered "economically active," including small business owners and street vendors. However, a consortium of organizations representing persons with disabilities reported in 2002 that approximately 700 thousand residents were disabled, approximately half of whom were able to work. As of March there were 3,241 persons with disabilities employed as civil servants out of a total civil service work force of 158,737. During the first half of the year, the Labor Department's Selective Placement Division found jobs for 1,223 of 2,161 disabled job seekers. Out of 820 thousand students, approximately 10,400 were disabled (1.3 percent); approximately 38 percent of these students studied at mainstream schools.

The EOC sponsored a variety of activities to address discrimination against persons with disabilities, including youth education programs, distributing guidelines and resources for employers, carrying out media campaigns, and cosponsoring seminars and research.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must register under the Trade Unions Ordinance. The basic precondition for registration is a minimum membership of seven persons. The Trade Unions Ordinance does not restrict union membership to a single trade, industry, or occupation and the government did not discourage or impede the formation of unions. Trade unions were independent of political parties and the government.

During the first half of the year, 9 new unions were registered, while 1 was deregistered; there were 712 registered trade unions. At the end of 2004, 21.04 percent of the 3,130,000 salaried employees and wage earners belonged to a labor organization.

The Employment Ordinance includes provisions that protect against antiunion discrimination. Violation is a criminal offense with a maximum fine of $12,800 (HK$100 thousand). Employees who allege such discrimination have the right to have their cases heard by the Labor Relations Tribunal. The tribunal may order reinstatement of the employee, subject to mutual consent of the employer and employee. The tribunal may award statutory entitlements (for instance, severance pay) and compensation. The maximum amount of compensation is $19,230 (HK$150 thousand). Some labor activists have complained that the labor tribunals tended to push conciliation rather than issue orders.

b. The Right to Organize and Bargain Collectively.—The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance removes the legal stipulation of trade unions' right to engage employers in collective bargaining. The ordinance bans the use of union funds for political purposes, requires the chief executive's approval before unions can contribute funds to any trade union outside of the SAR, and restricts the appointment of persons from outside the enterprise or sector to union executive committees. In a few trades such as tailoring and carpentry, wage rates were determined collectively in accordance with established trade practices and customs rather than a statutory mechanism, but collective bargaining was not practiced widely. Unions were not powerful enough to force management to engage in collective bargaining. The government did not engage in collective bargaining with civil servants' unions.

The workplace consultation promotion unit in the Labor Department facilitated communication, consultation, and voluntary negotiation between employers and employees. Tripartite committees for each of the nine sectors of the economy included representatives from trade unions, employers, and the Labor Department.

Work stoppages and strikes are legal. There are some restrictions on this right for civil servants. Although there is no legislative prohibition of strikes, in practice most workers had to sign employment contracts that typically stated that walking off the job is a breach of contract, which could lead to summary dismissal.

There were two labor stoppages by public employees during the year. Both were strikes by swimming pool lifeguards concerned about staff and pay cuts.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor. Although the law does not specifically prohibit forced or compulsory labor by children, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Employment of Children Regulations prohibits employment of children under the age of 15 in any industrial establishment. Children 13 and 14 years of age may work in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum 9 years of education and protection of their safety, health, and welfare. The Labor Department conducted regular workplace inspections to enforce compliance with the regulations. During the first half of the year, the Labor Department conducted 66,239 inspections and discovered 1 violation of the Employment of Children Regulations. The case involved an advertising company that failed to provide valid school attendance certificates for three child entertainers. The company received a written warning. The regulations limit work hours in the manufacturing sector for persons 15 to 17 years of age to 8 hours per day and 48 hours per week between 7 a.m. and 7 p.m. They also prohibit, for persons less than 18 years of age, overtime in industrial establishments with employment in dangerous trades.

e. Acceptable Conditions of Work.—There is no statutory minimum wage except for domestic workers of foreign origin. Aside from a small number of trades where a uniform wage structure exists, wage levels customarily are fixed by individual agreement between employer and employee and are determined by supply and demand. Some employers provided workers with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage provided a decent standard of living for a worker and family. Two-income households were the norm. There are no regulations concerning working hours, paid weekly rest, rest breaks, or compulsory overtime. In October the chief executive for the first time acknowledged the need to study the issue of a minimum wage and limits on working hours.

The minimum wage for foreign domestic workers was approximately $426 per month (HK$3,320). The standard workweek was 48 hours, but many domestic workers worked much longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provide a decent standard of living. Foreign domestic workers can be deported if dismissed. During the first half of the year, four employers were prosecuted and fined for labor law violations relating to the employment of foreign domestic workers. During the first half of the year 39 foreign domestic workers filed criminal suits against their employers for maltreatment.

The Occupational Safety and Health Branch of the Labor Department are responsible for safety and health promotion, enforcement of safety management legislation, as well as policy formulation and implementation.

The Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, the Boilers and Pressure Vessels Ordinance, and their 35 sets of subsidiary regulations regulate safety and health conditions. During the first half of the year, the Labor Department conducted 61,985 inspections of workplaces and issued 731 summonses, resulting in a total of $771,874 (HK$6,020,617) in fines. Worker safety and health has improved over the years, but serious problems remained, particularly in the construction industry. During the first half of the year, there were 20,467 occupational injuries, of which 7,838 were classified as industrial accidents. There were nine fatal industrial accidents. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

In 2001 the SAR government was criticized by the UN Committee on Economic, Social, and Cultural Rights for failure to establish regulations on a statutory minimum wage, maximum working hours, paid weekly rest, rest breaks, compulsory overtime, and protection against unfair dismissal. In December 2004 the government referred the issue of a minimum wage and maximum working hours to the labor advisory board. As of year-end the board was still considering the issue. More-

over, there was no broad consensus in the community on these issues, which were debated by legislators, academics, and the public. Nevertheless, the Labor Department actively sought to improve working conditions by encouraging consultations, meetings, and seminars with industry-based committees comprising representatives of government, employers' associations, and trade unions. Such committees included the tripartite committee for the cargo transport industry and the committee for the property management industry.

MACAU

Macau is a Special Administrative Region (SAR) of the People's Republic of China (PRC) and enjoys a high degree of autonomy, except in defense and foreign affairs. Macau's population is approximately 450 thousand, and its citizens have basic freedoms and enjoy legally protected rights. The SAR constitution, also called the basic law, was promulgated by the PRC's National People's Congress (NPC) in 1993. The government is led by a chief executive, chosen by a 300-member election committee, which in turn is chosen by a preparatory committee composed of 60 SAR and 40 mainland representatives appointed by the NPC. In September voters elected 12 of the legislature's 29 members in direct elections based on geographical constituencies. Interest groups in functional constituencies elected 10 others, and the chief executive appointed the remaining 7 members. The basic law does not posit the election of all members of the legislature by universal suffrage as an ultimate aim. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights abuses were reported:

- Limits on citizens' ability to change their government

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful deprivation of life.

Unlike the previous year, there were no reports of suspicious deaths in custody. In 2004 the public prosecutions office filed a criminal investigation concerning one of the judiciary police officers involved in the 2002 death of a prisoner in custody. An investigation into the conduct of a second officer was ongoing at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected these provisions in practice. During the year, there were 18 reports of police brutality, compared with 21 reports for the same period in 2004.

Prison and Detention Center Conditions.—Prison conditions met international standards, and the government permitted visits by independent human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—Civilian authorities, specifically the secretary for security, supervised and controlled the police. The Public Security Police were well disciplined. The Commission Against Corruption acted to preclude problems with corruption.

Arrest and Detention.—Police must present persons remanded in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. The accused person's counsel may examine the evidence. The law provides that cases must come to trial within six months of an indictment. The estimated average length of pretrial incarceration was three to six months. Judges often refused bail in cases where sentences could exceed three years.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. There are four courts: the primary court, with general jurisdiction of first instance; the administrative court, with jurisdiction of first instance in administrative disputes; the court of second instance; and the court of final appeal. The courts have the power of final adjudication in all cases that are within the authority of the SAR. The courts also

may rule on matters that are "the responsibility of the Central People's Government or concern the relationship between the central authorities and the [Special Administrative] Region." However, before making their final judgment (a judgment not subject to appeal), the courts must seek an interpretation of the relevant provisions from the NPC's Standing Committee. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, "shall follow the interpretation of the Standing Committee." The Standing Committee must consult the NPC's Committee for the Basic Law of the SAR before giving an interpretation of the law. This committee is composed of 10 members, 5 from the SAR and 5 from the mainland. The chief executive, the president of the Macau SAR Legislative Assembly, and the president of the court of final appeal nominates the SAR members.

The basic law provides for the use of Portuguese, in addition to Chinese, as an official language used by executive authorities, the legislature, and the judiciary. The need to translate laws and judgments from Portuguese and a severe shortage of local bilingual lawyers and magistrates hampered development of the legal system. At year's end there were 105 lawyers in private practice in the SAR: 14 spoke Mandarin and Cantonese and 27 spoke only Cantonese. The government sponsored a postgraduate training program for magistrates who had received legal training outside of the SAR. The judiciary was relatively inexperienced and lacked locally trained lawyers.

According to the basic law, the chief executive appoints judges at all levels, acting on the recommendation of an independent commission, which he appoints. The commission is composed of local judges, lawyers, and "eminent persons." The basic law stipulates that judges must be chosen on the basis of their professional qualifications. Judges may be removed only for criminal acts or an inability to discharge their functions. With the exception of the chief justice, who must be a Chinese citizen with no right of abode elsewhere, foreigners are permitted to serve as judges under the basic law.

Trial Procedures.—The law provides for the right to a fair trial, and the judiciary generally enforced this right. By law trials are open to the public, except when publicity could cause great harm to the dignity of the persons, to public morals, or to the normal development of the trial. The law provides for an accused person's right to be present during proceedings and to choose an attorney or request that one be provided at government expense. The Organized Crime Ordinance provides that "certain procedural acts may be held without publicity and witness statements read in court are admissible as evidence." There also are additional restrictions on granting bail and suspended sentences in organized crime cases. Defendants enjoy a presumption of innocence, have access to government-held evidence relevant to their cases, and have a right of appeal.

The judiciary provides citizens with a fair and efficient judicial process; however, due to an overloaded court system a period of up to a year sometimes passed between filing a civil case and its scheduled hearing.

A public prosecutor general heads the Public Prosecutions Office. It enjoys substantial autonomy from both the executive and the judiciary. The basic law stipulates that the Public Prosecutions Office's functions be carried out without government interference, and the government respected the law in practice.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom and the Internet.

The dominant newspapers, mainly Chinese-language, supported PRC government positions in their editorial line. The Union for Democracy Development Macau (UDDM), a nongovernmental organization (NGO) headed by prodemocracy legislators, charged that newspapers did not give equal attention to liberal and prodemocracy voices. In February the chief editor of *Open Magazine*—which is openly critical of the mainland Chinese government—was refused entry to Macau "based on Macau Special Administrative Region internal security guidelines," according to a letter from the government. Although the editor had been barred from the mainland for a number of years, this was the first time he was barred from Macau. In response to a letter of concern from a Hong Kong legislator, the chief executive's office replied that it was concerned about the case and investigating it.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion and the government generally respected these rights in practice.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts during the year, and the size of Macau's Jewish population remains extremely small.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Approximately 100 thousand residents held Portuguese European Union passports, and an increasing number held SAR passports that allowed visa-free entry into many countries. Most residents also held special permits that allowed travel to and from the mainland. There was a separate pass for travel to and from Hong Kong.

The internal security legal framework allows the government to refuse entry or expel any nonresident considered inadmissible or constituting a threat to internal security, or suspected of having a relationship with transnational crime or terrorism. During the first half of the year, no person was refused entry based on suspicion of having a connection to terrorism or transnational crime; however, 12 persons were refused entry for internal security reasons, primarily for violations of immigration law.

During the first half of the year, 214 illegal migrants and 3,757 overstayers were returned to the mainland.

In January Macau immigration officials refused entry to a Hong Kong resident who was a spokesperson for the Falun Gong. The spokesperson said she had entered Macau many times without incident. This denial of entry occurred during a period of heightened security on the mainland, just three days after the death of former Communist Party Chairman Zhao Ziyang in Beijing.

The basic law prohibits forced exile by guaranteeing the right of permanent residents to leave and enter the SAR, and the government respected the law.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. In practice the government granted refugee status or asylum and provided protection against *refoulement*, the return of persons to a country where they feared prosecution. The Migration Department cooperated with the UN High Commissioner for Refugees in handling refugees. As of October, there were no refugee cases.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The basic law restricts citizens' ability to change their government. The government is led by a chief executive, chosen by a 300-member election committee, which in turn is chosen by a 100-member preparatory committee, composed of 60 SAR and 40 mainland representatives appointed by the NPC.

Elections and Political Participation.—In 2004 Chief Executive Edmund Ho was re-elected to a second five-year term.

In September the SAR's democratic development was enhanced when a record 58 percent of registered voters participated in Macau's third legislative elections. As required by the basic law, two directly-elected seats were added to the legislature during the elections. Voters directly elected 12 of the 29 legislators (versus 10 of the 27 in 2001) from geographic constituencies. Local community interests, such as business, labor, professional, welfare, cultural, educational, and sports associations, indirectly elected 10 members, and the chief executive appointed 7 members.

There are limits on the types of legislation that legislators may introduce. The basic law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the government. Proposed legislation relating to government policies must receive the chief executive's written approval before they are submitted.

A 10-member executive council functions as an unofficial cabinet, approving all draft legislation before it is presented in the Legislative Assembly.

There were six women in the 29-member assembly, including the president of the assembly. Women also held a number of senior positions throughout the government. There were three ethnic minorities in the 29-member assembly. One member of the executive council was also an ethnic minority, as was the police commissioner.

Government Corruption and Transparency.—The Commission Against Corruption (CAC) investigates public-sector corruption and has the power to arrest and detain suspects. In the first half of the year, the CAC received 602 complaints against public officials in a variety of agencies. The CAC pursued 229 of these complaints, of which 100 were criminal cases and 129 were administrative cases. The CAC transferred 11 cases to the Public Prosecutions Office. A monitoring body established to review complaints of maladministration or abuse by the CAC received no complaints during the same period.

The law does not provide for public access to government information. However, the executive branch published online, in both Chinese and Portuguese, an extensive amount of information including laws, regulations, ordinances, government policies and procedures, and biographies of government officials. The government also issued a daily press release on topics of public concern. The information provided by the legislature was less extensive. For example, it did not publish a legislative agenda or a list of pending bills.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons.

The basic law stipulates that residents shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political persuasion, ideological belief, educational level, economic status, or social condition, and the government effectively enforced the law. In addition many local laws carry specific prohibitions against discrimination. For example, under the law that established the general framework for the educational system, access to education was stipulated for all residents regardless of race, religious belief, or political or ideological convictions.

Women.—The government effectively enforced criminal statutes prohibiting domestic violence and prosecuted violators. Domestic violence is punishable by 1 to 15 years in prison. In the case of spousal abuse and violence against minors, the penalty is 2 to 8 years' imprisonment, and 5 to 15 years if the abuse leads to the death of the victim.

The government provided hospital treatment for victims of abuse, and medical social workers counseled victims and informed them about social welfare services. The government may provide victims of domestic violence with public housing until their complaints are resolved, but it did not reserve facilities expressly for this purpose.

Private and religious groups sponsored programs for victims of domestic violence, and the government supported and helped to fund these organizations and programs. The Bureau for Family Action, a government organization subordinate to the Department of Family and Community of the Social Welfare Institute, helped female victims of domestic violence by providing a safe place for them and their children and furnishing advice regarding legal actions against the perpetrators. A family counseling service was available to persons who requested such services at social centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence. In the first half of the year, 112 cases of spousal abuse and 51 cases of family violence were reported to the Social Welfare Institute. The law on rape covers spousal rape. In the first half of the year, there were 10 reported rapes.

Prostitution is legal, but procuring is not. Trafficking in persons also is illegal; however, there were 10 suspected cases of trafficking in women for the purposes of prostitution (see section 5, Trafficking).

There is no law specifically addressing sexual harassment, although there is a law prohibiting harassment in general. Sexual harassment was not considered to be a major problem.

Equal opportunity legislation applicable to all public and private organizations mandates that women receive equal pay for equal work, prohibits discrimination based on sex or physical ability, and establishes penalties for employers who violate these guidelines. The law allows for civil suits, but few women took their cases to the Labor Affairs Bureau or other entities. There were no cases alleging sexual discrimination during the first half of the year.

Women also have become more active and visible in business. However, wage discrimination occurred in certain sectors of the job market, notably construction.

Children.—The government protected the rights and welfare of children through the general framework of civil and political rights legislation that protects all citi-

zens. For example, the law provides for criminal punishment for sexual abuse of children and students, statutory rape, and procuring that involves minors.

School attendance is compulsory for all children between ages 5 and 15. Basic education was provided in government-run schools and subsidized private schools, and it covered the preprimary year, primary education, and general secondary school education. The Education Department provided assistance to families that could not pay school fees. The children of illegal immigrants were excluded from the educational system. Experts believed this exclusion affected only a few children. Boys and girls attended school in equal proportions, and the government provided free medical care for all children. Child abuse and exploitation were not widespread problems. In the first half of the year, 87 cases of child abuse were reported to the police. During the same period, the government received three reports of rape of minors and nine reports of sexual abuse of minors.

Trafficking in Persons.—The law makes trafficking in persons a crime punishable by two to eight years in prison. The law increases this penalty by one-third (within minimum and maximum limits) if the victim is under 18 years of age. If the victim is under 14 years of age, the penalty is increased by 5 to 15 years. If the trafficker rapes the victim, the two offenses are treated as different crimes. While prostitution is not illegal, a "procurement" law makes it a crime to instigate, favor, or facilitate the practice of prostitution by another person for the purposes of profit or as a way of life.

From January to November, the SAR investigated 42 cases of procurement. While most of these cases involved women who were believed to be willing participants in the sex industry, 10 women claimed to have been brought to the SAR under false pretenses and 3 complained of abuse. SAR authorities believed that Chinese, Russian, and Thai criminal syndicates were involved in bringing women to the SAR for the purposes of prostitution. Prostitutes were primarily from mainland China, Russia, Eastern Europe, Vietnam, and Thailand.

There were no government assistance programs for victims of trafficking. No local NGOs specifically dealt with the problem; however, there were charitable organizations that provided assistance and shelter to women and children who were the victims of abuse.

Persons with Disabilities.—The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. There were no reports of discrimination against persons with disabilities in employment, education, or provision of state services.

The Social Welfare Institute provided financial and rehabilitation assistance to persons with disabilities, and it helped fund 24 rehabilitation facilities and 12 rehabilitation associations. These services included day centers, preschool training and education centers, vocational training and employment centers, and rehabilitation bus service. Other special programs helped persons with physical and mental disabilities gain better access to employment, education, and public facilities. For facilities that received financial support, approximately 80 percent of their income came from the government. In 2004 the government provided approximately $3.3 million (25.4 million patacas) in subsidies to such facilities and programs. During the year, 37 NGOs provided services for persons with disabilities and received regular assistance from the Social Welfare Institute and subsidies from other governmental departments. During the 2004–05 school year, 13 schools had programs for persons with disabilities and provided special education programs for 757 students with disabilities.

The law mandates accessibility for persons with reduced mobility to public administration buildings, buildings open to the public, collective dwellings, and pavements. The government's social security fund may grant subsidies for the elimination of architectural barriers to facilitate access by persons with a physical or behavioral disability. Many sidewalks and public buildings have been modified to comply with the law.

National/Racial/Ethnic Minorities.—Although no specific laws prohibit discrimination on the basis of racial or ethnic background, the government generally respected the rights of ethnic minorities, particularly the Macanese (Eurasians who comprise approximately 2 percent of the population). Although Portuguese officials no longer dominated the civil service, the government bureaucracy and the legal system placed a premium on knowledge of the Portuguese language, which was spoken by approximately 2 percent of the population. The Chinese language has official status and the use of Chinese in the civil service has grown in recent years.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of workers to form and join unions of their choice without previous authorization or excessive requirement, and the government generally respected this right in practice. The basic law stipulates that international labor conventions that applied before the handover remain in force. The UDDM has expressed concern that local law contains no explicit provisions that bar discrimination against unions. The law also specifically excludes public servants and migrant workers from labor law protections.

Nearly all private sector unions were part of the pro-China Federation of Trade Unions (FTU), and they tended to stress the importance of stability and minimum disruption of the work force. The UDDM and some local journalists claimed that the FTU was more interested in providing social and recreational services than in addressing trade union issues such as wages, benefits, and working conditions. At the beginning of the year there were 173 registered independent trade unions. All classes of workers have the right to join a union. Approximately 79 percent of public sector employees were members of a union. There was no data on private sector unionization.

b. The Right to Organize and Bargain Collectively.—The law provides that agreements concluded between employers and workers shall be valid, but there is no specific statutory protection that provides for the right to collective bargaining; however, the government did not impede or discourage collective bargaining. Market forces determined wages. Unions tended to resemble local traditional neighborhood associations, promoting social and cultural activities rather than workplace issues. Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant labor from the mainland and the Philippines. Pro-PRC unions traditionally have not attempted to engage in collective bargaining.

There is no specific protection in local law from retribution if workers exercise their right to strike. The government argued that striking employees are protected from retaliation by labor law provisions, which require an employer to have "justified cause" to dismiss an employee; the government generally enforced these provisions. Strikes, rallies, and demonstrations were not permitted in the vicinity of the chief executive's office, the Legislative Assembly, and other key government buildings. There were no reports of labor protests, strikes, or work stoppages during the year.

Workers who believed that they were dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the High Commissioner against Corruption and Administrative Illegality, who also functions as an ombudsman.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an "exceptional basis." Some children reportedly worked in family-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions were applied. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted. In July, the Labor Department Inspectorate conducted a special inspection specifically aimed at enforcing child labor laws. During this inspection, 476 companies were visited, 17 of which were found to have violated child labor laws by employing 29 minors aged 14 to 16.

e. Acceptable Conditions of Work.—Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements, but there was no mandatory minimum wage. Average wages provided a decent standard of living for a worker and family.

Labor legislation provides for a 48-hour workweek, an 8-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every seven days of work, workers frequently agreed to work overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers on request.

The Labor Department enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. During the first half of the year, the Labor Department inspectorate conducted 1,745 inspections and uncovered 1,826 violations carrying fines totaling $62,640 (494,856 million patacas). There

were five work-related deaths during the first half of the year. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protected employees' right to continued employment if they refused to work under dangerous conditions.

Migrant workers, primarily from the PRC, made up approximately 8.4 percent of the work force. They often received less than local residents for performing the same job, lived in controlled dormitories, worked 10 to 12 hours per day, and owed large sums of money to labor-importing companies for purchasing their jobs. They had no collective bargaining rights and no legal recourse in the case of unfair dismissal.

TAIWAN

Taiwan's population of 23 million is governed by a president and parliament chosen in multiparty elections. The president appoints a premier, who heads the Executive Yuan or cabinet. The parliament (Legislative Yuan [LY]) has authority to dismiss the cabinet with a no-confidence vote. President Chen Shui-bian of the Democratic Progressive Party (DPP) was reelected with 50.1 percent of the popular vote in March 2004. An opposition coalition made up of the Kuomintang (KMT) and the People First Party (PFP) won 114 of the 225 LY seats in December 2004 elections. Both elections were hotly contested in an intense partisan atmosphere but generally were regarded as free and fair. The civilian authorities generally maintained effective control of the security forces.

The authorities generally respected the human rights of citizens; however, there were problems in some areas. The following human rights problems were reported:

- corruption by officials
- violence and discrimination against women
- trafficking in persons
- abuses of foreign workers

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killing.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law stipulates that no violence, threat, inducement, fraud, or other improper means shall be used against accused persons; however, nongovernmental organizations (NGOs) asserted that police occasionally physically abused persons in their custody. The primary responsibility for investigating torture and mistreatment lies with prosecutors. The Control Yuan, a coequal branch of the political system that investigates official misconduct, also investigates such cases.

The law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place (see section 1.d.). The Ministry of Justice (MOJ) stated that each interrogation is audiotaped or videotaped and that any allegation of mistreatment is investigated, and that police are subject to severe punishment for abusing their authority in arresting or detaining suspects or using threats of violence to extract evidence. There were no reports of police convicted of abusing suspects. Some lawyers and legal scholars asserted that abuses occurred in local police stations where interrogations were not recorded and when attorneys were not present.

The Criminal Code provides that criminal charges must be based on legally obtained evidence and that confessions, whether by defendants or accomplices, unsupported by other evidence shall not be sufficient to convict defendants; confessions alleged to be illegally obtained must be investigated before proceeding to other evidence.

Corporal punishment is forbidden under military law, and the Ministry of National Defense implemented several programs in recent years to address the problem. Unlike in past years, there were no reports of hazing during the year.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. The MOJ reported that prisons and detention centers continued to suffer from overcrowding. As of September, prisons operated at 114 percent of capacity.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The National Police Administration (NPA) of the Ministry of Interior has administrative jurisdiction over all police units. City mayors and county magistrates appoint city and county police commissioners from among candidates recommended by the NPA. The mayors and magistrates are responsible for maintaining order and assessing the performances of the police commissioners in their jurisdictions. Human rights advocates remained concerned about police corruption. Prosecutors and the Control Yuan are responsible for investigating allegations of police malfeasance. The NPA also has an inspector general and an Internal Affairs Division that conduct internal police investigations.

Arrest and Detention.—Police legally may detain without a warrant anyone they suspect of committing a crime for which the punishment would be imprisonment of five years or more, when there is ample reason to believe the person may flee. Police may question persons without a formal summons when circumstances are too urgent to report to a public prosecutor. However, immediately after detaining a suspect, the authorities must apply to a prosecutor for a warrant to detain the arrestee for up to 24 hours and must give written notice to the detainee or a designated relative or friend, stating the reason for the arrest or questioning. If the prosecutor rejects the application for a warrant, the police must release the detainee immediately. Indicted persons may be released on bail at judicial discretion. By law, prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The duration of this pretrial detention is limited to two months and, with court approval, a single extension of an additional two months. Limits also apply to detention during trial. If a crime is punishable by less than 10 years' imprisonment, then no more than 3 extensions of 2 months each may be granted during the trial and appellate proceedings. During a second appeal, only one extension may be granted. The authorities generally observed these procedures, and trials usually took place within three months of indictment.

The law requires the police to inform a suspect during an interrogation of the specific charges in question, the right to remain silent, the right to counsel, and the right to ask the police to investigate evidence that would be favorable to the suspect. If the charges are amended subsequently, the police must inform the suspect. The authorities generally respected a detainee's request to have a lawyer present during the investigation phase. When a detainee requests legal counsel, police must wait at least four hours for a lawyer before proceeding with an interrogation. Although the law requires that indigent persons be provided legal counsel during trials, it does not provide for legal counsel during interrogations. However, confessions from interrogations conducted in the evenings generally are not to be used as evidence; allegations that a confession was obtained illegally are to be investigated before it is used in a trial (see section 1.c.). With the exception of urgent circumstances, when such equipment is unavailable, interrogations must be audiotaped or videotaped, and when written reports of interrogations are in conflict with evidence in audiotapes and videotapes, the contradictory interrogation may not be used as evidence. The nongovernmental Legal Aid Foundation of Taiwan has been in operation since June 2004 and provided quality professional legal services to the indigent.

Some human rights advocates continued to believe that the rules did not provide adequate protection since suspects often did not have legal representation during police interrogation. In addition, informed observers reported that the "public defense counsels" did not appear until the final argument of a trial and that they seldom spent adequate time discussing the case with their clients. In response to this complaint, courts were allowed to appoint private attorneys or public defense counsels to detainees. The courts require, in a first trial, that counsels interview a detainee at least once before each hearing and, in an appeal, whenever the detainee requests an interview.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. Although the government has made efforts to eliminate corruption and to diminish political influence in recent years, residual problems remained (see section 3).

The Judicial Yuan (JY), headed by a president and vice president, is one of the five coequal branches of the political system, and includes the 15-member Council of Grand Justices, which interprets the constitution as well as laws and ordinances. Subordinate JY organs include the supreme court, high courts, district courts, the administrative court, and the Committee on the Discipline of Public Functionaries. The administrative court also provides judicial review.

Trial Procedures.—The law provides the right to a fair trial, and an independent judiciary generally enforced this right. Judges, rather than juries, decide cases; all judges are appointed by, and are responsible to, the JY. In a typical court case, a single judge rather than a defense attorney or prosecutor interrogates parties and witnesses. The judge may decline to hear witnesses or to consider evidence that a party wishes to submit if the judge considers it irrelevant; a refusal to hear evidence may be a factor in an appeal. Trials are public, but attendance at trials involving juveniles or potentially sensitive issues that might attract crowds may require court permission.

A defendant has the right to an attorney. If the defendant is charged with committing a crime for which the penalty is three or more years' imprisonment or if the defendant is indigent, the judge may assign an attorney. Attorneys assigned to defendants generally assisted once an indictment was filed and at trial but usually were not present during police interrogations. Although the government took measures to strengthen the effectiveness of defense representation, some human rights lawyers argued that more improvements were necessary. The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of three years or more may appeal beyond that level. The supreme court automatically reviews life imprisonment and death sentences. It is unconstitutional to allow the confessions of accomplices to be used as the only evidence to convict a defendant. Civilians are not subject to military tribunals.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law contains provisions protecting privacy. The Code of Criminal Procedure requires prosecutors to obtain judicial approval of search warrants, except when "incidental-to-arrest" or when there are concerns that evidence may be destroyed. However, critics claimed that the incidental-to-arrest provision is not only unconstitutional but is often interpreted broadly by police to justify searches of locations other than actual arrest sites. According to the NPA, warrantless searches are allowed only in special circumstances, such as to arrest an escapee or if facts indicate that a person is in the process of committing a crime. In any such case, the police must file a report with the prosecutor or court within 24 hours. A police officer who carries out an illegal search may be sued for illegal entry and sentenced to up to one year in prison.

The telecommunications protection and control law imposes severe penalties for unauthorized wiretapping. The telecommunications law and the Code of Criminal Procedure provide that judicial and security authorities may file a written request to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime, and the MOJ and the police used wiretapping as an investigative tool. According to the MOJ, the number of approved wiretappings increased from 13,834 in 2003 to 19,845 in 2004, and to 19,178 during the first 10 months of the year.

On September 29, the Council of Grand Justices ruled unconstitutional a government program requiring fingerprinting of all persons applying for identification cards.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the authorities generally respected these rights in practice. There were no government restrictions on the Internet.

Print media represented the full spectrum of views within society. However, some political influence still persisted with respect to the electronic media, particularly broadcast television. The existence of approximately 100 cable television channels, some of which carried programming openly critical of the various political parties, mitigated the importance of this influence. Moreover, pursuant to legislation the LY approved in 2003 no government or party officials held positions in the media. Under the same legislation the government and the parties were required to divest themselves of stakes in all television and radio broadcast companies within two years. On December 24, the KMT sold its stakes in the China Television Company (CTV), the Broadcasting Corporation of China (BCC), and the Central Motion Pictures Corporation. At year's end the government divestiture of Chinese Television System and Taiwan Television Enterprise was proceeding but was not completed and required among other steps LY approval.

The 2003 legislation mandated the formation of a National Communications Commission (NCC) to replace the Government Information Office (GIO) in overseeing the operations of the broadcast media. Ensuring the political neutrality of the NCC

was the subject of partisan political controversy. On October 25, the LY passed legislation carefully apportioning seats on the NCC. The commissioners cannot work for any government agency, state-owned enterprise, or for any communications or broadcasting company. The NCC is to replace the GIO in early 2006. The GIO continued as both regulatory agency and government spokes agency through year's end, and opposition party officials and scholars alleged that the government exercised too much power and influence through the GIO's authority to regulate programming and approve radio and television licenses.

In July and August, criticism of the GIO intensified in reaction to its handling of cable broadcasting license renewal and revocation cases. In March 70 applications for renewals were submitted to the GIO; an additional 13 licenses expired without submitting renewal applications; and one channel failed to make the application deadline. The GIO rejected 7 of the 70 applications for renewal and on July 31, announced the revocation of 21 cable television broadcast licenses, charging malfeasance such as financial mismanagement, and violations of program license statutes, and ordered the channels to suspend operations the next day. Critics said the revocations violated press freedom and threatened the livelihood of broadcast journalists. Eastern TV, one of the seven rejected renewal applicants, sought a court injunction against the order to suspend broadcasting and in a compromise, changed its name to Super X and continued to broadcast.

In November the GIO fined a Hong Kong-invested satellite broadcast television station, TVBS, $30 thousand (NT$1 million) for violating a law that restricted foreign ownership of satellite broadcasters to less than 50 percent. TVBS had been prominent in reporting on corruption and other scandals linked to the government and accused the GIO of a "political witch hunt." Public sympathy for TVBS and criticism of the GIO was widespread, and the GIO took no further steps against TVBS.

During the year the GIO continued to implement a radio broadcasting reorganization plan intended to restructure public-owned radio networks and reorganize the distribution of frequencies. The reorganization requires several KMT-controlled broadcasting companies, particularly the BCC, to return some frequencies to the government for redistribution. The BCC has the largest number of frequencies in the market and in 1992 had agreed to return 14 frequencies used to block radio broadcasting from mainland China.

There was a vigorous and active free press. Some asserted that many media enterprises relied on government advertising revenue and government-controlled bank loans and hence were reluctant to go too far in criticizing the government. The government denied charges of manipulating the media and asserted that it had minimal direct control over the advertising market. According to the GIO, the government's advertising budget was approximately $30 million (NT$1 billion) during the fiscal year, which accounted for approximately 4 percent of the $735–880 million (NT$25–30 billion) advertising market.

In 2002 the government raided the offices of *Next Magazine* and confiscated 160 thousand copies of an issue containing an article approximately $100 million (NT$3.5 billion) in secret funds established by former president Lee Teng-hui and used as well by the current administration for diplomatic missions and policy initiatives. The high court prosecutor's office charged a reporter at the magazine with breaching national security. The case was still pending and has not been brought to trial, and the reporter has been actively employed as a journalist by a daily newspaper. In July 2003 the high court sentenced a former journalist who reported the details of a military exercise in 2000 to 18 months in prison and three years' probation. The accused appealed the decision, and in August the high court reduced his prison term to one year and suspended the sentence for three years.

The police may seize violent or pornographic material based on the offences against morals and public order provisions of the Criminal Code and the Child and Adolescent Sexual Prevention Statue. The police must request search warrants from prosecutors to conduct such seizures (see section 1.f.).

The GIO, which required that any publications imported from mainland China be sent to the GIO publications department for screening before sale or publication, has the authority to ban importation of publications that advocate communism or the establishment of united front organizations, endanger public order or good morals, or violate regulations or laws. Nevertheless, a wide variety of mainland China-origin material was readily accessible through the Internet as well as in retail stores. Cable television systems are required to send imported material to the GIO for screening and to convert subtitles from the simplified characters used in mainland China to traditional characters before broadcasting.

The media occasionally trampled on individuals' right to privacy. The media often taped and aired police interrogations and entered hospital rooms when the patient was unable to prevent such entry.

Restrictions on academic freedom largely were the same as the restrictions on imported publications noted above regarding the advocacy of communism or united front organizations, endangering public or good morals, or violating regulations or laws. In practice the government did not interfere with academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the authorities generally respected these rights in practice. Although the National Security Law gives the government the authority to prevent demonstrations advocating communism or the division of the national territory, pro-independence and pro-reunification demonstrations took place without government interference.

The Civic Organizations Law requires all civic organizations to register. Registration was granted routinely.

Under the Civic Organizations Law, the Constitutional Court, which is made up of the Council of Grand Justices, has the power to dissolve political parties. Grounds for dissolution include objectives or actions that are deemed to jeopardize the existence of the "Republic of China." The Constitutional Court heard no cases under this law during the year.

c. Freedom of Religion.—The law provides for freedom of religion, and the authorities generally respected this right in practice. Religious organizations may register with the central authorities through their island-wide associations under the Temple Management Law, the Civic Organizations Law, or the chapter of the Civil Code that governs foundations and associations; however, registration is not mandatory.

Registered religious organizations operate on a tax-free basis and are required to make annual reports of their financial operations. While individual places of worship may register with local authorities, many chose not to register and operated as the personal property of their leaders. There is no state religion.

Societal Abuses and Discrimination.—The government at all levels strives to protect the right to practice religion freely and does not tolerate its abuse, either by the authorities or private actors. Moreover, the generally amicable relationship among religions in society contributed to religious freedom.

The Jewish community consisted of approximately 150 members. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides these rights, and the government generally respected them in practice.

All travelers from the China mainland are required to have invitations from sponsors and are subject to approval by the Mainland Affairs Council. Mainland tourists are not allowed to change their itineraries after arriving in Taiwan, must travel in groups rather than individually, stay at designated hotels, and return to their hotel rooms by 10 p.m. In addition, travel agencies responsible for arranging the visits are required to deposit a guarantee of $29 thousand (NT$1 million), which is confiscated if any of the tourists are involved in any legal problems or are reported missing. There are also restrictions on mainland visitors who come to Taiwan for family and business purposes. They are required to report their location to the police on a regular basis and cannot seek employment in Taiwan.

Regulations require mainland Chinese spouses applying for a national identification card to pass a security clearance. In September a regulation was implemented requiring fingerprinting of all mainland Chinese who are spouses of Taiwan nationals, visiting relatives, or are seeking residency in Taiwan.

The authorities permit People's Republic of China (PRC) correspondents to be posted to the island for up to one month per visit, and Xinhua News Agency, *People's Daily*, China Central Television, China National Radio, and China News Service have established bureaus in Taiwan. However, in March, following the PRC's adoption of the Anti-Secession Law, Xinhua News Agency and *People's Daily* were temporarily barred from stationing journalists in Taiwan on the grounds that the news services had practiced "deceptive journalism"; the journalists have yet to be allowed back. On August 10, the authorities announced that reporters from the mainland China newspapers *Nanfang City News* and *Xinmin Evening News* could work in Taiwan. During the year the first correspondents from regional Chinese media outlets were allowed into Taiwan. In addition, during the first 9 months of the year, 6,535 PRC scholars, 1,562 artists, and 934 journalists visited Taiwan to participate in cross-Strait exchanges.

The law does not provide for forced exile, and it was not practiced.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status. Although the authorities were reluctant to return to the mainland

those who might suffer political persecution, they regularly deported to the PRC, under provisions of the mainland relations act, mainlanders who illegally entered the island for what were presumed to be economic reasons.

In 2004 two PRC democracy activists entered Taiwan illegally by fishing boat and requested asylum. After brief confinement in a detention center, the two were released and allowed freedom of movement. They continued to receive renewals on their three-month temporary visas and financial assistance from the authorities; however, the government refused their requests for long-term visas, and they continued to seek asylum in a third country. The law requires the return to the PRC of all PRC citizens unlawfully present, including victims of trafficking in persons (see section 5).

The government repatriated illegal immigrants to their countries of origin throughout the year. The Ministry of Interior (MOI) stated that the frequency of repatriations of PRC illegal immigrants increased. This was confirmed by the Taiwan Red Cross (TRC), which acts as a mediating party in the cross-Strait repatriation process. PRC illegal immigrants continued to wait long periods in detention centers, however; some have waited well over two years. The Bureau of Entry and Exit and the TRC faulted PRC authorities for delays in repatriation. The average period of detention for PRC illegal aliens was 212 days, compared with 172 days in 2004. As of November, the authorities had deported 1,440 illegal immigrants back to the PRC.

Non-PRC illegal aliens averaged just over 40 days of detention before being repatriated.

Section 3. Respect for Political Rights: the Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—On June 7, an ad hoc National Assembly approved a constitutional amendment package that among other changes halves the number of LY seats and replaces the existing system of multi-member districts with single member districts and proportionally elected seats to be allocated according to a separate vote for a political party. The change is expected to strengthen the larger parties and weaken the influence of smaller political parties and independents.

According to the Public Election and Recall Law for Civil Servants, independents and political parties are free to declare their candidacy for any election as long as they meet all requirements. The DPP and the KMT, the two major political parties, hold a primary election when more than one candidate competes to run for an office, and the DPP also utilizes public opinion polls to select candidates. The smaller PFP and the Taiwan Solidarity Union (TSU) also compete in elections. Independent candidates are common. The law specifies and regulates the maximum budget each candidate can spend in an election, although this law has not been enforced in practice. In general individuals and parties are given full freedom within the confines of the law to participate in elections.

In the March 2004 presidential election President Chen Shui-bian was re-elected and in the December 2004 legislative elections, the opposition KMT–PFP coalition won a narrow majority in the LY. Both elections were hotly contested in an intense partisan atmosphere but generally were regarded as free and fair. The extremely close result of the presidential election and the wounding of President Chen and Vice President Lu on the eve of the vote continued to be matters of controversy. On August 18, the supreme court prosecutor's office released a final report that concluded that the assassination was attempted by a retired construction worker, Chen Yi-hsiung, who committed suicide after the incident. The opposition was dissatisfied with the report and vowed to establish a second truth investigation committee in the next legislative session.

The constitution provides for equal rights for women. In 2004 Vice President Annette Lu was re-elected to a second term. In May Yeh Chu-lan became the first female deputy premier, and in September she became the first female acting mayor of Kaohsiung City. Of the 46 cabinet members, 8 were women. Of the 20 members of the Examination Yuan 3 were women. Two of the 15 members of the DPP Central Standing Committee and 8 of the 34 members of the DPP Central Executive Committee were women. Nine of the 31 members of the KMT Central Standing Committee were women. There were 47 women in the 225-member LY. Moreover, the current law stipulates that at least one of every five seats in multimember constituencies must be filled by a woman even if male candidates receive more votes, a provision that was eliminated in the June constitutional amendment package.

Aborigine representatives participated in most levels of the political system. They held eight reserved seats in the LY, half of which were elected by plains Aborigines and half by mountain Aborigines. The proportion of legislative seats allocated to Aborigines was almost twice their approximately 2 percent of the population. An Aborigine served as Chairman of the Council of Aboriginal Affairs. In accordance with the latest constitutional amendment reducing the LY membership by half, beginning with the seventh LY to be elected in 2007, Aborigines will hold six seats.

Government Corruption and Transparency.—The government continued to take action to combat corruption in the executive and judicial branches of government. There were allegations of government corruption during the year. Allegations of vote buying continued, although all political parties have committed publicly to ending the practice.

As of November, prosecutors had indicted 1,041 persons on various corruption charges, and 259 persons were convicted. Of the 1,041 accused, 23 were government officials, 157 were mid-level, 307 were low-level, and 38 were elected government officials. In 2004 920 persons, including 451 government officials, were prosecuted on charges of corruption, and 419 were convicted. Elected officials accounted for 7 percent of the accused. Prosecutors charged 834 persons for vote buying during the 2004 legislative elections, and 6 had been convicted by year's end.

The JY took several measures to reduce political influence on judges. An independent committee using secret ballots decides judicial appointments and promotions. Judicial decisions are no longer subject to review by presiding judges, except in the case of decisions by "assistant judges." The judges themselves decide on distribution of cases. Finally, judges and the president of the JY are prohibited from taking part in political activities. An NGO, the Judicial Reform Association, monitors the performance of individual judges and prosecutors.

The government led an anticorruption campaign in 2004 and reinforced the JY's efforts to eliminate judicial corruption. The campaign prompted revised precepts for evaluating judicial performance and strengthened reviews of judges' financial disclosure reports. In August 2004 the MOJ established a special task force to examine corruption charges against judicial personnel and announced that 10 senior officials were under investigation. As of September, 32 prosecutors and 11 judges had been placed under investigation for corruption or other irregularities. According to MOJ statistics, between 2000 and 2004, 146 prosecutors were punished for corruption, dereliction of duties, and other irregularities.

In 2002 the LY passed "Enforcement Rules for Public Servants in Prevention of Profiting" to curb corruption in public sectors. On August 29, PFP legislator Fu Kun-chi was indicted on charges of violating the security transaction law and for breach of trust for alleged involvement in illegal stock trading. The prosecutors recommended that Fu be sentenced to 42 months in jail and fined $1.6 million (NT$50 million).

The law allows the public to request access to regulations, plans, statistics, contracts, treaties, meeting records, and other unclassified government information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equality of citizens before the law "irrespective of sex, religion, race, class, or party affiliation." It also provides for the rights of persons with disabilities and there are no laws prohibiting homosexual activities. While the authorities were committed to protecting these rights, discrimination against some groups continued.

Women.—Violence against women, including domestic violence and rape, remained a serious problem. The law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. Through November there were 1,589 cases prosecuted and 1,312 persons convicted for domestic violence. Typically persons convicted in domestic violence cases were sentenced to less than six months prison time. Strong social pressure not to disgrace their families discouraged abused women from reporting incidents to the police.

Rape, including spousal rape, is a crime and remains a serious problem; its victims were stigmatized socially. Experts estimated that the total number of rapes was 10 times the number reported to the police. The law provides protection for

rape victims. Victims under 16 or mentally handicapped are allowed to testify via a two-way television system and rape trials may not be open to the public unless the victim consents. By regulation, doctors, social workers, police, and prosecutors jointly question victims of sexual abuse to reduce the number of times a victim is questioned. The law permits a charge of rape without requiring the victim to press charges.

The law establishes the punishment for rape as not less than 5 years' imprisonment, and those convicted usually were given sentences of 5 to 10 years in prison. According to the NPA, as of November there were 5,297 charges of rape or sexual assault filed, 1,351 allegations of rape or sexual assault prosecuted, and 1,379 persons convicted.

The law requires all city and county governments to set up violence prevention and control centers to address domestic and sexual violence, child abuse, and elderly abuse. These government- and NGO-funded centers provided victims with protection, medical treatment, emergency assistance, shelter, legal counseling, and education and training on a 24-hour basis. As of November the centers received 57,512 calls from victims and reported 28,745 cases to the authorities. Between June 1999 and July 2005, the centers obtained 53,562 protection orders from the courts. In 2004 the MOI set up a toll free hot line specifically for male victims of domestic violence, which received approximately 25 calls per day. During the year, the MOI established a domestic violence hot line staffed by personnel conversant in Vietnamese, Cambodian, Thai, Indonesian, English, and Chinese to assist the growing numbers of foreign spouses.

Prostitution, including child prostitution, was a problem. Prostitution is illegal. Trafficking in women remained a problem. Authorities report that the number of prostitutes from Southeast Asian countries, mainly Vietnamese, Indonesians, and Cambodians, entering Taiwan increased. During the year 204 Southeast Asian women were indicted for prostitution, 59 more than in 2004. A total of 1,215 women from the PRC, Hong Kong, and Macau were arrested for prostitution during the year, down by 870 or approximately 43 percent from 2004. Authorities cited tighter border controls, including compulsory interviews upon arrival at airports, and other deterrents for the decrease. There were reports of a growing trend of teenagers and young women being lured into prostitution by Internet advertisements promising employment, large salaries, and adventure.

The law prohibits sex discrimination. The Gender Equality in the Workplace Act provides for equal treatment with regard to salaries, promotions, and assignments. Women's advocates noted, however, that women were promoted less frequently, occupied fewer management positions, and worked for lower pay than their male counterparts. Women were not granted maternity leave or were forced to quit jobs due to marriage, age, or pregnancy. According to the Council on Labor Affairs, salaries for women averaged 85 percent of those for men performing comparable jobs. Most city and county administrations set up committees to deal with complaints of sexual discrimination in the workplace. The law also stipulates that measures be taken to eliminate sexual harassment in the workplace.

The National Union of Taiwan Women Associations is a confederation of 70 women's organizations that have joined to promote women's rights.

Children.—The government is committed to the rights and welfare of children, and the law includes provisions to protect them. Education for children between 6 and 15 years of age is free, universal, and compulsory, and this was enforced. According to government statistics, 99 percent of school-age children attended primary and junior high school. Children were provided health care under the national health insurance plan.

Child abuse continued to be a widespread problem. In 2004 nearly 5,800 cases of child abuse were reported, according to MOI statistics, an increase of almost 8 percent over 2003. As of September, 7,481 cases of child abuse were reported, including physical, mental, or sexual abuse or harm due to guardian neglect. The government and private organizations continued efforts to increase public awareness of child abuse and domestic violence. Approximately 90 percent of abusers were parents, relatives, or caregivers. Hospitals, schools, social welfare organizations, or the police reported most cases.

By law, any persons discovering cases of child abuse or neglect must notify the police, social welfare, or child welfare authorities; child welfare specialists must make such notification to county or city governments within 24 hours; and the governments must respond with appropriate measures within 24 hours. County or city officials are required to submit a request for investigation to a supervisory agency within four days. Both the MOI's Children's Bureau and NGO specialists monitored cases to ensure that these requirements were followed. The MOI provided guidance to city and county governments for day-care facilities in their localities and for chil-

dren's halfway houses and education centers. Financial subsidies were provided to low-income families with children in day-care facilities and to local governments to promote child protection efforts. A hot line accepted complaints of child abuse and offered counseling. Courts are authorized to appoint guardians for children who have lost their parents or whose parents are deemed unfit.

Child prostitution was a problem, particularly among aborigine children. The law provides for up to two years incarceration for customers of prostitutes under the age of 18. As of November 799 persons were indicated for this crime, and 858 were convicted, including cases from previous years. In 2004, 952 persons were indicted, and 794 were convicted. The law also requires the publication of the names of violators in newspapers. The law prohibits the media from running advertisements involving the sex trade and imposes penalties on citizens arrested abroad for having sex with minors; these laws were enforced in practice.

Trafficking in Persons.—There is no comprehensive trafficking law, although most forms of trafficking are criminalized through a number of statutes. The law does not address prevention of trafficking or victim protection, which authorities nonetheless provide on an ad hoc basis. The MOJ and the MOI are responsible for combating trafficking.

Trafficking in persons remained a problem. Taiwan continued to be a destination for women and girls, mainly from the PRC, trafficked for the purpose of sexual exploitation and forced labor. Trafficking victims from Southeast Asia, primarily from Vietnam, Cambodia, and Thailand, also were forced or coerced into the commercial sex trade through fraudulent offers of employment or marriage. As of October 189 persons were indicted for trafficking and 84 persons were convicted, compared with 241 indictments and 150 convictions in 2004. Authorities cited tighter controls at borders and other deterrent measures as factors contributing to the decrease. Some women were trafficked to Japan for sexual exploitation.

NGOs reported that fraudulent marriages were increasingly used as a vehicle for human trafficking, in part because the penalties for the fake husbands were lenient. Foreign brides, mainly from the PRC, but also increasing numbers of women from Vietnam, were lured to Taiwan by marriage brokers, only to be forced into prostitution or exploitive labor. Many incidents of physical and mental abuse have been reported in the media and by NGOs.

Labor trafficking was a problem. NGOs reported that families hired female foreign workers to care for elderly persons (for which the government provides subsidies to families) but that when the workers arrived they were forced to do other tasks, including: childcare, working in family shops or businesses, cleaning houses, and helping other family members with domestic work. In other cases, foreign laborers were hired overseas as domestic workers but then sent to work in factories when they arrived and paid only a fraction of the local prevailing wage. Penalties for such violations were light. In one case, an inspector discovered a domestic caretaker was working in the employer's flour factory. The inspector returned the foreign worker to the employer's family and fined the employer $1 thousand (NT$30 thousand). The employer was allowed to continue using the foreign worker as a housekeeper. Labor authorities remove an employer's right to hire domestic caretakers only after a third offense.

Authorities took steps to combat trafficking. Officials worked to intercept criminal syndicates that smuggled migrants, including trafficking victims. A January 2004 law stipulates that any person found guilty of smuggling mainland Chinese into Taiwan shall be punished with a prison term of 3 to 10 years and fined up to $150 thousand (NT$4.5 million) In late March authorities disrupted a trafficking ring run by two army officers and their wives. A yearlong investigation produced a number of arrests for trafficking of PRC women for exploitation in the sex industry. In January a trafficker convicted of killing six PRC victims in 2003 was executed.

NGOs stated that more government involvement was needed to eliminate deceptive marriage brokering. NGOs reported instances of corrupt lower-ranking police officers, who collaborated with brokers in facilitating trafficking of persons into Taiwan. On February 5, a police officer was sentenced to 11 years in prison for accepting bribes from a PRC prostitution ring.

The authorities continued to support NGO antitrafficking prevention programs with government funding for public awareness programs targeting minors and Southeast Asian women married to local men. Taiwan also funded publicity campaigns in source countries.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities and sets minimum fines for violations. As of September there were 910 thousand persons identified as having disabilities.

The law stipulates that the government must provide services and programs to the disabled population. Free universal medical care was provided to persons with disabilities. NGOs stated that more public nursing homes were needed and current programs, such as home care services, needed to be expanded to meet the growing needs of the population, especially the growing numbers of elderly persons.

Employment quotas for persons with mental and physical disabilities require large public and private organizations to hire persons with disabilities equal to 2 and 1 percent of their work force, respectively. Organizations failing to do so must pay, for each person with disabilities not hired, the amount of one basic monthly salary or approximately $500 (NT$15,840), into the Disabled Welfare Fund, which supports institutions involved in welfare for persons with disabilities. Employers hired more persons with disabilities during the year than in 2004. As of September persons with disabilities constituted 4 percent of the public sector workforce.

The law provides monetary assistance for up to five years, and additional support through other programs for those with occupational injuries. NGOs maintained that the government needed to extend the current five-year limit and liberalize the qualifications for assistance.

By law new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and this requirement was generally met. Violations resulted in fines of from $1,800 to $9,100 (NT$60 thousand to NT$300 thousand). There did not appear to be a substantial effort aimed at refitting older buildings to accommodate persons with disabilities. Lobbying for "barrier free access" to both public and non-public buildings was a top priority for NGOs. Handicap accessible public transportation, although limited to larger cities, increased to 192 special vehicles. NGOs stated that more vehicles were needed to accommodate demand.

Indigenous People.—The only non-Chinese minority group consists of the aboriginal descendants of Malayo-Polynesians, who were well established on the island when the first Chinese settlers arrived. According to MOI statistics, Aborigines accounted for approximately 2 percent of the population. More than 70 percent were Christian, while the dominant Han Chinese were largely Buddhist or Taoist. The civil and political rights of Aborigines are protected under law (see section 3). The National Assembly amended the constitution in 1992 and again in 1997 to upgrade the status of aboriginal people, protect their right of political participation, and to ensure their cultural, educational, and business development. In addition, the authorities also instituted social programs to help Aborigines assimilate into the dominant Chinese society.

To address a longstanding grievance regarding their inability to own their ancestral land, President Chen signed a partnership document with representatives from all aborigine tribes recognizing their land rights and allowing some form of autonomy. The Council of Aboriginal Affairs, in addition to continuing the investigation and mapping of traditional tribes and their territories, coordinated with other ministries to draft or amend legislation on issues such as development in the aborigine reservations, zoning, national parks, and hot spring tourism.

Other Societal Abuses and Discrimination.—According to a 2003 survey conducted by the Taiwan Homosexual Human Rights Association, more than 30 percent of homosexuals said they suffered discrimination. In November 2004 some 4,500 persons took part in a rally to call for society to respect the civil rights of homosexuals. Societal discrimination against persons with HIV and AIDS was a problem, and some politicians made derogatory remarks about such persons. The national health insurance provides free screening and treatment, including antiretroviral therapy, for all HIV-infected nationals.

Section 6. Worker Rights

a. The Right of Association.—The right to unionize is protected by law but is highly regulated. Approximately 29 percent of the 10.3 million-person labor force belongs to one of the 4,308 registered labor unions. Many of them are also members of one of the eight island-wide labor federations.

Workers other than teachers, civil servants, defense industry workers, and domestic workers are protected by the Labor Union Law (LUL). Under the LUL, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because of their union-related activities. The LUL requires that labor union leaders be elected regularly by secret ballot, and in recent years, workers have sometimes rejected management-endorsed union slates. However, in practice employers sometimes dismissed labor union leaders without reasonable cause or laid them off first during employee cutbacks, and according to the pro-labor, pro-Taiwan independence NGO Taiwan Labor Front, the law has no specific penalties for violations.

Some public employees, including teachers, civil servants, and defense industry workers have only limited rights to form unions. These restrictions have led to a

long-running dispute between the authorities and groups that represent teachers and civil servants. Teachers and civil servants are allowed to form professional associations to negotiate with authorities but are not allowed to strike. A teacher's union established in 2003 has not been recognized by the Council of Labor Affairs (CLA).

Moreover, a number of laws and regulations limit the right of association. While labor unions may draw up their own rules and constitutions, they must submit those rules and constitutions to their county and city governments as well as the CLA National Labor Federation for review. Labor unions may be dissolved if they do not meet certification requirements or if their activities disturb public order.

In 1971 the PRC replaced Taiwan in the International Labor Organization (ILO). However, Taiwan's Chinese Federation of Labor attends the ILO annual meetings as an affiliate of the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—Except for some public employees, the law gives workers the right to organize, bargain, and act collectively. As of March, there were 254 collective agreements in force; however, they covered only a small proportion of the labor force, and 79 percent of industrial labor unions had no collective agreements.

The law provides for the right to strike, and workers exercised this right in practice. However, the law, which recognizes the right of labor unions to strike, also imposes restrictions that in practice make legal strikes difficult and seriously weaken collective bargaining. For example, the law requires mediation of labor/management disputes when authorities deem disputes to be sufficiently serious or to involve "unfair practices." The law forbids both labor and management from disrupting the "working order" when either mediation or arbitration is in progress. Moreover, labor unions are only allowed to strike over issues of compensation and working schedules. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. Employers in the past sometimes ignored the law and dismissed or locked out workers without any legal action being taken against them, although no such cases were reported during the year.

Recent efforts to privatize state-run enterprises resulted in rising tensions between labor unions and the authorities. In the last few years, strikes and protests by labor unions at Business Bank of Taiwan, Changhwa Commercial Bank, Taiwan Power Company, and Chunghwa Telecom have delayed privatization efforts. As of November 77,260 persons had been involved in labor disputes, compared with 69,951 in all of 2004. Much of this increase can be attributed to privatization efforts by the state-run Chunghwa Telecom Corporation.

The labor laws are applicable in export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were several cases of forced child prostitution prosecuted by the authorities and evidence of labor trafficking (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law stipulates age 15, the age at which compulsory education ends, as the minimum age for employment. County and city labor bureaus effectively enforced minimum age laws. The law protects children from debt bondage, prostitution, pornographic performances, and other illicit activities specified in ILO Convention 182.

e. Acceptable Conditions of Work.—The Labor Standards Law (LSL) addresses rights and obligations of employees and employers. The law also provides standards for working conditions and health and safety precautions. By the end of June, the LSL covered 6 million of Taiwan's 7.2 million salaried workers. Those not covered included nursery workers, gardeners, bodyguards, teachers, doctors, lawyers, civil servants, and domestic workers.

The minimum monthly wage is approximately $500 (NT$15,840). While sufficient in less expensive areas, this wage did not assure a decent standard of living for a worker and family in urban areas such as Taipei. However, access to universal healthcare and free public education up to the university level helped to fill the gap. In addition, the average manufacturing wage was more than double the legal minimum wage, and the average for service industry employees was even higher. Legal working hours are 336 hours per 8-week period (for an average of a 42-hour workweek). While a five-day workweek is mandated for the public sector, 53 percent of private enterprises also have reduced the normal workweek to five days, according to a CLA survey.

The law provides standards for working conditions and health and safety precautions and gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. Although the CLA has conducted publicity campaigns to increase public awareness of the law and operates telephone hot lines to accept complaints of LSL violations, NGOs claim that the

CLA does not effectively enforce workplace laws and regulations because it employs too few inspectors. During 2004 there were 298 inspectors responsible for approximately 280 thousand enterprises covered by the Occupational Safety and Health Law. By combining health/safety inspections with working conditions inspections, the number of health and safety inspections increased 23 percent from 86,774 in 2003 to 107,087 in 2004.

The CLA does not provide the same protection to foreign workers that it does for citizens. The LSL does not cover the more than 126,700 foreign workers involved in domestic care (housekeepers, caregivers, etc.). These foreign workers typically work long hours with few days off, are rarely permitted to change employers, and often are not fully informed of options in the event of abuse.

Neither foreign nor citizen domestic workers are entitled to the minimum wage. Despite the fact that the minimum wage is not a legal obligation, most domestic workers are hired through brokers who negotiate the minimum wage to ensure that the worker earns enough to cover the brokers' fees. Of the $500 (NT$15,840) a month typically paid to domestic caretakers, after deductions by the brokers, reportedly most domestic caretakers received only $100 (NT3 thousand) to $200 (NT6 thousand) per month in the first two years of working in Taiwan. Domestic workers can only change jobs under rare circumstances, increasing their vulnerability to abuse by employers.

NGOs reported that the broker system in Taiwan was the source of many of the problems that foreign workers faced. Brokers extracted placement fees in the form of loans before workers came to Taiwan or as salary deductions once they were in Taiwan. As a result, most workers expected to save almost nothing in their first one to two years in Taiwan. According to several NGOs, many problems, from labor trafficking to unsafe working conditions, stemmed from the fact that the workers, and sometimes their entire families, were in debt to brokers. NGOs claimed that many workers did not go to the authorities with complaints for fear they would be repatriated, preventing them from paying off their debts. Foreign domestic workers were often at an even greater disadvantage if they were unable to speak Chinese, as few authorities outside of Taipei provided interpreter services.

One case that attracted considerable attention involved a riot on August 21, by 1,700 Thai workers who had been brought to Taiwan to build a rapid transit system connecting Kaohsiung and the surrounding area. The incident was set off when one of the foreign workers was struck with an electric cattle prod for an infraction. The workers claimed that local authorities not only had ignored illegal practices, but may have been complicit in them. Both the mayor of Kaohsiung and the head of CLA resigned over the incident.

The Thai workers' main grievance was that the workers were officially paid approximately $1 thousand (NT$29 thousand) a month but actually received only and estimated $300 (NT$9 thousand) after salary deductions. Legally, companies that hire foreign workers can deduct up to $120 (NT$4 thousand) a month for living expenses. In the case of the Thai workers, however, the broker deducted up to $700 (NT$23,300) a month.

In a December 12 demonstration in Taipei, foreign workers and human rights activists called for abolition of the broker system, an end to the six-year maximum limit on work permits, and extension to foreign workers of the protections in the LSL and Household Services Act.

In an effort to reduce broker fees, the CLA has on occasion revoked permits of agencies charging excessive fees. The CLA has also negotiated direct hire agreements with a few countries and encouraged NGOs to establish nonprofit employment service organizations to assist foreign laborers in locating employment. Moreover, the CLA has established 24 offices around the island to provide counseling and other services to foreign workers, and provided financial assistance to city and county governments to conduct inspections of places where foreign workers are employed. In 2004 the CLA established a legal aid office to provide free legal services to foreign workers. NGOs have said the office was instrumental in bringing legal actions in a few high profile cases involving foreign workers.

According to many NGOs, CLA's steps were only a beginning and much more needed to be done. They pointed to the large disparities in funding and support given to foreign workers depending on which county they were in. For example, foreign workers in the city of Taipei enjoyed services that did not exist in the rest of the island. The city had two government shelters, a community center and 19 full-time labor inspectors. Outside Taipei, however, service was sometimes nonexistent, and lack of interpreters made the services that were available inaccessible to many of the workers.

EAST TIMOR

East Timor is a parliamentary republic; its population is approximately 925 thousand. Its first parliament was formed from the 88-member constituent assembly chosen in free and fair, UN-supervised elections in 2001. The 41-member cabinet was dominated by the Fretilin Party, which won the majority of assembly seats. Mari Alkatiri, Fretilin's secretary general, was prime minister and head of government, and Xanana Gusmao, elected in free and fair elections in 2002, was president and head of state. The UN Mission of Support in East Timor (UNMISET completed its mission in May, and a smaller UN Office for East Timor (UNOTIL) replaced it. UNOTIL's mission is scheduled to end on May 20, 2006. Civilian authorities generally maintained effective control of the security forces; however, there were a few instances in which members of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were problems in some areas. A continuing problem for the international community and for the government was dealing with the human rights abuses during the period of Indonesian rule, and particularly with the crimes committed in 1999. The following human rights problems were reported:

- excessive use of force and abuse of authority by police
- prolonged pretrial detention
- denial and restriction of the rights to due process and to an expeditious and fair trial
- instances of violations of the rights of expression and association
- domestic violence against women, rape, and sexual abuse
- trafficking in persons
- lack of infrastructure to care for persons with disabilities
- child labor in the informal sector

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, in February a national police (PNTL-*Policia Nacional de Timor-Leste*) officer who had been assaulted by other PNTL officers in December 2004 died, apparently from injuries sustained during the assault and exacerbated by insufficient medical care. PNTL officers had arrested the officer for alleged indecent behavior and then assaulted him at the police station in Los Palos. According to the official investigation of the incident, the arresting officers, including the district commander, repeatedly kicked him in the head. The autopsy reportedly concluded that he died as a result of blunt trauma to the head. Five PNTL officers, including the district commander, were charged in connection with the ill-treatment and initially expelled from the PNTL; however, the case was subsequently dismissed and they were allowed to return to active duty. The district commander was transferred to the police academy in Dili.

In January a member of Colimau 2000, an organization suspected of links to anti-independence militias, was killed in Bobonaro District. Strong circumstantial evidence suggested that the killers were former militia members normally resident in West Timor. Later in January a militia member was arrested following a firefight with police. He denied any knowledge of the killing and was charged and convicted only of illegal arms possession.

There were no developments in the investigation of the 2003 killing of fugitive militia leader Francisco Vegas Bili Atu by a member of the PNTL. There also were no developments in the case of the former militia members arrested after attacking a bus near Aidabaleten in 2003, in which two persons were killed and several others injured.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected the prohibition against torture; however, there were incidents of cruel or degrading treatment by police officers. On January 7, members of the Border Patrol Unit (BPU) arrested an Indonesian citizen in the enclave of Oecusse for illegally crossing the border. BPU officers beat and kicked the man, and did not intervene when members of the community beat him and burned him with cigarettes. The case was investigated by the PNTL district commander and the results sent directly to the national police

commissioner. No further action had been taken at year's end. In early March two men and one woman were arrested without warrant in Cailaco for allegedly providing food to former anti-independence militia members. PNTL officers reportedly punched and kicked the men and forced a pistol into one's mouth. No investigation has been opened for this case. In early June a man accused of assaulting the wife of a PNTL officer by pulling her hair was arrested without warrant and beaten and kicked until unconscious. He was then brought to the police station and beaten again. Following treatment at the hospital, one of the PNTL officers threatened that they would beat him to death if he took legal action against the officer who instigated the arrest. The PNTL investigation unit in Dili opened an investigation but suspended it, reportedly because members of parliament had begun an investigation. At year's end there were no known further developments in this case.

On July 26, the PNTL raided the Baucau offices of the Comite Popular de Defesa-Republica Democratica de Timor-Leste (CPD–RDTL), an organization that sometimes claimed to be the legitimate government and some of whose members were accused of criminal activity, and, according to credible reports, indiscriminately beat and detained members (see section 1.d.). The acting PNTL district commander said that only those persons who actively resisted the operation were briefly detained.

In November following a traffic incident involving a truck, the minister of interior and three of his bodyguards, who were members of the PNTL's Rapid Intervention Unit, pursued the truck and forced it to a stop. The truck driver escaped on foot, but the minister and two of the bodyguards kicked and beat two passengers in the truck. According to an eyewitness account, the minister hit one of the passengers in the back of the head with a rifle butt, reportedly fracturing his skull.

There was one reported case of illegal law enforcement activity by a member of the military. In mid-July a captain in the national defense force, Falintil-Forca Defesa Timor Leste (F–FDTL), and military police under him beat and detained for several days a man who had been involved in an alleged assault on the captain. The man filed a complaint with the police but by year's end no investigation was carried out.

In April the international judge presiding in the trial of three PNTL officers accused in the May 2004 rape of a 16-year-old girl freed the accused and closed the case for lack of evidence as the victim and other witnesses did not appear. The judge apparently did not refer to the evidence presented at a previous hearing, nor inquire whether the victim and witnesses had been notified of the trial date. The prosecutor general appealed the dismissal to the Court of Appeals, and at year's end the appeal was still pending. There were no significant developments in the September 2004 case of an off-duty police officer who forcibly entered the home of a 12-year-old girl who had allegedly been statutorily raped by the officer's 19-year-old brother. The Professional Ethics Office (PEO) opened an investigation, but no further action was taken by year's end.

The district court in Oecussi convicted a village chief of arbitrary arrest in the 2003 case in which a police officer reportedly participated in beating and burning with cigarettes a 16-year-old deaf and mute boy who had been accused of petty theft. There were no further developments regarding police involvement in the abuse.

Delay or refusal by police to investigate allegations of rape or domestic violence was a common problem (see section 5).

There were no known judicial or administrative actions in the cases of the April 2004 police assault on a member of a foreign military team; in the May 2004 police assault on two men at a cockfight; in the June 2004 police assault on a security guard at a Dili restaurant; or in the September 2004 police assault, in the presence of the minister of interior, on the driver of an allegedly overloaded car.

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however, prison facilities were deteriorating, and there were reports of undisciplined behavior and abuse by prison guards. At Gleno prison, the deterioration of the infrastructure gave rise to safety and security concerns, and there were severe water shortages.

There were no developments in the criminal case filed against a guard who in 2003 reportedly beat and injured an inmate at Baucau prison while other guards watched. An investigation was reportedly completed in July 2004, but no further action was taken.

Becora prison added two separate cells for women during the year, so that unlike in previous years all three prisons now have separate facilities for female prisoners. There were two full-time social workers to deal with juveniles, women, elderly, and mentally ill inmates. All prisons operated at or very near capacity throughout the year.

The government permitted prison visits by the International Committee of the Red Cross and independent human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, there were instances in which these provisions were violated. A number of persons were arrested and detained but ultimately not charged with crimes. Although this sometimes happened due to misunderstandings or because an investigation exculpated the suspect, the circumstances of other cases suggested that law enforcement officers may have held detainees as a form of punishment.

In several cases in which members of groups or organizations were accused of criminal behavior, the police arrested members of these groups without any apparent effort to determine whether the individuals arrested were suspected of involvement in the criminal behavior. For example, on February 7, police arrested seven members of an organization called Kultura Halibur in Manatuto following complaints about alleged fraud by members of the group. The arrests and accompanying searches were carried out without warrants and appear to have been based on no specific evidence against the individuals arrested. The police brought the detainees to a community meeting where the district commander said that Kultura Halibar was an illegal organization and that community members must seek police permission before participating in any group.

Role of the Police and Security Apparatus.—The national police commissioner oversees the PNTL and is responsible to the civilian minister of interior. Each of the country's 13 districts has a district commander who reports to the office of the national police commissioner. The PNTL comprises approximately 3,300 members, including specialized units. It remained poorly equipped and undertrained; there were numerous credible allegations of abuse of authority (see section 1.c.), mishandling of firearms, and corruption. Reports of abuse of authority and unprofessional conduct decreased somewhat compared to last year; however, it is unclear at this time whether this reflected a positive trend in police conduct or the reduced presence of international personnel monitoring the police.

The PEO investigated allegations of police misconduct and reported its findings to the PNTL commissioner. Cases of severe misconduct were referred to a committee chaired by the vice minister of the interior. During the year some officers were punished for relatively minor misconduct, and in several cases police officers were convicted and sentenced for assaults committed while on duty; however, by year's end, no action had been taken in a number of cases involving serious misconduct. There were allegations that personal connections within the police force or the Ministry of Interior were a factor in some cases.

The PNTL often was slow to respond, willing to overlook required procedures, or ill-equipped to complete an investigation or arrest. In May a man accused of raping his granddaughter was released by police in Baucau because they were unable to reach a judge and prosecutor to arrange a detention review hearing and had no vehicle available to transport him to Dili. No further action was taken. Victims and suspects often were transported in the same vehicle, due to the limited availability of transportation.

Observers continued to be concerned regarding the independence of the police. For example, in July and August police carried out a series of searches and arrests of CPD–RDTL members motivated not by evidence of particular criminal offenses but rather at the direction of senior government officials who also directed details of the operations. (see sections 1.c.). In July the PNTL refused to investigate allegations of domestic violence by a PNTL deputy district commander (see section 5.).

Arrest and Detention.—The law requires judicial warrants prior to arrests or searches, except in exceptional circumstances; however, this provision was often violated.

In July and August the PNTL carried out a coordinated series of searches and detentions targeting the CPD–RDTL. The searches and arrests were carried out without warrants, apparently at the direction of senior government officials. In late July a member of the political party Association of Socialist and Democratic East Timor (ASDT) was arrested without warrant in Suai after police questioned him while he and several friends were putting a roof on a building to be used for ASDT meetings. Police asked him if he had a license for the party and for the "meeting" and arrested him when he replied in the negative. He filed a complaint with the PEO.

Government regulations require a hearing within 72 hours of arrest to review the lawfulness of the arrest and detention and also to provide the right to a trial without undue delay. During these hearings the judge may also determine whether the suspect should be held in detention or released either because evidence is lacking or because the suspect is not considered a flight risk. However, because of a short-

age of magistrates, many suspects were forced to wait longer than 72 hours for a hearing. This situation was particularly acute in areas that did not have a local magistrate or where authorities lacked means to transport suspects to a hearing. Some prosecutors, in violation of regulations, granted police the authority to detain persons beyond 72 hours.

The law provides for access to legal representation at all stages of the proceedings, and there are provisions for providing public defenders to indigent defendants. However, there is an extreme shortage of qualified public defenders, and many indigent defendants relied on lawyers provided by legal aid organizations.

There were no reports of political detainees.

A 2003 ruling by the Court of Appeals stated that the pretrial detention limit of 6 months and the requirement that such detentions be reviewed every 30 days need not apply in cases involving certain serious crimes; however, the 30-day review deadline was missed in a large number of cases involving less serious crimes, and a majority of the prison population consisted of pretrial detainees.

e. Denial of Fair Public Trial.—The law provides that judges shall perform their duties "independently and impartially" without "improper influence" and requires public prosecutors to discharge their duties impartially. These provisions generally were respected.

The court system includes four district courts (Dili, Baucau, Suai, and Oecussi) and a national Court of Appeals in Dili. The Ministry of Justice is responsible for administration of the courts and prisons and also provides defense representation. The prosecutor general is responsible for initiating indictments and prosecutions. Until a supreme court is established, the Appeals Court was the country's highest tribunal.

Establishing justice sector institutions and recruiting and training qualified judges, prosecutors, and defense attorneys proved difficult. In January the president of the Court of Appeals announced that all 22 sitting judges failed the qualifying exams taken in 2004 and were therefore required to step down. Exceptions were made for judges on the Court of Appeals, the Special Panels for Serious Crimes, and the National Election Commission. In May it was announced that all of the prosecutors and public defenders who had taken their qualifying exams had failed. Four international judges, who had arrived in September 2004, took responsibility for all cases in the district courts. Five international prosecutors and six international public defenders arrived in August and September. Private lawyers continued to represent the majority of defendants in the district courts.

Personnel shortages affected the entire legal system, but it disproportionately affected the operations of the Baucau, Oecussi, and Suai district courts, which operated at irregular intervals. The international judges, who were originally hired to assist their national counterparts in tackling the nationwide case backlog, instead divided their time between covering district court cases and providing training to the ex-judges, prosecutors, and public defenders and were thus only able to travel to the district courts for a few days at a time once or twice a month. During the year many legal experts observed that court processing of criminal cases was slower than in previous years and that no civil cases had proceeded to judgment.

The shortage of qualified prosecutors and technical staff for the office of the prosecutor general resulted in a 2,707 case backlog in the prosecutor's office, a modest reduction from previous months.

Trial Procedures.—The law provides for the right to a fair trial; however, the severe shortages of qualified personnel throughout the system led to some trials that did not fulfill prescribed legal procedures. Trials are before judges. Except for sensitive cases, such as crimes involving sexual assault, they are public; however, this was inconsistently applied. Defendants have the right to be present at trials and to consult with an attorney in a timely manner. Attorneys are provided to indigent defendants. Defendants can confront hostile witnesses and present witness and evidence of their own. Defendants and their attorneys have access to government-held evidence. Defendants enjoy a presumption of innocence and have a right of appeal to higher courts.

The legal regime is complex and inconsistently applied. Pending development of a complete set of national laws, Indonesian laws and the UN's transitional regulations remained in effect. The constitution stipulates that UN regulations supersede Indonesian laws (see section 2.a.); however, this was inconsistently applied. For example, in a September 2004 decision the Court of Appeals declared that a UN executive order decriminalizing defamation did not effectively overrule an Indonesian law under which defamation is criminalized.

The Court of Appeals operated primarily in Portuguese. The UN regulations, many of which are in force, were available in English, Portuguese, and Indonesian,

as well as in Tetum, the language most widely spoken in the country. Laws enacted by parliament, intended to supplant Indonesian laws and UN regulations, were published in Portuguese with very few available in Tetum. Litigants, witnesses, and criminal defendants often were unable to read the new laws. Trials are required to be conducted solely in Portuguese and Tetum. However, international judges sometimes refused to provide translations of the trial proceedings. For example, in October 2004 an international judge refused to allow translation of the proceedings of a pretrial hearing for a complainant who spoke Tetum and English but not Portuguese. The complainant claimed that the translation provided was inadequate and that he was pressured to sign a statement in Portuguese, which he did not understand.

The Serious Crimes Unit (SCU) was responsible for investigations and indictments concerning genocide, war crimes, crimes against humanity, murder, sexual offenses, and torture that occurred in 1999. Pursuant to UN Security Council resolutions, the SCU ceased its investigations in November 2004 and ceased virtually all other operations on August 30. At the time of its closure the SCU had filed 95 indictments against 391 persons. Of these 290 remained at large in Indonesia with little chance of being returned to stand trial. In 2000 the transitional administration also established the Special Panels on Serious Crimes within the Dili District Court to try those charged with the mass killings and other gross human rights violations committed in 1999. The two Special Panels, each of which consists of two foreign judges and a local judge, have exclusive and "universal" jurisdiction to adjudicate cases concerning these human rights violations. The Special Panels for Serious Crimes were adjourned on May 20. As of their adjournment the Special Panels had issued 84 convictions, three acquittals (one of which was later overturned by the Court of Appeals), and 13 indictment dismissals.

Although the Special Panels were adjourned, they can be reconstituted whenever needed as long as they meet the requirement of comprising two international and one local judge. In August former militia member and SCU indictee Manuel Maia was arrested after he crossed the border from Indonesian West Timor. At year's end he remained in pretrial detention and plans were in place to convene a Special Panel to try him. Several other former militia members were also arrested in August and September who reportedly were investigated but not indicted by the SCU. At year's end it was not clear how these cases would be handled and whether they would be indicted and tried for serious crimes.

The SCU worked very closely with the Truth and Reconciliation Commission of East Timor (CAVR, or Comissao de Acolhimento, Verdade e Reconciliacao de Timor Leste). While the SCU is mandated to investigate and prosecute crimes against humanity committed in 1999, the CAVR investigated less egregious human rights violations that occurred between April 1974 and October 1999. CAVR also facilitated reconciliation between victims and perpetrators of these violations (see section 4). The CAVR held its final public meeting in March 2004 and presented its final report to the president on October 31. The president presented the report to parliament on November 28. At year's end it had not yet been made public.

The Ad Hoc Tribunal, based in Indonesia, failed to achieve accountability for crimes against humanity committed in East Timor in 1999. In February the UN appointed a Commission of Experts (COE) to evaluate the Ad Hoc Tribunal and the SCU and recommend the next steps for achieving accountability. The COE concluded that the serious crimes process in East Timor had "ensured a notable degree of accountability for those responsible for the crimes committed in 1999" but that the Ad Hoc Tribunal in Indonesia was "manifestly inadequate." The COE report recommended continued UN support of the serious crimes process in East Timor so that investigation, indictment, and prosecution of perpetrators could continue (see section 4).

In December 2004 the governments of Indonesia and East Timor agreed to form a bilateral Truth and Friendship Commission (TFC) to address human rights violations committed in East Timor in 1999 (see section 4). The TFC was inaugurated on August 11 and held several meetings during the remainder of the year. The COE report criticized the TFC's terms of reference as contradicting international standards that prohibit impunity for crimes against humanity. Throughout the year there was widespread public criticism in East Timor of the TFC as not addressing the need for true accountability. There was continued public support for an international tribunal or other mechanism to bring to justice those indictees who remained at large in Indonesia. The five widely respected East Timorese members of the commission at times expressed guarded optimism about the prospects that the TFC would engage in a thorough and honest search for the truth.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice; however, there were a few reports of arbitrary interference with privacy, family, home, and correspondence. A land law promulgated in 2003 broadly defines what property belongs to the government and has been criticized as disregarding many private claims. Although the government was in the process of drafting a comprehensive land law that is expected to include details on how ownership of land is to be determined in cases of conflicting claims from Portuguese and Indonesian times, the government nonetheless claimed property that had other claimants. For example, in 2003 the government seized the home of an opposition leader and proceeded with construction on the property although the legal ownership was yet to be determined. At year's end the case remained pending in the Dili District Court.

On July 26, coincident with the raids on CPD–RDTL offices in Baucau (see sections 1.d. and 2.a.), the police searched the residence of a journalist in Baucau apparently without a warrant.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, there were instances in which government officials attempted to interfere with these rights.

Individuals could generally criticize the government without reprisal and a UN executive order decriminalized defamation. However, in September 2004 the Court of Appeals decided that the executive order did not overturn the Indonesian statutes that define libel and defamation as criminal offenses (see section 1.e.). During the year there were several cases of persons arrested for criticizing the government. For example, on March 15, a man who complained at the Dili prosecutor's office about lack of action regarding an alleged assault on his mother was arrested for defamation and held overnight. On April 6, two men were arrested in Viqueque for comments they made during the screening of a film during a visit by government officials. The men reportedly disputed the claims of the film and called the president a liar. Under the Indonesian penal code the men were charged with "publicly giving expression to feelings of hostility, hatred or contempt against the government." They were released on April 13, pending investigation of the case. On June 16, a man was detained on defamation charges for statements against the prime minister in connection with the detention of his son. In each of these cases the suspects were detained briefly and released for lack of evidence following their detention review hearings.

In April after a newspaper published numerous articles that were regarded as unfavorable to the government, including reports on famine deaths that the government had denied, the government evicted it from government-owned headquarters it had occupied since 1993. The eviction was not illegal, but the timing suggested a political motive. On July 26, police, carrying out a raid of the headquarters of CPD–RDTL in Baucau (see section 1.d.), searched without warrant the nearby house of a journalist who works for the local community radio station and a Dili-based daily newspaper. The police accused him of hiding CPD–RDTL members. The journalist's report on this incident appeared August 9. On August 11, police who had gone to the radio station where he worked in response to a fight arrested him without warrant and detained him for 24 hours. The journalist and the director of the community radio station reported that the arresting officers said the detention was in retaliation for critical reporting on the police.

There were four daily newspapers, three weeklies, and several newspapers that appeared sporadically. Their editorials frequently criticized the government and other political entities. During the year there was increased concern regarding the use of defamation suits against the media. In December the Council of Ministers passed a penal code that included provisions criminalizing defamation and insults to a person's "honor." By year's end, amidst an intense national debate, the president had neither promulgated nor vetoed the law.

The Public Broadcast Service (PBS) owned and operated a radio station and a television station. The PBS radio service was available throughout the country. The PBS television broadcast was available only in Dili and Baucau. In addition to the PBS radio station, there were 18 community radio stations, including at least 1 in each district. Radio was the most important news medium for most of the country.

There were no legal or administrative restrictions on Internet access.

The government generally did not restrict academic freedom; however, in 2004, the Council of Ministers issued a decree requiring that academic research on Tetum and other indigenous languages be approved by the National Language Institute (INL). It gave the INL the power to refuse to authorize linguistic research that "has

no scientific merit" or that "would not be advantageous to the country." Foreign researchers must obtain authorization from the INL "under penalty of manifest illegality." There were no reports during the year that this law had been applied to prevent academic research or to punish researchers.

b. Freedom of Peaceful Assembly and Association.—The law provides for the freedom of assembly and association, and the government generally respected these rights; however, the authorities violated these rights in some cases.

Freedom of Assembly.—During April 19 to May 8 large-scale, antigovernment demonstrations in Dili, police roadblocks at times stopped participants coming from the districts. The roadblocks were later lifted.

On October 5, police in Dili evicted minibus drivers demonstrating against higher fuel prices from the area in which they were gathered because they had not provided advanced notification. This appeared to be based on a new law on freedom of assembly and demonstrations that had not yet been promulgated and so technically was not in force. The law establishes guidelines for obtaining permits to hold demonstrations and, among other things, requires that police be notified four days in advance of any demonstration or strike. In December police arrested ASDT party members for holding a political meeting without permission.

Freedom of Association.—There were several cases during the year of persons being arrested apparently on the basis of their membership in antigovernment organizations (see section 1.d.). On February 7, the police district commander in Manatuto told community members that they must seek police permission before participating in any group (see section 1.d.).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. More than 90 percent of the population was Roman Catholic, and there were small Protestant and Muslim minorities. Generally, religious minorities were well integrated into society.

The large-scale, antigovernment demonstrations, which took place during April and May (see section 2.b.) were organized by Roman Catholic Church officials. Among other things, they were protesting a government decision that shifted religious education from the core public school curriculum and made it an after-school elective without state funding. At the conclusion of the demonstrations the prime minister and the country's two Catholic bishops signed a joint declaration that provides that the teaching of religion "must be included as a regular discipline in the public school curriculum," subject to the right of each child's parents to opt for their child's participation or nonparticipation.

In November and December 2004 the government deported to Indonesia a group of Muslims of Malay descent who had occupied a Dili mosque for three years. The group had experienced difficulty integrating into society and obtaining citizenship. Ethnic Timorese Muslims have not faced the same difficulties.

Societal Abuses and Discrimination.—During the year there was a report that Protestant evangelists and their converts in the Liquica area had been harassed and threatened by members of the communities in which they were proselytizing. Subsequently the community was reported to have successfully mediated this conflict. There was also a report that a Protestant minister in the Manatuto area had been threatened and beaten by community members.

There is no indigenous Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice; however, during large-scale, antigovernment demonstrations in Dili in April and May, police roadblocks at times stopped participants coming from outlying areas (see section 2.b.).

The law prohibits forced exile, and the government did not employ it.

The conflicts in 1999 and anti-independence militia activity in 2000 and 2001 resulted in 250 thousand East Timorese fleeing their homes and crossing the border into West Timor. By 2003 approximately 225 thousand had returned home. During the year an additional small number of refugees returned from West Timor.

Protection of Refugees.—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum; however, there were concerns that the country's regulations governing asylum and refugee status may pre-

clude genuine refugees from proving their eligibility for such status. For example, persons who wish to apply for asylum have only 72 hours to do so after entry into the country. Foreign nationals already present in the country have only 72 hours to initiate the process after the situation in their home country becomes too dangerous for them to return safely. A number of human rights and refugee advocates maintained that this time limit contravenes the 1951 convention. These advocates also expressed concern that no written reasons are required when an asylum application is denied.

There were no applicants for asylum during the year. At year's end, nine cases submitted in 2003 and 2004 were still pending final decisions. After the promulgation of the 2003 Immigration and Asylum Act, the government assumed responsibility from the Office of the High Commissioner for Refugees (UNHCR) for adjudicating asylum claims. Throughout the year, UNHCR continued to mentor immigration officials to ensure that asylum applications were processed according to treaty guidelines. The government instituted a process whereby all asylum applications must be approved by the minister of the interior. This requirement led to delays.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully through periodic elections.

Elections and Political Participation.—In 2002 Xanana Gusmao was inaugurated as the first president, and, in accordance with the constitution, the members of the constituent assembly were sworn in as the first national parliament. Mari Alkatiri became the first prime minister of the country. The 88-member assembly, elected in a free and fair election in 2001, was charged with writing a constitution, which was completed in 2002 and came into effect upon independence. Some observers criticized the provision under which the constituent assembly automatically became the parliament and a parliamentary election is not required until five years after independence.

In 2004 the government, with oversight by independent election authorities and assisted by UN advisors, carried out a voter registration, and the list of registered voters was published for public scrutiny. The resulting voter database was used for local elections and is to be maintained and updated for future presidential and parliamentary elections. Local elections using the new list began in December 2004 and were completed on September 30. The late 2004 elections, in the remote enclave of Oecussi and western districts bordering Indonesia, were plagued by administrative problems, the most significant being errors and omissions on the voter registration lists. However, the national election commission moved quickly to rectify most problems and each successive round of local elections held during the year saw improvements because registration list problems were dramatically reduced. International observers found no evidence of electoral fraud. However, there were allegations by opposition parties of intimidation and misuse of government resources by the ruling party at all stages of the elections. The National Commission on Elections, the independent election oversight body, had extremely limited resources with which to investigate.

There were 23 women in the 88-seat assembly. Women held three senior cabinet positions—minister of state, minister of public works, and minister of finance and planning—and four vice minister positions. One of the four judges on the appeals court was a woman.

The country's small ethnic minority groups were well integrated into society. The number of members of these groups in parliament and other government positions was uncertain. Both the prime minister and the minister of defense were members of ethnic minority groups.

Government Corruption and Transparency.—During the year there was increased concern within society and among international observers regarding credible reports of corruption in government institutions. There were accusations during the year of lack of transparency in the government procurement process. For example, in July it was alleged that a company partly owned by the prime minister's brother was unfairly granted a monopoly to sell weapons to the government. Opposition members of parliament who asked to review the contracting procedures were not allowed to do so. There continued to be credible rumors of petty corruption at the nation's port. In addition customs and border officials were suspected of facilitating the smuggling of gasoline, tobacco, and alcohol across the border from Indonesia. The Office of the Inspector General carried out investigations into nine cases of maladministration or possible corruption during the year. One case, involving allegations of bribery in a district health office, was referred for prosecution.

The law stipulates that all legislation, supreme court decisions, and decisions made by government bodies must be published in the official gazette. Failure to publish them renders them null and void. Regulations also provide for public access to court proceedings and decisions. In addition rules governing the national budget and accounts ensure public access. The country's Petroleum Fund Law, passed by the parliament on June 20, was consistent with internationally acceptable principles of transparency and oversight.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Nongovernmental organizations (NGOs) have played an active role in assisting and advising in the development of the country, and numerous NGOs were established over the last four years.

According to the controversial 2003 Immigration and Asylum Act, foreigners are prohibited from taking part in political activities. This provision could preclude foreigners and international NGOs from assisting labor unions or projects to promote the development of civil society, and it could also allow the government to restrict noncitizens from monitoring the criminal or judicial systems. In addition the law allows the government to prohibit foreigners from holding conferences and cultural exhibitions if the government believes that the activities would jeopardize the interests of the country. An exception in the law exempts activities contracted by government institutions, funded by bilateral or multilateral assistance programs, and aimed at training or strengthening democratic institutions that are constitutional and regulated by law or strictly academic in nature.

In April 2004 parliament passed a law establishing the constitutionally mandated Office of the Provedor (Ombudsman) for Human Rights and Justice. The *provedor* was elected by parliament in March, and the government designated funds for the establishment of the office. The Office of the Provedor is responsible for the promotion of human rights, anticorruption, and good governance, and it will have the power to investigate cases and make recommendations to the relevant authorities. At year's end the office was not fully established or staffed.

The CAVR, which was charged with inquiring into past human rights violations, was headed by 7 national commissioners and 29 regional commissioners in 6 regional offices. The CAVR sought truth and reconciliation through testimonials by victims and perpetrators of human rights violations. The CAVR held numerous reconciliation meetings in locations throughout the country. In December 2003 the CAVR held a four-day public hearing on internal political conflict between 1974 and 1976, in which several victims and current government leaders publicly discussed the breakdown of relations among domestic political parties and subsequent violence and related human rights violations during the period between Portugal's decision to decolonize the country in 1974 and Indonesia's intervention in late 1975. In March 2004 the CAVR held its final public hearing, dedicated to the topic of violence against children. Twelve witnesses testified on the effect of the various stages of the armed struggle on the lives of children, both before and during the Indonesian occupation.

In February the UN appointed a Commission of Experts to evaluate the Indonesian and East Timorese procedures and to recommend the next steps for achieving accountability for human rights violations committed in 1999. In a May 26 report to the UN High Commissioner for Human Rights the COE concluded that the serious crimes process in East Timor had "ensured a notable degree of accountability for those responsible for the crimes committed in 1999" but that the Ad Hoc Tribunal in Indonesia was "manifestly inadequate." Overall the COE noted that accountability was still lacking for those bearing greatest responsibility for the crimes against humanity committed in 1999. The COE report recommended continued UN support of the serious crimes process in East Timor so that investigation, indictment, and prosecution of perpetrators could continue.

In December 2004 the governments of Indonesia and East Timor agreed to form a bilateral Truth and Friendship Commission to address human rights violations committed in East Timor in 1999. The TFC was inaugurated on August 11, and held several meetings during the remainder of the year. The COE report criticized the TFC's terms of reference as contradicting international standards that prohibit impunity for crimes against humanity. Throughout the year there was widespread public criticism in East Timor of the TFC as not addressing the need for true accountability. One observer noted that the East Timorese were focused on truth and the Indonesians wanted to bypass truth and go directly to friendship. There was continued public support for an international tribunal or other mechanism to bring

to justice those indictees who remained at large in Indonesia. The East Timorese members of the commission at times expressed guarded optimism about the prospects that the TFC could engage in a thorough search for the truth.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Government regulations prohibit all forms of discrimination. Nonetheless, violence against women was a problem, and discrimination against women, persons with disabilities, and members of minority groups occurred.

Women.—Domestic violence against women was a significant problem and sometimes was exacerbated by the reluctance of authorities to respond aggressively to allegations of domestic violence. In some cases a lack of resources was used to justify official inaction and failure to investigate or prosecute cases involving violence against women. The PNTL were particularly slow to follow up on cases where the accused occupied a position of power. For example, in April the wife of a member of parliament (MP) was admitted to a hospital, reportedly as a result of being beaten by her husband. Although the PNTL initially started to investigate the case, they soon suspended the investigation on the basis that parliamentary regulations prohibit the arrest of an MP for offenses punishable with less than a five-year prison sentence. Although the parliamentary rules do not prohibit investigation, no further action was taken. In July PNTL officers refused to investigate allegations of repeated domestic violence by a PNTL deputy district commander. When the officer's wife sought medical treatment for injuries allegedly inflicted by her husband, the doctor at the hospital refused to provide it without authorization from the PNTL district commander. When she took her case to the district commander, he refused to initiate an investigation and instead pressured her to resolve the issue through mediation.

Although rape is a crime, failures to investigate or prosecute, as well as long delays were common in alleged cases of rape and sexual abuse. For example, in April a case of three PNTL officers accused of rape was dismissed when the victim and witnesses failed to appear at trial hearings despite significant evidence that had been presented at a prior hearing (see section 1.c.). The PNTL conducted an investigation of a 2003 case in which a woman allegedly was raped by a member of the F–FDTL. However, at year's end the PNTL reported the case had been dismissed.

Government regulations prohibit persons from organizing prostitution; however, under the Court of Appeals' interpretation of Indonesian laws still in force, prostitution itself is not illegal. Nevertheless, in past years police often arrested women accused of prostitution and some were mistreated while in detention. In past years the government deported some foreign women for alleged prostitution on the ground that they had violated the terms of their visas. However, there were no reports of such deportations during the year. In 2004 a local NGO conducted a study on prostitution and trafficking and estimated that there were up to 358 sex workers in the capital, of whom approximately 115 were possible trafficking victims (see section 5, Trafficking).

There was no law prohibiting sexual harassment; however, sexual harassment was reportedly widespread, particularly within some government ministries and the PNTL. Efforts were being made to establish a case history of sexual harassment complaints and to introduce laws to explicitly address the problem.

There were no reports of gender-based employment discrimination during the year; however, women usually deferred to men when job opportunities arose at the village level.

Some customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property.

A UN-created gender affairs unit has continued as the Office for the Promotion of Equality within the prime minister's office. The unit worked with government ministries and departments to promote gender equality and coordinated activities to reduce gender-based violence.

Women's organizations offered some assistance to female victims of violence, established shelters for victims of domestic violence and incest, and operated a safe room at the national hospital for victims of domestic violence and sexual assault. Other NGOs supported women through microcredit lending.

Children.—The constitution stipulates that primary education shall be compulsory and free; however, no legislation has been adopted establishing the minimum level of education to be provided, nor has a system been established to ensure provision of free education. According to a UN study, approximately 25 percent of primary education age children nationwide were not enrolled in school; the figures for rural areas were substantially worse than those for urban areas. Only 30 percent of children in lower secondary education (ages 13 to 15) were enrolled, with an even great-

er difference between urban and rural areas. At least 10 percent of children did not begin school. These statistics were fairly consistent for both male and female students.

Poor health facilities throughout the country resulted in high infant and under-age-five mortality rates. The major causes of death among children typically were combinations of infectious diseases, persistent malnutrition, and parasitic diseases. The low rate of vaccinations against communicable diseases was a serious problem. Although for some diseases vaccination rates were as high as 72 percent, the UN estimated that less than 15 percent of children between 12 and 23 months had been fully vaccinated. Under the UN's Extended Program on Immunization, vaccines and refrigeration equipment have been supplied to clinics in locations around the country. However, the status of equipment maintenance and condition were unknown at year's end and accessibility to these clinics and the lack of understanding of the need for vaccinations remained problems.

Domestic violence, including violence against children and child sexual assault, was a significant problem. Some commercial sexual exploitation of minors occurred (see section 5, Trafficking).

During the year the prime minister signed a decree establishing an inter-ministerial working group to draft a children's code and another decree establishing a National Commission for Children.

Trafficking in Persons.—The law prohibits trafficking in women and children, whether for prostitution or for forced labor; however, there have been several reports of women and girls trafficked into the country for prostitution in recent years. In 2004 a local NGO conducted a baseline study of human trafficking and the sex industry and estimated that as many 115 foreign sex workers in the capital might be victims of trafficking. Several establishments in the capital were known commercial sex operations and were suspected of also being involved in trafficking. While the PNTL conducted raids on brothels and massage parlors in Dili during the year, there were credible reports that some police and customs officials were guilty of collusion with such establishments or with those who trafficked foreign women into the country to work in these establishments. UN officials and local NGO leaders cited several instances in which foreign women, usually of Chinese, Indonesian, or Thai origin, reported that they had been trafficked to the country and were being held against their will. For example, in 2004 two Indonesian women interviewed by a local NGO stated that they had been hired by a businessman in Jakarta to work as housekeepers in a Dili hotel. When they arrived in Dili, the man confiscated their passports and confined the women to his house, telling them that they had to work as prostitutes to pay back their travel expenses.

There was widespread ignorance about the trafficking issue. Trafficking victims did not understand their rights or who to contact for assistance. Police were uninformed about the nature of trafficking, how to recognize it, and how to handle cases. Indonesian women detained for prostitution typically were dropped off at the border with no due process for investigation into whether they were trafficking victims.

UN authorities and the government established a working group to monitor and control trafficking. The Alola Foundation, an NGO headed by First Lady Kirsty Sword Gusmao, provided assistance to female victims of trafficking and advised the government on trafficking-related issues.

Persons with Disabilities.—Although the constitution protects the rights of persons with disabilities, the government has not enacted legislation or otherwise mandated accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with disabilities. There were no reports of discrimination against persons with disabilities in employment, education, or the provision of other state services; however, difficult access to schools in many districts resulted in many children with disabilities not attending school. Training and vocational initiatives did not give attention to the needs of persons with disabilities. During the year some persons with mental disabilities faced discriminatory or degrading treatment due in part to a lack of appropriate treatment resources. For example, in May a man suffering from mental illness was arrested after allegedly stoning a car. No investigation was carried out but PNTL held him for several days "for his own protection" without contacting mental health workers until UN officials suggested they contact the Ministry of Health.

National/Racial/Ethnic Minorities.—Relations are generally good between the ethnic Timorese majority and members of several small ethnic minority groups; however, there were occasional reports of discrimination against ethnic Chinese (who are less than 1 percent of the population) and ethnic-Malay Muslims. An historic tension between residents of the eastern part of the country, whose cultures and languages are partly of Papuan origin, and the Austronesian inhabitants of the

western part of the country had largely subsided by the time of independence, but it was an occasional aggravating factor in personal and political disputes.

Section 6. Worker Rights

a. The Right of Association.—The country has a labor code based on the International Labor Organization's standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally have been slowed by inexperience and a lack of organizational skills. In 2004 the government established official registration procedures for trade unions and employer organizations.

The Immigration and Asylum Act prohibits foreigners from participating in the administration of trade unions.

b. The Right to Organize and Bargain Collectively.—While collective bargaining is permitted, workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

The law provides for the right to strike, but few workers exercised this right during the year (see section 2.b.).

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—Government regulations prohibit forced and compulsory labor, including by children; however, there were reports that in November 2004, PNTL officers in Covalima District forced members of CPD–RDTL to perform labor as a form of punishment. There were no such reports during the year.

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code largely prohibits children under 18 from working; however, there are circumstances under which children between the ages of 15 to 18 can work, and there are even exceptional exemptions for children under 15. The minimum age did not apply to family-owned businesses, and many children worked in the agricultural sector. In practice enforcement of the labor code outside of Dili was limited. There were unconfirmed reports that children as young as 10 were being used to smuggle goods across the border between Indonesia and East Timor.

e. Acceptable Conditions of Work.—The labor code does not stipulate a minimum wage; however, employers generally used and employees expected a wage of $85 (the US dollar is the country's official currency) per month as a minimum standard. This amount provided a decent standard of living for a worker and family. The labor code provides for a standard workweek of 40 hours per week and standard benefits such as overtime, minimum standards of worker health and safety, and days off. As required by the labor code, the government in 2004 nominated members to the National Labor Board and the Labor Relations Board. These boards received several weeks of training and began work in 2004. There are no restrictions on the rights of workers to file complaints and seek redress within these codes or other legislation. Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear that they could avail themselves of this right in practice.

FIJI

Fiji is a constitutional republic with a population of approximately 850 thousand. There is an elected president, prime minister, and parliament. Following the attempted civilian coup d'etat in 2000 that eventually resulted in the removal of the lawfully elected government, free and fair multiparty elections were held in 2001, and the political situation improved. Laisenia Qarase of the Sogosogo Duavata ni Lewenivanua (SDL) party became prime minister in September 2001. While the civilian authorities generally maintained effective control of the security forces, the military voiced public opposition to amnesty provisions of a government-proposed reconciliation and unity bill and threatened to stop the government from functioning if the bill became law and was implemented.

The government generally respected the human rights of its citizens; however, there were serious problems in some areas. Deep divisions between indigenous Fijians (54 percent of the population) and Indo-Fijians (38 percent) continued to influence all aspects of the nation's politics. Ongoing reform of the police resulted in fewer complaints of police abuse during the year. The following human rights problems were reported:

- poor prison conditions, including serious overcrowding

- increased attacks against religious facilities, particularly Hindu temples
- government corruption
- violence and discrimination against women
- increased commercial sexual exploitation of children
- discrimination against persons with disabilities and ethnic minorities
- employer intimidation of union organizers and workers

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were some reports of abuses by police. The number of complaints to the Fiji Human Rights Commission for violation of the right to freedom from cruel and degrading treatment and torture declined significantly over the previous three years. Reported incidents of beatings and other abuse of apprehended persons and prisoners were investigated and, when appropriate, offending officers were prosecuted and jailed. All such cases appeared to be isolated incidents, not condoned by supervisory officers. A case in which police officers failed to obtain prompt medical treatment for a suspect severely injured during apprehension was under investigation at year's end.

The police internal affairs unit is required to investigate complaints of police brutality. The law permits corporal punishment as a penalty for criminal acts; however, in 2002 the Court of Appeal ruled that corporal punishment in the penal system was unconstitutional. In May a magistrate's court sentenced a man to five strokes with a cane, but the punishment was not carried out. The Human Rights Commission conducted periodic training courses for police, prison officers, and military personnel, using a new human rights manual based on international standards.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards. The prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services. Courts released prisoners, including some facing serious charges, on bail to minimize their exposure to an unhealthy and overcrowded prison environment. The national prison system had insufficient beds, inadequate sanitation, and a shortage of basic necessities. In some cases pretrial detainees and convicted prisoners were held together.

During the year the International Committee for the Red Cross (ICRC) visited 8 detention facilities and interviewed more than 80 detainees. Family members were routinely permitted to visit prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The Ministry of Home Affairs oversees the Fiji Police Force, which is responsible for law enforcement and the maintenance of internal security. The police maintain a network of 32 stations and 95 police posts throughout the country. Policing of more remote and smaller islands is done through regularly scheduled visits. The government continued a program initiated in 2003 to improve policing standards and combat corruption. Allegations of corruption, once rampant in the police force, were investigated, and disciplinary and criminal cases initiated. Some officers were removed from the force. However, although there were improvements, corruption remained a problem.

Arrest and Detention.—Police officers may arrest persons without a warrant for violations of the penal code. Police also arrest persons in response to warrants issued by magistrates and judges. Arrested persons must be brought before a court without "undue delay," normally interpreted to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds for their arrest. Unlike in 2004, there were no claims of incommunicado or arbitrary detention. There was a well-functioning bail system.

The Legal Aid Commission provided counsel to some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys.

There were no reports of political detainees.

The courts had a significant backlog of cases, and processing was slowed by, among other things, a shortage of prosecutors and judges. As a result some defendants faced lengthy pretrial detention.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. However, there were allegations that some judges held biases stemming from events surrounding the 2000 coup.

The country's judicial structure is patterned on the British system. The principal courts are the magistrates' courts, the High Court, the Court of Appeal, and the Supreme Court. In addition to its jurisdiction in civil and criminal cases, the High Court has special-interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

Except for the Family Court, there are no special civilian courts. Military courts try members of the armed forces, and there is an internal police tribunal mechanism.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants have the right to a public trial and to counsel. The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. Most cases were heard in the magistrates' courts, but a case cannot be tried in a magistrate's court without the defendant's consent. Absent such consent cases are tried in the High Court. Trials in the High Court provide for the presence of assessors, typically three, who are similar to jurors but only advise the presiding judge. Magistrates are not authorized to impose prison sentences longer than 10 years. Magistrates' courts' sentences in most domestic and family law cases were relatively light. Defendants enjoy a presumption of innocence and can question witnesses, present evidence on their own behalf, and access government-held evidence relevant to their case. The right of appeal exists but often was hampered by delays in the process.

Although the majority of the key participants in the 2000 coup have been charged and tried, several investigations continued during the year. At year's end approximately 200 defendants were still awaiting trial on coup-related charges.

The military court system provides for the same basic rights as the civilian court system, although bail is granted less frequently in the military system. In August the Court of Appeal set aside the convictions of 20 former soldiers involved in the November 2000 mutiny at the military forces headquarters and ordered a retrial. The defendants had argued that delays in their arrest and trial was a violation of their constitutional rights, and that their court martial was not properly constituted. In December the High Court granted bail to 9 of the 20 defendants pending trial in January 2006. The court cited delays in their retrial resulting from a delay in the government's appointment of a new judge advocate.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

Unlike in previous years, the Media Council's Complaints Committee, a private watchdog group of media and academic figures, received no complaints regarding government pressure on, or interference with, the media.

Legislation pertaining to the press is contained in the Newspaper Registration Act and Press Correction Act. Under these acts all newspapers must register with the government before they can publish. The acts give the minister of information sole discretionary power to order a newspaper to publish a "correcting statement" if, in the minister's view, a false or distorted article was published. A newspaper refusing to publish the minister's correction can be sued in court and, if found guilty, fined. Individuals in such cases can be fined, imprisoned for six months, or both. These acts authorize the government to arrest any person who publishes "malicious" material. This would include anything the government considered false that could create or foster public alarm or result in "detriment" to the public. However, this authority has never been used.

The independent media were active and expressed a wide variety of views without restriction, printed in English, Fijian, and Hindi. The country's television news production was owned and operated by Fiji One, one of two national noncable television stations. A trust operating on behalf of the provincial governments owned 51 percent of Fiji One; the remainder was privately held. The government owned the Fiji Broadcasting Corporation, which operated four radio stations. The government also had shares in two daily newspapers, the *Daily Post* and the *Fiji Sun*. The govern-

ment briefly directed government advertising exclusively to the *Daily Post* but dropped this policy under criticism from other newspapers. There were several thriving independent radio stations broadcasting in English, Fijian, and Hindi.

The 1992 Television Decree permits the government to influence programming content. There was no attempt to use the programming authority during the year.

Academic freedom was generally respected; however, government work-permit stipulations and University of the South Pacific contract regulations effectively deterred most university employees from participating in domestic politics. There were no government restrictions on the Internet.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Although civic organizations frequently were granted permits to assemble, permits for some political demonstrations and marches were denied.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The majority of citizens (52 percent) are Christian and government-sponsored meetings and events often begin with a Christian prayer.

In December the government denied an entry visa to the Reverend Sun Myung Moon, head of the Unification Church, stating that Reverend Moon's teachings were considered "misleading, repugnant, and divisive."

Societal Abuses and Discrimination.—Racial polarization was reflected in religious differences, which were largely along ethnic lines; this sometimes contributed to political problems. Most ethnic Fijians were Christians, and most Indo-Fijians were Hindu, with a sizable minority of Muslims. The dominant Methodist Church has closely allied itself with the interests of the pro-indigenous Fijian movement.

Break-ins, vandalism, attempted arson, and thefts directed at houses of worship, predominantly Hindu temples, continued to increase. The attacks were broadly viewed as reflections of intercommunal strife.

There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not practice it.

Protection of Refugees.—The law includes provisions for providing refugee and asylum status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. At year's end the government was in the process of establishing a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the forced return of persons to a country where they feared persecution. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The government received no applications for refugee status or asylum during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The most recent elections, held in 2001, were judged generally free and fair. Party politics was largely race based, although this did not limit participation in the political process. The governing SDL party was primarily ethnic Fijian and the opposition Fiji Labor Party was primarily Indo-Fijian, although both parties had membership across racial lines.

There were 6 women (5 elected and 1 appointed) in the 71-seat House of Representatives and 2 women in the 32-member Senate. There were four ethnic Fijian women in the cabinet (two ministers and two assistant ministers). Women also played important roles in the chiefly system and could be chiefs in their own right.

There were 27 Indo-Fijians in the House of Representatives and 4 in the Senate. There was one Indo-Fijian cabinet minister. Indo-Fijians, who accounted for 38 percent of the population, continued to be significantly underrepresented at senior levels of the civil service and in the military. Indo-Fijians comprised approximately 35 percent of the civil service overall.

The political primacy of indigenous Fijians is to some extent enshrined in the constitution, which mandates that 14 of Parliament's 32 senators be appointed by the

indigenous Fijian Great Council of Chiefs, a hereditary body, and 1 by the Rotuma Island Council. Thus the support of only two additional senators is needed to give indigenous Fijians effective control in the Senate. Under 1997 amendments to the constitution, the prime minister and the president may be of any race. The amendments establish a 71-member lower house with 25 seats open to any ethnicity and 46 seats allocated to different ethnic communities. The open seats are apportioned into districts of approximately equal population. Of the 46 communal seats, 23 are allotted to indigenous Fijians, 19 to Indo-Fijians, 3 to "general voters" (for the most part mixed-race, Caucasian, and East Asian voters), and 1 to Rotumans (an ethnically distinct Polynesian group). These allotments were generally proportional to the ethnic composition of the country's population.

Government Corruption and Transparency.—Corruption within government, including the civil service, was a problem. The media continued to raise numerous allegations of nonaccountability, bribery, abuse of office, fraud, misuse of public property, financial mismanagement, failure to complete statutory audits, and conflicts of interest regarding officials and ministries. In some ministries transparency was virtually nonexistent. The constitution gives the auditor general the right to audit all national and local government bodies. In its annual report to Parliament, the auditor general's office highlighted numerous instances of corrupt practices in government offices and ministries.

During the year several individuals imprisoned for their participation in the 2000 coup were released from prison, ostensibly on medical grounds or to serve their sentences extramurally. The releases were widely seen as politically motivated. A former cabinet minister granted early release in April returned to the cabinet in September at the conclusion of his extramural sentence. In June the government refused to approve a contract extension for the deputy director of public prosecutions, a foreign national assisting in the prosecution of persons implicated in the 2000 coup, and ordered him to leave the country. Local press reports criticized the government's actions as politically motivated.

There is no law providing for public or media access to government information. The government was sometimes responsive to requests for such information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

There were several small, foreign-based organizations that concentrated on local human rights causes, including the Coalition for Democracy in Fiji (with offices in New Zealand and Australia) and two United Kingdom-based groups, the International Fiji Movement and the Movement for Democracy in Fiji. There was little interaction between the government and these groups. A number of UN organizations concerned with human rights, including the International Labor Organization, the UN Children's Fund (UNICEF) and the UN Development Fund, had regional offices in the country and worked actively on various human rights issues with the government. The ICRC continued to operate in the country.

During the year government officials, including the prime minister, warned expatriates working in the country that public expression of political opinions was a violation of their work visas and could lead to the revocation of their work permits. This warning, while apparently directed primarily at the business and investment community, may have had an adverse effect on the work of expatriate members of NGOs critical of the government.

The Fiji Human Rights Commission (HRC), a constitutionally mandated statutory body, appeared to be impartial and independent, generally operating without government interference. During the year it received its own budget allocation for the first time. The HRC continued to receive and investigate reports of human rights violations and requests for assistance, some involving alleged abuses by the military, police, and prison officials. The HRC issued widely distributed quarterly and annual reports on its work.

The government's proposed Reconciliation, Tolerance, and Unity Bill, which, among other provisions, provides for the possibility of amnesty for participants in the 2000 coup, was presented to Parliament in June. The bill's amnesty clauses were widely denounced by victims of the coup and numerous human rights organizations and activists, who alleged the bill would undermine the rule of law by freeing from prison individuals duly convicted of crimes related to the coup and would hinder prosecutors and the courts from fulfilling their responsibilities in criminal cases. At year's end a parliamentary committee report had recommended substan-

tial changes to the bill, including certain changes to the amnesty provisions, but the government had not yet addressed the proposed changes.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, place of origin, ethnicity, sexual orientation, color, primary language, economic status, age, disability, or opinions or beliefs. The government generally enforced these provisions effectively, although there were problems in some areas. The constitution also cites the "paramountcy" of Fijian interests as a guiding principle for the protection of the rights of indigenous citizens. A compact included in the constitution specifically provides for affirmative action and "social justice" programs to "secure effective equality" for ethnic Fijians and Rotumans, "as well as for other communities." The compact chiefly benefited the indigenous Fijian majority.

Women.—Domestic abuse, rape, incest, and indecent assault were significant problems. Police practiced a "no-drop" policy, under which they pursued investigations of domestic violence cases even if a victim later withdrew her accusation. The police generally were more responsive to domestic violence cases than in the past. Nonetheless, cases of domestic abuse and incest often were dismissed by courts or the perpetrators received minimal sentences. Incest was widely believed to be underreported. Traditional practices of reconciliation between aggrieved parties were sometimes taken into account to mitigate sentences in domestic violence cases, particularly in cases of incest. An active women's rights movement sought to raise public awareness about domestic violence.

Four women's crisis centers funded by foreign governments operated in the country. The centers offered counseling and assistance to women in cases of domestic violence, rape, and other problems, such as child support.

The women's rights movement pressed for more severe punishments for rape. Sentences varied considerably. Rape cases heard in the lower magistrates' courts typically resulted in shorter sentences. Women's groups continued to urge that all rape cases be heard in the High Court, where lengthier sentences are available. The Court of Appeal has ruled that 10 years is the minimum appropriate sentence in child rape cases. Women's activists continued to press for criminalization of spousal rape. At year's end a new domestic violence bill, including a provision criminalizing spousal rape, was under discussion in draft form but had not been formally considered by Parliament.

Prostitution is illegal, but it occurred, particularly in cities. There were some reports of sex tourism, which was prohibited by law. Sex tourism reportedly occurred particularly in tourist centers such as Nadi and Savusavu and in many cases involved children. Reportedly taxi drivers often acted as middlemen, facilitating the commercial sexual exploitation of children.

The law does not specifically prohibit sexual harassment. However, laws against "indecent assaults on females" prohibit offending the modesty of women and could be used to prosecute sexual harassment cases. According to a recent survey, one in three women has been sexually harassed in the workplace.

The Women's Crisis Center provided a gender awareness program to educate soldiers and police officers about women's concerns.

Women have full rights of property ownership and inheritance but often were excluded from the decision-making process on disposition of communal land. Many women were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. Women generally were paid less than men for similar work.

Children.—The government devoted 28 percent of the national budget to education and also worked to improve children's health and welfare. School is mandatory until age 15. However, the inability of some families to pay school fees and bus fares limited attendance for some children. There was no significant difference between the school enrollment rates for boys and girls.

The government provided free medical care for children at public health centers and hospitals, including immunizations in primary schools.

Child abuse was an increasing problem. Some attributed this to societal changes that have undermined traditional village and extended family-based structures. Multiple reports suggested that child prostitution increased during the year. Child prostitution was particularly evident in poverty-stricken urban areas and among homeless urban youth (see section 5, Trafficking).

Increasing urbanization led to more children working as casual laborers, often with no safeguards against abuse or injury.

Trafficking in Persons.—There are no laws that specifically address trafficking in persons, although laws against procuring a woman to become a prostitute, kidnap-

ping, and bonded and forced labor could be used to prosecute traffickers. There were no substantiated reports of trafficking to or from the country during the year.

There were reports of children trafficked within the country during the year. Many observers cited poverty as the underlying reason for multiple reports of sexual exploitation of children. Urban migration and the subsequent breakdown of community structures, children from outer islands living with relatives while attending high school, and homelessness all appeared to be risk factors that increased a child's chance of being exploited for commercial sex.

The government did not sponsor or provide assistance to any programs to combat or prevent trafficking in persons.

Persons with Disabilities.—All persons are considered equal under the law, including persons with disabilities, and discrimination against persons with physical disabilities in employment, education, and the provision of state services is illegal. In addition the law provides for the right of access to places and modes of transport open generally to the public and obliges proprietors of such places and services to "facilitate reasonable access for disabled persons to the extent provided by law." The 2004 public health regulations provide penalties for noncompliance. However, there was very little enabling legislation on accessibility for persons with disabilities, and there was little or no enforcement of laws protecting persons with disabilities. Building regulations issued in 2004 require new public buildings to be accessible to persons with disabilities. However, according to an HRC survey of 70 percent of public facilities in the capital, only a single fast food restaurant was fully accessible to persons with disabilities.

Persons with mental disabilities largely were separated from society and normally were supported at home by their families. Institutionalization of persons with severe mental disabilities was in a single overcrowded, underfunded public facility in the capital. There were a few special schools for persons with mental disabilities; however, costs limited access.

The government-funded Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several NGOs also promoted attention to the needs of persons with various disabilities.

National/Racial/Ethnic Minorities.—Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. The constitution notes that "the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population," but it also specifies the "paramountcy of Fijian interests" as a protective principle (see section 3).

There were instances of racial antagonism in Parliament resulting in racial and religious slurs directed in particular against Indo-Fijians. During the year the government pursued a policy of political predominance for ethnic Fijians.

Land tenure remained a highly sensitive and politicized issue. Ethnic Fijians communally held more than 80 percent of all land, the government held another 8 percent, and the remainder was freehold land, which private individuals or companies may hold.

Ethnic Fijians' traditional beliefs, cultural values, and self-identity are intimately linked to the land. Most cash-crop farmers were Indo-Fijians, the majority of whom were descendants of indentured laborers who came to the country during the British colonial era. Virtually all Indo-Fijian farmers were obliged to lease land from ethnic Fijian landowners. Many Indo-Fijians believed that their very limited ability to own land and their subsequent dependency on leased land from indigenous Fijians constituted de facto discrimination against them. Refusals by ethnic Fijian landowners to renew expiring leases have resulted in evictions of Indo-Fijians from their farms and their displacement to squatter settlements. This situation contributed significantly to communal tensions. Many indigenous Fijian landowners in turn believed that the rental formulas included in the Agricultural Land Tenure Agreement (ALTA) discriminated against them. Although a bill providing for changes in the existing ALTA was introduced in Parliament, it was defeated during the year.

During the year the Chinese Association of Fiji expressed concern about an increasing number of violent attacks directed against members of the minority Chinese community.

Other Societal Abuses and Discrimination.—The constitution prohibits discrimination on the basis of sexual orientation, but pre-existing statutes criminalize homosexual acts. In April a local citizen and an Australian tourist who engaged in consensual homosexual sexual activity were each sentenced to two years in prison on charges of an "unnatural offense" and "indecent practice between males." In August the convictions were overturned on appeal, but the case set off a widespread public debate, sparked in part by an aggressive campaign by the Methodist Church opposing homosexual rights.

Section 6. Worker Rights

a. The Right of Association.—The law protects the right of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, and the authorities respected these rights in practice. An estimated 36 percent of the work force was unionized.

All unions must register with, but are not controlled by, the government. While certain unions were ethnically based, both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

The Employment Act makes it an offense for an employer to victimize any worker or make it a condition of employment for a worker not to belong to a union. Numerous cases of victimization of workers who expressed an inclination to join a union were reported to the Ministry of Labor. However, the ministry did not protect workers effectively from antiunion discrimination, and no employer was prosecuted.

b. The Right to Organize and Bargain Collectively.—Workers have the right to organize and bargain collectively. However, wage negotiations generally were conducted at the level of individual companies rather than on an industry-wide basis. Employers are required to recognize a union if more than half of the employees in a workplace have signed membership cards; no ballots are held to determine representation. The government has the power to order recalcitrant employers to recognize unions, and it has done so in the past. Traditional key sectors of the economy, including sugar and tourism, were heavily unionized. Although the law encouraged unionization, union organizers' jobs were not protected, resulting in low unionization in some sectors.

Strikes are legal, except in connection with union recognition disputes. Trade unions can conduct secret strike ballots without government supervision. To carry out a legal strike, organizers must give an employer 28 days' notification. The Ministry of Labor also must be notified of the dispute and receive a list of all striking employees, and the starting date and location of the strike. This requirement is intended to give organizers, unions, employers, and the ministry time to resolve the dispute prior to a strike. There were some strikes during the year. Most disputes, including those in which strike action was deemed illegal, were settled by referral to a permanent arbitrator.

Union organizers were occasionally vulnerable to dismissal or to other interference by employers, particularly when operating on company premises, although in theory they have legal protection. Intimidation of workers continued to be a problem, particularly in the export processing zones (EPZs) and the retail sector. EPZs are subject to the same laws as the rest of the country. However, the Fiji Trade Union Congress (FTUC) has been unsuccessful in obtaining collective bargaining agreements in EPZs and claimed that intimidation of workers by employers was widespread. The FTUC argued that because of illegal and intimidating practices, including threats of loss of work for those active in organizing workers, unions were effectively prevented from representing workers in the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no confirmed reports that such practices occurred. In previous years there were allegations that work conditions in some garment factories might include forced or bonded labor and excessive work hours; however, by year's end most garment factories had closed or downsized due to increased international competition.

d. Prohibition of Child Labor and Minimum Age for Employment.—Inadequate enforcement of existing child labor regulations failed to fully protect children from exploitation in the workplace. Under the law children under age 12 may not be employed except in a family-owned business or agricultural enterprise. Children between ages 12 and 15 may be employed on a daily wage basis in nonindustrial work not involving machinery provided they return to parents or guardian every night. Persons between the ages of 15 and 17 may be employed in certain occupations not involving heavy machinery; however, they must be given specified hours and rest breaks. In practice the Ministry of Labor had few or no resources to investigate reports of child labor. There were only two inspectors at the ministry who conducted annual workplace inspections, and there were no inspectors to investigate reports of child labor violations. There was no comprehensive policy to eliminate the worst forms of child labor. During the year migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and prostitutes. There were reports of trafficking in children during the year (see section 5).

e. Acceptable Conditions of Work.—There was no single, national minimum wage, although the Ministry of Labor set minimum wages for certain sectors. Entry-level wages in unregulated sectors, especially service industries, provided a sparse and

often only marginally adequate standard of living for a worker and family. There were no regulations on maximum hours of work for adult males. Other than a prohibition from working in mines, there were no limitations on female employment. Workers in some industries, notably transportation and shipping, worked excessive hours.

There are workplace safety regulations, a worker's compensation act, and an accident compensation plan. Safety standards applied equally to citizens and foreign workers. However, government enforcement of safety standards suffered from a lack of trained personnel and lags in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces; however, many work areas did not meet standards and were not monitored by the Ministry of Labor for compliance. In response to public complaints, the Ministry of Labor condemned some facilities as unfit for occupation. The law accords employees the right to remove themselves from a hazardous work site without jeopardizing their employment, but most feared the loss of their jobs if they did so.

INDONESIA

Indonesia is a multiparty, democratic, presidential republic with a population of approximately 241 million. In October 2004 Susilo Bambang Yudhoyono became the country's first directly elected president as a result of elections that international and domestic observers judged to be free and fair. Voters also chose two national legislative bodies in 2004: the house of representatives (DPR) and the newly created house of regional representatives (DPD). While civilian authorities generally maintained effective control of the security forces, in some instances elements of the security forces acted independently of civilian authority.

There were improvements in the human rights situation during the year and, although significant problems remained particularly in areas of separatist conflict, the end of the country's long-running internal conflict in Aceh Province was a major step forward. The government faced an intermittent, low intensity guerrilla conflict in Papua and West Irian Jaya provinces; inter-communal violence in Maluku and Central Sulawesi provinces; and terrorist bombings in various locations. Inadequate resources, poor leadership, and limited accountability contributed to serious violations by security forces. Widespread corruption further degraded an already weak regard for rule of law and contributed to impunity. Poverty, high unemployment, and a weak education system rendered all citizens, particularly children and women, vulnerable to human rights abuses. During the year the government devoted considerable resources and attention to the recovery effort following the devastating December 2004 earthquake and tsunami that left more than 130 thousand persons dead and missing in Aceh and North Sumatra provinces. The country struggled to come to terms with human rights abuses committed by prior governments. The following human rights problems were reported:

- extrajudicial killings, particularly in areas of separatist conflict
- disappearances
- torture
- harsh prison conditions
- arbitrary detentions
- a corrupt judicial system
- warrantless searches
- infringements on free speech
- restrictions on peaceful assembly
- interference with freedom of religion by private parties, sometimes with complicity of local officials
- violence and sexual abuse against women and children
- trafficking in persons
- failure to enforce labor standards and violations of worker rights, including forced child labor

During the year there were significant improvements in the human rights situation. For the first time, citizens directly elected leaders in 149 local elections at the city, regency (county equivalent), and provincial level. On August 15, the government signed a peace agreement with the Free Aceh Movement (GAM), which both sides implemented thereby greatly reducing human rights abuses in that province.

In Papua and West Irian Jaya provinces, the government inaugurated the Papuan People's Assembly and took other steps toward fulfilling the 2001 Special Autonomy Law on Papua. Security forces showed increasing restraint in response to nonviolent separatist demonstrations in Papua. The government began an anticorruption campaign that achieved some results, including high profile convictions.

Armed separatist groups, terrorists, and militant groups also committed serious human rights abuses. In Aceh, prior to the August 15 peace agreement, rebels committed killings and kidnappings. In Central Sulawesi, Malaku, and Bali provinces terrorists conducted bombings that killed and injured many civilians. In Malaku extremists launched an attack against security forces. Militant groups attacked minority religious believers and acted to restrict religious freedom.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Security forces continued to commit unlawful killings of rebels, suspected rebels, and civilians in areas of separatist activity, where most politically motivated extrajudicial killings also occurred. There was evidence that the Indonesian Armed Forces (TNI) considered anyone killed by its forces in conflict areas to be an armed rebel. The government largely failed to hold soldiers and police accountable for such killings and other serious human rights abuses in Aceh and Papua.

Following the December 2004 earthquake and tsunami that hit Aceh Province, the government and GAM rebels pursued negotiations that resulted in an August 15 peace accord in the form of a Memorandum of Understanding (MOU). Implementation of the MOU ended an almost three decades-long conflict and resulted in a substantial decrease in human rights violations by the TNI, police, and GAM rebels.

The Human Rights Nongovernmental Organization (NGO) Coalition in Aceh reported that during the year the TNI killed 42 GAM insurgents and arrested 1; 44 civilians were killed. The same organization reported that 40 civilians and 37 GAM members were killed before the MOU and 4 civilians and 5 GAM members were killed after the MOU.

On January 3, in Bireuen, Aceh, six members of the TNI special forces (Kopassus) reportedly killed two men and injured another when the men tried to intervene in the alleged apprehension of the son of a GAM member.

Humanitarian volunteers reported that TNI and Police Mobile Brigade (Brimob) personnel killed three suspected rebels after capturing them during a joint operation in Serba Jaya village in Aceh Jaya District.

The NGO Commission for Disappearances and Victims of Violence Aceh reported that GAM killed seven civilians; the Human Rights NGO Coalition reported that GAM killed 17 soldiers during the year.

On May 4, GAM rebels allegedly shot and killed a seven-year-old boy in North Aceh Regency during a rebel ambush of a vehicle carrying the boy. The incident left 10 others, including three soldiers, injured.

The TNI and the police rarely investigated extrajudicial killings and almost never publicized such investigations.

There was no known progress in the following cases from 2004: the four civilians found dead in a jungle near Peureulak, East Aceh; the killing of civilian Cut Musdaifah in Wakheuh village; the alleged GAM killing of local legislature candidate Muhammad Amin; and the shooting death of a paramedic in South Aceh. There were no developments in the May 2003 killing of local legislature member Jamaluddin Hasany; in the July 2003 killing of former GAM member Cut Aca Budi; in the July 2003 killing of schoolteachers Muslim Sulaiman and his wife Darmawati; or in December 2003 bombing that killed 9 persons at an outdoor concert in Peureulak.

In Papua Province, the government continued to conduct operations against rebels of the Free Papua Movement (OPM), and OPM rebels continued sporadic, low intensity operations against military and police units. TNI authorities estimated that OPM forces consisted of 620 guerillas armed with approximately 150 firearms ranging from modern M–16s to outdated Mausers.

On January 17, TNI personnel allegedly beat local Papuan residents in Nabire, leaving seven seriously injured and one, Miron Wonda, dead. On April 10, in pursuit of a group of 11 OPM rebels, police carried out a raid in Mulia City, capital of Puncak Jaya Regency; the police shot and killed Tolino Iban Giri and arrested eight other persons. Local church leaders told the press that Tolino Iban Giri and the eight others were not members of OPM.

In March, in Mulia, according to the military district command, an unknown person, believed to be an OPM member, shot and killed local civilian Tinius Tabuni.

Also in Papua, the TNI and police continued to cooperate with US law enforcement in their joint investigation of the 2002 ambush that killed 2 American citizens and 1 Indonesian and injured 12 other persons near a large gold and copper mine near the city of Timika. A joint task force sought to apprehend the perpetrators, including OPM guerrilla Anthonious Wamang, who was indicted by a US grand jury in connection with the killings.

The government made limited progress in establishing accountability for numerous human rights violations committed in Papua in previous years, including those committed in Biak (1998), Abepura, Wasior, and Wamena. During the year a human rights court in Makassar acquitted both defendants of all charges in the 2000 Abepura case in which police allegedly killed at least 3 persons and assaulted up to 100 persons during a raid (see section 1.e.). In 2004 the National Human Rights Commission (Komnas HAM), an independent organization created and funded by the government, completed its report on the 2001 Wasior incident, in which police allegedly killed 12 civilians following an attack on a police post that left five policemen dead, and on the 2003 Wamena incident, in which dozens of residents of the central highlands area of Kuyowage allegedly were tortured and villages razed during a military operation that followed the April 2003 break-in at the Wamena armory. In these two cases, the commission found that soldiers and police had committed gross human rights violations, including murder, forced displacements, and torture. Komnas HAM categorized these violations as crimes against humanity and, in September 2004 submitted its report to the attorney general's office (AGO) for possible prosecution. The AGO reportedly told Komnas HAM that it would not investigate the case because Komnas HAM's report did not meet the AGO's standards or represent admissible testimony. At year's end, Komnas HAM had no plans to revise its report.

Police used deadly force to apprehend suspects or acted recklessly in pursuit of suspects, and these actions sometimes resulted in the deaths of civilians. In other cases, suspects in police custody died under suspicious circumstances.

On March 27, during a raid on a gambling establishment, police shot Sunaryoko in Tasikmadu village, East Java. Local police later detained the officers involved and reportedly disciplined them. No details about the nature of the disciplinary action were available.

During the year the government made no significant progress establishing accountability for the following 2004 abuse cases: the beating death of an East Java resident by police in June, the August killing of three persons who allegedly tried to escape police custody in Sragen, Central Java, the August killings of Hermansyah and Ade Candra who allegedly tried to escape police questioning in Pekanbaru, or the July police shooting in Poso that injured Bambang, a wrongly accused murder suspect.

In September 2004 unknown persons fatally poisoned prominent human rights activist Munir Said Thalib on a flight from Jakarta to the Netherlands via Singapore. According to a Dutch government autopsy, the cause of death was arsenic poisoning. On December 20, the Central Jakarta Court convicted Pollycarpus Budihari Priyanto, a pilot who was on the flight as a passenger, for the murder of Munir and sentenced him to 14 years in prison. The judges described the murder as a conspiracy and called for further investigation. A report on the case prepared by a presidentially appointed fact-finding team was not publicly released, but, according to press reports, concluded that Munir's killing was a conspiracy and recommended investigation of former and current officials of the State Intelligence Agency (BIN) and of Garuda airlines officials. At year's end both the prosecution and the defense were appealing the trial court's decision on Pollycarpus.

There was no progress in the investigation of the 2003 alleged suicide of Ihwanuddin, a suspected member of the terrorist organization Jemaah Islamiya (JI).

On March 29, the Palu District Court in Central Sulawesi, sentenced Sofyan, previously detained for suspected involvement in the 2004 killing of prosecutor Ferry Silalahi, to eight months in prison for possessing an illegal firearm. He was acquitted of all charges in the killing of Silalahi. During the year police arrested three new suspects for the shooting of Silalahi: Hence Said, Farid Podungge, and Wagiman. In August police turned Wagiman's case file over to prosecutors for trial; however, there have been no reported developments since that time. In November police arrested Andi Ipong, a suspect in as many as nine cases of violence in Palu and Poso. At year's end he was being questioned. There was no progress in the investigation of the 2004 killing of Reverend Freddy Wuisan near Membuke Church, Poso.

The government made very little progress during the year in prosecuting those responsible for the 1998 killing of four students at Trisakti University and nine demonstrators at Semanggi intersection, and the 1999 killing of an additional four

demonstrators at Semanggi. In 2004 Komnas HAM Chairman Abdul Hakim Garuda Nusantara asked the DPR to reverse its 2001 decision not to classify these cases as human rights violations. In July members of the DPR representing several political parties proposed forming a special committee to reopen the shooting cases based on the recommendation from the House Commission for Legal and Human Rights. However, by year's end, there were no known further developments.

During the year bombings occurred in Aceh, Bali, the Maluku islands, and Sulawesi. On October 1, three suicide bombers killed 19 persons and injured more than 100 in the tourist areas of Kuta and Jimbaran in Bali. Several senior members of the terrorist organization JI, including Malaysian national Noordin Mohammad Top, remained at large and the focus of law enforcement counter-terrorism efforts.

The courts tried a number of suspected terrorists in connection with major terrorist incidents, including the September 2004 bombing of the Australian embassy, which killed 10 and injured more than 150. Law enforcement and judicial officials arrested, tried, and convicted six men for their roles in the attack. Two of the perpetrators, Iwan Dharmawan Mutho and Achmad Hasan, both charged with planning and organizing others for the attack, received death sentences. Their appeals were pending at year's end. The other four convicted persons received sentences ranging from 3½ to 10 years in prison.

On November 9, the police exchanged gunfire with approximately five suspected terrorists, resulting in the death of two and the wounding of one police officer. The dead included Azahari bin Husin, a Malaysian national and expert bomb-maker linked with four major terrorist bombings, including the October 1 Bali bombing.

In August the Makassar District Court in South Sulawesi sentenced Agung Abdul Hamid to life imprisonment for the 2002 bombings of a McDonald's restaurant and a Toyota car dealership.

The courts continued with prosecutions related to the August 2003 Marriott hotel bombing that killed 12 persons. By year's end the courts sentenced 15 suspects to terms ranging from 3 to 12 years. The trials of two other suspects were ongoing.

Since 2002 courts convicted nearly 130 persons in connection with terrorist attacks. The harshest punishments included five death sentences and seven life sentences.

In Central Sulawesi, at least 37 persons were killed, and at least 104 persons were injured during the year. Political and economic tensions between Christians and Muslims contributed to the violence.

On May 28, a bomb exploded in a major market in the Christian majority town of Tentena, Poso Regency, killing at least 21 persons and injuring 40 others. Other small explosions occurred in front of the Indonesian Democratic Party-Struggle's office on May 15; at the Tentena market on June 29; and in the back yard of the Poso election commission on July 12. No major casualties were reported in these incidents.

During the year 13 persons were killed and approximately 80 injured in Maluku Province, significantly fewer than in 2004. As in Central Sulawesi and other conflict areas, it was not clear whether these deaths were due to interreligious conflict, or to criminal or other motives.

On May 16, unidentified gunmen attacked a Brimob operations command post in Loki village, Piru District, in West Seram Island, Maluku Province, killing seven persons, including five police officers. Police said the attackers were members of a local Islamic extremist group. On May 19, police arrested two suspects, who reportedly admitted to the attacks.

Government and police continued to make some progress in handling conflicts in Central Sulawesi and Maluku. Police made stronger efforts to investigate, arrest, and prosecute those involved in violence. In August two suspects were arrested in the investigation into the November 2004 shooting death of Reverend Susianti Tinulele; there was no further reported progress in the case. In June police declared 18 persons suspect in the May 28th Tentana bombing, including Hasman, the head of Poso prison. Police subsequently released Hasman and 13 others for lack of evidence. In October and November, five teenage girls—four Christian and one Muslim—were killed in and near Poso, Cental Sulawesi (see section 2.c.).

The Central Sulawesi provincial government and police pressed in some cases for the investigation and trial of security forces allegedly involved in past religious violence in that province. In April the national police headquarters publicly named a senior police officer as a suspect in December 2004 church bombings in Palu, Central Sulawesi—the first senior officer so identified.

In March the Maluku police detained 3 men for possible involvement in that month's bus attack that killed 4 and injured 14.

b. Disappearance.—During the year dozens of disappearances occurred, most frequently in Aceh Province, and large numbers of persons who disappeared over the

past 20 years, mainly in conflict areas, remained unaccounted for. The government reported little progress in prosecuting those responsible for disappearances that occurred in previous years.

According to the Human Rights NGO Coalition, in Aceh, 31 civilians and 1 GAM member were kidnapped during the year; 46 civilians and 4 GAM members reportedly were kidnapped in 2004. There were no reports of kidnappings after the signing of the MOU.

The security forces were implicated in some disappearances. On January 22, five TNI officers in civilian clothes allegedly kidnapped a civilian, Hamdani, and threatened his wife. The soldiers freed Hamdani three days later. On April 21, two units of the Military Joint Intelligence Unit allegedly kidnapped Dhalan bin Abdurrahman and Ardiyansyah bin Amin Yusuf, both accused of being GAM members, while conducting an operation in Cot Bak U village.

There was no known progress in the 2004 case of a wounded 16-year-old boy whom police allegedly took into custody or in the cases of Mukhlis and Zulfikar, members of the local NGO Link for Community Development.

The GAM also abducted persons during the year. On February 14, GAM members allegedly kidnapped four persons, including an eight-year-old child, and demanded a ransom. At year's end their whereabouts remained unknown. In June GAM members allegedly abducted Marhaban, a Muslim cleric representing the United Development Party, after failure to extort money from him. GAM released Marhaban after he paid an unspecified amount of money.

There was no known progress in the 2004 disappearances of elementary school teachers Muhammad Amin Alwi and Hasballah who were forcibly taken by 10 armed men in military uniforms in Nagan Raya Regency.

On December 10, police arrested the suspected kidnapper of Pentecostal minister Jarok Ratu, who was kidnapped in South Buru Island, Maluku Province in December 2004. The minister remained missing at year's end.

On September 14, Komnas HAM announced the results of their inquiry into the 1998 abductions of 12 to 14 prodemocracy activists during the rule of former president Suharto. Despite refusals from military personnel to cooperate in the investigation, Komnas HAM concluded that all victims still missing were dead and identified suspects for an official investigation without publicly releasing their names.

In Papua there were no credible reports of disappearances during the year. The government did not report any progress in prosecuting those responsible for disappearances that occurred in previous years, including those of Martinus Maware, Mathius Rumbrapuk, or Hubertus Wresman.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law makes it a crime punishable by up to four years in prison for any official to use violence or force to elicit a confession; however, law enforcement officials widely ignored such statutes. Security forces continued to employ torture and other forms of abuse. The government made some efforts to hold members of the security forces responsible for acts of torture. During the year the use of torture to obtain confessions from suspects was most apparent in Aceh and Papua.

Torture was sometimes used to obtain confessions, punish suspects, and seek information that incriminated others in criminal activity. Security forces also allegedly used torture to extort money from villagers. Reliable figures on the number of incidents of torture that occurred during the year were difficult to obtain. Torture used included random beatings, bitings, whippings, slashings, and burnings.

In Aceh Province the Human Rights NGO Coalition reported 80 cases of civilians and no cases of GAM members tortured, compared with 77 civilians and 7 GAM members tortured in 2004. In September 2004 Human Rights Watch (HRW) reported widespread abuse of prisoners in Aceh by security forces, including electric shocks and beatings with wooden beams and gun butts. The government announced it would investigate the allegations; however, at year's end, there were no known investigations.

The Legal Aid Foundation in Papua and Komnas HAM in Papua reported that there were 35 cases of torture by security forces in Papua during the year.

On February 16, 10 Marines reportedly beat 6 internally displaced persons (IDPs) in Aceh for being unable or unwilling to supply them with information on the whereabouts of GAM members. In another alleged incident, eight TNI members dragged a 53-year-old village head behind a pickup truck from his village to the nearest TNI post, allegedly as punishment for not reporting that GAM members passed in front of his house on occasion.

In May local NGOs accused a police officer and three military personnel of torturing Ivan Mardiawan, a Surabaya resident. The then Surabaya police chief publicly pledged to investigate the case; at year's end, no information regarding the status of an investigation was available. In January the NGO People's Justice and

Human Rights Legal Aid Commission (LBHKR–HAM) reported the Surabaya police to the provincial legislature for alleged human rights violations. LBHKR–HAM accused the Surabaya police of mistreating two suspects during interrogation in a narcotics case.

On July 14, soldiers allegedly tortured a presumed OPM member by slashing his face and body with a knife and razor and then pouring petrol over his head and setting his hair on fire. On July 22, 14 soldiers allegedly tortured two Papuan civilians over the course of a day. The soldiers reportedly kicked, bit, and punched them. The soldiers then tied up one of the victims and set fire to dried weeds on his back after whipping him.

The government reported no progress in prosecuting those responsible for acts of torture committed in Aceh in 2004 or 2003, including in those cases detailed in reports by HRW and Amnesty International (AI).

There was no new progress in the case of suspected JI member Saifudin Umar, alias Abu Fida, who was found seriously injured in an East Java hospital in August 2004. He claimed to have been secretly arrested and tortured by police, who admitted arresting Abu Fida for helping to hide two JI fugitives; however, police denied torturing him.

On March 24, in Blang, Bintang District of Aceh Besar, the Banda Aceh military court sentenced six military personnel to three months in jail each for beating Farid Faqih on January 26. Faqih was in custody for allegedly stealing aid meant for victims of the December 2004 tsunami.

During the year television news broadcasts frequently aired scenes of police hitting and kicking apprehended criminal suspects, including minors, and footage of persons in police custody who clearly appeared physically abused.

On June 24, in Aceh, Shari'a (Islamic law) police publicly caned 52 persons convicted of gambling, consumption of alcohol, and being alone with members of the opposite sex who were not blood relatives.

On August 15, dozens of military personnel from an infantry battalion in Lumajang, East Java, attacked Kalibuntu village of Probolinggo Regency, East Java. The incident left approximately 100 persons injured and several motorcycles, cars, and houses damaged. Local residents believed the attack may have been prompted by the stabbing a week earlier of a member of the battalion by a village resident. The East Java military commander later apologized publicly to local residents and promised to fire all personnel involved in the attack. In August the military discharged the battalion commander and two other members of the infantry battalion involved in the attack.

Rapes occurred in conflict zones (see section 5). Human rights advocates blamed many of the rapes on soldiers. Statistics were unavailable, but credible sources provided a number of accounts involving soldiers. The extent to which rape was a problem in Aceh was hard to assess, due to social stigma, lack of reporting, and restricted access to the region.

The Council of the Central Information for Referendum Aceh (SIRA) (a GAM-funded NGO) reported four cases of rape by military personnel in Aceh.

According to SIRA, on February 7, soldiers raped a villager in Julok, East Aceh. The local unit commander questioned the victim but there was no information regarding any further investigation. SIRA also reported that on May 6, soldiers raided a house in Kambam, North Aceh in search of a suspected GAM member but when the soldiers found only his wife they interrogated and raped her, reportedly as punishment for her answers regarding her husband's activities and whereabouts.

There was no reported progress in the investigation of the 2004 case of the TNI soldiers who repeatedly raped a 16-year-old girl in Kampung Meureu Baro-Indrapuri over a period of several months, leaving her pregnant.

In September police charged Bogor police chief Bambang Wasgito with assault for slapping a subordinate who failed to intervene in an attack against Wasgito's 15-year-old son. Wasgito's driver was also charged with serious assault for causing severe injuries.

On April 29, Brimob personnel attacked a TNI soldier in revenge for a previous assault by a group of soldiers on a police station in Cimanggis, Depok. According to the latest public information available, the police had no suspects at year's end.

On March 21, two unidentified men hurled a hand grenade into a Muslim neighborhood in the Batumerah area of Ambon City, injuring five persons. The incident sparked retaliation from Muslim residents, who attacked a bus carrying Christians in the nearby Kapaha neighborhood, injuring a total of 14 persons.

On April 26, in Poso City two small explosions occurred in front of the offices of the NGOs, Poso Conflict Resolution Working Group and Institute for the Empowerment of Civil Society; there were no injuries. Police and local persons believed that

the attacks were related to upcoming local elections or a corruption case involving Poso refugee funds.

On August 24, a home-made bomb exploded inside a pedicab in the Mardikaa market in Ambon, injuring nine persons and damaging motorcycles and cars parked nearby. Police made five arrests, four of them just hours after the incident. While in pursuit of the four, police shot and wounded two suspects, one of whom died in the hospital. At year's end the police were investigating the suspected planner of the bombing.

Mobs carried out vigilante justice, but reliable statistics on such actions were not available. Incidents of theft or perceived theft triggered many such incidents. For example, on February 13, in Banyumas, Central Java, a mob beat and badly injured Suhartim after a house owner spotted him breaking into his house. On July 4 in Sanur, Bali, a mob beat Putu Bayu Widiantara for stealing a cellular telephone. No official action was taken against those responsible for these beatings.

Unlike last year there were no reports of security forces marking the houses of families of suspected GAM members with a red "X" or "GAM."

No known progress was made in the investigation of the alleged revenge burning by Brimob of 80 shops and homes in Keude Seuneddon, North Aceh, in a 2003 incident that occurred immediately after the killing of 2 Brimob officers.

Prison and Detention Center Conditions.—Conditions at the country's 365 prisons and detention centers were harsh, and overcrowding was widespread. Occupancy frequently was two or three times over recommended capacity. Guards regularly mistreated inmates and extorted money from them. There were widespread reports that the government did not supply sufficient food to inmates, and family members often brought food to supplement their relatives' diets. Unruly detainees were held in solitary confinement for up to six days on a rice-and-water diet.

On July 30, Miftahudin Yulianto, a prisoner at Salemba Prison, died after allegedly being denied proper medical attention.

The wealthy or privileged had access to better treatment in prison. During the year the country's most famous inmate, Hutomo "Tommy" Suharto, the son of former president Suharto convicted of arranging the killing of a judge in 2004, reportedly left his Central Java prison cell for Jakarta every month via helicopter and stayed at a luxury hotel while being treated at Subroto Army Hospital for a benign tumor behind his eye.

Most children convicted of serious crimes served their sentences in juvenile prisons. However, in the arrest and trial phases, authorities held juveniles in detention centers with adults (see section 5). In theory, prisons held those convicted by courts, while detention centers held those awaiting trial; however, in practice, pretrial detainees at times were held with convicted prisoners.

There were no official restrictions on prison visits by human rights monitors, and prison officials granted varying degrees of access. The International Committee of the Red Cross made some visits to prisoners during the year.

d. Arbitrary Arrest or Detention.—The law contains provisions against arbitrary arrest and detention but lacks adequate enforcement mechanisms, and authorities routinely violated it. The law provides prisoners with the right to notify their families promptly and specifies that warrants must be produced during an arrest. Exceptions are allowed if, for example, a suspect is caught in the act of committing a crime. The law allows investigators to issue warrants; however, at times, authorities made arrests without warrants.

Role of the Police and Security Apparatus.—The president appoints the national police chief, subject to DPR confirmation. The police chief reports to the president but is not a full member of the cabinet. The National Police has approximately 250 thousand officers deployed throughout the 33 provinces. The police have largely maintained a centralized hierarchy, in which local police forces formally report to their national headquarters rather than to local governments. The military is responsible for external defense but also has domestic security responsibilities. In Aceh the Shari'a police, a provincial body, is responsible for enforcing Shari'a law.

During the year police generally improved their ability to fight crime and apprehended more than 45 suspects in terrorist attacks. Overall, however, police professionalism remained low, as did their respect for human rights and effectiveness at investigating human rights abuses. Impunity and corruption remained significant problems. There were instances in which the police failed to respond to mob or vigilante violence. Police commonly extracted bribes, from minor payoffs in traffic cases to large bribes in criminal investigations. The Division of Profession and Security (Propam) reportedly investigated 90 police officers in Jakarta, resulting in 34 dismissals during the year. Other punishments varied from demotion to criminal prosecution. Unlike in previous years, the police also investigated several high-ranking

police officers. In October Propam arrested police Brigadier General Ismoko for discriminatory practices against suspects in the Bank Negara Indonesia (BNI) bank fraud case. He has been charged under criminal law and at year's end was awaiting trial. In the same BNI case, Commissioner General Suyitno Landung (former head of the Criminal Investigation Division and current governor of the National Institute of Defense) was arrested in December on suspicion of accepting bribes.

In November Propam forced police Inspector General Binarto into early retirement; Binarto admitted sending a text message to the chief of police in Surabaya asking him to release a suspect in a case of illegal logging.

In December Propam declared Inspector General Saleh Saaf a suspect in the investigation of corruption in the purchase of communications equipment.

Arrest and Detention.—A defendant may challenge the legality of his arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained; however, defendants rarely won pretrial hearings and almost never received compensation after being released without charge. Military and civilian courts rarely accepted appeals based on claims of improper arrest and detention. The law limits periods of pretrial detention. Police are permitted an initial 20-day detention, which can be extended to 60 days; prosecutors may detain a suspect 30 days initially, with a 20-day extension permitted. Prosecutors may extend police detention periods, and a district court may further extend prosecutors' detention of a suspect. The district and high courts may detain a defendant up to 90 days during trial or appeal, while the Supreme Court may detain a defendant 110 days while considering an appeal. In addition, the law allows detention periods to be extended up to an additional 60 days at each level if a defendant faces a possible prison sentence of 9 years or longer or if the individual is certified to be mentally or physically disturbed. Authorities generally respected these limits in practice.

In areas of separatist conflict, such as Aceh and Papua, police frequently and arbitrarily detained persons without warrants, charges, or court proceedings. The authorities rarely granted bail, frequently prevented access to defense counsel during investigations, and limited or prevented access to legal assistance from voluntary legal defense organizations.

On March 3, Brimob forces detained Muladi bin Sulaiman, a farmer from Aceh Jaya Regency suspected of being a GAM member, and beat him until he was unconscious. He was later transferred to West Aceh police resort before his release.

Amnesty.—On August 30, the government amnestied more than 1,500 GAM prisoners. In accordance with the MOU, the government unconditionally released all remaining prisoners and detainees held due to the conflict. The government facilitated the reintegration of the released prisoners, which proceeded without violence. The government continued to hold a relatively small number of GAM personnel who it maintained had been convicted on criminal charges.

e. Denial of Fair Public Trial.—The law provides for judicial independence. In practice, the judiciary became increasingly independent but remained influenced at times by the executive branch, the military, business interests, and politicians. The Constitutional Court demonstrated significant independence and, in some major cases, ruled against the government. Low salaries continued to encourage corruption, and judges were subject to pressure from government authorities, which often influenced the outcome of cases.

Under the Supreme Court are general, religious, military, and administrative courts. The law provides for the right of appeal. The Supreme Court does not consider factual aspects of a case but rather the lower court's application of the law. Parallel to the Supreme Court is the Constitutional Court, which is empowered to review the constitutionality of laws, settle disputes between state institutions, dissolve political parties, resolve certain electoral disputes, and decide allegations of treason or corruption against the president or vice president. The judicial branch theoretically is equal to the executive and legislative branches, and it has the power of judicial review of laws passed by the DPR; government regulations; and presidential, ministerial, and gubernatorial decrees. In practice, the judiciary was less influential than the executive and legislative branches.

In the country's 2,418 district courts, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and assessing punishment. At times, judges reversed initial judgments in the appeals process, and sometimes lengthened or shortened sentences. Both the defense and prosecution can appeal verdicts.

Trial Procedures.—The law presumes that defendants are innocent until proven guilty. It also permits bail, which was used but rarely in areas of separatist conflict. Court officials sometimes accepted bribes in exchange for granting bail. Defendants have the right to confront witnesses and call witnesses in their defense. An excep-

tion is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court; in such cases, sworn affidavits may be introduced. The courts allowed forced confessions, particularly in conflict areas, and limited the presentation of defense evidence. Defendants have the right to avoid self-incrimination but generally were required to give testimony before the conclusion of a trial. However, in practice, defendants regularly refused to answer questions.

The law gives defendants the right to an attorney from the time of arrest and at every stage of examination, and requires that counsel be appointed in cases involving capital punishment or a prison sentence of 15 years or more. In cases involving potential sentences of five years or more, the law requires the appointment of an attorney if the defendant is indigent and requests counsel. In theory, indigent defendants may obtain private legal assistance, and nongovernmental lawyer associations provided free legal representation to indigent defendants. For example, the Women's Legal Aid Foundation (LBH–APIK) represented many women who otherwise could not afford representation. In many cases, procedural protections, including those against forced confessions, were inadequate to ensure a fair trial.

Prior to the implementation of the MOU, many suspected GAM members were denied their right to a fair trial. Defendants rarely had counsel present during interrogations and usually had no counsel during court proceedings. Defendants rarely were able to confront their accuser. The prosecution usually based its cases on testimony given by witnesses to government investigators; neither witnesses nor investigators appeared in court, and only written witness statements were submitted. Prosecutors rarely produced physical evidence, which they claimed was not available because it consisted of military weapons. In 2004 a lawyer with a legal aid organization told AI that in nearly 100 cases handled by his organization only 2 defense witnesses agreed to appear.

Widespread corruption continued throughout the legal system. Bribes influenced prosecution, conviction, and sentencing in countless civil and criminal cases. The National Ombudsman Commission (KON) reported that 36 percent of complaints they received were related to judicial corruption, which involved judges, clerks, and lawyers. For example, former Aceh Governor Abdullah Puteh's attorney, Teuku Syaifuddin Popon, was caught delivering $25 thousand (250 million rupiah) to two Jakarta high court clerks, Ramadhan Rizal and Mochammad Soleh, to win his client's case. Popon, Rizal, and Soleh were all standing trial at year's end. On September 30, the Corruption Eradication Commission (KPK) arrested five employees of the Supreme Court and a lawyer in an alleged bribery incident involving Probosutedjo, the half-brother of former president Suharto. According to press reports, KPK officials confiscated approximately $480 thousand (approximately 5 billion rupiah), which they believed was to be used to bribe Supreme Court Chief Justice Bagir Manan (see section 3). Probosutedjo admitted to paying $600 thousand (6 billion rupiah) to his lawyer to bribe the court, but claimed he did so to assist an anticorruption investigation. Bagir Manan denied accepting a bribe from Probosutedjo.

Most judges earned $180 to $203 (1.8 million to 2.03 million rupiah) per month, while a judge with three decades' experience earned approximately $594 (5.94 million rupiah) per month. Key individuals in the justice system not only accepted bribes but also appeared to turn a blind eye to other government offices suspected of corruption.

Apart from the handful of soldiers who were tried in human rights courts, hundreds of low-level and sometimes mid-level soldiers were tried in military court, including for offenses that involved civilians or occurred when soldiers were not on duty. If a soldier was suspected of committing a crime, military police investigated and then passed their findings to military prosecutors, who decided whether or not to prepare a case. While administratively managed by the TNI, military prosecutors and judges were responsible to the AGO and the Supreme Court for the application of laws. However, under the "one roof system" adopted in 2004, the Supreme Court exercises administrative control over military and religious courts. A three-person panel of military judges heard trials while the military high court and the military supreme court heard appeals. Some civilians criticized the short length of prison sentences imposed by military courts. TNI legal officials noted that all personnel sentenced to terms of three months or longer, regardless of their record or length of service, were discharged from military service.

Four district courts adjudicated cases of gross human rights violations. The law provides for each court to have five members, including three noncareer human rights judges, who are appointed to five-year terms. Verdicts can be appealed to the standing high court and the Supreme Court. The law provides for internationally recognized definitions of genocide, crimes against humanity, and command responsibility, but it does not include war crimes as a gross violation of human rights.

On September 8 and 9, in its first verdict, the country's first permanent human rights court in Makassar, South Sulawesi, found that 2000 police attacks against almost 100 victims in Abepura, Papua, were not "crimes against humanity"; the court dismissed all charges against Brimob Brigadier General Johny Wainal Usman and South Sulawesi Police High Commissioner Daud Sihombing. The court also denied the victims' request for rehabilitation and compensation. Prosecutors appealed to the Supreme Court, which had not begun its review of the decision at year's end (see section 1.a.).

In August 2003 the ad hoc Human Rights Tribunal for East Timor concluded its trial phase in Jakarta. Of the 18 defendants, 6 were convicted at the trial level: Adam Damiri (3 years), Abilio Jose Soares (3 years), Noer Muis (5 years), Eurico Guterres (10 years), Sudjarwo (5 years), and Hulman Gultom (3 years). The defendants were convicted in connection with atrocities that occurred during April 1999 and September 1999 in three East Timor locations: Liquica, Dili, and Suai. In July 2004 the Jakarta High Court overturned the convictions of Damiri, Noer Muis, Hulman Gultom, and Sudjarwo, and reduced Guterres' sentence from 10 years to 5 years but confirmed Soares' sentence. In 2004 the Supreme Court acquitted Soares. During the year the Supreme Court confirmed the High Court's acquittal of Sudjarwo and Gultman and the trial court's acquittal of Tono Suratman. The prosecution did not appeal Damiri's case. At year's end the Supreme Court was still reviewing the cases of Noer Muis and Guterres.

East Timor's Serious Crimes Unit indicted a total of 391 individuals for crimes against humanity committed during and after the 1999 referendum; however, 290 of these individuals remained at large with little chance of being returned to East Timor to stand trial. During the year the UN sent a Commission of Experts to Indonesia to evaluate the ad hoc tribunal and Serious Crimes Unit and to recommend next steps for achieving accountability. The commission recommended that either Indonesia retry the perpetrators of violence within six months or that the cases be tried before an international tribunal. The commission also included the possibility of an exceptional international criminal code investigation (that would extend the Court's jurisdiction to crimes committed before its establishment) if the above recommendations were not implemented.

Meanwhile, the governments of Indonesia and East Timor formed a bilateral Truth and Friendship Commission (TFC) to address accountability for the 1999 crimes. Indonesia's commissioners included a Catholic bishop, a senior diplomat, former members of Komnas-HAM and a retired general. The TFC began work, but did not hold public hearings or reach any findings by the end of the year.

In 2003 the ad hoc human rights tribunal for the 1984 Tanjung Priok incident, in which dozens and perhaps hundreds of persons were shot and killed, held its first court sessions in Jakarta. Panels consisting of 5 judges heard the cases of 16 defendants, including retired Army Major General Pranowo; retired Army Major General Rudolf Adolf Butar-Butar; Army Major General Sriyanto Mutrasan, the commander of Army Special Forces; and other lower-ranked military officers and enlisted personnel under the command of Captain Sutrisno Mascung. All of the defendants faced charges of crimes against humanity. The tribunal sentenced Butar-Butar to 10 years in prison and found 13 others guilty and sentenced them to 2 or 3 years in jail. The prosecutors had requested 10-year sentences. The court found Pranowo and Muntrasan not guilty. In July the high court overturned all 14 convictions and upheld the lower court's finding that Pranowo and Muntrasan were not guilty as well. At year's end, all 16 defendants remained free as the Supreme Court considered the AGO's second level appeal.

In September 2004 the Central Jakarta District Court found *Tempo* magazine chief editor Bambang Harymurti guilty of criminal libel and sentenced him to a year in prison. NGOs and journalists complained that the court should have applied the 1999 Press Law rather than the Criminal Code in the case. The use of the Press Law would have provided plaintiff Tomy Winata the right of reply or imposed a fine on *Tempo* rather than a prison sentence. During the year Harymurti filed an appeal but lost again at the high court. At year's end, Harymurti remained free pending the outcome of his second appeal (see section 2.a.).

In September 2004, the DPR passed legislation to establish a "Truth and Reconciliation Commission" to investigate human rights violations before making recommendations to the president to grant amnesty to abusers and rehabilitation to their victims. The legislation would allow the commission to recommend amnesty for a confessed violator even in cases in which the victim does not consent. Once the commission has resolved a case, it cannot later be filed in a human rights court. During the year the government took steps to form the commission. The selection committee narrowed the pool of candidates to 42, from an original pool of 1,883 can-

didates; the president, with DPR approval, will ultimately select 21 commission members.

In October 2004 Supreme Court Chief Justice Bagir Manan inaugurated the first Shari'a courts in Aceh. Under the new system, 19 district religious courts and 1 court of appeals heard cases. The courts heard only cases involving Muslims and used decrees formulated by the Aceh local government rather than the penal code. During the year a new gubernatorial decree made caning the Shari'a court punishment for persons found guilty of gambling, drinking, or being alone with a nonrelated member of the opposite sex (see sections 1.c. and 2.c.).

Political Prisoners.—The August 15 MOU signed between the government and GAM rebels required the government to release "political prisoners and detainees held due to the conflict . . ." This group of prisoners largely consisted of persons held by the government based on their alleged association with or participation in the armed secessionist conflict, or alleged acts of treason associated with the conflict. The government implemented this requirement but continued to hold a relatively small number of persons whom it said had been convicted of criminal offenses.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law requires judicial warrants for searches except for cases involving subversion, economic crimes, and corruption. The law also provides for searches without warrants when circumstances are "urgent and compelling." Security officials occasionally broke into homes and offices. The authorities occasionally conducted surveillance on individuals and their residences and monitored telephone calls. Corrupt officials sometimes subjected migrants returning from abroad, particularly women, to arbitrary strip searches, theft, and extortion at special lanes set aside at airports for returning workers.

Land disputes generated charges of unfair evictions and the use of excessive force by security officials. The NGO Jakarta Resident Forum estimated that security officials evicted at least 5 thousand persons during the year compared with 20 thousand in 2004.

The National Identity Card (KTP), which all citizens are required to carry, identifies the holder's religion. NGOs charged that the KTPs undermined the country's pluralistic tradition and endangered cardholders who traveled through an area of interreligious conflict. Members of the five religions officially recognized by the government—Islam, Protestantism, Catholicism, Hinduism, and Buddhism—had little or no trouble obtaining accurate identification cards; however, members of other religions frequently were denied either a card or one that accurately reflected their faith. Additionally, low-level officials and village heads responsible for issuing KTPs often demanded small bribes or made the process inordinately bureaucratic, which made it difficult for disadvantaged groups such as itinerant workers, the poor, and the homeless to obtain KTPs.

In many parts of the country, particularly in Kalimantan and Papua, local residents believed that the government-sponsored transmigration program interfered with their traditional ways of life, land usage, and economic opportunities. No new families have transmigrated since 2004. The government continued to support at least 87,678 households moved in previous years from overpopulated areas to 369 more isolated and less developed areas in 24 different provinces.

The government used its authority, and at times intimidation, to appropriate land for development projects, often without fair compensation. In other cases, state-owned companies were accused of endangering resources upon which citizens' livelihood depended. On May 3, President Yudhoyono signed a decree on land acquisition for public use, which allows the government to acquire land for public development projects even if landowners have not agreed on the amount of compensation. A number of NGOs argued that the decree served the interests of wealthy developers at the expense of the poor.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and freedom of the press; however, the government at times restricted these rights in practice. A vigorous, independent media operated in the country and generally expressed a wide variety of views without restriction. However, during the year the government jailed at least three antigovernment protestors convicted of "insulting the president" or "spreading hatred against the government" and four others for raising separatist flags. In addition, politicians and powerful businessmen often filed criminal or civil complaints against journalists whose articles they found insulting or offensive. Also during the year some journalists faced threats or violence.

In May a court sentenced two student activists to jail for insulting the president. The court sentenced Monang Johannes Tambunan, a student activist of the Indo-

nesian National Students Movement Presidium, to six months in prison for calling the president a dog and a pig during a January 28th demonstration held in front of the presidential palace. On May 26, the court sentenced Bay Harkat Jonday Firdaus, a Syarif Hidayatullah State Islamic University student, to five months and two days in prison for burning pictures of President Yudhoyono and Vice President Jusuf Kalla during a protest against the fuel price increase in December 2004. On June 10, the Denpasar District Court sentenced I Wayan Gendo Suardana, a law student at Udayana University, to six months in prison for setting fire to the president's picture during a protest against the government's plan to raise fuel prices.

Courts convicted four persons in Papua of treason for raising the separatist "Morningstar" flag. Courts sentenced Filep Semuel Karma to 15 years in prison and dismissed him from the civil service; Yusak Pakage to 10 years; Moses Aspalek to 6 years; and Moses Holago to 4 years (see section 2.b.).

In May, according to press reports, a court sentenced two journalists from Lampung to nine months in jail for libeling Alzier Dianis Thabranie, the leader of the Golkar Party's Lampung chapter, in a story on vote-buying in Lampung during the 2004 presidential election.

Abdulla Hendropriyono, former chief of BIN, filed criminal defamation charges against Rachland Nashidik, program director for The Indonesian Human Rights Monitor and Usman Hamid, coordinator for The Commission for Disappearances and Victims of Violence. Both Nashidik and Hamid were prominent members on the government-established fact-finding team investigating the murder of human rights campaigner Munir (see section 1.a.). Hendropriyono said the two spread damaging rumors about him and defamed him during the course of the team's work. The police questioned both Nashidik and Hamid, but at year's end they remained free.

Akbar Tandjung, former DPR speaker, sued Retno Listyarti, a civics teacher at a senior high school, and publisher PT Erlangga for writing and publishing a textbook he considered libelous. The textbook used Akbar's 2003 graft trial (in which he was found innocent on appeal) to illustrate issues of transparency and the social safety net. Akbar also complained that the inclusion of the graft trial in the textbook had a psychological impact on one of his daughters, whose school used the book. In an out-of-court settlement, Listyarti agreed to revise the textbook.

On October 6, Chief Justice Bagir Manan directed judges across the country to fine, not imprison, journalists found guilty in criminal cases related to press disputes. However, he defended the application of the criminal code rather than the more liberal press law in certain cases.

Following the December 2004 tsunami, the government eased restrictions on domestic and international press access to tsunami-affected areas in Aceh, imposed under the civil emergency. The government ended the state of civil emergency in Aceh on May 18, lifting legal restrictions on the press, movement, assembly, and other civil rights. In practice, the ability of the TNI to limit information affected the ability of journalists to report freely, as did ad hoc interventions by local officials.

Although the government did not formally restrict foreign journalists from traveling to the provinces of Papua and West Irian Jaya, as a matter of practice the government expected journalists to request permission through the foreign ministry or, if abroad, through the nearest Indonesian embassy. The government approved some requests and denied others. Some journalists traveled to Papua without specific government permission. There were no reports of restrictions on journalists traveling to previous areas of conflict in Maluku, North Maluku, and in Sulawesi.

Journalists faced violence and intimidation from police, soldiers, government officials, rebels, thugs, students, and ordinary citizens. As of August, the Alliance of Independent Journalists (AJI) recorded at least 14 physical attacks against journalists as well as 15 nonphysical acts that included verbal threats and lawsuits. In August, I Wayan Puspa Negara, a member of the Badung District parliament, threatened to shoot Ashadi Iksa, a journalist for the *Nusa* daily, for an article titled "The New Provincial Government Asks for More Budget on Clothes up to Rp. 28 million." In May unknown persons repeatedly telephoned Heri, a journalist for the national news agency Antara, threatening to smash his head if he did not stop writing "awful news."

In 2003 persons linked to tycoon Tomy Winata entered *Tempo* magazine's headquarters in Jakarta and criticized an article that implied Winata stood to benefit from a fire that destroyed a Jakarta market. They assaulted *Tempo* journalists, including chief editor Bambang Harymurti, at the headquarters and later at a police station. *Tempo* lawyers reported the matter to the authorities and sued the assailants, but judges exonerated the group's leader. Winata's attorneys responded by initiating four lawsuits (two civil and two criminal), which free press activists asserted were attempts to intimidate the media. In September 2004 the Jakarta High Court overturned two district court decisions in civil suits against *Tempo*, finding in favor

of *Tempo* and dismissing fines levied by the district court against the magazine. However, two days later, the Central Jakarta District Court found *Tempo* guilty of criminal libel and sentenced Bambang Harymurti to a year in prison; the court acquitted *Tempo* journalists Ahmad Taufik and Teuku Iskandar Ali. Human rights observers called the decision a blow to press freedom in the country and criticized the prosecutors' decision to use the criminal code on libel instead of the 1999 Press Law. Harymurti filed an appeal but the decision was upheld by the high court. At year's end, Harymurti remained free pending a Supreme Court decision on his second appeal.

On June 25, approximately two thousand persons calling themselves the Palu City Muslim community, held a protest against an opinion article entitled "Islam, A Failed Religion" written by Rus'an, a lecturer at Muhammadiyah University in Palu, which highlighted corruption in the country. In response the management of Central Sulawesi's biggest daily, *Radar Sulteng*, decided not to publish the newspaper for three days. The police, after questioning a number of witnesses including expert witnesses from a Central Sulawesi branch of the Indonesian Council of Ulemas (MUI), charged Rus'an with insulting Islam. However, MUI later withdrew the charges and authorities released him.

During the year the government took no legal action against any person responsible for crimes committed against journalists in 2004. In 2003 the Central Jakarta District Court ordered Jakarta Governor Sutiyoso to apologize to a reporter intimidated by a city public order officer who tried to prevent him from covering a 2002 eviction. Sutiyoso lost his appeal to a high court and twice appealed to the Supreme Court. The second appeal remained under consideration at year's end.

In 2004 the government implemented a broadcasting law, which included measures for licensing additional frequencies and establishing an impartial broadcasting commission. Since its inception, the Broadcasting Commission has been largely ineffectual due to an inadequate budget and legal uncertainty regarding its authority.

Despite incidents of violence and intimidation of the press, unity among journalists and their commitment to protect their colleagues continued to strengthen. Some members of the press also continued aggressive reporting on such issues as corruption, the Munir murder case, and environmental degradation. Regional media increasingly prospered. In addition, moderate Islamic publications continued to increase in number and popularity.

There were no government restrictions on the Internet or academic freedom.

The government-supervised Film Censorship Institute continued to censor domestic and imported movies for content deemed pornographic or religiously offensive. In December the government banned two films about East Timor from being shown at a Jakarta film festival. The film festival organizers quoted the government as stating that the films "might remind the people of an old wound."

By law, communist teachings cannot be disseminated or developed; however, on February 4, with no government interference, former president Abdurrahman Wahid launched the publication of an Indonesian-language version of Karl Marx's *Capital*.

On several occasions during the year an extremist group, the Islamic Defenders' Front (FPI), sought to limit freedom of expression through intimidation. In June FPI attempted to disrupt a beauty contest for transvestites. In September FPI intimidated an art curator into covering up art they found offensive. In both cases, the FPI filed charges of insulting Islam with the police.

A number of Muslim groups, led by FPI, also reported a popular local rock group to the police for blasphemy on April 26; the group allegedly used the word "Allah" in Arabic script on an album cover. The Muslim groups also complained that the band, during a concert, stepped on the word, which was painted on stage. The band changed the album cover. In June the lead singer for the same band received complaints from a Hindu organization for having a Hindu God on the cover of an album. The singer apologized and changed his album cover.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right; however, the government restricted this right in conflict areas. The law generally does not require permits for social, cultural, or religious gatherings; however, any gathering of five or more persons related to political, labor, or public policy requires police notification, and demonstrations require a permit.

Although the Papua Special Autonomy Law permits flying a flag symbolizing Papua's cultural identity, police arrested Philep Karma and Yusak Pakage for flying the Papuan Morning Star flag, identified with the armed separatist struggle (see section 2.a.) in December 2004. On December 1, police refused permission for a pro-

separatist demonstration in Abepura, and prevented several hundred demonstrators from occupying the planned site of the aborted demonstration. On the same day, a student demonstration in Jayapura proceeded without incident.

During the year there were reports of police using excessive force in controlling demonstrations. On May 10, a court session in Jayapura trying Karma and Pakage ended in chaos when spectators lobbed stones into the court grounds, and police officers guarding the court fired warning shots. The ensuing violence injured dozens of persons, including 10 police officers. The national police chief asserted that the police had overreacted, and Jayapura police chief Son Ani and his subordinate Novly Pitooy were removed from their positions. Nine other lower-ranking officers were demoted and detained for human rights and procedural violations. On May 26, the Jayapura District Court sentenced Karma and Pakage to 15 and 10 years in jail respectively for treason.

In other instances police showed restraint in dealing with violent demonstrations. For example, in Central Lombok, on September 19, in a dispute between landowners and airport officials, several hundred farmers attacked police with rocks and arrows. The police responded with rubber bullets and other nonlethal crowd control measures. None of the demonstrators were seriously injured.

In Aceh, before the end of the civil emergency on May 18, some permits for gatherings were denied if the meetings were deemed political in nature. In April the civil authorities denied the Consortium for Assisting Refugees and the Displaced in Indonesia's request for a permit to hold a workshop on international standards for refugee care. The authorities did not give a reason for the denial.

Since the end of the civil emergency and especially after the August signature of the MOU, peaceful assemblies occurred frequently and without incident. As a result of the MOU, the authorities granted Muhammad Nazar, chairman of SIRA, amnesty and freed him on August 30. Authorities arrested Nazar in February 2003 for planning a public rally in Lhokseumawe, Aceh.

Freedom of Association.—The law provides for freedom of association, and the government generally respected it in practice. The Communist Party was banned in 1966.

c. Freedom of Religion.—The law provides for "all persons the right to worship according to his or her own religion or belief" and states that "the nation is based upon belief in one supreme God." The government generally respected the former provision, but only five major faiths—Islam, Protestantism, Catholicism, Hinduism, and Buddhism—received official recognition in the form of representation at the Ministry of Religious Affairs. Other religious groups were able to register with the government, but only with the Ministry of Home Affairs and only as social organizations. These groups experienced official and social discrimination. The law does not recognize atheism, and in practical terms requires all persons to identify themselves with one of the five faiths acknowledged by the government.

The civil registration system continued to discriminate against members of minority religions. Civil registry officials refused to register the marriages or births of children of animists, Confucians, members of the Baha'i faith, and others because they did not belong to one of the five officially recognized faiths. According to the Hindu association Parisadha Hindu Dharma Indonesia, Hindus, particularly in North Lampung, Southeast Sulawesi, Kalimantan, and some areas in East Java, despite official recognition of their religion, sometimes had to travel some distance to register marriages or births because local officials could not or would not perform the registration. Persons whose religion was not one of the five officially recognized faiths as well as persons of Chinese descent had difficulty obtaining a KTP, which was necessary to register marriages, births, and divorces. Several NGOs and religious advocacy groups urged the government to delete the religion category from the KTPs (see section 1.f.).

Men and women of different religions experienced difficulties in marrying and in registering marriage. The government refused to register a marriage before a religious marriage ceremony had taken place. However, very few religious officials were willing to take part in a wedding involving a man and woman of different faiths. For this reason, some soon-to-be brides and grooms converted to their partner's religion. Others resorted to traveling overseas to wed. In July the Indonesian Council of Ulemas (MUI) issued an edict that reaffirmed its 1980 ban on marriages between persons of different faiths. MUI edicts are influential but do not have legal effect.

On September 1, a court sentenced three women to three years in prison each for proselytizing based on their inclusion of Muslim children albeit with parental permission in Christian Sunday school activities. On November 22, the three women lost their appeal, and at year's end an appeal to the Supreme Court was pending.

In November a foreign citizen and an Indonesian working on a dam project on Madura were arrested following accusations that they were trying to corrupt the Muslim community. At year's end possible charges were still pending.

During the year the government took no concrete steps to implement controversial provisions of the education law that require schools to provide religious instruction to students in their own faith.

As in previous years, some political parties advocated amending the constitution to adopt Shari'a on a nationwide basis, but most parliamentarians and the country's largest Muslim social organizations remained opposed to the proposal. On March 28, the third South Sulawesi Muslims Congress urged the provincial government to apply Shari'a throughout the province. However, as in previous years, the provincial government did not respond.

In Aceh Province, the government continued to implement Shari'a courts, which heard only cases involving Muslims and did not enforce the penal code but rather *qanuns*, decrees formulated by local governments. The qanuns covered issues such as "immoral behavior." For example, extramarital contact between a man and woman could be punishable by public lashings or a fine of up to $555 (5.5 million rupiah). Other qanuns banned gambling and the production, distribution, or consumption of alcohol. A Muslim found guilty of consuming alcohol could receive 40 lashes. On August 26, authorities lashed two young unmarried couples 45 times in Takengon Public Square in Central Aceh for violating qanuns on immoral behavior and the consumption of alcohol while in their vehicle. The press reported that the two women fainted from the lashings. During the year a total of 52 persons were caned: 6 for being alone with persons of the opposite sex who were not blood relatives, 7 for consumption of alcohol, and 39 for gambling.

On May 20, 60 members of the Banda Aceh Shari'a office, supported by local police, enforced headscarf use by Muslim women in front of the provincial parliament and another government building. According to the newspaper *Serambi Indonesia*, hundreds of women were briefly detained and lectured on Shari'a.

In some municipalities outside of Aceh, local leaders also applied stricter Islamic practices. In Bulukumba Regency, South Sulawesi, two years after the implementation of Shari'a, the regent claimed that 100 percent of Muslim women wore headscarves. The law does not apply to non-Muslims and is not enforced in an area popular with tourists. In Padang, West Sumatra, the mayor instructed all Muslim women to wear a headscarf; the local authorities enforced this instruction.

Courts sentenced several persons to jail for insulting Islam. In August a court sentenced Muhammad Yusman Roy to two years in jail for praying in the Indonesian language, which Muslim *ulemas* (religious authorities) said tarnished the purity of Arabic-based Islam. In September an East Java court sentenced each of six drug and cancer treatment counselors to five years in jail and another to three years in jail for violating key precepts of Islam. A local MUI edict had characterized their rehabilitation center's teachings as heretical. Police arrested the counselors while they were trying to defend themselves from hundreds of persons who raided the center's headquarters.

As in previous years, during the Muslim fasting month of Ramadan, many local governments ordered either the closure or limited operating hours for various types of "entertainment" establishments. For instance, the municipal governments of Kendari, Medan, Palembang, and Pekanbaru ordered the closure of all discotheques, massage parlors, karaoke outlets, pubs, and bars during Ramadan. However, authorities said they would allow bars and karaoke outlets in hotels catering to foreign tourists to remain open. The Medan government ordered the closure of such establishments on December 24 and 25 in observance of Christmas. Enforcement of the orders varied.

Societal Abuses and Discrimination.—There were frequent efforts to close unlicensed churches during the year. Through intimidation and sometimes force, FPI and the Alliance for Anti-Apostates shut down dozens of Protestant places of worship in West Java that lacked permits. Police did nothing to stop the closures and, in some cases, assisted in the closures. Many of the churches reopened later in the year.

On July 15, a mob under the banner of the "Indonesian Muslim Solidarity Group" attacked the Ahmadiyah Indonesia Congregation (JAI) compound in Bogor, West Java. Armed with stones and batons, the assailants damaged Ahmadiyah buildings and set fire to a women's dormitory, in spite of a heavy police presence. The attack followed an aborted July 9 attack on the same Ahmadiyah property by individuals associated with the FPI. The police made no arrest of perpetrators in either attack, and the Ahmadiyah compound remained sealed at year's end.

The perpetrators of the attacks justified their actions by referring to a religious edict (*fatwa*) issued in 1980 by the MUI that declared the Ahmadiyah to be "devi-

ants" from Islam. The fatwa, which was renewed in August, has no official force of law. The violence sparked fears of possible attacks against Ahmadiyah members in other parts of the county. In Bandung, West Java, more than one thousand Ahmadiyah followers sought police protection to secure their two mosques in the Cikutra and Bojongloa areas. They also reduced their ritual activities at the mosques. Komnas HAM began an investigation of the JAI campus attacks.

On September 19, in Cianjur, West Java, a mob reportedly attacked and vandalized an Ahmadiyah mosque and private homes and cars belonging to Ahmadiyah members. Unlike the July attacks, however, the police reportedly arrested 45 suspects and were pursuing criminal charges against 12 alleged ringleaders. Shortly after the attack, local government officials in Cianjur Regency formally banned all Ahmadiyah activities purportedly to protect Ahmadiyah members from further attacks.

On October 21, in Central Sulawesi, a man on a motorcycle fired at a house being used for prayer meetings by a Christian congregation; the owner was injured.

Religiously motivated violence and vigilante acts in Central Sulawesi, Maluku, and North Maluku occurred less frequently then in previous years. However, Central Sulawesi continued to experience sporadic bombings, shootings, and other violence in spite of broad societal support for security restoration and reconciliation. On October 29, three teenage Christian schoolgirls were beheaded near Poso, Central Sulawesi. Days later, two teenage girls, one Muslim and one Christian, were shot and killed at a bus stop in Poso. That same week, a Palu-area university professor and his wife were shot and injured. On December 31, unknown persons bombed a Palu pork market killing 7 persons and injuring more than 50.

In March, despite an agreement by Muslim and Hindu leaders in Bali calling on their followers to respect both the Hindu's Nyepi Day (seclusion day) and the Muslim Friday prayer, some villages prohibited Muslims from leaving their homes to perform Friday prayer in mosques, threatening to fine them if they did so. The local MUI in Jimbaran called on Muslims to move out of the villages before Friday so they could perform their Friday prayers.

The indigenous Jewish population is small. *Sabili*, a radical Islamic publication and the country's second largest magazine by circulation, published articles with anti-Semitic statements and themes.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution allows the government to prevent persons from entering or leaving the country, and sometimes the government restricted freedom of movement. The Law on Overcoming Dangerous Situations gives military forces broad powers in a declared state of emergency, including the power to limit land, air, and sea traffic; however, the government did not use these powers.

The government continued to restrict freedom of movement for foreigners through a system of "travel letters," required for Papua. Enforcement was inconsistent.

In May 2003 then-president Megawati issued a decree ending martial law in Aceh and establishing a state of civil emergency. The decree returned overall government authority for the province to the governor, but the Provincial Civil Emergency Administration (PDSD) maintained authority to issue emergency measures to control travel, trade, transport, and other civilian activities. The government formally ended the state of civil emergency and the PDSD on May 18. Following the signing of the MOU, authorities removed all non-locally based TNI units and reduce the TNI's role to protecting against external threats.

The government maintained controls on the movement of residents in Aceh through the use of national identity cards specific to Aceh. These cards required the signatures of the holder's local military commander, police chief, and village head. Acehnese who wished to travel or leave the province had to show these cards at security checkpoints along main highways. Failure to produce the card was cause for arrest. In practice, residents could easily obtain the cards, and there was no evidence that the policy resulted in restriction of movement. In Aceh, those outside Banda Aceh also had to obtain a travel letter from police describing the purpose and length of trip and also naming the persons the traveler would meet. Under the MOU, travel letters were no longer required, and national identity cards specific to Aceh were no longer official. However, in practice the government did not issue standard identity cards, and Acehnese continued to use identity cards specific to Aceh at year's end.

Relations between Madurese and indigenous Dayaks remained poor. In Central Kalimantan, ethnic violence in 2001 prompted approximately 130 thousand ethnic Madurese migrants to leave, mainly going to Madura and East Java. According to Oxfam and the UN Office for Coordination of Humanitarian Affairs, between 30

thousand to 57 thousand Madurese have returned to Central Kalimantan. A Central Kalimantan government regulation stipulates that returning Madurese be: able to live side by side in peace and harmony with community members; be recognized and received by the indigenous population as well as local community members; and obey the values, customs, and traditions of the local culture. The regulation also requires returnees to register with the local government, but only those with identity cards, a house, and a permanent job are qualified to do so. The West Kalimantan city of Sambas remained effectively inaccessible to its former Madurese residents.

The government prevented at least 600 persons from leaving the country during the year. The AGO and the high prosecutor's office prevented most of these departures. Some of those barred from leaving were delinquent taxpayers, convicted or indicted persons, and persons otherwise involved in legal disputes.

In June 2004 the government expelled Sidney Jones, country director for the international NGO International Crisis Group (ICG). In July Jones returned and resumed her work. She subsequently left the country voluntarily and was briefly barred from returning in November, but this restriction was lifted after a few days.

In January, a month after the tsunami, authorities in Aceh briefly detained or asked to leave at least five foreign journalists. On January 7, soldiers asked Martin Chulov and Renee Nowytager of *The Australian* to leave. On January 23, authorities said freelance journalist William Nessen had violated a ban imposed on him in August 2003 and expelled him from Aceh. In March the government barred Dr. Erward Aspinall, a lecturer at Sydney University and an expert on the county, from entering the country. His name was on a blacklist. On September 8, an antiterror police unit in Maluku arrested Rohan Kumar Gunaratna, a Singapore-based professor and expert on terrorism, for failing to show a document allowing him to carry out research on terrorist cells in Maluku Province. Authorities charged Gunaratna with violating immigration law and deported him.

The constitution prohibits forced exile, and the government did not use it.

Internally Displaced Persons (IDPs).—The National Coordinating Board for Disaster Management reported that there were 977,395 internally displace persons (IDPs) in the country, 561,478 of whom were in Aceh, almost all the result of the December 2004 tsunami. Some of the Aceh IDPs lived in emergency shelters, while others stayed with host families or were integrated into local communities. The government dealt with many aspects of crisis but continued to rely on international organizations and donors to assist with most IDP needs. IDPs had three options: return to their place of origin, start anew in their current location with the government's assistance, or relocate to another part of Aceh if return to their place of origin was impossible.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. However, in practice, there were no reports of the forced return of persons to a country where they feared persecution. The government cooperated with the UN High Commissioner on Refugees (UNHCR), which maintained an office in Jakarta, for assisting refugees and asylum seekers. At year's end, there were 89 UN-recognized refugees and 58 asylum seekers living in the country. Some were applicants and others were dependents. Most were from Iraq, Afghanistan, or Sri Lanka. During the year the UNHCR shifted its primary focus from assisting refugees and asylum seekers to tsunami relief. However, it did help resettle 75 refugees

The above figures did not include approximately 28 thousand former refugees from East Timor who resided in West Timor at year's end, according to the UNHCR and the National Coordinating Board for Disaster and IDPs Management Secretariat. In 2003 the government and UNHCR stated that the remaining East Timorese in West Timor would no longer be considered refugees, and on December 31, UNHCR ended its six-year assistance program in West Timor.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The constitution provides for national elections every five years. The security forces lost their appointed DPR seats in October 2004 with the inauguration of the new legislature. DPR members automatically are members of the People's Consultative Assembly (MPR), which until October 2004 included regional and government appointed representatives. In October 2004 the MPR became a fully elected body

consisting of the 550 DPR members (50 seats were added pursuant to a law adopted in 2003) and the 128 members of the House of Regional Representatives (DPD).

Elections and Political Participation.—Domestic and international observers monitored peaceful, first-ever, direct local elections to choose provincial- and district-level executives beginning in June. By year's end the government had held a total of 149 local elections: 7 governors, 26 mayors, and 116 regents. Observers generally perceived the local elections as free and fair, and, with a few exceptions, without incident affecting the outcome.

Most instances of violence involved supporters of losing candidates attacking local election offices. A riot broke out in Kaur District in Bengkulu Province, where supporters of a losing candidate burned down government and public buildings. In Depok, West Java, a controversial West Java court ruling overturned the mayoral election results. An inquiry into the court's decision found indications of impropriety and recommended sanctions against the judges. In December the Supreme Court overruled the West Java High Court's decision. The losing party planned a further appeal, arguing that according to the election law the high court decision should be final. At year's end a new mayor had not been inaugurated.

In October 2004 President Yudhoyono became the country's first directly elected president. Domestic and international observers monitored the legislative and presidential elections, organized by an independent election commission, and considered the elections free and fair. The national elections featured high voter turnouts, an absence of any notable violence, and broad public acceptance of the results.

All adult citizens are eligible to vote except convicts serving a sentence of five years or more, persons suffering from mental disorders, and persons deprived of voting rights by an irrevocable verdict of a court of justice. Former members of the banned Indonesian Communist Party are allowed to vote, and, following a November 2004 Constitutional Court ruling, they may run for office.

There were no legal restrictions on the role of women in politics. A woman, Megawati Soekarnoputri, served as president from July 2001 until October 2004. During the year women held 4 of 36 cabinet seats. The current election law includes a nonbinding call for parties to select women for at least 30 percent of the candidate slots on their party lists. In the 2004 elections, 61 women were elected to the 550-seat DPR, an increase from 1999, when 44 women held seats in the 500-seat DPR. In the DPD, women were 27 of the 128 members. Women won two district chief positions in the local elections.

There were no legal restrictions on the role of minorities in politics. There were no official statistics on the ethnic backgrounds of legislators in the DPR. President Yudhoyono's cabinet consisted of a plurality of Javanese, with others being of Sudanese, Bugis, Batak, Acehnese, Papuan, Balinese, Arab, or of Chinese heritage.

In Papua the government moved to implement the Special Autonomy Law, which, among other things, provides for a portion of the revenues raised from extractive industries in the territory to be returned to the provincial and regency governments for use in health, education, and infrastructure projects intended to benefit the indigenous population. The Special Autonomy Law also provides for formation of a Papuan People's Assembly (Majelis Masyarakat Papua, MRP) that would provide input into policies, legislation, and appointments affecting indigenous Papuans, and which began work on November 11. Nevertheless, significant discontent with the central government's policies persisted. Thousands of Papuans participated in antigovernment demonstrations held on August 12.

The creation by the central government of a new province, West Irian Jaya, which was carved out of Papua under controversial political and legal circumstances remained contentious. A constitutional court ruling in November 2004 held that while West Irian Jaya's formation was legally invalid, it could continue to function since its institutions were already in place. On November 24, the central government and provincial authorities reportedly agreed that the two provinces would function as a single cultural, economic, and social entity, and that their partition would be strictly administrative; however, at year's end the matter remained under discussion among the central and provincial governments and the MRP.

Government Corruption and Transparency.—There was a widespread domestic and international perception that corruption was a part of daily life. In his first 100 days in office, the president stated that eradicating corruption was one of his goals, and he subsequently established the Corruption Eradication Commission (KPK) with a broad investigative mandate. The AGO prioritized high-profile corruption cases. During the year the government prosecuted corruption cases against two governors, including Aceh Governor Abdullah Puteh, who was convicted and sentenced to 10-years' imprisonment. The government also prosecuted and convicted four members of the National Electoral Commission (KPU) including Chairman

Nazaruddin Sjamsuddin and Commissioner Mulyana Kusumah, for corrupt practices related to KPU procurements. The government also began prosecution of former minister of religion Said Agil Hussein Munawar for embezzlement and arrested staff members of the Supreme Court for accepting bribes (see section 1.e.).

With the exception of Aceh, the AJI reported no problems obtaining unclassified public documents from the government.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government met with local NGOs, responded to their inquiries and took some actions in response to NGO concerns. When prominent human rights activist Munir was murdered in 2004, the president met with a coalition of persons concerned about Munir and formed a fact-finding team (TPF) consisting of leading members of the NGO community, prosecutors, and a senior police officer. However, at year's end, the president had not released the TPF's report, which, according to press reports, called for the investigation of former and active officials of the State Intelligence Agency in connection with Munir's death (see section 1.a.). The president also met with religious organizations to discuss their concern over forced church closings, and instructed the minister of religion to review the joint-ministerial decree that requires houses of worship to obtain community approval before being built (see section 2.c.). At year's end a revised joint-ministerial decree had not been released.

Domestic human rights organizations reported being subjected to monitoring, harassment, and interference by the government; however, they actively advocated improvements to the government's human rights performance. Before the verdict in the Pollycarpus trial (see section 1.a.), Komnas HAM reported that since 2000, 14 human rights activists had been killed, and no perpetrators had been brought to justice. There were no reports of any human rights activists killed during the year.

A prominent activist on the TPF investigating Munir's death, as well as Munir's wife, reported receiving numerous, anonymous death threats.

NGOs in Papua reported widespread monitoring by intelligence officials as well as threats and intimidation. Activists reported that intelligence officers took their pictures surreptitiously and sometimes questioned their friends and family members regarding their whereabouts and activities.

In Aceh there was a large increase in the number of international and domestic NGOs to help with the relief and reconstruction following the December 2004 earthquake and tsunami. There were no reports of government interference; however, most international and local NGOs reported they did not conduct human rights work in Aceh for fear of losing their mandate to be in the region.

The government generally viewed outside investigations or foreign criticism of its human rights record as interference in its internal affairs. The security forces and intelligence agencies tended to regard with suspicion foreign human rights organizations, particularly those operating in conflict areas. Government monitoring of foreigners was apparent in conflict areas. Some domestic human rights organizations expressed concern about the possible negative consequences of contacting foreigners.

A number of government agencies and affiliated bodies addressed human rights problems, including the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the Ministry of Women's Empowerment, and Komnas HAM. However, in 2003, Komnas HAM's efforts to expose human rights violations and bring perpetrators to account were undermined by a number of court decisions regarding its jurisdiction or authority. For example, in June 2003 a Jakarta court refused to subpoena former and active military officers who had ignored Komnas HAM summonses to face questioning about 1998 riots, which claimed more than 1,200 lives. In June the TNI stated it could not cooperate with attempts by Komnas HAM to summon retired and active-duty generals to answer questions about the abduction of prodemocracy activists between 1997 and 1998. The TNI insisted that Komnas HAM must first obtain permission from the DPR before it could summon retired and active-duty generals for questioning (see section 1.b.). By law severe human rights violations that occurred before 2000 could be investigated only by an ad hoc human rights court, not Komnas HAM. Such a court could be formed only at the suggestion of the DPR, but for the DPR to know enough about an incident to approve the formation of a court, a thorough investigation was necessary. The resulting stalemate continued to block progress toward accountability.

During the year the government formed a Truth and Reconciliation Commission and, in cooperation with East Timor, a bilateral Truth and Friendship Commission (see section 1.e.).

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution does not explicitly prohibit discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. However, in practice, the government failed to defend these rights adequately.

Women.—The law prohibits domestic abuse and other forms of violence against women. However, rape and domestic violence were problems.

Violence against women remained poorly documented. Nationwide figures were unavailable. The NGO Mitra Perempuan-affiliated Women's Crisis Centers recorded 329 cases in Jakarta, Bogor, Tangerang, and Bekasi combined, and the local press reported that violence against women continued to increase. In East Java Province incidents of violence against women increased both in number and severity. The East Java Integrated Service Center reported 107 cases of violence against women, whereas the Prodemocracy Women's Coalition reported 63. Most East Java NGOs working on women and children's issues believed the real figure was far higher, noting the tendency of many victims to keep silent. During the year three cases were investigated using the 2004 Domestic Violence Act; however, there were no prosecutions by year's end. Two types of crisis centers were available for abused women: government-run centers in hospitals and NGO centers in the community.

Rape was a problem. Although it is punishable by 4 to 12 years in jail, and the government jailed perpetrators for rape and attempted rape, most convicted rapists were sentenced to the minimum or less. Reliable nationwide statistics were unavailable. The legal definition of rape is narrow and excludes some acts that would commonly be treated as rape in other countries.

Rapes by members of the security forces occured in Aceh. Human rights activists expressed concern that rapes were underreported in the province, partly because of reluctance by victims to come forward. SIRA accused military personnel of committing four rapes in Aceh, but no cases of rape or sexual harassment had been reported to the authorities. During the year the TNI did not prosecute any of its personnel for rape.

Nationwide, the police operated more than 200 "special crisis rooms" or "women's desks" where female officers received criminal reports from women and child victims of sexual assault and trafficking and where victims found temporary shelter. During the year the police opened a major trafficking victims' recovery center in a police hospital in Jakarta and a similar center in Surabaya.

State policy and the law state that women have the same rights, obligations, and opportunities as men. However, the law also states that women's participation in the development process must not conflict with their role in improving family welfare and the education of the younger generation. Marriage law designates the man as the head of the family. Women in many regions of the country, particularly in Papua, complained about differential treatment based on gender.

The legal differentiation between a woman and a girl was not clear. The law sets the minimum marriageable age at 16 for a woman (and 19 for a man), but the Child Protection Law states that persons under age 18 are children. A girl who marries has adult legal status. Girls frequently marry before reaching the age of 16, particularly in rural areas.

Female genital mutilation (FGM), also known as female circumcision, was practiced in some parts of the country, including West Java. Complications reportedly were minimal. Two types of persons, midwives and local traditional practitioners, performed the procedure. Researchers said the midwives' procedure involved the tearing, cutting, or piercing of part of the genitals but not the removal of tissue. Most of the local traditional practitioners, on the other hand, said that they customarily removed tissue, but the extent of this removal remained unclear. Similarly, it was unclear whether the removed tissue was from the clitoris, labia minora, or elsewhere. Some NGO activists dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic.

Prostitution is not specifically addressed in the law. However, many officials interpret "crimes against decency/morality" to apply to prostitution. Child prostitution is illegal. While contrary to societal and religious norms, prostitution was widespread and largely tolerated. Security forces reportedly participated in the running of brothels or protection rackets, which shielded brothels from prosecution. International sex tourism took place, especially on the islands of Batam and Karimun, both near Singapore.

Although it is not explicitly mentioned, sexual harassment is against the law and is actionable under the Criminal Code. In 2004 the State Ministry of Women's Empowerment said that 90 percent of women and 25 percent of men have been victims of sexual harassment in the workplace.

Divorce is open to both men and women. Muslims who sought divorce generally turned to the Shari'a-based family court system as a faster and cheaper alternative to the national court system. Non-Muslims obtained divorces through the national court system. Due to prejudicial attitudes, women often faced a heavier evidentiary burden than men, especially in the Shari'a-based family court system. Although both Islamic and national courts may award alimony, many divorcees received no alimony, since there was no system to enforce such payments. Men and women both keep the separate property they owned before marriage. If there is no prenuptial agreement, joint property is divided equally. The law requires a woman who has become divorced to wait a certain period of time before remarrying; a man can remarry immediately.

The law stipulates that a child's citizenship is derived solely from the father. Children of citizen mothers and foreign fathers are considered foreigners and must have visas to remain in the country until age 18, when they can apply for citizenship. These children are prohibited from attending public schools. In cases in which a citizen mother lived abroad with her foreign husband, divorce could involve child custody problems. The children of foreign women married to citizen men also faced difficulties. A foreign woman married to a citizen can obtain citizenship after one year.

During the year the government continued to implement Shari'a in Aceh (see section 2.c.). The most visible impact on women's rights appeared to be the enforcement of dress codes. After issuing two written warnings to women in violation of the dress code, authorities referred the matter to a Shari'a court. In Banda Aceh, police briefly detained improperly dressed women in the Shari'a enforcement office, where the women were lectured on appropriate attire. Local governments and groups in other areas also undertook campaigns to promote conformance by women with the precepts of Shari'a. Some women told reporters that they felt humiliated when detained for dress code violations.

Women faced discrimination in the workplace, both in hiring and in gaining fair compensation. In 2003 the International Labor Organization's (ILO) Jakarta office reported that on average, women's earnings were 68 percent of that of men. According to the government, 41 percent of all civil servants were women but women accounted for only 7 percent of senior government officials.

Some activists said that in manufacturing, employers relegated women to lower-paying, lower-level jobs. Many female factory workers were hired as day laborers instead of full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to day laborers. According to the government's central statistics bureau, during the year the unemployment rate was higher for men than for women. By law, if a husband and wife both worked for a government agency, the couple's head-of-household allowance was given to the husband.

A number of organizations promoted women's rights or otherwise addressed women's issues during the year including Solidaritas Perempuan, Mitra Perempuan, LBH-Apik, and the International Catholic Migration Commission (ICMC). During the year the Ministry of Women's Empowerment worked with the DPR to finalize an antitrafficking bill. The ministry also worked on issues of child protection, including trafficking.

Children.—The government stated its commitment to children's rights, education, and welfare, but it devoted insufficient resources to fulfill that commitment. In practice, most schools were not free of charge, and poverty put education out of the reach of many children. Child labor and sexual abuse were serious problems. Although girls and boys ostensibly received equal educational opportunities, boys were more likely to finish school. In 2003 the leader of the National Commission for Child Protection identified the most pressing problems related to the country's youth as child labor, child trafficking, child prostitution, street children, children in conflict areas, and undernourished children. The Child Protection Act addresses economic and sexual exploitation of children as well as adoption, guardianship, and other problems; however, some provincial governments did not enforce its provisions.

Unlike last year there were no reports of children being used as human shields or as combatants; however, one child was killed in a clash in Aceh (see section 1.a.).

By law, children are required to attend six years of elementary school and three years of junior high school; however, in practice, the government did not enforce these requirements. According to the government's 2004 National Socio-Economic Household Survey, school enrollment rates were 96.1 percent for children ages 7 to 12, 79.2 percent for children ages 13 to 15, and 49.8 percent for children ages 16 to 18.

Monthly fees for public schools varied from province to province and were based on average incomes. Some parents continued to find it difficult to send their children to school. Tuition, transportation, and school materials, could cost a family between $400 and $700 (4 million to 7 million rupiah) per year for each primary and

secondary student. In June the ILO conducted a limited child labor survey in areas within five provinces (North Sumatra, East Kalimantan, West Java, East Java and South Sulawesi), which revealed that one in five school-age children from low-income families had no access to education and experienced various kinds of exploitation at work—both in the formal and informal sectors. The survey also found that of 2,438 school-age children below 15 years of age, 19 percent were not attending school. It was unclear how many children were forced to leave school to help support their families. In some remote areas of East Java, lack of nearby school locations contributed to drop out rates as high as 50 percent and led children to seek work. In some areas, parents and watchdog groups complained that corruption among public servants severely undermined the quality of education. During the year the tsunami and the lingering effects of conflicts disrupted the education of some children.

Many children grew up in unhealthy circumstances. Malnutrition remained a serious problem. The country's infant mortality rate remained high. According to a demographic and health survey published in December 2003, there were 35 deaths for every 1 thousand live births. There was improvement in under-five mortality, but a lack of improvement in infant mortality led the government to increase its focus on newborn healthcare.

A severe drought exacerbated malnutrition in East Nusa Tenggara Province this year. The total number of children thought to be suffering from malnutrition in East Nusa Tenggara was more than 12 thousand, and at least 59 infants died of acute malnutrition during the year.

Child abuse is prohibited by law, but government efforts to combat it generally have been slow and ineffective. NGOs reported that it continued to take excessively long to bring a child rape case to court and that mechanisms for reporting and dealing with child abuse were vague.

The East Java Children's Protection Agency recorded 389 cases of violence against children in East Java during the year. The East Java police recorded 137 cases of violence against children. In most cases, the offender was a parent of the victim.

Commercial sexual exploitation of children continued to be a serious problem. The number of child prostitutes in the country was unclear; however, a 2004 ILO assessment estimated there were approximately 21 thousand child prostitutes on the island of Java. In 2003 a team of NGO and government health officials visited a prostitution complex in Riau Province and estimated that 30 to 40 percent of the 365 female sex workers there were under 18 years of age. Many teenage girls were forced into or found themselves caught in debt bondage. At times law enforcement officials treated child sex workers as criminals rather than victims. Women's rights activists and religious groups accused government officials, particularly police and soldiers, of operating or protecting brothels that employed underage prostitutes. Corrupt civil servants issued identity cards to underage girls, facilitating entry into the sex trade. According to official East Java government statistics, there were approximately 4 thousand child prostitutes in East Java, 30 percent of the total number of recorded prostitutes; there were approximately 3 thousand child prostitutes in Central Java; and 194 in the city of Yogyakarta. There also were reports of sexual exploitation of boys. NGOs reported long-active pedophile rings operating in Bali, and authorities arrested and tried at least one man, a French national, for pedophilia there.

During the year there were cases in which employment brokers paid parents advances of future salaries to be earned by their daughters. The child was required to repay the employment brokers. Researchers described a "culture of prostitution" in some parts of the country, where parents encouraged their daughters to work as big-city prostitutes and send the proceeds home.

NGO observers said many girls were forced into prostitution after failed marriages they had entered into when they were 10 to 14 years of age. There was no obvious violation of the law, because their paperwork identified them as adults due to the fact they were once married.

Child labor was a problem. The Ministry of Manpower and Transmigration reported 4.5 million child workers in its national labor survey; however, in 2003 the ILO reported that 8 million children under 18 were doing the work of adults (see section 6.d.).

During the year all district courts had a juvenile court.

In East Java, local NGOs reported that the government paid little attention to the rights of juvenile offenders. In Surabaya the government held juvenile offenders in the same prison as adult criminals during trial. There was only one prison for juveniles in East Java, located in Blitar. As of July, there were 107 juveniles in the Blitar prison, the majority from Malang and Blitar. Most juveniles from Surabaya are remanded to Surabaya-area adult facilities. Juveniles sometimes experienced

abuse while in detention. In July local newspapers reported that four juveniles in the Rungkut area of Surabaya City claimed that police injured their knees and legs during interrogation conducted in the local police office. The head of the local police denied the accusation.

According to the Ministry of Social Affairs, there were 46,800 street children across 21 provinces. Substantial numbers of street children were apparent in Jakarta and the provinces of East Java, West Java, North Sumatra, and South Sulawesi. Surabaya, in East Java, was home to approximately 8 thousand street children, many reportedly susceptible to sexual abuse and violence. Approximately 40 shelters in the province provided services to such children. The Jakarta City government opened a shelter in 2004 with the capacity for approximately200 children. The government continued to fund other shelters administered by local NGOs and paid for the education of some street children.

A number of NGOs promoted children's rights, including Child Advocacy Network, National Commission on Child Protection, Center for Study and Child Protection, and Foundation for Indonesian Child Welfare.

Trafficking in Persons.—Trafficking in persons is illegal under the law; however, the law is not comprehensive in its definition of trafficking. During the year persons were trafficked to, from, and within the country for the purposes of prostitution and forced labor, including instances of debt bondage. Internal trafficking was a significant problem.

During the year the government continued to implement the 2002–07 National Action Plan to counter trafficking of women and children. The plan identifies specific roles for the government and civil society at national and local levels and included goals for lawmaking and law enforcement. The Child Protection Act prohibits economic and sexual exploitation of children and also child trafficking. The act specifies severe criminal penalties and jail terms for persons who violate children's rights, including by trafficking in persons. The government, with the help of NGOs, conducted public education efforts on trafficking. Several provincial and district governments adopted new antitrafficking regulations and plans.

The criminal code lacks an adequate legal definition of trafficking in persons. The Solidarity Center and the ICMC identified laws that could be applied in cases of trafficking and related offenses. The penal code prohibits trade in women and male minors but is silent on female minors. The Child Protection Act provides for prison sentences of 3 to 15 years plus fines for child traffickers. In many cases involving underage victims, police and prosecutors used the Child Protection Act, a change from previous reliance on the penal code with its weaker sentencing guidelines. Prior to 2004 judges rarely sentenced traffickers to more than three years in prison; however, During the year judges imposed heavier sentences on child traffickers, with some convictions resulting in five- or six-year jail terms.

Reliable figures were not available on the number of persons trafficked. A study by the Solidarity Center and ICMC estimated between 2.4 and 3.7 million women and children worked in the vulnerable categories of migrant workers, sex workers, and child domestic workers (see section 5, Children). Within these categories, the estimated total number of children ranged from 254 thousand to 422 thousand. These were not estimates of victims but rather of women and children vulnerable to trafficking.

According to the foreign labor federation-financed Center for International Labor Solidarity, hundreds of Burmese fishermen, apparently forced to work on Thai fishing boats, either escaped or were abandoned in Tual, a small island in Maluku Province, where they lived in difficult conditions. In 2004 immigration officials forcibly repatriated a number of Burmese fishermen to Thailand via foreign fishing vessels. During the year the Burmese Seafarers Union estimated that there were still more than 100 Burmese seafarers living near Tual but did not anticipate further repatriations.

During the year the government, NGOs, and the media reported that women were trafficked to Malaysia, Japan, the Middle East (including Saudi Arabia and Kuwait), Taiwan, Hong Kong, Singapore, and other destinations. Malaysia was the destination for the greatest number of credibly documented cases of female trafficking victims. Women possibly trafficked to Indonesia included foreign prostitutes from China, Thailand, Eastern Europe, and Central Asia.

During 2004 police investigated 141 suspected traffickers, while prosecutors tried 51 cases. Courts convicted at least 45 suspects, an increase from 25 in 2003. The average jail sentence for convicted traffickers increased from 2.5 years to 3.2 years, while the average sentence for traffickers convicted under the Child Protection Act reached 5.3 years.

Lack of evidence, insufficient laws, low awareness of trafficking, and corruption were the main obstacles in prosecuting trafficking cases. For example, in December

2004, local police arrested six persons in a brothel in Semarang, Central Java after receiving reports from alleged victims of trafficking. However, the suspects were released due to alleged lack of evidence.

During the year the police and immigration officials launched operations to reduce the number of foreign prostitutes. On August 24, the Jakarta Police apprehended 68 foreign sex workers in raids on nightclubs, saunas, and beauty salons. The 68 were subsequently deported.

On February 26, North Surabaya police arrested a suspected trafficker after receiving a report from the alleged victim who escaped from a Surabaya brothel. A Surabaya court sentenced the trafficker, Radji, to a few months in jail. On March 15, in Probolinggo, East Java police arrested the suspected head of trafficking syndicate that allegedly had sold six children into prostitution in Surabaya; this case remained under investigation. In April East Java police arrested three persons suspected as traffickers in the Bondowoso area. Four girls were reported as their victims.

The Singkawang District of West Kalimantan remained well known as an area from which poor, ethnic Chinese women and teenage girls between the ages of 14 and 20 were recruited as "mail order" brides for men, primarily in Taiwan but also in Hong Kong and Singapore. In some cases the women were trafficked for sex work and slave-like servitude.

In many cases traffickers recruited girls and women under false pretenses. One tactic was to offer young women in rural areas jobs as waitresses or hotel employees in distant regions, including island resorts. After the new recruits arrived and incurred debts to their recruiters, they learned that they had been hired as prostitutes. In October Jakarta police arrested 2 persons for duping at least 51 women with offers to work in Japan as "cultural performers." Once in Japan, the women were exploited as prostitutes. At year's end the two suspects remained in custody awaiting trial.

Many victims became vulnerable to trafficking during the process of becoming migrant workers. Many unauthorized recruiting agents operated throughout the country and were involved in trafficking to various degrees, and some government-licensed recruiting agents also were implicated in trafficking. Recruiting agents often charged exorbitant fees leading to debt bondage and recruited persons to work illegally overseas, which increased the workers' vulnerability to trafficking and other abuses.

The basic three-month course that all police officers received did not include training on counter-trafficking in persons. During the year international agencies continued to provide police with specific counter-trafficking training. Trafficking falls under the purview of the Criminal Investigation Department (CID). In 2003 the police established a separate anti-trafficking unit within CID with operational and coordinating responsibilities.

In 2004 the national police headquarters issued instructions to district police chiefs to break up trafficking rings, assist victims, and report cases to national headquarters.

Credible sources noted that individual security force members were involved in setting up and protecting brothels. Traffickers and brothel owners reportedly paid protection money to security force members. An NGO survey of trafficking in Papua concluded that military members operated or protected brothels that housed trafficking victims. Apart from police and soldiers, some government officials were complicit in trafficking, particularly in the production of false documents. The prevalence and ease of obtaining fraudulent national identity cards, which could document children as adults, contributed to the trafficking problem. Within society and the government, there was continued reluctance to acknowledge that prostitution was a major problem.

Domestic NGOs, with international support, led efforts to monitor and prevent trafficking, frequently in coordination with government agencies. These NGOs included the Consortium for Indonesian Migrant Workers Advocacy, LBH-Apik, Women's Aid and Protection Group, Women's Coalition (Koalisi Perempuan), and Solidaritas Perempuan.

In January the government reacted swiftly to rumors of trafficking of children orphaned or separated due to the December 2004 earthquake and tsunami in Aceh Province. The government restricted the travel of Acehnese minors out of Aceh or abroad and posted police monitors at points of exit. The rumors proved almost entirely unfounded, and few cases of trafficking victims in Aceh emerged in the months following the disaster. NGOs reported some cases of Acehnese women trafficked to a neighboring country later in the year.

National- and local-level assistance to trafficking victims increased compared with previous years but remained small in comparison with the scope of the problem. In

general government assistance was modest and focused on citizens trafficked abroad, while domestic assistance was minimal. Over the year the government and community groups established a number of new shelters in Dumai, Riau Province, and in West Kalimantan Province. The police operated more than 200 women's desks, units established to help women and children who fall victim to violence including trafficking. The women's desks provided temporary shelter, special police handling, and some legal services for victims. The women's desks often cooperated with local NGOs to provide medical and psychological services and longer-term shelter. However, distrust of police discouraged some victims from using these desks.

The government's policy is to "treat persons who are trafficked not as criminals but as victims who need help and protection." During the year the People's Welfare Coordinating Ministry and the Ministry of Women's Empowerment reinforced this policy in public settings and training programs for police and other officials. However, local government and police practice varied, particularly in the lower ranks of law enforcement agencies. Local governments, exercising greater authority under the country's decentralization program, sometimes enacted laws or regulations that tended to treat trafficked sex workers as criminals, contrary to national policy. In many instances, government officials and police actively protected and assisted victims. In other cases, police treated victims such as trafficked prostitutes as criminals, subjected them to detention, and took advantage of their vulnerability to demand bribes and sexual services. Police and immigration officials periodically rounded up foreign prostitutes and quickly deported them without any reported screening for potential trafficking victims. The media and lower-level officials, including police, often failed to protect victims' identities and commonly provided victims' names to the public.

The government encouraged victims to assist in the investigation and prosecution of traffickers, but victims frequently were reluctant or refused to provide testimony due to shame and fear of retribution against themselves or their families.

Persons with Disabilities.—The government classified persons with disabilities into four categories: blind, deaf, mentally disabled, and physically disabled. The constitution requires the government to provide them with care; however, "care" is not defined, and the provision of education to children with disabilities never was inferred from the requirement. The law also mandates accessibility to public facilities for persons with disabilities; however, the government did not enforce this provision. Few buildings and virtually no public transportation facilities provided such accessibility. The law requires companies that employ more than 100 workers to set aside 1 percent of their positions for persons with disabilities. However, the government did not enforce the law, and persons with disabilities faced considerable discrimination.

Recent statistics on the number of persons with disabilities were not available. In 2004 the World Health Organization estimated that 10 percent of the population, or approximately 20 million persons, had disabilities.

In urban areas only a few city buses offered wheelchair access, and many of those have had their hydraulic lifts vandalized, rendering them unusable.

In 2003 the government stated the country was home to 1.3 million children with disabilities, but only 50 thousand of them attended school. The actual number of children with disabilities was believed to be much higher. The law provides children with disabilities with the right to an education and rehabilitative treatment. A government official alleged that many parents chose to keep children with disabilities at home; however, many schools refused to accommodate such children, stating they lacked the resources to do so. According to the government, there were 1,234 schools dedicated to educating children with disabilities; 960 of them were run privately. Some young persons with disabilities resorted to begging for a living.

Human rights activists in Surabaya reported that discrimination against persons with disabilities existed in the employment and education sectors. For example, in November 2004 the Surabaya city government refused a civil service candidate charging that she did not fulfill the health requirement. In May the Surabaya Administrative Court ruled in her favor. City officials appealed to the Supreme Court, and at year's end the appeal was pending.

National/Racial/Ethnic Minorities.—The government officially promotes racial and ethnic tolerance. Ethnic Chinese accounted for approximately 3 percent of the population, by far the largest nonindigenous minority group, and played a major role in the economy. Instances of discrimination and harassment of ethnic Chinese declined compared with previous years. Recent reforms increased religious and cultural freedoms. However, some ethnic Chinese noted that public servants still discriminated in issuing marriage licenses and in other services and often demanded bribes or a citizenship certificate, although such certificates were no longer legally

required. In 2004 an attorney advocate for the rights of ethnic Chinese noted that more than 60 articles of law, regulation, or decree were in effect that discriminated against ethnic Chinese citizens. NGOs such as the Indonesia Anti-Discrimination Movement urged the government to revoke these articles.

There were no reports of overt discrimination against Acehnese outside the province. However, some Acehnese reported that they faced extra scrutiny when trying to leave the country and resented having a different identity card. The MOU signed on August 15 (see section 1.a.) included a provision to issue Acehnese conventional identity cards by April 2006.

Indigenous People.—The government views all citizens as "indigenous," with the exception of ethnic Chinese; however, it recognizes the existence of several "isolated communities" and their right to participate fully in political and social life. These communities include the myriad Dayak tribes of Kalimantan, families living as sea nomads, and the 312 officially recognized indigenous groups in Papua. During the year indigenous people, most notably in Papua, remained subject to widespread discrimination, and there was little improvement in respect for their traditional land rights. Mining and logging activities, many of them illegal, posed significant social, economic, and logistical problems to indigenous communities. The government failed to prevent domestic and multinational companies, often in collusion with the local military and police, from encroaching on indigenous people's land.

In Papua tensions continued between indigenous Papuans and migrants from other provinces, between residents of coastal and inland communities, and among tribes. Some in the indigenous community accused the newcomers of price gouging and condescension, while some newcomers claimed that indigenous Papuans treated them with resentment and suspicion.

In Central Kalimantan, relations between indigenous Dayaks and ethnic Madurese transmigrants remained poor in the wake of 2001 interethnic violence. However, at least 30 thousand to 57 thousand displaced ethnic Madurese had returned to Central Kalimantan by year's end. Despite interethnic tensions, local elections were orderly and relatively peaceful. Relations between the two groups also remained poor in West Kalimantan, where former residents of Madurese descent were obstructed in their attempts to reclaim their property.

In February the Human Rights Commission in South Sulawesi concluded that the police committed a gross human rights violation in 2003 when they fired on farmers and indigenous persons attempting to reoccupy lands leased by the government to the London Sumatra Company; four persons were killed and more than a dozen were injured.

Human rights activists said that the government-sponsored transmigration program violated the rights of indigenous people, bred social resentment, and encouraged the exploitation and degradation of natural resources on which many indigenous persons relied. In some areas, such as parts of Sulawesi, the Malukus, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous people were poor.

Other Societal Abuses and Discrimination.—There was some societal discrimination against persons with HIV/AIDS. Some individuals received prejudicial treatment at medical centers, saw their confidential laboratory results released, or had their identity published in a newspaper. In most if not all such cases, the government failed to take corrective action. In Papua, where the incidence of HIV infection is significantly higher than elsewhere in the country, community members and even families often stigmatized and ostracized those known to be infected with the virus. However, the government encouraged tolerance, took steps to prevent new infections, and drew up plans to subsidize antiretroviral drugs.

Section 6. Worker Rights

a. The Right of Association.—The law provides broad rights of association for workers, and workers exercised these rights. The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. The law stipulates that 10 or more workers have the right to form a union, with membership open to all workers, regardless of political affiliation, religion, ethnicity, or gender. Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect representatives. The government records, rather than approves, the formation of a union, federation, or confederation and provides it with a registration number. Under the law, 87 union federations notified the Ministry of Manpower and Transmigration (the manpower ministry) of their existence and received registration. Ministry officials noted that only 64 federations recorded by the ministry had verifiable members. The vast majority of union members belonged to one of three union confederations: the All-Indonesia

Trade Union Confederation (KSPSI), the Indonesian Prosperity Trade Union Confederation (KSBSI), and the Indonesian Trade Union Congress (KSPI). In addition more than 18 thousand workplace-level units were registered with the manpower ministry.

According to the government, the country's total labor force consisted of approximately 110 million workers, 42 percent of whom worked in the agricultural and forestry sector. From April to September, the manpower ministry conducted a survey of union membership, the results of which indicated a significantly reduced number of union members compared with previous estimates. In the past, the government had relied upon unions' self-reported membership statistics. The manpower ministry estimated total trade union membership at 3.4 million workers, less than 4 percent of the total workforce. However, if compared to the country's 23.8 million regular, formal sector employees (a category that excludes the self-employed, employers, casual workers, and unpaid workers), union membership would be approximately 14 percent.

The law recognizes civil servants' freedom of association and right to organize, and employees of several ministries formed employee associations; union organizations sought to organize these workers. Unions also sought to organize state-owned enterprise (SOE) employees, although they encountered resistance from enterprise management, and the legal basis for registering unions in SOEs remained unclear.

The law allows the government to petition the courts to dissolve a union if it conflicts with the state ideology of *Pancasila* or the constitution, or if a union's leaders or members, in the name of the union, commit crimes against the security of the state and are sentenced to at least five years in prison. Once a union is dissolved, its leaders and members may not form another union for at least three years. There were no reports that the government dissolved any unions during the year.

The law prohibits antiunion discrimination by employers and others against union organizers and members and provides penalties for violations; however, the government did not effectively enforce the law in many cases. There were frequent, credible reports of employer retribution against union organizers, including dismissals and violence that were not prevented effectively or remedied in practice. Some employers warned employees against contact with union organizers. Some unions claimed that strike leaders were singled out for layoffs when companies downsized. Legal requirements existed for employers to reinstate workers fired for union activity, although in many cases the government did not enforce this effectively.

During the year the International Union of Food Workers Associations (IUF) accused the management of a sugar plantation of suspending Daud Sukamto, the president of the IUF-affiliated independent Federation of Sugar Plantation and Mill Workers (FSPM TG), following the FSPM TG's founding in February, and of otherwise harassing the union. Manpower officials in Lampung upheld the dismissal based on Daud's rejection of a company wage proposal. The officials withdrew legal recognition of the union. In October the manpower minister informed the union it would need to reregister and asked FSPM TG to withdraw its complaint to the ILO. The local manpower office formally registered the union on October 26.

In April workers at a private security firm in Jakarta, Group4/Securicor, went on strike over the firm's plans to reduce benefits for employees following a company merger. According to the foreign-financed, labor support organization Center for International Labor Solidarity, on May 30, Jakarta police called in for questioning and intimidated four union leaders. The police reportedly explained that they were investigating the union leaders for possible charges of defamation and asked them to identify other workers from photographs taken at a lawful union demonstration in April. The company terminated 200 workers and refused to rehire them despite a decision by the local manpower officer that the strike was legal and the strikers should be rehired. In October a labor dispute resolution committee awarded the workers two months' salary. At year's end the workers had not yet received any monetary compensation.

Local union leader Ahmad Fauzi, from KSBSI, completed an 11-month jail sentence in August. In 2004 a court in Batam convicted Fauzi of theft and sentenced him to jail. The conviction followed a union campaign at PT Batam Expressindo Shipyard. According to the Solidarity Center, Fauzi denied the company's accusation that reportedly centered on the theft of $8 of scrap aluminum. KSBSI claimed that the company's legal action against Fauzi constituted retribution for his union activities.

Pending implementation of the 2004 Disputes Settlement Act and its new labor court system, regional and national labor dispute resolution committees continued to adjudicate charges of antiunion discrimination. The committees' decisions could be appealed to the state administrative court. However, due to a history of adverse decisions for labor and the long time necessary to process disputes, sometimes re-

quiring years, many unions believed that these committees were not realistic alternatives for settling disputes. As a result, workers frequently presented their grievances directly to Komnas HAM, the DPR, or NGOs. Administrative decisions in favor of dismissed workers usually took the form of monetary awards but rarely reinstated workers. The law required that employers obtain the approval of the labor dispute resolution committee before firing workers, but employers often ignored the law in practice.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference; however, the government often did not protect this right in practice. The law provides for collective bargaining and allows workers' organizations that register with the government to conclude legally binding collective labor agreements (CLAs) with employers and to exercise other trade union functions. The law includes some restrictions on collective bargaining, including a requirement that a union or unions represent more than 50 percent of the company workforce to negotiate a CLA.

The Manpower Development and Protection Act (Manpower Act), which regulates collective bargaining, the right to strike, and general employment conditions does not apply to SOEs. Although the law was written with ILO technical assistance, some unions claim that the law contains inadequate severance benefits and protection against arbitrary terminations; and does not sufficiently restrict against outsourcing and child labor. The government continued to issue implementing decrees for the Manpower Act.

In January 2004 the president approved the Industrial Relations Disputes Settlement Act that, together with the 2000 Trade Union Act and the 2003 Manpower Act, constitutes the revised legal basis for industrial relations and worker rights. The Disputes Settlement Act stipulates a new system of tripartite labor courts, replacing the previous tripartite committees. The act also outlines settlement procedures through mediation and arbitration. The ILO provided assistance in the development of the law. The government had not established the new labor court system by year's end.

According to the manpower ministry, during the year there were 9,146 CLAs in effect between unions and private companies. Company regulations, allowed for under government regulations, substituted for CLAs in another 36,459 companies, many of which did not have union representation. The Manpower Act requires that employers and workers form joint employer/worker committees in companies with 50 or more workers, a measure to institutionalize communication and consensus building. However, the number of such bodies did not increase significantly after passage of the act.

All workers, whether or not union members, have the legal right to strike, except for public sector workers and those involved in public safety activities. The law allows workers in these latter categories to carry out strikes if they are arranged so as not to disrupt public interests or endanger public safety. Private sector workers exercised their right to strike, as did those in state enterprises, although the latter did so with less frequency. The large majority of government-recorded strikes involved nonunion workers. Unions or workers' representatives must provide seven days' notice to carry out a legal strike. The law calls for mediation by local manpower ministry officials but does not require government approval of strikes. In previous years, workers and employers rarely followed dispute settlement procedures, and workers rarely gave formal notice of the intent to strike because manpower ministry procedures were slow and had little credibility among workers. The 2003 passage of the Manpower Act did not significantly change this situation. The number of government-recorded strikes declined in recent years, from 220 strikes involving more than 97 thousand workers in 2002 to 125 strikes involving some 53 thousand workers in 2004.

The underpayment or nonpayment of legally required severance packages precipitated strikes and labor protests. The Solidarity Center documented cases in which foreign employers in the garment and footwear industry, faced with falling orders and plant closures, fled the country to avoid making legally required severance payments.

Labor activists also reported that factory managers in some locations employed thugs to intimidate and assault trade union members who attempted to organize legal strike actions. At times the police intervened inappropriately and with force in labor matters, usually to protect employers' interests. In April the national police adopted new guidelines for "handling law and order in industrial disputes," developed with the assistance of the ILO.

On July 20, security personnel and police clashed with workers protesting layoffs at two companies, PT Pan United and IMES, in Batam. According to a joint state-

ment by 3 labor unions, the violence left 26 workers injured and damaged many motorcycles owned by the protesting workers.

The management of a palm oil plantation in Riau Province, P.T. Musim Mas, fired approximately 700 workers for striking, authorities arrested 6 union officials and members in connection with the strike. The strike followed the company's termination of nine union leaders. On September 15, company security guards reportedly drove a truck into a group of striking workers outside the factory, injuring two of the workers.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs). However, nongovernmental observers, including the Solidarity Center, described stronger antiunion sentiment and actions by employers in EPZs.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced labor or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

The government tolerated forms of compulsory labor practiced in the migrant worker recruitment process. The unscrupulous practices of migrant worker recruiting agencies, and poor enforcement of government regulations often led to debt bondage and extended unlawful confinement. According to press reports and research by the Solidarity Center, recruiting agencies frequently kept migrant workers in holding centers for months before sending them abroad. While in the holding centers, migrant workers normally did not receive pay, and recruiters often did not allow them to leave the centers. In most instances, workers were forced to pay recruiters for the cost of their forced stay, which resulted in large debts to the recruiters. Police and manpower ministry officials conducted raids on 14 illegal migrant worker holding centers in Jakarta from December 2004 to January, targeting unlicensed holding centers that forcibly held prospective female workers, both adults and children, some in inhumane conditions. The raids resulted in the release of 1,227 women and girls, and the arrests of 10 suspects. Another 12 police raids through October freed 565 female workers and led to the arrest of 10 persons, according to the manpower ministry.

Forced and compulsory labor by children occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children from working in hazardous sectors and the worst forms of child labor, to include mining, skin diving, construction, prostitution, and offshore fishing platforms. However, the government did not enforce these laws effectively. Law, regulations, and practice acknowledged that some children must work to supplement family incomes. The Manpower Act prohibits the employment of children, defined as persons under 18, with the exception of those 13 to 15 years of age, who may work no more than 3 hours per day and only under a number of other conditions, such as parental consent, no work during school hours, and payment of legal wages. The law does not appear to address exceptions for children ages 16 to 17.

The law addresses economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade, and provides severe criminal penalties and jail terms for persons who violate children's rights. During the year the government prosecuted a small number of cases under these provisions.

The government has a national action plan to eliminate the worst forms of child labor, as well as separate national action plans for combating trafficking and for eliminating the commercial sexual exploitation of children.

Child labor remained a serious problem in the country. An estimated six to eight million children exceeded the legal three-hour daily work limit, working in agriculture, street vending, mining, construction, prostitution, and other areas. More children worked in the informal than the formal sector. Some children worked in large factories, but their numbers were unknown, largely because documents verifying age could be falsified easily. Children worked in industries such as rattan and wood furniture, garment, footwear, food processing, and toy making, and also in small-scale mining operations. Many girls between 14 and 16 years of age worked as live-in domestic servants. The ILO estimated that there were 2.6 million domestic workers in Indonesia, of whom at least 688 thousand were children. According to a June Human Rights Watch report, children between 12 and 15 years of age worked 14 to 18 hours per day, 7 days a week from 4 a.m. to 10 p.m. with employers who often subjected them to physical and sexual threats. Many child servants were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights.

The law and regulations prohibit bonded labor by children; however, the government was not effective in eliminating forced child labor, which remained a serious problem. A significant number of children worked against their will in prostitution,

pornography, begging, drug trafficking, domestic service, and other exploitative situations, including a small number on fishing platforms (see section 5).

Social and cultural resistance remained a challenge in addressing child labor. Many parents disagreed with government efforts to restrict children from working, arguing that the government offered inadequate economic support to guarantee these families' welfare.

Enforcement of child labor laws remained largely ineffective. Despite legislative and regulatory measures, most children who worked, including as domestics, did so in unregulated environments. Anecdotal evidence suggested that local labor officials carried out few child labor investigations.

e. Acceptable Conditions of Work.—Provincial and district authorities, not the central government, establish minimum wages, which vary by province, district, and sector. Provincial authorities determined provincial minimum wage levels based on proposals by tripartite (workers, employers, and government) provincial wage commissions. The provincial minimum wage rates establish a floor for minimum wages within the province. Local districts set district minimum wages using the provincial levels as references. Districts also set minimum wages in some industrial sectors on an ad hoc basis. Provinces and districts conducted annual minimum wage rate negotiations, which often produced controversy and protests.

The minimum wage levels set by most local governments did not provide a worker and family with a decent standard of living. Most province-level minimum wage rates fell below the government's own calculation of basic minimum needs. During the year Jakarta offered the highest minimum wage level approximately$71 (710 thousand rupiah) per month, while the manpower ministry reported official minimum wages as low as $34 (340 thousand rupiah) per month in one area. In December most provincial governments decided to raise minimum wages by 15 percent or more effective in January 2006. Following that decision thousands of workers in Medan, Surabaya, Jakarta, and elsewhere demonstrated to protest minimum wage rates, which they said were still below the government-determined minimum cost-of-living standard. Employers argued that increasing wage rates, among a number of other factors, made the country's workers less competitive internationally and limited job growth.

Local manpower officials are responsible for enforcing minimum wage regulations. Enforcement remained inadequate, particularly at smaller companies and in the informal sector. In practice, official minimum wage levels applied only in the formal sector, which accounted for 35 percent of the workforce.

Labor law and ministerial regulations provide workers with a variety of benefits. Persons who worked at more modern facilities often received health benefits, meal privileges, and transportation. The law also requires employers to register workers with and pay contributions to the state-owned insurance agency JAMSOSTEK. At year's end, companies had registered 26 million workers, according to JAMSOSTEK.

The law establishes a 40-hour workweek, with one 30-minute rest period for every 4 hours of work. Companies often required a 5½ or 6-day workweek. The law also requires at least one day of rest weekly. The daily overtime rate was 1½ times the normal hourly rate for the first hour and double the hourly rate for additional overtime, with a maximum of 3 hours of overtime per day and no more than 14 hours per week. Workers in industries that produced retail goods for export frequently worked overtime to meet contract quotas. Unions complained that companies relied upon excessive overtime in some electronics assembly plants, to the detriment of workers' health and safety. Observance of laws regulating benefits and labor standards varied between sectors and regions. Employer violations of legal requirements were fairly common, resulting in some strikes and protests. In May approximately 2,500 workers at the Katexindo Citra Mandiri company in North Jakarta occupied the factory in protest of the company's increase in the hourly quota of garment items to be produced from 60 to 85 per hour. Workers described the quota as excessive and in violation of voluntary labor standards endorsed by the company's international buyers. The Manpower Ministry continued to urge employers to comply with the law; however, government enforcement and supervision of labor standards were weak.

Both law and regulations provide for minimum standards of industrial health and safety. In practice, the country's worker safety record was poor. As revealed in press reports, JAMSOSTEK recorded 49,148 occupational accidents in the first half of the year and 95,418 in all of 2004. Local officials have responsibility for enforcing health and safety standards.

In larger companies, the quality of occupational health and safety programs varied greatly. Health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent. Workers are obligated to report hazardous working conditions, and employers are forbidden by law from retaliating

against those who do report hazardous working conditions; however, the law was not enforced effectively.

JAPAN

Japan is a parliamentary democracy with a population of approximately 127.8 million. Sovereignty is vested in the citizenry, and the emperor is defined as the symbol of state. Prime Minister Junichiro Koizumi headed a coalition composed of the Liberal Democratic Party and the New Komeito Party. The most recent national elections, accepted as generally free and fair, were held on September 11. The civilian authorities generally maintained effective control of the security forces.

The government made significant progress on trafficking in persons; otherwise, the country's human rights record remained virtually unchanged. The following human rights problems were reported:

- prisoner and detainee abuse
- violence against women
- child abuse
- child prostitution
- trafficking in women
- discrimination against women, the Ainu and *burakumin*, and alien residents

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

In November the Nagoya District Court handed down suspended prison terms to two Nagoya prison guards who were convicted in 2004 for a 2001 incident that led to an inmate's death. The inmate died from bacterial shock after being sprayed by a high-pressure water hose.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected these provisions in practice. However, there were isolated reports by bar associations, human rights groups, and prisoners that police and prison officials sometimes committed abuses.

Although prison rules remained confidential, reported punishments included forcing Japanese prisoners to kneel motionless in an empty cell for several hours at a time and requiring foreigners and inmates with disabilities to sit on a hard stool. While the Prison Law Enforcement Regulation stipulates that the maximum time prisoners may be held in single cells is 6 months, wardens continued to have broad leeway in enforcing punishments selectively, including "minor solitary confinement," which may be imposed for a minimum of 1 and not more than 60 days. Parole may not be granted for any reason, including medical and humanitarian reasons, until an inmate has served two-thirds of his or her sentence.

Human rights organizations reported that death row prisoners were held for years in solitary confinement with little contact with anyone but prison guards.

The law and the criminal code include safeguards to ensure that suspects cannot be compelled to confess to a crime and that they cannot be convicted or punished in cases where a suspect's confession is the only evidence. Unlike in 2004, there were no reports that police used physical violence that included kicking and beating as well as psychological intimidation during interrogation to obtain confessions. A significant number of all criminal cases going to trial included confessions, reflecting the priority the judicial system placed on admission of guilt.

Unlike in 2004, there were no reports that prison guards sexually abused female inmates. On January 28, the prison officer who raped and impregnated a female inmate in 2003 was convicted and sentenced to a three-year prison term. There was no information on the case of the male prison warden charged with engaging in sexual acts with a female inmate in 2004.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. However, several facilities were overcrowded, unheated, and medically understaffed.

There were no reported deaths in prisons, detention centers, or other government institutions resulting from adverse conditions during the year. However, on October

5, the Japan Federation of Bar Associations reported that the human rights of seven prison inmates may have been violated when they died from medical neglect after being placed in solitary confinement between 1999 and 2002.

In May the Ministry of Justice reported that 20 prisoners committed suicide in 2004.

In 2004 prisons operated at 117 percent capacity. In some institutions two inmates were placed in cells designed for one, and eight or nine were held in cells meant for six. According to media reports, prison officials stated that some prisoners preferred solitary confinement to their overcrowded prison cells.

Most facilities remained unheated and without air conditioning. In August a human rights group reported that inmates were not given sufficient clothing and blankets to protect themselves against cold weather.

Some correctional facilities lacked adequate medical services. Prisoners complained about insufficient food rations and not being allowed to purchase or receive supplementary food.

Men and women were housed in separate facilities; however, male prison guards sometimes guarded women prisoners.

According to the Japan Federation of Bar Associations, authorities may read letters sent or received by prisoners. Letters with contents deemed "inappropriate" may be censored or confiscated. New prisoners are limited to receiving and sending one letter each day. In most cases visits with convicted prisoners were monitored, but prisoners whose cases were pending were allowed private access to their legal representatives.

Unlike in previous years, the government selectively permitted independent monitoring of prison conditions. Visits between prisoners and diplomatic representatives were sometimes monitored by a note-taking guard. Amnesty International reported that the government granted its representatives greater access to detention facilities than in 2004; however, human rights groups were not routinely allowed to meet with prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—Police forces are responsible for law enforcement and maintenance of order within the country. The self-defense forces are responsible for external security and have limited domestic security responsibilities. The National Police Safety Commission, an independent body under the prime minister's jurisdiction, oversees the National Police Agency (NPA). Each prefecture has a police safety commission as well as a police agency. Corruption and impunity were not problems within either the national or the prefectural police forces.

The National Police Law permits persons to lodge complaints against police with national and local public safety commissions. These commissions have the authority to direct police to conduct investigations. Allegations persisted that police and public safety commissions remained lax in investigating police misconduct.

Arrest and Detention.—Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and detainees were brought before an independent judiciary.

The law provides detainees the right to a prompt judicial determination of the legality of the detention, and authorities respected this right in practice. The law requires authorities to inform detainees immediately of the charges against them. Authorities may hold a suspect in detention at either a regular detention facility or a "substitute" (police) detention facility for up to 72 hours. A judge must interview a suspect prior to detention. A judge may extend preindictment custody by up to 2 consecutive 10-day periods based on a prosecutor's application. These extensions were routinely sought and granted. Under extraordinary circumstances, prosecutors may seek an additional 5-day extension, bringing the maximum period of preindictment custody to 28 days.

The code of criminal procedure allows detainees, their families, or representatives to request that the court release a detainee on bail. The court generally grants bail unless the detainee is considered a flight risk or has been charged with a serious offense, or the court believes the detainee will tamper with evidence. The amount set for bail depends on the nature of the offense and the detainee's competence and assets. According to media reports, bail could range from approximately $13 thousand (1.49 million yen) to approximately $13 million (1.49 billion yen).

Police and prosecutors have the power to control or limit access of suspects to their legal counsel if authorities believe such contact would interfere with an investigation. Suspects may be detained for up to 23 days without access to counsel. Counsel may not be present during interrogations at any time. A court-appointed attorney is not approved until after indictment; suspects must rely on their own re-

sources to hire an attorney before indictment. Local bar associations provided detainees with limited free assistance. Family members are allowed to meet with detainees, but only in the presence of a detention officer.

Critics claimed that access to counsel was limited both in duration and frequency, but the government denied the charge. Critics also alleged that allowing suspects to be detained by the same authorities who interrogated them heightened the potential for abuse and coercion. The government countered that cases where persons were sent to police detention facilities tended to be those in which the facts were not in dispute.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

There are several levels of courts, including family and summary courts, district courts, high courts, and the Supreme Court, which serves as the court of final appeal. Normally a trial begins at the district court level, and a verdict may be appealed to a higher court and ultimately to the Supreme Court.

Although most criminal trials were completed within a reasonable length of time, cases occasionally took several years to work their way through the trial and appeals process.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law extends this right to all citizens, and it also ensures that each charged individual receives a public trial by an independent civilian court, has access to defense counsel, and has the right of cross-examination. There is no trial by jury.

The government generally respected in practice the legal provisions for the right to a speedy and public trial by an impartial tribunal in all criminal cases. The average trial period in 2003 and 2004 was 3.2 months for criminal cases. The length of time before a suspect was brought to trial depended on the nature of the crime but rarely exceeded three months from the date of arrest; the average was one to two months.

A defendant is presumed innocent until proven guilty in a court of law. The law provides defendants with the right not to be compelled to testify against themselves as well as to have free and private access to counsel. Although the law protects defendants from the retroactive application of laws and defendants have the right of access to incriminating evidence after a formal indictment, the government's interpretation of these rights was criticized. The government contended that the right to consult with attorneys is not absolute and may be restricted when compatible with the spirit of the constitution. This sometimes resulted in the abridgement of a defendant's access to legal counsel. For example, the law allows prosecutors to control access to counsel before indictment (see section 1.d.). The law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claimed that legal representatives of defendants did not always have access to all needed relevant material in the police record. A defendant who is dissatisfied with the outcome of a trial may appeal to a higher court.

Foreign defendants often complained of not being able to receive a fair trial. During the year no guidelines mandated the acceptable quality of communications between judges, lawyers, and non-Japanese-speaking defendants, and no standard licensing or qualification system existed for certifying court interpreters. Trials proceeded even if no translation or interpretation was provided to the accused. Foreign detainees frequently claimed that police urged them to sign statements in Japanese that they could not read and that were not translated adequately.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for the freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. Past allegations by the Unification

Church that the government was unresponsive to claims that its members were being abducted and deprogrammed decreased. Unification Church leadership reported that abductions lessened due to the government's increasing willingness to prosecute deprogrammers. However, church leaders continued to express concern over the government's unwillingness to prosecute abductors. According to church officials, police refused to intercede because abductions often involved family members abducting other family members.

Societal Abuses and Discrimination.—Relations among religious groups were generally amicable. An estimated 200 Jewish families lived in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not routinely grant refugee status or asylum.

On January 18, pursuant to a 2003 Tokyo High Court ruling, the government deported a Turkish Kurd and his son who had been identified as refugees by the Office of the UN High Commissioner for Refugees. In its ruling, the court cited the appellant's return to Turkey and the spread of democracy in Turkey since the appellant had first entered the country.

The government did not accept any refugees for resettlement during the year, nor did it provide temporary protection to individuals who may not qualify as refugees under either the 1951 Convention or the 1967 protocol.

According to the Ministry of Justice, 673,240 persons were detained in 2004 at immigration detention centers. Unlike in the past, there were no reports that deportations were carried out in secret. From July to September 2004, 2 Kurdish families staged a 72-day protest against their deportation orders in front of the United Nations University in Tokyo.

In recent years the government has granted refugee and asylum status to those claiming fear of persecution in only a small number of cases. Out of 426 refugee claims submitted to the Ministry of Justice in 2004, the government granted asylum to 15 persons from Burma, Turkey, Bangladesh, Iran, China, Pakistan, and Cameroon.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—On September 11, the country held its most recent national elections. There were few reported irregularities, and the elections were judged to be generally free and fair.

Except for a brief hiatus in the 1990s, the Liberal Democratic Party has been reelected as the dominant party in every government since the mid-1950s. There were no government restrictions on the political opposition. Individuals could freely declare their candidacies and stand for election.

Results from the September 11 general elections reflected the highest number of women elected to the Lower House since women first entered the Diet in 1946. There were 43 women elected to the 480-member Lower House and 34 women elected to the 242-member Upper House. The prime minister appointed 2 women to his 18-member cabinet. On a regional level, there were four female governors and seven female deputy governors, which represented a greater number of women holding public office at that level than in years past.

No official government statistics were available regarding minority political participation.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year. According to NPA figures for January through June, there were 39 arrests involving bribery and 9 arrests for bid rigging, compared with 72 for bribery and 11 for bid rigging in 2004.

The law provides for public access to government information. There were no reports that the government denied legal requests for information or required information seekers to pay prohibitive fees to gain access.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without governmental restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, disability, language, and social status. Although the government generally enforced these provisions, discrimination against women, Japanese ethnic minority groups, and foreigners remained a problem.

Women.—The law prohibits domestic violence against women. The law allows district courts to impose 6-month restraining orders on perpetrators of domestic violence and impose sentences of up to a year in prison or fines of up to $9,520 (1 million yen). The law covers common-law marriages and divorced individuals; it also encourages prefectures to expand shelter facilities for domestic abuse victims and stipulates that local governments offer financial assistance to 40 private institutions already operating such shelters. A 2004 revision to the law expanded spousal violence to include mental, sexual, and physical abuse and increased the length of restraining orders to two months.

Domestic violence often went unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or children. Consequently, NPA statistics on violence against women most likely understated the magnitude of the problem. According to the Cabinet Office, 42 percent of women abused by their spouses did not report it. Spousal violence consultation assistance centers nationwide received 49,329 consultations in 2004, of which 49,107 were from women. According to NPA statistics, there were 14,264 cases of alleged domestic violence in 2004. Police were quick to respond to cases when reported. They taught victims how to protect themselves and educated them on how to file restraining orders. In 2004 courts issued 4,436 restraining orders in a total of 5,505 cases filed.

The law criminalizes all forms of rape, including spousal rape. According to the NPA, 2,176 rapes were reported in 2004, and 1,945 cases were reported from January through November. Husbands have been prosecuted for spousal rape. There were 118 gang rapes reported in 2004; from January through November, 109 were reported. Gang rape is punishable by a minimum penalty of four years in prison. Many local governments maintained special, women-only consultation departments in police and prefectural offices to provide confidential assistance to abused women.

Local governments and private rail operators enforced measures to address the widespread problem of groping and molesting female commuters. Several railway companies had women-only rail cars on various trains, and an antigroping ordinance makes first-time offenders subject to imprisonment.

Prostitution is illegal, but it occurred. Sex tourism was not a widespread problem. The government continued to address the problem of trafficking in women for prostitution (see section 5, Trafficking in Persons).

The law prohibits sexual discrimination; however, sexual harassment in the workplace remained widespread. In 2004 the Ministry of Health, Labor, and Welfare (MHLW) received 7,706 reports of sexual harassment in the workplace. The National Personnel Authority established rules to stop harassment in public servants' workplaces. The law includes measures to identify companies that fail to prevent sexual harassment, but it does not include punitive measures to enforce compliance other than allowing the names of offending companies to be publicized. A number of government entities have established hot lines and designated ombudsmen to handle complaints of discrimination and sexual harassment. On December 13, the MHLW notified labor bureaus nationally that mental illness resulting from sexual harassment may be compensated under the law. The government also encouraged and supported private companies and public institutions to make voluntary efforts to prevent sexual harassment.

Under the law women enjoy the same rights as men. According to the Ministry of Internal Affairs and Communication, women composed 40 percent of the labor force, and women between the ages of 15 and 64 constituted 48.3 percent of the labor force. Although the law prohibits wage discrimination, the average hourly wage for women was only 67.4 percent of the hourly wage for men. Much of the disparity resulted from the "two-track" personnel administration system under which

many private sector companies directed men into the higher paying managerial track while steering equally qualified women into the lower paying clerical track.

According to the Tokyo High Court, there were no pending cases regarding comfort women (women forced into sexual servitude for the country's military personnel during World War II); all cases were finalized in 2004. The Asian Women's Fund, established in 1995 to express atonement for comfort women, has been the mechanism through which the government has contributed to various medical and welfare support projects for former comfort women. This fund was scheduled to close in March 2007.

The 2000 Basic Law for a Gender-Equal Society addresses the inequities between women and men in such areas as government, politics, and private sector employment. It also aims to support the efforts of women and men to harmonize work with their family and community lives, eliminate violence against women, and encourage respect for women's human rights. Pursuant to the law, a Council for Gender Equality was created to monitor enforcement; its high-level members included the Chief Cabinet Secretary, cabinet ministers, and Diet members knowledgeable about gender issues. During the year the council regularly met to examine and discuss basic policies on gender equality, monitor progress in achieving gender equality, and survey the impact of government policy on gender equality processes.

Children.—The government is committed to the rights and welfare of children, and in general children's rights were protected adequately.

The highest level of public school education provided is 12 years of schooling. Primary education is free and compulsory through the lower secondary level (age 15 or the 9th grade). Education was widely available to students who met minimum academic standards at the upper secondary level through age 18. Society places an extremely high value on education, and enrollment levels for both boys and girls through the upper secondary level exceeded 94.4 percent, according to the Ministry of Education, Culture, Sports, Science, and Technology. There were no differences in the treatment of girls and boys at any level of school.

The government provides universal health care for all citizens, including children.

Public attention focused increasingly on reports of frequent child abuse in the home. The law grants child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. The law also bans abuse under the guise of discipline and obliges teachers, doctors, and welfare officials to report any suspicious circumstances to a nationwide local child counseling center or municipal welfare center.

The MHLW reported that from 2000, when the Child Abuse Prevention Law was enacted, through June 2003, 127 children died as a result of child abuse. In 2004, 51 children died after being abused, according to the NPA.

In 2003 there were 23,738 cases of child abuse, according to the Cabinet Office. In 2004 there were a record 26,569 cases, according to MHLW. Approximately 50 percent of the cases involved violence, and 40 percent were cases of parental neglect. Child welfare centers reported a record 26,573 calls in 2003, an increase of 2,800 calls from the previous year.

Trafficking of minors, teenage prostitution, dating for money, and child pornography continued to be problems. According to the government, during the year there were 1,582 sex-related crimes associated with Internet dating sites.

Trafficking in Persons.—The law prohibits holding persons in bondage, and the government employed a variety of labor and immigration statutes to carry out trafficking-related prosecutions. Revisions made during the year to the penal code defined and criminalized trafficking in persons and increased penalties for trafficking-related offenses.

In December 2004 the government released an action plan to combat trafficking in persons. Focusing on prevention, prosecution, and protection of trafficking victims, the government tightened the issuance of "entertainer" visas, strengthened immigration control, revised the penal code to make trafficking in persons a new category of crime, and enhanced the protection of victims through shelters, counseling, and repatriation assistance. The plan also modified the law regulating adult entertainment businesses to increase the responsibility of business owners to prevent foreign women working in that industry from being forced into prostitution.

The NPA reported 54 human trafficking investigations through November, compared with 79 in 2004. In 2004 the NPA reported 58 arrests and 48 prosecutions. The NPA improved its handling of trafficking cases and provided guidelines on victim identification and treatment to local police forces. The NPA also took concrete steps to increase cooperation with foreign law enforcement agencies on trafficking cases.

Trafficking of women and girls into the country was a problem. Women and girls, primarily from Thailand, the Philippines, and Eastern Europe, were trafficked into the country for sexual exploitation and forced labor. Women and girls from Colombia, Brazil, Mexico, South Korea, Malaysia, Burma, and Indonesia also were trafficked into the country in smaller numbers. The country was a destination for illegal immigrants from China who were trafficked by organized crime groups and held in debt bondage for sexual exploitation and indentured servitude in sweatshops and restaurants. The government reported that some smugglers used killings and abduction to enforce cooperation.

Although reliable statistics on the number of women trafficked to the country were unavailable, an Organization of American States report in February estimated that approximately 1,700 women per year were trafficked to Japan from Latin American and Caribbean countries. A significant number of those women were citizens of Colombia, Bolivia, Brazil, Mexico, and Peru. Of the 51 women from Southeast Asia and Eastern Europe confirmed to be victims during the year, there were 20 Filipinas, 17 Thais, 4 Indonesians, 4 Romanians, 3 Taiwanese, 1 South Korean, 1 Australian, and 1 Estonian.

There was evidence that trafficking took place within the country, as some recruited women subsequently were forced, through the sale of their "contracts," to work for other employers. Child prostitution was a problem (see section 5, Children).

Between January and June, police referred 29 trafficking cases to the public prosecutor, an increase of 16 from the same period last year. In 2004 the NPA arrested 41 individuals for trafficking-related offenses, 8 of whom were traffickers. Of these, 36 were convicted: 14 received prison terms, 17 received fines, and 5 received both a fine and prison term. During the year efforts were made to improve screening of travelers arriving in Japan from key source countries of trafficking and to tighten the issuance of entertainer visas, which were often used by traffickers. On May 15, the government began implementing more stringent rules on the issuance of entertainer visas to persons from the Philippines.

The government did not consistently consider an individual who had willingly entered into an agreement to work illegally in the country to be a trafficking victim, regardless of that person's working conditions. Thus, government figures understated the scope of the problem, as persons who agreed to one kind of work found themselves doing another kind or were subject to force, fraud, or coercion. However, the government made progress in victim identification through better training of law enforcement officials.

In previous years many women trafficked into the country entered legally on entertainer visas. Entertainers are not covered by the labor standards law and have no minimum wage protections.

Brokers in the countries of origin recruited women and "sold" them to intermediaries, who in turn subjected them to debt bondage and coercion. Agents, brokers, and employers involved in trafficking for sexual exploitation often had ties to organized crime.

Women trafficked to the country generally were employed as prostitutes under coercive conditions in businesses licensed to provide commercial sex services. Sex entertainment businesses are classified as "store form" businesses, such as strip clubs, sex shops, hostess bars, and private video rooms, and as "nonstore form" businesses, such as escort services and mail order video services, which arrange for sexual services to be conducted elsewhere. According to NGOs and other credible sources, most women who were trafficked to the country for the purpose of sexual exploitation were employed as hostesses in "snack" bars and were required to provide sexual services off-premises.

Trafficking victims generally did not realize the extent of their indebtedness, the amount of time it would take them to repay the debts, or the conditions of employment to which they would be subjected upon arrival. According to Human Rights Watch, the passports of women trafficked to work in "dating" bars usually were confiscated by their employers, who also demanded repayment for the cost of the woman's "purchase." Typically, the women were charged $28,570 to $47,620 (3 million to 5 million yen), their living expenses, medical care (when provided by the employer), and other necessities, as well as "fines" for misbehavior added to the original "debt" over time. How the debt was calculated was left to the employers; the process was not transparent, and the employers reportedly often used the debt to coerce additional unpaid labor from the trafficked women. Employers also sometimes "resold," or threatened to resell, troublesome women or women found to be HIV positive, thereby increasing the victims' debts and possibly worsening their working conditions.

Many women trafficked into the sex trade had their movements strictly controlled by their employers and were threatened with reprisals, sometimes through members

of organized crime groups, to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant surveillance, and used violence to punish them for disobedience. There were reports that some brokers used drugs to subjugate victims. Many trafficked women also knew that they were subject to arrest if found without their passports or other identification documents. Few spoke Japanese well, making escape even more difficult.

The government began to improve the training of law enforcement officials to develop better victim identification techniques and stress the criminal nature of trafficking. Nevertheless, there continued to be reports that police failed to identify victims adequately or declined to investigate suspected brokers when presented with information obtained from trafficking victims.

Tokyo Metropolitan and Kanagawa Prefectural governments funded locally based NGOs assisting victims of trafficking. The central government began to house trafficking victims in women's consultative centers and NGO shelters. Generally these trafficking victims were repatriated without being encouraged to testify against their captors. In 2004 the government administratively decided not to treat victims as immediately deportable criminals, which allowed it to develop cases against traffickers. Victims without documentation or sufficient funds to return to their country of origin were referred to the International Organization for Migration for assistance. Several NGOs throughout the country provided shelter, medical aid, and legal assistance to trafficking victims.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the government effectively enforced these provisions.

Persons with disabilities were not generally subject to overt discrimination in employment, education, or in the provision of other state services; however, they faced limited access to these services in practice. The Deliberation Panel on the Employment of the Handicapped, which operates within the Ministry of Labor, has mandated that private companies with 300 or more employees hire a fixed minimum proportion of persons with disabilities. The penalty for noncompliance is a fine.

The law does not mandate accessibility to buildings for persons with disabilities; however, the law on construction standards for public facilities allows operators of hospitals, theaters, hotels, and similar enterprises to receive low-interest loans and tax benefits if they build wider entrances and elevators to accommodate persons with disabilities.

The Law to Promote the Employment of the Handicapped includes those with mental disabilities. The law loosened the licensing requirements for community support centers that promote employment for persons with disabilities, and it introduced government subsidies for the employment of persons with mental disabilities in part-time jobs. According to the MHLW, there were 257,939 workers with disabilities employed by private companies. This number represented 1.46 percent of the total number of regular employees, somewhat less than the legally stipulated rate of 1.8 percent. Several large corporations had special divisions for workers with disabilities, including Omron, Sony, and Honda. For example, 62 percent of Omron's Kyoto factory staff of 207 had disabilities, with the majority having severe disabilities. These employees earned an average of $29 thousand (3 million yen) per year, which was above the minimum wage.

The government supported the right of persons with disabilities to participate in civic affairs.

National/Racial/Ethnic Minorities.—Burakumin (descendants of feudal era "outcasts"), Koreans, and alien workers experienced varying degrees of societal discrimination, some of it severe and longstanding.

The approximately three million *burakumin*, although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing and employment opportunities.

According to the Ministry of Justice, there were nearly 1.97 million legal foreign residents at the end of 2004. The largest group was ethnic Korean (607,419), followed by Chinese (487,570), Brazilian (286,557), and Filipino (199,394). Despite improvements in legal safeguards against discrimination, Korean permanent residents (most of whom were born, raised, and educated in Japan) were subject to various forms of deeply entrenched societal discrimination. Harassment and threats against pro-North Korean organizations and persons reportedly have increased since the 2002 admission by North Korea that it had kidnapped more than a dozen Japanese citizens. Other foreigners also were subject to discrimination. There was a widespread perception among citizens that foreigners were responsible for many of the crimes committed in the country. According to a May 2004 government survey, more than 70 percent of citizens worried that an increase in the number of illegally em-

ployed foreign workers could undermine public safety and result in human rights abuses against the workers themselves. Nevertheless, more than 80 percent said the country should accept foreign laborers conditionally or unconditionally.

A controversial Immigration Bureau Web site launched in 2003 allows informants to report the name, address, or workplace of any suspicious foreigners for such reasons as "causing a nuisance in the neighborhood" and "causing anxiety." Due to protests from human rights groups, the site was amended in March 2004 to remove the preset reasons, but it remained operational at year's end.

By law aliens with five years of continuous residence are eligible for naturalization and citizenship rights, including the right to vote; however, in practice most eligible aliens chose not to apply for citizenship, partly due to fears that their cultural identity would be lost. Obstacles to naturalization included broad discretion available to adjudicating officers and great emphasis on Japanese-language ability. Naturalization procedures also require an extensive background check, including inquiries into the applicant's economic status and assimilation into society. Koreans were given the option of adopting a Japanese surname. The government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society.

Indigenous People.—According to the government, there are no indigenous groups. However, the Ainu, descendents of the first inhabitants of the country, claim to be such a group. Under an 1899 law, the government pursued a policy of forced assimilation, imposing mandatory Japanese-language education and denying the Ainu their right to continue traditional practices. The law also left the Ainu with control of approximately 0.15 percent of their original land holdings and empowered the government to manage communal assets.

A 1997 law recognized the Ainu as an ethnic minority, required all prefectural governments to develop basic programs for promoting Ainu culture and traditions, canceled previous laws that discriminated against the Ainu, and required the government of Hokkaido to return Ainu communal assets. However, the law stopped short of recognizing the Ainu as the indigenous people of Hokkaido, failed to address whether they deserved special rights as a distinct ethnic group, and did not mandate civil rights protection for the Ainu. A nonbinding accompanying resolution referred to the Ainu as a legal minority. The UN Special Rapporteur to the UN Working Group on Indigenous Populations stated that the Ainu never had entered into a consensual juridical relationship with any state and noted that the lack of such an agreement deprived them of their rights. Many Ainu criticized the Law to Promote Ainu Culture for not advancing Ainu political rights, and they criticized the government for not providing funds for noncultural activities that would improve Ainu living conditions or financial status. Although Ainu-language newspapers, radio programs, and academic programs studying Ainu culture have increased, the Ainu continued to face societal discrimination.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements. Unions were free of government control and influence. Approximately 19.2 percent (10.3 million) of the total workforce was unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. Collective bargaining is protected by law and was freely practiced. Unions have a right to strike, and workers exercised this right in practice.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred with adult workers (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law bans the exploitation of children in the workplace, and the government effectively implemented the law. The MHLW is responsible for enforcement. Both societal values and the rigorous enforcement of the Labor Standards Law protect children from exploitation in the workplace. Child labor was not a problem. By law children under the age of 15 may not be employed, and those under age 18 may not be employed in dangerous or harmful jobs. An exception is made for children in the entertainment industry, who may begin work at age 13.

e. Acceptable Conditions of Work.—Minimum wages are set on a regional (prefectural) and industry basis, with the input of tripartite (workers, employers, public interest) advisory councils. Employers covered by a minimum wage must post the concerned minimum wages, and compliance with minimum wages was considered

widespread. Minimum wage rates ranged, according to prefecture, from $5.77 (606 yen) to $6.76 (710 yen) per hour. The minimum daily wage provided a decent standard of living for a worker and family.

The law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked over 40 in a week or 8 in a day. However, it was widely accepted within the population that workers, including those in government jobs, routinely exceeded the hours outlined in the law. Labor unions frequently criticized the government for failing to enforce maximum working hour regulations.

Activist groups claimed that employers exploited or discriminated against illegal foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. The government tried to reduce the inflow of illegal foreign workers by prosecuting employers of such workers. The law provides for penalties against employers of undocumented foreign workers. Maximum fines for illegal employment assistance were raised to $29 thousand (3 million yen) in December 2004. The government continued to study the illegal foreign worker problem, and several citizens' groups were working with illegal foreign workers to improve their access to information on worker rights.

The government set occupational health and safety standards. The Ministry of Labor effectively administered various laws and regulations governing occupational health and safety. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

KIRIBATI

Kiribati is a constitutional multiparty republic with a population of approximately 92 thousand. The country has a popularly elected president and a legislative assembly of 42 members: 40 are elected by universal adult suffrage, the Rabi Island council of I-Kiribati (persons of Kiribati ancestry) in Fiji selects 1, and the attorney general is an ex officio member. The president exercises executive authority and is elected for a four-year term. The legislative assembly nominates at least three, and no more than four, presidential candidates from among its members. The most recent parliamentary and presidential elections, held in May and July 2003 respectively, were considered generally free and fair. Anote Tong of the Boutokan te Koaua party was elected president. Elected village councils run local governments in consultation with traditional village elders. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. The following human rights problems were reported:

- instances of extrajudicial communal justice
- some limits on press freedom
- violence and discrimination against women
- child abuse and child prostitution

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

In October 2004 at the direction of a traditional local council, a mob on an outer island burned numerous buildings and killed a man. Those involved in the killing were arrested and tried. In February and July the High Court convicted three persons of murder in the case, including the village elder who instigated the attacks. All three were sentenced to life imprisonment.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them. Traditional village practice permits corporal punishment for criminal acts and other transgressions. On some outer islands village associations occasionally ordered strokes with palm fronds to be administered for public drunkenness and other minor offenses, such as petty theft.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. Children under age 16 were not incarcerated. There was no separate facility for juvenile offenders age 16 or older. Juveniles age 16 to 17 generally may be detained no longer than a month in the adult facility. However, for more serious offenses, such as murder, juveniles over the age of 16 can be held in custody for more than a month and can be sentenced to longer terms. Pretrial detainees who did not meet bail were housed with convicted prisoners.

Family members and church representatives were allowed access to prisoners. Diplomats and senior judicial officials visited the prisons, including some unannounced visits, and reported no problems.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The commissioner of police and prisons, who reports directly to the Office of the President, heads the police force. There are three superintendents under the commissioner responsible, respectively, for crime and security, prisons, and administrative functions. The force consisted of approximately 300 police officers and 44 correctional officers, and was reasonably effective in maintaining law and order. Police corruption and impunity generally were not serious problems. The police commissioner is responsible for investigating allegations of police misconduct, and police officers occasionally were dismissed.

Arrest and Detention.—In most cases magistrates issue warrants before an arrest is made. Persons taken into custody without a warrant must be brought before a magistrate within 24 hours or within a reasonable amount of time when arrested in remote locations. During the year one individual was held for several weeks without being charged. The law requires that arrested individuals be informed of their rights, which include the right to legal counsel during questioning and the right not to incriminate themselves. Two police officers must be present at all times during questioning of detainees, who also are provided the option of writing and reviewing statements given to police. Many individuals were released on their own recognizance pending trial, and bail was granted routinely for many offenses. Detainees were allowed prompt access to legal counsel.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary consists of magistrates' courts, the High Court, and the Court of Appeal.

Trial Procedures.—The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. There is no trial by jury. An accused person must be informed of the charges and be provided adequate time and facilities to prepare a defense. The law also provides for the right to confront witnesses, present evidence, and appeal convictions. Defendants facing serious criminal charges are entitled to free legal representation. Procedural safeguards are based on British common law and include the presumption of innocence until proven guilty.

Cases of extrajudicial traditional communal justice, in which village elders decide cases and mete out punishment, remained a part of village life, especially on remote outer islands. However, the incidence of this practice was declining under pressure from the codified national law. There were reports that in extreme cases, those deemed guilty may be banished from an island or even killed (see section 1.a.).

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and with some limitations, the government generally respected these rights in practice. Under the Newspaper Registration Act, newspapers are required to register with the government. In July the information minister and the attorney general publicly admonished the government-owned Broadcasting and Publications Authority (BPA) for airing stories critical of the government, including accusations of corruption. The attorney general stated that the law that created the BPA did not provide for the right of its journalists to carry out investigative reporting.

In December a journalist for Radio Kiribati reportedly was dismissed after refusing to reveal his sources for a report about a case of alleged corruption involving the auditor general.

The country had three weekly newspapers: one government owned, one church owned, and one privately owned. The government also owned AM and FM radio stations in Tarawa. There was one privately owned FM radio station. Churches published newsletters and other periodicals.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The police refused to issue a permit for one demonstration during the year, citing the possibility of violence.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. The law prohibits government restrictions on citizens' freedom of movement; however, it does not restrict such actions by village councils.

The law provides for the forced expulsion from the country of a convicted person, if "in the interests of" defense, public safety, order, morality, health, or environmental conservation. The government has not used forced exile. However, on rare occasions village councils have banished persons from a specific island within the country, usually for a fixed period of time. The legality of this form of punishment has never been challenged.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. There were no applications for refugee resettlement or asylum during the year, and the country had no formal association with the Office of the UN High Commissioner for Refugees.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The most recent parliamentary elections were held in May 2003. Then-opposition leader Anote Tong of the Boutokan Te Koaua party was elected president in July 2003. The elections were considered generally free and fair. The government party and allied independents together held 25 legislative seats. Candidates and parties were free to stand for election. There were no government restrictions on political opponents.

There were 2 women, including the vice president, in the 42-member Parliament, and the head of the civil service was a woman. No women sat on the High Court.

Members of minorities have held cabinet positions in the past. The president and several members of Parliament were of mixed descent.

Government Corruption and Transparency.—Nepotism, based on tribal, church, and family ties, is prevalent. The auditor general (AG) is responsible for oversight of government expenditures. However, in reality the AG lacked sufficient resources, and findings of misappropriations and unaccounted-for funds were generally ignored, or the investigations were inconclusive.

In July the speaker of parliament defended himself against accusations of corruption following media revelations that he had taken his driver to a meeting in Taiwan at taxpayers' expense.

No specific law provides for citizen or media access to government information. In practice the government was fairly responsive to individual requests for information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no restrictions on the formation of local human rights nongovernmental organizations, but none have been formed. There were no restrictions on op-

erations by international human rights groups. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, creed, national origin, or sex, and the government observed these prohibitions in practice; however, only native I-Kiribati may own land. Society is fundamentally egalitarian and has no privileged class.

Women.—Spousal abuse and other forms of violence against women were significant problems. Alcohol abuse frequently was a factor in attacks on women. The law does not address domestic violence specifically, but general common law and criminal law make assault in all forms illegal. Rape, including spousal rape, is a crime, and the law was enforced when charges were brought to court. However, prosecutions for rape and domestic assault were infrequent, largely due to cultural taboos on reporting such crimes.

Prostitution is not illegal, and child prostitution was highlighted as a problem by the UN Children's Fund and other international NGOs (see section 5, Children). Procuring sex and managing brothels are illegal; however, in many instances police did not actively enforce the law. The law does not specifically prohibit sex tourism. There were multiple reports of Korean fishermen engaging in sexual acts with minors (see section 5, Children). Obscene or indecent behavior is banned.

The law does not prohibit sexual harassment. It sometimes occurred but generally was not regarded as a major problem.

The law prohibits discrimination based on sex; however, the traditional culture, in which men are dominant, impeded a more active role for women in the economy. Nevertheless, women were slowly finding work in unskilled and semiskilled occupations. Women filled many government office and teaching positions. The law prohibits night work by women except in seven occupations, including health worker, business manager, and hotel, bar, and restaurant worker; however, there were no reported prosecutions based on this ordinance. Statistics generally were not well collected in the country, and data on the participation of women in the work force and on comparative wages were unavailable. Women have full rights of ownership and inheritance of property as well as full and equal access to education.

Children.—Within its limited financial resources, the government made adequate expenditures for child welfare. Primary education is compulsory, free, and universal for children between the ages of 6 and 14 years. In practice the government did not enforce primary school attendance. According to the Department of Statistics, 93.5 percent of all school-age children attended primary school. Boys and girls had similar attendance rates. The approximately 40 percent of primary school graduates who pass a national examination qualify for 3 additional years of subsidized junior secondary and 4 years of subsidized senior secondary education; a small fee was charged to other students who wished to matriculate at these levels.

The government provided free medical services for children.

Chronic alcohol abuse leading to child abuse (physical and occasionally sexual) and neglect continued to be a problem. Early in the year the police established a unit specifically focused on child and family violence.

A study conducted in June by the National Youth Commission of the Republic of Korea and a Korea-based children's rights group reported commercial sexual exploitation of underage girls by crew members of Korean fishing vessels that stopped in Kiribati. Some of the girls worked as prostitutes in bars frequented by crew members. According to the study, the girls generally received cash or goods in exchange for sexual services.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law does not specifically prohibit discrimination against persons with disabilities; however, there were no complaints of discrimination in employment, education, or the provision of other state services for persons with mental or physical disabilities. Accessibility of buildings for persons with disabilities has not been mandated; special accommodations for persons with disabilities were basically nonexistent.

The central hospital on Tarawa had a wing for persons with mental disabilities, and there was a psychiatrist working on Tarawa. Foreign-based aid workers and the World Health Organization cooperated with the Ministry of Health to conduct outer-island workshops for health workers.

Section 6. Worker Rights

a. The Right of Association.—The law provides for freedom of association, and workers are free to join and organize unions; workers exercised these rights in practice.

More than 80 percent of the adult workforce was occupied in fishing or subsistence farming. The small wage-earning workforce had a relatively strong and effective trade union movement. An estimated 10 percent of wage-earning workers were union members. There were no official public sector trade unions, but nurses and teachers belonged to voluntary employee associations similar to unions and constituted approximately 30 to 40 percent of total union and association membership.

b. The Right to Organize and Bargain Collectively.—The law protects workers from employer interference in their right to organize and administer unions. The government did not control or restrict union activities; however, unions must register with the government. The law provides for collective bargaining. The government sets wages in the large public sector. However, in a few statutory bodies and government-owned companies, employees could negotiate wages and other conditions. In the private sector, individual employees also could negotiate wages with employers. In keeping with tradition, negotiations generally were nonconfrontational. There were no reports of antiunion discrimination, and there were mechanisms to resolve any complaints that might arise.

The law provides for the right to strike, but strikes are rare; the last one took place in 1980.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. The prohibition does not mention specifically forced and compulsory labor by children; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under age 14. Children through the age of 15 are prohibited from industrial employment and employment aboard ships. Labor officers from the Ministry of Labor and Human Resources Development generally enforced these laws effectively. Children rarely were employed outside the traditional economy.

Underage girls were solicited for prostitution (see section 5).

e. Acceptable Conditions of Work.—The wage-earning workforce consisted of approximately eight thousand persons, mostly employed on the main atoll of Tarawa, the political and commercial capital. The remainder of the working population works within a subsistence economy. There is no official minimum wage, but the labor ministry estimated the "non-legislated" minimum to be between $1.20 and $1.28 (A$1.60 to A$1.70) per hour in practice. There is provision for a minimum wage at ministerial discretion, but it has never been implemented. In 2004 the Asian Development Bank reported that approximately one half of the population lived below the national basic needs poverty line. Income tended to be pooled within individual extended families. The standard wage income provided a marginally decent standard of living for a worker and family. There is no legislatively prescribed workweek. Workers in the public sector (80 percent of the wage-earning workforce) worked 36¼ hours per week, with overtime pay for additional hours.

Employment laws provide rudimentary health and safety standards for the workplace. For example, employers must provide an adequate supply of clean water for workers and ensure the availability of sanitary toilet facilities. Employers are liable for the expenses of workers injured on the job. However, a lack of qualified personnel hampered the government's ability to enforce employment laws. Workers do not have the right to remove themselves from hazardous work sites without risking loss of employment.

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA [1]

The Democratic People's Republic of Korea (DPRK or North Korea) is a dictatorship under the absolute rule of Kim Jong Il, general secretary of the Korean Work-

[1] Note on Sourcing: The United States does not have diplomatic relations with the Democratic People's Republic of Korea. North Korea does not allow representatives of foreign governments, journalists, or other invited guests the freedom of movement that would enable them to fully assess human rights conditions or confirm reported abuses. This report is based on information from interviews, press reports, nongovernmental organizations (NGOs) reports, and refugee tes-

ers' Party (KWP). It has an estimated population of 22.7 million. In 1998, the Supreme People's Assembly reconfirmed Kim as chairman of the National Defense Commission (NDC) and designated that position the "highest office of state." Kim's father, the late Kim Il Sung, was declared "eternal president." The titular head of state is Kim Yong Nam, the president of the Presidium of the Supreme People's Assembly (SPA). Elections for the 687-member assembly, held every five years, were last held in August 2003. Only the KWP and two small satellite parties participated, and the elections were not free. There was no civilian control of the security forces, and members of the security forces have committed numerous serious human rights abuses.

The government's human rights record remained extremely poor, and the regime continued to commit numerous serious abuses. The regime subjected citizens to rigid controls over many aspects of their lives. The following human rights abuses have been documented or alleged over the years:

- abridgement of the right to change the government
- extrajudicial killings, disappearances, and arbitrary detention, including many political prisoners
- harsh and life-threatening prison conditions
- torture
- forced abortions and infanticide in prisons
- lack of an independent judiciary and fair trials
- denial of freedom of speech, press, assembly, and association
- government attempts to control all information
- denial of freedom of religion, freedom of movement, and worker rights
- severe punishment of some repatriated refugees

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Defector and refugee reports over several years indicated that the regime executed political prisoners, opponents of the regime, some repatriated defectors, and others, including military officers suspected of espionage or of plotting against Kim Jong Il. In April 2004 the government enacted a new penal code by decree of the Supreme People's Assembly Presidium. The new code prescribes the death penalty for the most "serious" or "grave" cases of four "antistate" or "antination" crimes: active participation in a coup or plotting to overthrow the state; acts of terrorism for an antistate purpose; treason, which includes defection or handing over state secrets; and, suppressing the people's movement for national liberation. In the past, prisoners were sentenced to death for such ill-defined "crimes" as "ideological divergence," "opposing socialism," and "counterrevolutionary crimes." In March a video allegedly filmed in the country depicting the public execution of three men was released on the Internet. The men were sentenced on charges of trafficking in persons; however, the international media alleged the men were accused of helping a refugee cross the border into China. The same video segment was aired as part of a CNN broadcast in November. In the past, border guards reportedly had orders to shoot to kill potential defectors. Similarly, according to refugees in past years, prison guards were under orders to shoot to kill those attempting escape from political prison camps.

Religious and human rights groups outside the country alleged that North Koreans who had contact with foreigners across the Chinese border had been imprisoned or killed (see section 2.c.). However, anecdotal evidence from refugees suggested that refugees forcibly repatriated from China were generally being treated less harshly now than in past years.

As recently as 2004, defectors reported that pregnant female prisoners underwent forced abortions and in other cases babies were killed upon birth in prison camps. Prisoners reportedly continued to die from beatings, disease, starvation, or exposure (see section 1.c.).

---

timony obtained over the past decade, and supplemented where possible by information drawn from more recent reports from visitors to the country and NGOs working on Chinese border. Refugee testimony is often dated because of the time lapse between refugee departures from North Korea and contact with NGOs able to document human rights conditions. The report cites specific sources and time frames wherever possible, and reports are corroborated to the best of our ability. While limited in detail, the information in this report is indicative of the human rights situation in North Korea in recent years.

b. Disappearance.—The government was responsible for cases of disappearance. Defectors in recent years claimed that individuals suspected of political crimes often were taken from their homes by state security officials and sent directly, without trial, to camps for political prisoners. There are no restrictions on the ability of the government to detain and imprison persons at will and to hold them incommunicado.

Numerous reports indicated that ordinary citizens were not allowed to mix freely with foreign nationals. Amnesty International (AI) reported in past years that a number of citizens who maintained friendships with foreigners have disappeared.

In 2002 the government acknowledged the involvement of DPRK "special institutions" in the kidnappings of 13 Japanese nationals between 1977 and 1983, and stated that those involved had been punished. Five surviving victims were allowed to visit Japan in October 2002 and decided to remain there. Japan continued to seek an accounting for 11 officially designated Japanese abductee cases of citizens said by the DPRK to be dead or never to have entered North Korea. Japan also hoped to gain answers regarding other cases of suspected abductions of Japanese nationals. In December the DPRK and Japan agreed to resume bilateral talks to include the abduction issue.

Credible reports indicated that other nationals were also kidnapped from locations abroad. However, the government continued to deny its involvement in the kidnappings of non-Japanese citizens.

The Republic of Korea (ROK or South Korea) government estimated approximately 485 civilian South Koreans were abducted or detained by the DPRK since the 1950–53 Korean War. A number of South Korean prisoners of war (POWs) and missing in action were also believed to remain in the DPRK. In August DPRK and ROK Red Cross officials met to discuss the issue of ROK abductees and POWs, but the issue remained unresolved.

In March AI reported that North Korean defector Kang Gun may have been kidnapped from China by North Korean agents. The ROK reported it did not have information on this case.

In April alleged North Korean agent Yoo Young-hwa was sentenced by an ROK court to 10 years in prison for his role in the abduction of Kim Dong Shik. Kim, a missionary who worked with North Korean refugees in China, disappeared from his home near the China-DPRK border in 2000. He allegedly was kidnapped by North Korean agents for assisting in the resettlement of DPRK refugees in the ROK. Kim's whereabouts remained unknown.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The penal code prohibits torture or inhumane treatment; however, many sources continued to confirm its practice. According to a 2003 report by the US Committee for Human Rights in North Korea (USCHRNK), torture was "routine" and "severe." Methods of torture reportedly included severe beatings, electric shock, prolonged periods of exposure, humiliations such as public nakedness, confinement for up to several weeks in small "punishment cells" in which prisoners were unable to stand upright or lie down, being forced to kneel or sit immobilized for long periods, being hung by one's wrists, being forced to stand up and sit down to the point of collapse, and forcing mothers recently repatriated from China to watch the infanticide of their newborn infants. Defectors continued to report that many prisoners died from torture, disease, starvation, exposure, or a combination of these causes.

In September a refugee reported that she lost the use of her feet due to severe beatings she received by North Korean police for attempting to leave the country.

In 2003 Kim Yong, a former police lieutenant colonel, told USCHRNK that as an inmate in a political prison camp in the 1990s, he had been forced to kneel for long periods with a steel bar placed between his knees and calves, suspended by his handcuffed wrists, and submerged in waist-deep cold water for extended periods.

Over the years there have been unconfirmed reports from a few defectors alleging the testing on human subjects of a variety of chemical and biological agents up through the early 1990s.

According to reports from refugees who fled the DPRK in the last five years, North Korean officials continued to prohibit live births in prison, and forced abortions were performed, particularly in detention centers holding women repatriated from China. According to defectors, in at least some cases of live birth, the child was killed or left for dead by prison guards. In addition guards reportedly sexually abused female prisoners.

Prison and Detention Center Conditions.—An estimated 150 thousand to 200 thousand persons were believed to be held in detention camps in remote areas, including for political reasons. NGO, refugee, and press reports indicated that there were several types of camps, and separate camps reportedly existed for political prisoners.

Using commercial satellite imagery to bolster their assertions about the existence of the camps and point out their main features, defectors claimed the camps covered areas as large as 200 square miles. The camps contained mass graves, barracks, work sites, and other prison facilities. The government continued to deny the existence of political prison camps. In recent years the government reportedly reduced the total number of prison camps from as many as 20 to fewer than 10, but the prison population appeared to have been consolidated rather than reduced.

Reports indicated that conditions in the camps for political prisoners were extremely harsh and many prisoners were not expected to survive. In the camps, prisoners received little food and no medical care.

Reeducation through labor was a common punishment, consisting of forced labor, such as logging, mining, or tending crops under harsh conditions. Reeducation involving memorizing speeches by Kim Jong Il and forced self-criticism sessions focused on work performance were also a standard practice. In the past, visitors to the country observed prisoners being marched in leg irons, metal collars, or shackles. According to refugees, in some places of detention prisoners were given little or no food and were denied medical care. Sanitation was poor, and refugees who escaped from labor camps continued to report that they were rarely able to bathe or wash their clothing, nor were they given changes of clothing during months of incarceration.

The government did not permit inspection of prisons or detention camps by human rights monitors.

d. Arbitrary Arrest or Detention.—In 2004 the penal code was revised to reflect the principle of *nullum crimen sine lege* (no crime without a law), a shift from the past position, which conferred powers on the authorities to criminalize acts not covered by the criminal code by means of "analogous interpretation" of the law. According to UN reports, the government also published a compendium of laws for general distribution, but gaps remained between principles and practice.

Role of the Police and Security Apparatus.—The omnipresent internal security apparatus includes the Ministry of Public Security (MPS) and the State Security Department. Members of security forces committed numerous serious human rights abuses including arresting and transporting political prisoners to prison camps without trial and participating in torture and other cruel and unusual punishment of prisoners in prison camps. Reports of diversion of food aid to the military and regime officials and of official quid-pro-quo bribery were indicative of corruption in the security forces.

Arrest and Detention.—There were no restrictions on the government's ability to detain and imprison persons at will or to hold them incommunicado. Family members and other concerned persons reportedly found it virtually impossible to obtain information on charges against detained persons or the lengths of their sentences. Judicial review of detentions did not exist in law or in practice.

Entire families, including children, reportedly have been imprisoned when one member of the family was accused of a crime (see section 1.f.).

Amnesty.—On August 15, the regime announced amnesties of an unknown number of persons in honor of the 60th anniversary of Korean liberation. Criminals were occasionally amnestied on Kim Il Sung's (April 15) or Kim Jong Il's (February 16) birthdays.

e. Denial of Fair Public Trial.—The constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary did not exist. The constitution mandates that the central court is accountable to the Supreme People's Assembly, and the criminal code subjects judges to criminal liability for handing down "unjust judgments." Furthermore, individual rights are not acknowledged.

Trial Procedures.—The public security ministry dispensed with trials in political cases and referred prisoners to the State Security Department for punishment. Little information was available on formal criminal justice procedures and practices, and outside access to the legal system has been limited to show trials for traffic violations and other minor offenses.

The constitution contains elaborate procedural protections, stating that cases should be heard in public, except under some circumstances stipulated by law. The constitution also states that the accused has the right to a defense, and when trials were held the government reportedly assigned lawyers. Some reports noted a distinction between those accused of political crimes and common criminals and claimed that the government offered trials and lawyers only to the latter. There was no indication that independent, nongovernmental defense lawyers existed.

Political Prisoners.—The government considered critics of the regime to be political criminals. Reports from past years described political offenses as including sitting on newspapers bearing Kim Il Sung's picture, mentioning Kim Il Sung's limited formal education, or defacing photographs of the Kims.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution provides for the inviolability of person and residence and the privacy of correspondence; however, the government did not respect these provisions in practice. The regime subjected its citizens to rigid controls. The government relied upon a massive, multilevel system of informers to identify critics and potential troublemakers. Entire communities sometimes were subjected to security checks. The possession of "antistate" material and listening to foreign broadcasts are crimes that could subject the transgressor to harsh punishments, including up to five years of labor reeducation.

The government monitored correspondence and telephone conversations. Private telephone lines operated on a system that precluded making or receiving international calls; international phone lines were available only under very restricted circumstances. Reportedly there were several separate phone networks: one was for international calls, which was available to foreigners; another allowed embassies to communicate with DPRK ministries and organizations; and a third served the domestic needs of citizens. Foreign diplomats in Pyongyang stated that the local network was further subdivided so phone use remained a privilege. Although a government-controlled cellular phone network exists, cell phone use was banned for the general population in the aftermath of the April 2004 train explosion at Ryongchon. During the year the network officially remained closed, although visitors to Pyongyang reported observing an increased number of persons with cell phones. NGOs also reported that migrants were able to obtain cell phones across the border in China and used them on a limited basis in border areas of the DPRK on the Chinese network. Foreigners were allowed to have North Korean mobile phones, although in practice few do.

Reports from previous years indicated that persons had been placed under surveillance through their radio sets. Allegations continued to circulate that imprisonment and execution had been ordered for individuals who made statements at home that were critical of the regime.

In the late 1950s the regime began dividing society into three classes: "core," "wavering," and "hostile." Security ratings were assigned to individuals; according to some estimates, nearly half of the population was designated as either "wavering" or "hostile." Loyalty ratings determined access to employment, higher education, place of residence, medical facilities, and certain stores. They also affected the severity of punishment in the case of legal infractions. Citizens with relatives who fled to the ROK at the time of the Korean War were classified as part of the "hostile class." Between 20 and 30 percent of the population was considered potentially hostile. Members of this class were subject to discrimination, although defectors reported their treatment had improved in recent years. Indirect evidence in recent years—for example, favorable portrayals of persons with bad class backgrounds who were hard workers—suggested that the regime wished to moderate its stance. Economic reforms may also have eroded rigid loyalty-based class divisions to some extent, although growing economic disparities have also resulted from price and wage reforms. In his August report, the UN special rapporteur on the situation of human rights in North Korea stated that "while this practice may have been abolished in law, it seems to persist and is implied by the testimonies of those who leave the country in search of refuge elsewhere."

Citizens of all age groups and occupations remained subject to intensive political and ideological indoctrination. The cult of personality of Kim Jong Il and his father remained important ideological underpinnings of the regime, at times seeming to resemble tenets of a state religion. Faced with famine and the succession process in the mid-1990s, Kim Jong Il's regime increasingly emphasized a "military first" policy to gradually replace *juche* (often described as extreme self-reliance) as the de facto ruling logic. However, *juche* still remained an important ideological concept. Indoctrination was intended to ensure loyalty to the system and the leadership, as well as conformity to the state's ideology and authority.

Indoctrination was carried out systematically through the mass media, schools, and worker and neighborhood associations. According to North Korean media, Kim Jong Il frequently told officials that ideological education must take precedence over academic education in the nation's schools. He also repeated past calls for the intensification of mandatory ideological study and discussion sessions for adult workers. Indoctrination continued to involve mass marches, rallies, and staged performances, sometimes including hundreds of thousands of persons.

Collective punishment reportedly was practiced in the past. Entire families, including children, have been imprisoned when one member of the family was accused of a crime. In November 2003 an investigator for a human rights NGO said that punishment could involve imprisonment of three generations for life at hard labor. Refugees have also documented this practice in prior years.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press; however, the government prohibited the exercise of these rights in practice. Articles of the constitution that require citizens to follow "socialist norms of life" and to obey a "collective spirit" again took precedence over individual political and civil liberties.

The constitution provides for the right to petition. However, when anonymous petitions or complaints about state administration were submitted, the State Security Department and Ministry of Public Security sought to identify the authors, who could be subjected to investigation and punishment.

The government sought to control virtually all information. The government carefully managed visits by foreigners, especially foreign journalists. In April 2004 the government denied journalists access to the scene of a train explosion at Ryongchon station that killed hundreds of persons, although foreign diplomats were granted access. On occasion, when it served its agenda, the government allowed foreign media to cover certain events, including the 60th anniversary celebration of the KWP founding and the annual Arirang festival. During visits by foreign leaders, groups of foreign journalists were permitted to accompany official delegations and to file reports. During the year numerous reports indicated that the DPRK granted more visas for known journalists, particularly at times that coincided with high-profile events. In August CNN founder Ted Turner visited the DPRK and met with Kim Yong Dae, vice president of the Presidium of the SPA. CNN reporter Mike Chinoy accompanied Mr. Turner and interviewed Vice Foreign Minister Kim Gye Gwan. In all cases journalists were strictly monitored. They generally were not allowed to talk to officials or to persons on the street, and cellular or satellite phones had to be held at the airport for the duration of a visitor's stay.

Domestic media censorship continued to be enforced strictly, and no deviation from the official government line was tolerated. In 2004 Reporters Without Borders (RWB) reported that a state radio journalist was punished for mistakenly referring to a deputy minister as minister. He reportedly was sent to a "revolutionization" camp for several months. The regime prohibited listening to foreign media broadcasts except by the political elite, and violators were subject to severe punishment. Radios and television sets, unless altered, received only domestic programming; radios obtained from abroad must be altered to operate in a similar manner. RWB reported that in 2004 authorities designated radio sets as "new enemies of the regime," after human rights activists announced their intention to send transistor radios by balloon into the country. During the year there was evidence that radios were more accessible than in the past, due primarily to corrupt border guards. Some NGOs have reported that more defectors said they had listened to foreign broadcasts than in previous years.

Some deluxe hotels in Pyongyang offered Internet service in the rooms of foreign visitors when it was ordered in advance, but for citizens Internet access was provided only to high-ranking officials and other designated elites, including select university students. This access was granted via international telephone lines through a provider in China, as well as a new local connection that was linked with a German server. Reporting from foreign diplomats indicated that North Koreans employed by foreign organizations and missions in Pyongyang have considerable access to the Internet. NGO and press reports claimed that the DPRK established an "intranet" in 2004, available to a slightly larger group of users including an elite grade school, selected research institutions, universities, factories, and a few individuals. The Korean Communication Corporation acts as the gatekeeper, downloading only acceptable information for access through the intranet. RWB reported that some e-mail access existed through this network.

The government has long restricted academic freedom and controlled artistic and academic works. A primary function of plays, movies, operas, children's performances, and books was to buttress the cult of personality surrounding Kim Il Sung and Kim Jong Il.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of assembly; however, the government did not respect this provision in practice and continued to prohibit public meetings without prior authorization.

Freedom of Association.—The constitution provides for freedom of association; however, the government failed to respect this provision in practice. There were no known organizations other than those created by the government. Professional associations existed primarily to facilitate government monitoring and control over organization members.

c. Freedom of Religion.—The constitution provides for "freedom of religious belief;" however, in practice the government severely restricted religious freedom, including organized religious activity, except that which was supervised by officially recognized groups linked to the government. The law also stipulates that religion "should not be used for purposes of dragging in foreign powers or endangering public security." There was no change in the poor level of respect for religious freedom during the year, and genuine religious freedom did not exist.

The personality cult of Kim Il-Sung and Kim Jong-Il remained a virtual civil religion that provided a spiritual underpinning for the regime. Refusal on religious or other grounds to accept the leader as the supreme authority exemplifying the state and society's needs was regarded as opposition to the national interest and continued to result in severe punishment.

According to a South Korean press report, in 2002 the chairman of the Association of North Korean Catholics stated that the Catholic community in the North had no priests but held weekly prayer services at the Changchung Catholic church in Pyongyang. In its 2002 report to the UN Committee on Human Rights, the government reported the existence of 500 "family worship centers," although the existence of such centers has not been independently confirmed. Some unconfirmed reports indicated that such worship centers were tolerated as long as they did not openly proselytize or have contact with foreign missionaries. There continue to be unconfirmed reports of underground Christian churches.

Most of the 300 Buddhist temples in the country were regarded as cultural relics, but in some of them religious activity was permitted. Monks reportedly resided at a few temples that were being restored, although they were expected to serve primarily as guides for South Korean tourists.

Several schools for religious education existed in the country, including three-year religious colleges for training Protestant and Buddhist clergy. A religious studies program also was taught at Kim Il Sung University. In 2000 a Protestant seminary was reopened with assistance from foreign missionary groups. In 2003, construction reportedly was completed on the Pyongyang Theological Academy, a graduate institution for pastors and evangelists.

Several government-sponsored religious organizations served as interlocutors with foreign church groups and international aid organizations. Foreigners who met with representatives of these organizations reported that some were genuinely religious, but noted others appeared to have little knowledge of religious doctrine or teachings. During the year the Korea Institute for National Unification's (KINU) white paper on human rights in North Korea indicated that the regime utilized authorized religious entities for external propaganda and political purposes and that local citizens were strictly barred from entering their places of worship. Ordinary citizens considered such sites to be primarily "sightseeing spots for foreigners."

Many religious figures have visited the country in recent years, including papal representatives and religious delegations from foreign countries. In June Venerable Beop Jang, the chair of the national council on religious leaders in the ROK, traveled to Pyongyang to mark the fifth anniversary of the Inter-Korean summit.

Overseas religious relief organizations have been active in responding to the country's food crisis; however, they have been denied access to many areas of the country and their movement restricted and closely monitored. Some foreigners who visited the country stated that church services contained political content supportive of the regime in addition to religious themes.

Members of government-controlled religious groups did not appear to suffer discrimination. Some reports claimed, and circumstantial evidence suggested, that many have been mobilized by the regime. There were unconfirmed reports that the nonreligious children of religious believers may be employed at midlevels of the government. In the past, such individuals suffered broad discrimination with sometimes severe penalties or even imprisonment.

According to some defectors, the regime has increased repression and persecution of unauthorized religious groups in recent years. These defectors reported that persons engaging in religious proselytizing, persons with ties to overseas evangelical groups operating across the border in China, and specifically, persons repatriated and found to have contacted Christian missionaries outside the country have been arrested and subjected to harsh punishment. During the year ROK media reports, including testimony from a North Korean who defected in 2003, asserted that North Koreans who received help from churches inside China were considered political

criminals and received harsher treatment. This has included imprisonment, prolonged detention without charge, torture, and execution. According to defector reports, the government was concerned that faith-based South Korean relief and refugee assistance efforts along the northeast border of China had both humanitarian and political goals, including overthrow of the regime.

Religious and human rights groups outside the country continued to provide numerous unconfirmed reports that members of underground churches have been beaten, arrested, detained in prison camps, tortured, or killed because of their religious beliefs. Members of underground churches connected to border missionary activity were regarded as subversive elements.

Societal Abuses and Discrimination.—There is no known Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for the "freedom to reside in or travel to any place"; however, the government did not respect these rights in practice. During the year the regime continued to attempt to control internal travel. Numerous reports, including the UN special rapporteur's August report, suggested that internal travel rules were relaxed to allow citizens to search for food, conduct local market activities, or engage in enterprise-to-enterprise business activities.

Only members of a very small elite and those with access to remittances from overseas had access to personal vehicles, and movement was hampered by the absence of an effective transport network and by military and police checkpoints on main roads at the entry to and exit from every town. Use of personal vehicles at night and on Sundays was severely restricted. For a period of a few weeks early in 2004, the government also restricted the use of bicycles to major roads in Pyongyang. The bicycle ban, while explained as a security measure following a streetcar accident, was seen as an attempt to further control movement.

The government strictly controlled permission to reside in, or even to enter, Pyongyang, where food supplies, housing, health, and general living conditions were much better than in the rest of the country.

The regime only issued exit visas for foreign travel to officials and trusted businessmen, artists, athletes, academics, and religious figures. Short-term exit papers were available for some individuals seeking to engage in small-scale trade and residents on the Chinese border to enable visits with relatives in bordering regions of China.

In the past, the government engaged in forced internal resettlement to relocate tens of thousands of persons from Pyongyang to the countryside. Sometimes this occurred as punishment for offenses, although social engineering was also involved. For example, although disabled veterans were treated well, other persons with physical and mental disabilities, as well as those judged to be politically unreliable, have been sent out of Pyongyang into internal exile. Since most of these persons were sent out in the past, there was no indication that this practice continued on a large scale.

The government did not allow legal emigration, although officials in border areas reportedly often have taken bribes from, or simply let pass, persons crossing the border with China without required permits. During the year, periodic crack-downs on this practice, with a stepped-up military presence along the border, were reported in official media.

Substantial numbers of North Koreans crossed the border into China over the years, and tens of thousands were estimated to live there during the year. Some settled semipermanently in Northeastern China, others traveled back and forth across the border, and still others seek asylum and permanent resettlement in third countries. Approximately 1,300 North Koreans were permanently resettled in the ROK after transiting through other Asian countries during the year. There was evidence that the number of North Koreans crossing into China declined during the year.

China considered North Koreans to be illegal economic migrants, denied the office of the UN High Commissioner for Refugees (UNHCR) access to this population, and detained and deported an estimated few hundred North Koreans to the DPRK each month. In April China reportedly repatriated 30 North Koreans following a visit by North Korean Vice Foreign Minister Kang Sok Ju. In October China repatriated seven North Koreans who had sought refuge at a Korean international school.

The law criminalizes defection and attempted defection, including the attempt to gain entry to a foreign diplomatic facility for the purpose of seeking political asylum. Individuals who cross the border with the purpose of defecting or seeking asylum in a third country are subject to a minimum of five years of "labor correction." In

"serious" cases, defectors or asylum seekers are subjected to indefinite terms of imprisonment and forced labor, confiscation of property, or death. Many would-be refugees who were returned involuntarily have been imprisoned under harsh conditions (see section 1.a.). Some sources indicated that the harshest treatment was reserved for those who had extensive contact with foreigners. In October the ROK press reported that seven North Korean refugees who tried to cross the border from China into Russia in 2000 and were subsequently deported to the DPRK were imprisoned in a camp, where several died.

Regulations under the 2004 penal code may be aimed at differentiating between defectors and the migrants who illegally leave the country to seek economic opportunities in China. Sentences of up to two years of "labor correction" for the lesser crime of illegally crossing the border are stipulated. Reports from defectors indicated that as recently as 2003 the regime was differentiating between persons who crossed the border in search of food, who might be sentenced only to a few months of forced labor, and persons who crossed repeatedly or for political purposes, who were sometimes sentenced to heavy punishments. According to the UN special rapporteur's August report, there was a new policy to enable persons leaving the country for nonpolitical reasons to return to the DPRK with the promise of a pardon under the 2004 penal code. Other NGO reports indicated that North Koreans returning from China were often able to bribe North Korean border guards into letting them freely pass across the border. Several NGOs operating in the region confirmed that punishments seemed to be less severe than in the past.

AI reported that in September 2004 Chang Gyung Chul and Chang Gyung Soo were sentenced to 10 years' imprisonment for their unauthorized exit from the country. Their cousin Chang Mi Hwa reportedly was sentenced to 5 years' imprisonment and was thought to be under house arrest.

Since the June 2000 inter-Korean summit, there have also been several family reunions in the North and the South involving hundreds of persons.

The government has permitted an increasing number of overseas Koreans to visit relatives in North Korea over the past decade.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, nor has the government established a system for providing protection for refugees. The government had no known policy or provision for refugees or asylees and did not participate in international refugee fora.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have the right to change their leadership or government peacefully. The KWP and the KPA, with Kim Jong Il in control, dominated the political system. Little reliable information was available on intraregime politics. The legislature, the Supreme People's Assembly (SPA), meets only a few days per year to rubber-stamp resolutions presented to it by the party leadership.

The regime justified its dictatorship with unabashed nationalism and demanded a near diety-like reverence for both Kim Jong Il and the late Kim Il Sung. The military first policy and "our-style socialism" mark the twin pillars of the government's ideology under Kim Jong Il's direction. Military first touts the People's Army as the main ideological force of the revolution, and "our style socialism" emphasizes the supposed superiority of North Korean method of governance.

Elections and Political Parties.—In an effort to give the appearance of democracy, the government has created several "minority parties." Lacking grassroots organizations, they existed only as rosters of officials with token representation in the SPA. Free elections have never existed, and the regime regularly criticized the concept of free elections and competition among political parties as an "artifact" of "capitalist decay."

Elections to the SPA are held every five years. Provincial, city, and county assemblies were held irregularly. Elections were not free and fair. Elections were held in 1990, 1998, and in August 2003; the outcomes of all were virtually identical.

Women reportedly made up 20 percent of the membership of the SPA as of the 2003 elections, but only approximately 4 percent of the membership of the central committee of the KWP.

The country is racially and ethnically homogenous. Officially there are no minorities, and there is, therefore, no information on minority representation in the government.

Government Corruption and Transparency.—Reports of diversion of food aid to the military and regime officials and of official *quid pro quo* bribery were indicative of corruption in the government and security forces. The government continued to

deny any diversion of food aid, although it did hint that it was combating internal corruption.

The government earned hard currency through illicit activities including narcotics trafficking, counterfeiting of currency and goods such as cigarettes, and smuggling.

The government has not taken steps towards transparency that would make it eligible for membership in international financial institutions.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no independent domestic organizations to monitor human rights conditions or to comment on the status of such rights. The government's North Korean Human Rights Committee has denied the existence of any human rights violations in the country.

The government maintained that most international human rights norms, particularly individual rights, were illegitimate, alien, and subversive to the goals of the state and party. In 2001 a North Korean delegate reporting to the UN Human Rights Committee dismissed reports of human rights violations in the country as the propaganda of "egoistic" and "hostile forces" seeking to undermine the sovereignty of the country.

The government has ignored requests for visits from human rights NGOs; none were known to have taken place since a 1996 AI visit. The NGO community and numerous international experts continued to testify to the grave human rights situation in the country during the year.

A number of countries that have established relations with the DPRK in recent years have sought to raise the matter of human rights abuses. North Korea emphasized that it had ratified most UN human rights instruments. In April for the third consecutive year, the UNCHR adopted a resolution on the situation of human rights in the country. The resolution expressed "deep concern about reports of systemic, widespread and grave violations of human rights...and note(d) with regret that the authorities...have not created the necessary conditions to permit the international community to verify these reports...." In November, for the first time, the UN General Assembly passed a similar resolution condemning the DPRK's human rights record. The government has not allowed UN Special Rapporteur on the situation of human rights in the DPRK Vitit Muntarbhorn to visit the country to carry out his mandate. In August Muntarbhorn issued a report that formed the basis of the UN General Assembly debate on the issue. In 2004 the United Kingdom sent a delegation to Pyongyang for formal discussions on human rights; two members of the UN Committee on the Rights of the Child also visited the country in 2004.

Although not involved in monitoring human rights, the World Food Program (WFP) visited 160 of the country's 203 counties during the year to monitor food distribution and survey nutritional needs. While the number of WFP monitoring visits increased substantially since the WFP first established its presence in the country, the average number of visits per month declined over the last 2 years, from 513 per month in 2003 to 440 per month in 2004 and 388 per month through November of 2005. The government usually approved proposed visits, but it continued occasionally to cancel or amend visits during the year. The government has never permitted monitoring visits to certain areas of the country it has deemed "sensitive," nor has it ever permitted monitoring visits to be made on a random or short-notice basis, limiting the effectiveness of the technique in verifying that aid reached intended recipients on a sustained basis. Another monitoring shortcoming is that the government has not provided the WFP with a full list of the institutions (schools, orphanages, hospitals, etc.) that receive food. The WFP has not been allowed to bring in native Korean speakers for its staff; however, WFP staff has been permitted to study the Korean language.

In August the government asked the UN to end all humanitarian aid programs by the end of the year. It also asked all resident international staff of NGOs providing humanitarian assistance to leave the country by the end of the year. The regime stated that beginning in 2006 it would accept only "development" aid, to be administered by DPRK nationals. Expatriate staff would be allowed to visit only two to three times a year. The rationale given was that humanitarian assistance was no longer necessary, given the improved food situation in the country. The move to terminate humanitarian aid has raised numerous concerns, including doubts that the food emergency has truly ended and that, without WFP monitoring, donated food will get to the most vulnerable populations. At year's end the WFP ended its large-scale food distribution program but retained a skeleton staff in Pyongyang and was in discussions with the regime about a follow-on development assistance program.

The ROK provided a substantial amount of bilateral aid to the DPRK, including a donation of 500 thousand tons of rice and other food and 350 thousand tons of fertilizer. This aid was donated outside of the WFP, and its distribution was not systematically monitored, but for the third year ROK monitoring teams were allowed briefly to observe the distribution of bilateral aid at previously agreed-upon distribution points. The ROK reported conducting 20 monitoring visits in connection with its food aid programs during the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution grants equal rights to all citizens. However, the government has never granted its citizens most fundamental human rights in practice, and there continued to be pervasive discrimination on the basis of social status.

Women.—The constitution states that "women hold equal social status and rights with men;" however, although women were represented proportionally in the labor force, few women had reached high levels of the party or the government. In addition there were indications that the number of women in the workforce declined since economic reforms were instituted. There was no evidence that this decline was the result of a government policy; rather, it was probably the consequence of widespread state factory closures. The DPRK is a party to the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), and in July sent a delegation to attend the annual session of states parties.

There was no information available on domestic and general societal violence against women; women in prison camps reportedly were subject to rape and forced abortions (see section 1.c.).

Working-age women, like men, were required to work. They were thus required to leave preschool-age children in the care of elderly relatives or in state nurseries. According to the law, women with large families are permitted to work shorter hours. There continued to be reports of trafficking in women and young girls who had crossed into China (see section 5, Trafficking). During the year approximately two-thirds of the refugees who found safe haven in the ROK were women.

Children.—The state provides 11 years of free compulsory education for all children. However, in the past some children were denied educational opportunities and subjected to punishments and disadvantages as a result of the loyalty classification system and the principle of "collective retribution" for the transgressions of family members (see section 1.f.).

Like others in society, children were the objects of intense political indoctrination; even mathematics textbooks propound party dogma. In addition foreign visitors and academic sources reported that from an early age children were subjected to several hours a week of mandatory military training and indoctrination at their schools. School children sometimes were sent to work in factories or in the fields for short periods to assist in completing special projects or in meeting production goals.

The WFP reported feeding 2.8 million children during the year. A nutrition survey carried out in 2004 by UNICEF and the WFP, in cooperation with the government, found that in the sample of 4,800 children under six, 23 percent were underweight, 37 percent were stunted (chronic malnutrition, measured by height for age) and 7 percent suffered from "wasting" (acute malnutrition, measured by weight for height). This represented a modest improvement compared with 2002, when 21 percent were underweight, 42 percent were stunted, and 9 percent were wasted. The latest survey also found that 32 percent of mothers with children under two were malnourished and 35 percent were anemic, unchanged from the 2002 survey.

In practice children did not enjoy any more civil liberties than adults. The UN Committee on the Rights of the Child has repeatedly expressed concern over de facto discrimination against children with disabilities and the insufficient measures taken by the state to ensure these children had effective access to health, education, and social services, and to facilitate their full integration into society. In July in New York, the committee heard the DPRK's report under the Convention on the Rights of the Child.

Information about societal or familial abuse of children remained unavailable. There were reports of trafficking in young girls among persons who had crossed into China (see section 5, Trafficking).

Trafficking in Persons.—There were no known laws specifically addressing the problem of trafficking in persons, and trafficking of women and young girls into and within China continued to be widely reported. Some women and girls were sold by their families or by kidnappers as wives or concubines to men in China; others fled of their own volition to escape starvation and deprivation. A network of smugglers reportedly facilitated this trafficking. According to defector reports, many victims of

trafficking, unable to speak Chinese, were held as virtual prisoners, and some were forced to work as prostitutes.

Persons with Disabilities.—Traditional social norms condone discrimination against persons with physical disabilities. Although veterans with disabilities were treated well, other persons with physical and mental disabilities have been sent out of Pyongyang into internal exile. The government passed a law in 2003 on the protection of persons with disabilities, ensuring equal access for persons with disabilities to public services; however, implementing legislation has not been passed.

Section 6. Worker Rights

a. The Right of Association.—The constitution provides for freedom of association; however, this provision has never been respected in practice. There were no known labor organizations other than those created by the government. The KWP purportedly represents the interests of all labor. There was a single labor organization, the General Federation of Trade Unions of Korea. Operating under this umbrella, unions functioned on the classic Stalinist model, with responsibility for mobilizing workers to support production goals and for providing health, education, cultural, and welfare facilities.

The country was not a member of the International Labor Organization, but it had observer status.

b. The Right to Organize and Bargain Collectively.—Workers do not have the right to organize or to bargain collectively. Factory and farm workers were organized into councils, which had an impact on management decisions. Unions do not have the right to strike.

There was one special enterprise zone (SEZ) in the Rajin-Songbon area. The same labor laws that applied in the rest of the country applied in the Rajin-Songbon SEZ, and workers in the SEZ were carefully screened and selected. The Kaesong Industrial Complex (KIC) began operating in December 2004, 8 miles north of the Demilitarized Zone with 15 South Korean companies selected for the pilot phase. While the workers for the KIC were also screened and selected, special regulations were negotiated between the two Koreas in 2002 and 2003 for the management of the area. The respective assemblies of both North and South Korea approved the Kaesong Industrial Complex Act. Under this agreement, North Korean workers in the KIC are guaranteed a monthly minimum wage.

c. Prohibition of Forced or Compulsory Labor.—In its 2000 and 2001 reports to the UN Human Rights Committee, the government claimed that its laws prohibit forced or compulsory labor. However, the government sometimes mobilized the population for construction and other voluntary labor projects, including on Sundays, the one day off a week; the year's rice planting and harvesting effort, designed by the government to help boost the country's food production, was an example of such projects. The government also frequently gathered large groups together for mass demonstrations and performances. "Reformatory labor" and "reeducation through labor" have traditionally been common punishments for political offenses. Forced and compulsory labor, such as logging and tending crops, continued to be the common fate of political prisoners.

The penal code requires that all citizens of working age must work and "strictly observe labor discipline and working hours." According to the 2004 penal code, failure to meet economic plan goals can result in two years of "labor correction."

d. Prohibition of Child Labor and Minimum Age for Employment.—According to the law, the state prohibits work by children under the age of 16 years, and the penal code criminalizes forced child labor. Still, school children may be assigned to factories or farms for short periods to help meet production goals, and to other work like snow removal on major roads.

e. Acceptable Conditions of Work.—No data was available on the minimum wage in state-owned industries. Since the 2002 economic reforms, wages have become the primary form of compensation, and factory managers have had more latitude to set wages and provide incentives. Workers were expected to use some of their increased income to pay for services that had previously been provided either free or at highly subsidized rates by the state, such as rent for housing and fees for transportation. While education and medical care technically remained free, educational materials and medicines appeared available only for purchase in markets. At the KIC, South Korean companies deposit North Korean workers' salary of $57.50 per month into a central account in North Korea, of which $50 went directly to the worker and $7.50 went to the government as a social insurance fee. Unconfirmed reports indicate that the salary actually received by workers may be significantly lower.

Class background and family connections may be as important as professional competence in deciding who received particular jobs, and foreign companies that

have established joint ventures continued to report that all their employees must be hired from registers screened by the authorities. Unlike the previous penal code, the 2004 code does not address persistent tardiness.

The constitution stipulates an eight-hour workday; however, some sources reported that laborers worked longer hours, perhaps including additional time for mandatory study of the writings of Kim Il Sung and Kim Jong Il. The constitution provides all citizens with a "right to rest," including paid leave, holidays, and access to sanitariums and rest homes funded at public expense; however, the state's willingness and ability to provide these services was unknown. Foreign diplomats reported that workers had 15 days of paid leave plus paid national holidays. Some persons were required to take part in mass events on holidays, which sometimes required advance practice during work time. Workers were often required to "celebrate" at least some part of public holidays with their work units, and often only get to spend a whole day with their families if the holiday lasts for two days.

Many worksites were hazardous, and the rate of industrial accidents was high. The law recognizes the state's responsibility for providing modern and hygienic working conditions. The penal code criminalizes the failure to heed "labor safety orders" pertaining to worker safety and workplace conditions only if it results in the loss of lives or other "grave loss." In addition workers do not have an enumerated right to remove themselves from hazardous working conditions.

North Koreans also suffered serious human rights abuses and labored under harsh conditions while working abroad for North Korean firms and under arrangements between the North Korean government and foreign firms. For example, according to the Czech Republic Ministry of Labor, approximately 300 North Korean women worked in extremely harsh conditions in garment and leather factories in several locations throughout the Czech Republic. The women were kept in tightly controlled environments, and their earnings were deposited into an account controlled by the North Korean embassy. The Czech labor ministry investigated their situation and concluded that although the situation was "troubling" in several aspects, the women were working voluntarily. North Koreans sought opportunities to work abroad and most were vetted by the party for their ideological health and background.

REPUBLIC OF KOREA

The Republic of Korea (Korea) is a constitutional democracy governed by a president and a unicameral legislature. The country has a population of approximately 48 million. In December 2002 President Roh Moo-hyun was elected to a five-year term of office. Members of the National Assembly serve four-year terms. In April 2004, in a free and fair election, President Roh's Uri Party obtained a majority 151 of 299 national assembly seats. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- societal discrimination against women
- domestic violence and rape
- child abuse
- trafficking in persons
- societal discrimination against persons with disabilities
- societal discrimination against minorities

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings. However, the National Human Rights Commission found that two demonstrators probably died as a result of police violence (see section 2.b.).

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits mistreatment of suspects, and officials generally observed this prohibition in practice.

Unlike in previous year, there were no reports of police abuse of persons in custody.

In 2004 the Ministry of Justice implemented several reforms aimed at addressing abuse in prisons. These reforms included the prohibition of facemasks, restrictions on the use of long chains, and limitations on the amount of time an inmate could be kept in solitary confinement.

The government continued to investigate incidents of possible abuse under the country's former military regimes. By year's end the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement, established to review cases in which political activists may have been tortured, had reviewed 9,050 cases since 2000 and determined that compensation was due in 540 of them.

There were a number of incidents, including assaults and suicides, related to military hazing. The National Assembly and the Ministry of National Defense were developing countermeasures to improve the working environment of soldiers.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, showing significant improvement from previous years, and the government permitted visits by independent human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. However, rules regarding arrest and detention under the National Security Law (NSL) are vague. For example, the NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea and therefore deemed dangerous to the country. The NSL permits the imprisonment for up to seven years of anyone who "with the knowledge that he might endanger the existence or security of the state or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an antistate organization." The legal standard for what constitutes "endangering the security of the State" is vague. Thus, persons could be arrested for the peaceful expression of views that the government considered pro-North Korean or antistate. Between January and August authorities arrested 16 persons for alleged NSL violations.

Because of the vagueness of the NSL and the invocation of classified security threat information regarding the Korean Peninsula, the government was relieved of the burden of proof that any particular speech or action in fact threatens the nation's security.

The UN Human Rights Committee has termed the NSL "a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights." Proposals to annul or substantially revise the NSL were under review in the National Assembly.

Role of the Police and Security Apparatus.—The Korean National Police Agency (KNPA) is under the Ministry of Government Administration and Home Affairs. The approximately 93 thousand-member force has a national headquarters in Seoul, 5 special agencies, including the Maritime Police, 13 provincial headquarters, 220 police stations, and 3,389 branch offices. The KNPA was considered well disciplined, and corruption and impunity were not major problems.

Arrest and Detention.—The law requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after the suspect is apprehended, or within 72 hours if a court is not located in the same county. Police may detain suspects who appear voluntarily for questioning for up to six hours, but must notify the suspects' families. The police generally respected these requirements.

Authorities normally must release an arrested suspect within 20 days unless an indictment is issued. An additional 10 days of detention is allowed in exceptional circumstances. Consequently, detained suspects were a relatively small percentage of the total prison population.

The law provides for the right to representation by an attorney, including during police interrogation. There were no reports of access to legal counsel being denied. There is a bail system, but human rights lawyers said bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a previous victim, or had no fixed address.

There were no reports of political detainees.

Amnesty.—On several occasions during the year, the government grants special pardons or reinstatements of civil rights to persons. In August, the government granted a special pardon to 4.22 million persons; while most of the beneficiaries

were traffic offenders, the list included 13 politicians who had been convicted of illegal fundraising.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. Of the nine justices on the constitutional court, three are appointed by the president, three are elected by the National Assembly, and three are designated by the chief justice of the Supreme Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. The Prosecutor's Office, under the jurisdiction of the Ministry of Justice (MOJ), has shown increased independence and impartiality in recent years. However, in October the prosecutor-general resigned in protest after the justice minister ordered him not to detain an academic who made pro-North Korean remarks in possible violation of the NSL.

Local courts are presided over by judges who render verdicts in all cases. There is no trial by jury. Both defendants and prosecutors can appeal a verdict or a sentence to a district appeals court and to the Supreme Court. Constitutional challenges can be taken to the constitutional court.

Trial Procedures.—The law provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. Although the law prohibits double jeopardy, the courts have interpreted this provision to mean that a suspect cannot be indicted or punished more than once for the same crime, while the prosecution can appeal a not guilty verdict or a sentence it considers excessively lenient. A suspect may therefore in fact be tried more than once for the same crime. When a person is detained, the initial trial must be completed within six months of arrest. These rights generally were observed. Trials are open to the public, but a judge may restrict attendance if he believed spectators might disrupt the proceedings.

Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal matters were tried by the same courts. Although few convictions were overturned, appeals often resulted in reduced sentences. Death sentences were appealed automatically.

Political Prisoners.—It was difficult to estimate the number of political prisoners because it was not clear whether particular persons were arrested for exercising the rights of free speech or association, or were detained for committing acts of violence or espionage. Minganhyup, a nongovernmental organization (NGO), reported that as of September, the government had prosecuted 61 persons for their political beliefs, many of them student members of a pro-North Korea organization. As of August the government had convicted 56 conscientious objectors who failed to report for military service.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. Some human rights groups raised concerns about possible government wiretapping abuse. The Anti-Wiretap Law lays out broad conditions under which the government may monitor telephone calls, mail, and other forms of communication for up to two months in criminal investigations and four months in national security cases. The Ministry of Information and Communication said that between January and June, the government conducted 550 cases of wiretapping, down 40 percent from the 917 cases during the same time period in 2004. However, during the first six months of the year, the government requested telecommunication companies and Internet firms to provide personal data for 1.38 million persons, an increase of 128 percent from the same period the previous year.

In July prosecutors indicted two National Intelligence Service (NIS) directors from the Kim Dae-jung administration for illegal wiretapping. The prosecutors concluded their investigation in December, reporting that the NIS illegally eavesdropped on leading political, financial, and media figures during the Kim Young-sam (1993–98) and Kim Dae-jung (1998–2003) administrations.

The government continued to require some released prisoners to report regularly to a probation officer under the Social Surveillance Law.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in North Korea if the government determines that the action endangers national security or the basic order of democracy in the country. However, this prohibition was rarely enforced, and the viewing of North Korean satellite telecasts in private homes is legal.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did

not restrict academic freedom. However, under the NSL, the government may limit the expression of ideas that authorities consider Communist or pro-North Korean. Proposals to annul or substantially revise the NSL were still under review in the National Assembly at year's end.

On January 1, the National Assembly passed a law that allows the Fair Trade Commission to impose restrictions on publishers if any one newspaper has more than 30 percent of the market or if three major newspapers have a combined market share of 60 percent or more. The law also requires press owners to report their circulation and advertising revenue to a Press Development Committee. Some newspapers and observers said that the law would open up the media market to a wider variety of viewpoints. Others denounced the law as an unwarranted interference in the freedom and autonomy of publishers and their editors.

The state-owned radio and television network maintained a considerable degree of editorial independence in its news coverage.

The government blocked violent and sexually explicit Web sites and required site operators to rate their site as harmful or not harmful to youth. The government also blocked North Korean Web sites. In March the Information Communication Ethics Committee ordered a major domestic Internet portal site to shut down what it considered to be overly pro-Japanese online communities. The government also blocked the sale of video games that featured North Korea in a negative way.

There were no government restrictions on academic freedom. Unlike in previous years, there were no reports of police informants posted on university campuses.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies. The police must notify organizers if they consider an event impermissible under this law; however, police routinely approved demonstrations.

During the year demonstrators on several occasions used steel bars, rocks, and other weapons to attack police. Violence erupted in demonstrations involving labor disputes, trade issues, US Forces Korea base consolidation, and the presence of a statue honoring US General Douglas MacArthur. The National Human Rights Commission found that two demonstrators probably died as a result of police violence, and the president apologized for the incident in a nationally publicized address. The protesters had participated in a November 15 farmers' rally during which demonstrators armed with wooden sticks and fire bombs clashed with police armed with batons and plastic shields. One demonstrator died on November 21, and the other died on December 15.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. Associations operated freely, except those deemed by the government to be seeking to overthrow the government.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—The small Jewish population was comprised almost entirely of expatriates. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Most citizens could move freely throughout the country; however, police had discretion to restrict the movement of some former prisoners. While foreign travel generally was unrestricted, the government must approve travel to North Korea. Travelers going to places other than Kaesong or Mt. Geumgang must receive a briefing from the Ministry of Unification prior to departure and demonstrate that their trip does not have a political purpose and is not undertaken to praise North Korea or criticize the government. During the year the government continued to promote the expansion of North-South government, economic, cultural, and tourism-related contacts. Unlike in previous years, there were no cases of travelers to North Korea being subjected to arrest for not obtaining government permission prior to their departure.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. In practice the government provided protection against *refoulement*, the return of persons to a country

where they feared persecution; however, the government did not routinely grant refugee status or asylum. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers and an alternative form of protection, a renewable, short-term permit, to those that met a broader definition of "refugee." Between January and August the government received 326 refugee applications (not including North Koreans), a sharp increase from previous years. Between July 1994, when the government first accepted applications, and August, the government approved 39 of 724 applications. The government worked with UNHCR to streamline its refugee processing process, which required 2-tiered meetings of 12 governmental and nongovernmental council members and normally took from 2 to 3 years. Unlike in previous years, there were no reports that asylum seekers were not well counseled on their rights or of other improper actions.

The government continued its longstanding policy of accepting refugees from North Korea, who are entitled to citizenship in the ROK. The government resettled 1,386 North Koreans during the year, resulting in a total population of 7,690 former North Koreans in the country.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 20 years of age or older. Elections are held by secret ballot.

The law provides for the direct election of the president to a single five-year term; the president may not stand for re-election. Representatives to the National Assembly are elected under a dual system of direct and proportional representation. Voters cast one vote for a candidate from their electoral district and a separate vote for a party; the percentage of votes for each party determines the number of that party's candidates who are elected as proportional representatives. National assembly members serve terms of four years and are not subject to a term limit.

Elections and Political Participation.—A free and fair national assembly election was held in April 2004. After April and October by-elections, the ruling Uri Party lost its majority but retained a plurality of 144 of 299 seats in the National Assembly.

In general elections, 50 percent of each party's candidates on the proportional ballot must be women while 30 percent of each party's geographical candidates must be women. As a result, in the 2004 elections 39 women were elected to the 299-seat legislature. At year's end 3 of the 19 National Assembly committees were chaired by women. In the Supreme Court, 1 of 14 justices was a woman, and in the cabinet 1 of 19 ministers was a woman.

Government Corruption and Transparency.—On taking office, President Roh encouraged prosecutors to investigate political parties and politicians for corruption. Several investigations involved his close aides.

The country has a Freedom of Information Act, which went into effect in 1998.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law forbids discrimination on the basis of gender, religion, disability, age, social status, regional origin, national origin, ethnic origin, physical condition or appearance, marital status, pregnancy and child delivery, family status, race, skin color, thought or political opinion, record of any crime for which punishment has been fulfilled, sexual orientation or medical history, and the government generally respected these provisions. However, traditional attitudes limited opportunities for women, persons with disabilities, and ethnic minorities. While courts have jurisdiction to decide discrimination claims, many of these cases were instead handled by the National Human Rights Commission.

Women.—Violence against women remained a problem. Between January and August, the Ministry of Justice registered 10,227 cases of domestic violence and prosecuted 1,114 cases. The Korea Women's Hot line estimated in February that domestic violence occurred in 30 percent of households. The Special Act on the Punishment of Domestic Violence defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to six months. Of-

fenders may also be placed on probation or ordered to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence. The government has established some shelters for battered women and has increased the number of childcare facilities, giving women in abusive situations more options. However, women's rights groups said these measures fell far short of effectively dealing with the problem.

In March the National Assembly eliminated the household registration system that had made women legally subordinate to the male family head. The reforms also allowed remarried women to change their children's family name to their new husband's name and ended the six-month waiting period to remarry that was directed only at women. The family law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce. Although the law helped abused women who chose to divorce, the stigma of divorce remained strong, and there was little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities and had difficulty remarrying, led some women to stay in abusive situations. However, according to a ministry of health and welfare report, 47.4 percent of marriages end in divorce.

Rape remained a serious problem. Between January and August, there were 6,220 reported cases of rape and 2,433 prosecutions. Many rapes were believed to have gone unreported because of the stigma associated with being raped. The activities of a number of women's groups increased awareness of the importance of reporting and prosecuting rapes, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. The penalty for rape is three years' imprisonment; if a weapon is used or two or more persons commit the rape, punishment may be a maximum of life imprisonment.

Prostitution is illegal but widespread. In 2004 the government passed sweeping antiprostitution and antitrafficking legislation that provided protection for the victims of prostitution and enhanced punishment for those engaged in prostitution. Some NGOs also expressed concern that sex tourism to China and Southeast Asia was becoming more prevalent.

The law defines sexual harassment as a form of gender discrimination. The Gender Discrimination Prevention and Relief Act covers almost all kinds of human relations—including, for example, relations between teachers and students, citizens and civil servants. Nevertheless, sexual harassment continued to be a problem. In June 2004 a poll found that 18.4 percent of working women experienced sexual harassment.

During the year the number of women in the workplace reached 43 percent, and women were making clear inroads in some areas. For example, 32 percent of the persons passing the legal services examination, through which judges and prosecutors are appointed and attorneys licensed, were women, up from 24 percent in 2004. However, relative to other developed countries, few women worked in managerial positions or earned more than a median income, and gender discrimination in the workplace remained a problem. According to the Korea Women's Development Institute, the average working woman earned 63 percent of what a man made in a comparable job. The Equal Employment Act penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination could be fined up to $4,399(5 million won) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Nevertheless, some government agencies' preferential hiring of applicants with military service (nearly always men) perpetuated legal barriers against women, despite a constitutional court ruling that such preferential hiring was unconstitutional.

Women had full access to education, and social mores and attitudes were improving gradually. For example, the major political parties made more efforts to recruit women, and an increasing number of women occupied key party positions, including chairperson of the main opposition party.

Children.—The government demonstrated its commitment to children's rights and welfare through public education. The government provided high-quality elementary education to all children free of charge. Education is compulsory through the age of 15, and most children obtained a good secondary education. High-quality health care was widely available to children.

By August 619 cases of child abuse had been reported to the government. In June the Ministry of Health and Welfare increased requirements for child abuse reporting. In the past child abuse reporting was limited to employees of welfare institutes,

teachers, medical professionals, and social workers. The new measure includes lawyers, private institute instructors, and kindergarten teachers.

The Youth Protection Law provides for prison terms of up to three years or a fine of up to $17,680 (20 million won) for owners of entertainment establishments who hire persons under the age of 19. The Commission on Youth Protection also expanded the definition of "entertainment establishment" to include facilities, such as restaurants and cafes, where children were hired illegally as prostitutes. The Juvenile Sexual Protection Act establishes a maximum sentence of 25 years' imprisonment for the brokerage and sale of the sexual services of persons younger than 19 years of age. It also establishes prison terms for persons convicted of the purchase of sexual services of youth under the age of 19 (see section 5, Trafficking). Based on this law, the commission publicized the names of those who had committed sex offenses against minors. The National Youth Commission said in July that Korean fishermen were greatly responsible for the commercial sexual exploitation of children in Kiribati.

With a birthrate of 1.08 boys for every girl, the traditional preference for male children continued. Although the law bans fetal testing except in cases in which a woman's life is in danger, hereditary disease could be transmitted, or in cases of rape or incest, such testing and the subsequent abortion of female fetuses frequently occurred. The government continued an education campaign aimed at eradicating gender-preference abortions, which are already prohibited by law.

Trafficking in Persons.—The law prohibits trafficking in persons; nevertheless, the country was a country of origin, transit, and destination. As a country of origin, women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada and Mexico, as well as to other Western countries and Japan. Relatively small numbers of economic migrants, seeking opportunities abroad, were believed to have become victims of trafficking as well.

In 2004 the country implemented two new significant and sweeping laws against prostitution and human trafficking. The laws toughened penalties and provided for enhanced services and protections for victims of the sex trade. The government also launched a public awareness campaign, a victim support hot line, and a reward system for information leading to the arrest of traffickers. The Juvenile Sexual Protection Act imposes lengthy prison terms for persons convicted of sexual crimes against minors (see section 5, Children). The KNPA and the MOJ were principally responsible for enforcing these laws. While many credit the laws with increasing societal awareness of prostitution as a crime, some observers believe the new laws were not being enforced to their fullest potential. No laws specifically address sex tourism.

The country was a major transit point for alien smugglers, including traffickers of primarily Asian women for the sex trade and domestic servitude. Women from many countries, but primarily from China, were trafficked through the country to the United States and many other parts of the world. There were reports of the falsification of government documents by travel agencies; many cases involved the trafficking or smuggling of Chinese citizens to Western countries. In addition to trafficking by air, transit traffic occurred in the country's territorial waterways by ship.

Women from Russia, other countries of the former Soviet Union, China, the Philippines, and other Southeast Asian countries were trafficked to the country for sexual exploitation. They were recruited personally or answered advertisements and were flown to Korea, often with entertainer or tourist visas. As of August the government had issued 4,551 entertainer visas. Once in the country, employers in some instances held victims' passports. The government has restricted issuance of certain types of entertainer visas. There was no credible evidence that officials were involved in trafficking.

The government developed a network of shelters and programs to assist victims. As of August, 449 Korean women were housed in 35 shelters and 9 foreign women were in 2 shelters. Victims were also eligible for medical, legal, vocational, and social support services. Many of these services were provided in conjunction with NGOs. The Ministry of Justice in August introduced a program to educate male offenders about the antiprostitution and antitrafficking laws. As of October, 902 men had participated.

Persons with Disabilities.—Discrimination against persons with disabilities in employment, education, or the provision of other state services is illegal. The law states, "No one shall be discriminated against in all areas of political, economic, social, and cultural life on the grounds of disability." The government took measures to increase opportunities and access for persons with disabilities. Although many public facilities remained inadequate, most Seoul sidewalks were designed to alert the sight impaired, intersections had audible cross-signals, and nearly all subway stations were equipped with elevators, wheelchair lifts, or both.

Firms with more than 300 employees are required by law either to hire persons with disabilities or pay a fine. Nevertheless, the hiring of persons with disabilities remained significantly below target levels. Persons with disabilities made up less than 1 percent of the work force.

During the year the Ministry of Health and Welfare increased the amount of products produced by disabled persons that must be purchased by public agencies.

Many persons with disabilities lived in group facilities or rehabilitation centers, where there have been periodic reports of physical and sexual abuse.

National/Racial/Ethnic Minorities.—The country is racially homogeneous, with no sizable populations of ethnic minorities. However, international marriages were becoming increasingly common. During the year approximately 10 percent of marriages were with foreigners, many the result of brokered marriages between Korean men and women from China, Vietnam, and the Philippines. According to government statistics published in February, there were 60,214 foreign spouses residing in Korea. Except in cases of naturalization, citizenship is based on parentage, not place of birth, and persons must show their family genealogy as proof of citizenship. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained "foreign," thus disqualifying them legally from entering the civil service and, in practice, being hired by some major corporations. Foreign workers continued to report difficult working conditions. Some complained of excessively aggressive police crackdowns on illegal migrants. Amerasians faced no legal discrimination, and informal discrimination appeared to be on the decline.

Other Societal Abuses and Discrimination.—Age discrimination continued to be a problem. A Korean labor institute study in April of one thousand companies found that there was only a 33.7 percent chance that a company would hire someone over 50 if a comparable younger person applied for the same job.

Researchers estimated that the country has approximately eight thousand persons with HIV or AIDS. The AIDS Prevention Act, enacted in 1987, ensures the confidentiality of persons with HIV/AIDS and protects individuals from discrimination. The government supports rehabilitation programs and shelters run by private groups and subsidizes medical expenses from the initial diagnosis. The government operates a Web site with HIV/AIDS information and a telephone counseling service. Some observers claim that persons with HIV/AIDs suffer from severe societal discrimination and social isolation.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers, except public officials, with the right to associate freely. Since 1999 most government employees have been able to form bargaining units and negotiate with management, but have been unable to strike.

Labor law changes authorized the formation of competing unions starting in 2002, but implementation was postponed until 2006 by mutual agreement among members of the Tripartite Commission, which was created to include representatives of government, labor, and management (see section 6.b.).

The ratio of organized labor in the entire population of wage earners was approximately 11 percent, or 1.5 million unionists from a total of 14 million workers. The country has 2 national labor federations, the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU), and an estimated 1,600 labor unions. The FKTU and the KCTU were affiliated with the International Confederation of Free Trade Unions (ICFTU). Most of the FKTU's constituent unions maintained affiliations with global union federations, as did the KCTU Metalworkers Council. In protest of government policies perceived to be antilabor, the FKTU and KCTU have withdrawn from the Tripartite Commission. The FKTU and KCTU also announced that they intended to boycott an International Labor Organization (ILO) meeting scheduled to be held in the country during the year. As a result, the ILO postponed the event.

The government recognized a range of other labor federations, including independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. Labor federations not formally recognized by the Labor Ministry have generally operated without government interference.

In September 2004 the ICFTU found that parts of the labor law violated freedom of association principles, notably with regard to the absence of union rights for many public servants and the intervention by the state in international trade union affairs.

b. The Right to Organize and Bargain Collectively.—The law provides for the workers' right to collective bargaining and collective action, and workers exercised these rights in practice. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices can be required to reinstate workers fired for union activities. However, forced reinstatement has been used less frequently because employers have taken extra precautions when laying off union members.

Unions engaged in collective bargaining. Although government employees (except for certain blue collar public officials) are not granted the right to organize and bargain collectively, they have established public official "workplace associations," which may make recommendations but may not engage in collective bargaining.

Under the Trade Union and Labor Relations Adjustment Act, unions must submit a request for mediation to the Labor Relations Commission before a strike. In most cases, the mediation must be completed within 10 days; in the case of essential services, within 15 days. Once a dispute is referred to arbitration, industrial action is prohibited. Management can initiate criminal proceedings against an illegal strike. Arrest warrants can be issued against union leaders, and striking workers can be removed by police from the premises and prosecuted, along with union leaders, and sentenced under the penal code for "obstruction to business." Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

On March 18, the Ulsan Local Union and 58 subcontractors of SK Petrochemicals began an illegal strike. On April 8, during a violent demonstration in front of Ulsan City Hall, police arrested 825 unionists. Both police and unionists suffered injuries. All were subsequently released.

Strikes are prohibited for most government officials and for those who produce mainly defense goods. A total of 228 strikes occurred between January and August, with 105,577 participating workers. During the same period in 2004, 148,561 persons participated in 371 strikes. By law unions in enterprises determined to be of "essential public interest"—including railways, utilities, public health, the Bank of Korea, and telecommunications—can be ordered to submit to government-ordered arbitration. The government took this step to end an airline pilots strike that threatened serious economic disruption during the busy summer vacation season.

There is no independent system of labor courts. Semijudicial agencies such as the Central and Local Labor Relation Commissions mediate or arbitrate labor disputes based on the Trade Union and Labor Relation Adjustment Act. Each commission is composed of equal numbers of representatives of labor and management, plus neutral experts who represent the "public interest." The Labor Relations Commission can decide on remedial measures in cases involving unfair labor practices and can mediate or arbitrate labor disputes in sectors deemed essential to public welfare.

The government originally designated enterprises in the two export processing zones (EPZs) as public interest enterprises. Workers in these enterprises gradually were given the rights enjoyed by workers in other sectors of the economy; however, foreign companies are exempt from many of these labor standards. Foreign-invested enterprises located in free economic zones are exempt from articles 54, 57, and 71 of the Labor Standards Act, which mandate monthly leave, paid holidays, and menstruation leave for women; article 31 of the Honorable Treatment and Support of Persons of Distinguished Services to the State Act, which gives preferential treatment to patriots, veterans, and their families; article 24 of the Employment Promotion and Vocational Rehabilitation of Disabled Persons Act, which obligates companies with more than 300 persons to recruit persons with disabilities for at least 2 percent of its workforce; article 12 of the Employment Promotion for the Aged Act, which encourages companies to reserve 3 percent of their workforce for workers over 55 years of age; and articles 4 and 12 of the Act on the Protection of the Business Sphere of Small and Medium Enterprises and Promotion of Their Cooperation, which restrict large companies from participating in certain business categories. Labor organizations are permitted in EPZs.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred. The constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures.

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor standards law prohibits the employment of persons under age 15 without a special employment certificate from the Labor Ministry. Because education is compulsory through middle school (approximately age 15), few special employment certificates

were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either parents or guardians. Employers can require minors to work only a limited number of overtime hours and are prohibited from employing them at night without special permission from the Labor Ministry. These regulations were enforced through regular inspections, and child labor was not considered a problem.

e. Acceptable Conditions of Work.—The minimum wage is reviewed annually. As of September the minimum wage was $2.92 (3,100 won) per hour, $23.38 (24,800 won) per day. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers. According to the Ministry of Health and Welfare, 1.5 million persons (3 percent of the population) lived below the poverty level. Another 3.2 million persons were classified as living in "potential extreme poverty."

As of July 2004, the 5-day workweek system was adopted for employees of large conglomerates, publicly owned companies, banks, and insurance companies with 1 thousand registered workers or more, reducing working hours to 40 hours a week. Companies with more than 300 employees adopted the shortened workweek in July. Labor laws mandate a 24-hour rest period each week. Labor laws also provide for a flexible hours system, under which employers can require laborers to work up to 44 hours during certain weeks without paying overtime, so long as average weekly hours for any given 2-week period do not exceed 40 hours. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 hours in a given week. Workers may not be required to work more than 12 hours per working day. Unions claimed that the government did not enforce adequately the maximum workweek provisions at small companies. The amended labor standards law also provides for a higher wage for overtime. However, the overtime premium was scheduled to be reduced from 150 percent of the base wage to 125 percent concurrent with the reduction in weekly working hours.

As of August there were 40,718 foreigners, mostly from China, Bangladesh, Mongolia, the Philippines, Thailand, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan, working legally in the country. They often faced difficult working conditions and sometimes complained of unduly aggressive police crackdowns. The government continued its crackdown on illegal foreign labor.

The government continued to implement its new work permit system designed to increase protections for foreign workers while easing the labor shortage in manufacturing businesses. Under the new system, permit holders may work in certain industries only and have limited job mobility but generally enjoy the same rights and privileges, including the right to organize, enjoyed by domestic workers. In March the government introduced a requirement that the workers must pass a language test demonstrating some proficiency in the Korean language. By August, 14,800 workers had entered the country through the new system. The Industrial Trainee System, an often-criticized system through which foreign workers may work for two years following one year of training, was still in place.

Foreign workers working as language teachers continued to complain that the language institutes for which they worked frequently violated employment contracts.

Contract and other "nonregular" workers accounted for a substantial portion of the workforce. According to the government, there were approximately 5.48 million nonregular workers, approximately 36 percent of the workforce. Labor unions and other groups believed that the percentage might have been much higher. In general nonregular workers performed work similar to regular workers but received approximately 60 percent of the wages. Further, most were ineligible for national health and unemployment insurance and other benefits. In November the ICFTU secretary general met with the prime minister to urge the government to stop the exploitation of irregular workers.

The Korea Occupational Safety and Health Agency is responsible for implementing industrial accident prevention activities. The government set health and safety standards, but the accident rate was high by international standards. In 2004 there were 2,825 fatalities related to industrial accidents. The government introduced a plan to publicize and impose sanctions on work places that had a high rate of accidents. In July the Ministry of Labor said that construction companies with high accident rates would be restricted from bidding for government projects. According to the Korea Occupational Safety and Health Act, an employer may not dismiss or otherwise disadvantage an employee who interrupts work and takes shelter because of an urgent hazard that could lead to an industrial accident.

LAOS

The Lao People's Democratic Republic is an authoritarian, Communist, one-party state ruled by the Lao People's Revolutionary Party (LPRP). The country has an estimated population of 5.9 million. Although the 1991 constitution outlines a system composed of executive, legislative, and judicial branches, in practice the LPRP continued to control governance and the choice of leaders at all levels through its constitutionally designated "leading role." The most recent national assembly election was held in February 2002. In March 2002 the National Assembly reelected the president and vice president and ratified the president's selection of a prime minister and cabinet. The LPRP generally maintained effective control of the security forces, but elements of the security forces on occasion acted outside the LPRP's authority.

The government's human rights record remained poor, and it continued to commit serious abuses. The following human rights problems were reported:

- denial of the right of citizens to change their government
- abuse of detainees, especially those suspected of insurgent or antigovernment activity
- civilian casualties resulting from conflicts between security forces and insurgents
- prisoner abuse and harsh prison conditions
- arbitrary arrest, detention, and surveillance
- lengthy pretrial detention and incommunicado detention
- a corrupt judiciary subject to external influence
- infringement on privacy rights
- restrictions on freedom of speech, the press, assembly, and association
- restrictions on freedom of religion
- restrictions on freedom of movement
- societal discrimination against women and minorities
- trafficking in women and children
- restriction of some worker rights

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings. In December Aloun Voraphom, a Protestant pastor in Bolikhamsai Province, was killed in Pak Kading District following a Christmas church service. Police believed that Aloun had been robbed and then killed; however, at year's end no suspects had been arrested. Although there was nothing to implicate the authorities in Aloun's killing, some members of the religious community, aware that he had previously been arrested and served more than a year in prison for his religious activities, believed that police or government authorities may have been involved in his death.

Clashes between insurgent and military forces resulted in an unknown number of deaths of civilians, insurgents, and military forces. During the year insurgents reported increased military pressure from Lao People's Army (LPA) forces against their encampments in Bolikhamsai, Xieng Khouang, Luang Prabang, and Vientiane provinces as well as the Saisomboun Special Zone. According to insurgent reports, these attacks resulted in dozens of deaths and injuries of men, women, and children living in the encampments; however, the veracity of this information could not be established.

There were no new developments regarding the government's investigation of the killing of five ethnic Hmong children, allegedly by members of the LPA, in the Saisomboun Special Zone in May 2004. The government formally denied any involvement of security forces in the death of the teenagers and characterized the incident as a fabrication.

There were no developments in the cases of persons allegedly killed by police, including the 2004 case of an ethnic Hmong man, Khoua Lee Her, who reportedly died while incarcerated in Houaphanh Province, and the 2003 case of a former policeman in Attapeu Province who had converted to Christianity.

In January suspected ethnic Hmong seeking to create a separate Hmong state ambushed a police-military convoy in Houaphanh Province, killing five policemen and soldiers as well as five civilians.

During the year there was a small explosion at a technical college in Vientiane. There was no information regarding who was responsible for the bomb. There also were a small number of reports of planned bombings by exile antigovernment groups.

b. Disappearance.—There were no reports of politically motivated disappearances during the year. There were no developments in the case of Cher Wa Yang, an ethnic Hmong schoolteacher who disappeared in January 2004 from the Saisomboun Special Zone.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits the beating or torture of an arrested person. In practice members of the police and security forces sometimes abused prisoners, especially those suspected of associations with the insurgency; however, there were anecdotal reports that abuse has decreased in recent years. In the past detainees sometimes were subjected to beatings and long-term solitary confinement in completely darkened rooms, and in many cases they were detained in leg chains or wooden stocks for long periods. Former inmates reported that degrading treatment, the chaining and manacling of prisoners, and solitary confinement in small unlit rooms were standard punishments in larger prisons, while smaller provincial or district prisons employed manacles and chains to prevent prisoners from escaping.

Prison and Detention Center Conditions.—Prison conditions varied widely but in general were harsh and on occasion life threatening. Prisoners in larger, state-operated facilities in Vientiane generally fared better than those in provincial prisons. Over the last several years the Office of the Prosecutor General (OPG) had some success in bringing about improved conditions in these larger facilities, including better treatment by guards. In all facilities food rations were minimal, and most prisoners relied on their families for subsistence. Most larger facilities allowed prisoners to grow supplemental food in small vegetable gardens. Prison wardens set prison visitation policies. Consequently, in some facilities families could make frequent visits, but in others visits were severely restricted. Credible reports indicated that ethnic minority prisoners and some foreign prisoners were treated particularly harshly. Former prisoners reported that incommunicado detention was used as an interrogation device and against perceived problem prisoners; however, there have been fewer reports of its use in recent years.

Although most prisons had some form of clinic, usually with a doctor or nurse on staff, medical facilities were extremely poor, and in practice medical treatment for serious ailments was unavailable. In some facilities prisoners could arrange treatment in outside hospitals if they could pay for the treatment and the expense of a police escort.

Prisons held both male and female prisoners, although they were placed in separate cells.

In some prisons juveniles were housed with adult prisoners. International organizations opposed the government's plan to construct a separate facility to serve juvenile detainees, arguing that juveniles would best be kept in segregated sections of adult prisons located close to their homes and families. Most juveniles were in detention for narcotics offenses or petty crimes. Rather than send juveniles to prisons, authorities used drug treatment facilities as holding centers for juvenile offenders. While conditions in treatment facilities were generally better than those in prisons, conditions were nevertheless Spartan and lengths of detention indefinite.

The government has provided limited access to some detention facilities to UN and nongovernmental organization (NGO) personnel monitoring the status of juveniles in the prison system, and it has given representatives of foreign governments limited access to provincial prisons. However, the government did not permit independent monitoring of prison conditions. The International Committee of the Red Cross (ICRC) continued its longstanding efforts to establish an official presence in the country to carry out its mandate of monitoring prison conditions, but at year's end the government had not granted the ICRC's request.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, in practice the government did not respect these provisions, and arbitrary arrest and detention persisted.

Role of the Police and Security Apparatus.—The Ministry of Public Security (MoPS) maintains internal security but shares the function of state control with the Ministry of Defense's security forces and with party and popular fronts (broad-based organizations controlled by the LPRP). The Ministry of Foreign Affairs, with MoPS support, is responsible for oversight of foreigners. The MoPS includes local police, traffic police, immigration police, security police (including border police), and other armed police units. Communication police are responsible for monitoring telephone and electronic communications. The armed forces are responsible for external secu-

rity but also have domestic security responsibilities that include counterterrorism and counterinsurgency activities as well as control of an extensive system of village militias.

Police corruption was a problem. Many police officers used their authority to extract bribes from citizens. Government sanctions against corrupt officials reportedly were employed only rarely to punish official wrongdoers. There was no formal mechanism for investigating police abuse. In theory the government's National Audit Committee has responsibility for rooting out corruption in all government ministries, including the Ministry of Public Security, but in practice the office's investigative activities were minimal. Lower-level officials were on occasion arrested and punished for corruption. For example, during the year a policeman and a prosecutor were arrested in Bokeo Province for their alleged complicity in drug trafficking.

Police are trained at the National Police Academy, but the extent to which the academy's curriculum discusses corruption was unknown. At the instruction of the LPRP, the government-controlled press only rarely reported cases of official corruption.

Arrest and Detention.—Both police and the armed forces had powers of arrest, although normally only police carried out these powers. There were reports that military forces occasionally arrested or detained persons suspected of insurgent activities. Police reportedly sometimes used arrest as a means of intimidation or to extract bribes. Police exercised wide latitude in making arrests, relying on exceptions to the requirement for arrest warrants for persons in the act of committing a crime or for "urgent" cases. To search a property, police must obtain a written search warrant from the public prosecutor or the court, except "in an emergency," in which case police may search without a warrant but must inform the prosecutor within 24 hours after the search is done.

There is a one-year statutory limit for detention without trial. The length of detention without a pretrial hearing or formal charges by law also is limited to one year. The OPG reportedly made efforts to ensure that all prisoners were brought to trial within the one-year limit, but these limits sometimes were ignored. The OPG must authorize police to hold a suspect pending investigation. Authorization is given in three-month increments, and under law a suspect must be released after a maximum of one year if police do not have sufficient evidence to bring charges. There is a bail system, but its implementation was arbitrary and in practice often amounted to a bribe to prison officials for a prisoner's release. Access to family members and a lawyer was not assured. Incommunicado detention was a problem; however, it was used less frequently than in the past (see section 1.c.). A statute of limitations applies to most crimes. In practice alleged violations of criminal laws have led to lengthy pretrial detentions without charge and minimal due process protection of those detained. Authorities sometimes continued to detain prisoners after they had completed their sentences, particularly in cases where prisoners were unable to pay court fines.

During the year Lao authorities arrested approximately 35 Christians for their efforts to practice their religion, including importing religious material, constructing a church without authorization, and refusing to give up their religious beliefs when ordered by local officials. In March authorities in Phine District, Savannakhet Province, detained 24 ethnic Brou Christians and held them at the district police headquarters for several days until most members of the group agreed to cease their religious activities. However, two of the men refused and were detained until police brought charges against them. In June or July the men were tried and convicted on charges of "illegal weapons trafficking." In September five ethnic Khmu Protestants were arrested at the Lao-Thai Friendship Bridge for attempting to import Bibles. They were released after several days' detention. In October police in Bokeo Province arrested six Protestants who had constructed a small church structure and held church services without authorization. The leader of the six, a lay pastor named Somsack, became ill while imprisoned. He was released but died shortly afterward in hospital. The five other detainees were released in late December. In recent years most religious detainees were released shortly after their arrest, but the detentions often had a negative effect on religious activity of local Christian communities. At year's end there were no untried religious detainees.

According to reports, police continued to arrest without charges persons suspected of involvement with the insurgency. In June security forces arrested four foreign citizens who were on hand to witness the surrender of a group of insurgent families in Xieng Khouang Province as they returned to Vientiane. Police released three of the four after several days' detention, and the fourth person was released a week later. No charges were filed, but police claimed the four had "distorted the truth and created misunderstandings" regarding the event.

There were no reports that police administratively overruled court decisions by detaining exonerated individuals. Reportedly, local police at times continued to detain persons who had been ordered released by higher authorities. There were no known instances of police being reprimanded or punished for such behavior. The OPG has made efforts to encourage compliance with the law regarding detention of suspects but acknowledged that police widely continued to ignore these provisions.

Based on information provided by former prisoners, a small but unknown number of persons, particularly those suspected of insurgent activities, were detained for allegedly violating criminal laws concerning national security.

e. Denial of Fair Public Trial.—The law provides for the independence of the judiciary and the OPG; however, senior government and party officials influenced the courts, although to a lesser degree than in the past. Impunity was a problem, as was corruption. Reportedly, some judges could be bribed. The National Assembly Standing Committee, whose members are elected by the assembly, appoints judges for life terms. The National Assembly may remove judges from office for "impropriety." According to government sources, since 1991 only one judge at the district level has been removed for improper behavior.

The people's courts have four levels: district courts, municipal and provincial courts, the court of appeals, and the Supreme People's Court. In 2004 the Supreme Court established a commercial court, family court, and juvenile court. During the year these courts began functioning at the provincial, appellate, and supreme court levels. Decisions of the lower courts are subject to review by the Supreme Court, but military court decisions are not. Both defendants and prosecutors in civilian courts have the right to appeal an adverse verdict. There are instances in which civilians may be tried in the military courts, but this was rare.

Trial Procedures.—The law provides for open trials in which defendants have the right to defend themselves with the assistance of a lawyer or other person. The law requires that authorities inform persons of their rights. The law states that defendants may have anyone assist them in preparing a written case and accompany them at their trial; however, only the defendant may present oral arguments at a criminal trial. The Lao Bar Association, with a membership of nearly 50 attorneys, is nominally independent but receives some direction from the Ministry of Justice. Its members are private attorneys that court litigants may select for trials. For several reasons, including a lack of funds, shortage of attorneys, and general perception that attorneys cannot affect court decisions, most defendants did not have attorneys or trained representatives. Court judges, not juries, decide guilt or innocence. Trials that involve some criminal laws relating to national security, state secrets, children under the age of 16, or certain types of family law are closed. Under the law defendants enjoy a presumption of innocence. However, in practice judges usually decided a defendant's guilt or innocence in advance, basing their decisions on the result of police or prosecutor's office investigation reports. Reliance on these reports created a presumption that the defendant was guilty. Most trials were little more than pro forma examinations of the accused, with a verdict having been reached beforehand. Most criminal trials ended in convictions.

Most of the country's 450 judges had only basic legal training, and many provincial and district courts had few or no reference materials available to which judges could refer for guidance. The National Assembly's Legal Affairs Committee occasionally reviewed supreme court decisions for "accuracy" and returned cases to the court or the OPG for review when it believed decisions were reached improperly.

In 2003 police in Xieng Khouang Province arrested two foreign journalists, their foreign interpreter, and their three ethnic Hmong porters on charges of having conspired with ethnic Hmong villagers in the killing of a local militia villager. The three Hmong were given long prison sentences. One later escaped, but the other two remained in custody at year's end.

Political Prisoners.—In addition to the unknown number of short- and long-term political detainees (see section 1.d.), there were five known political prisoners. A former government official arrested in 1975, Colonel Sing Chanthakoumane, was serving a life sentence after a 1990 trial that was not conducted according to international standards. Sing reportedly was very ill, but the government did not respond to numerous requests to release him on humanitarian grounds. In March a second former government official, Major Pangthong Chokbengboun, sentenced to life imprisonment at the same time as Colonel Sing, died in detention. Reportedly Major Pangthong died as a result of serious illnesses, including diabetes, that camp guards refused to allow to be treated. At least 2 persons arrested in 1999 for attempting to organize a prodemocracy demonstration in Vientiane continued to serve 10-year sentences for antigovernment activities. The status of two others remained

unclear at year's end: some sources claimed they had been released, while others maintained they were still in jail.

Other political prisoners may have been arrested, tried, and convicted under laws relating to national security that prevent public court trials; however, there was no reliable independent method to ascertain accurately their total number.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The government limited citizens' privacy rights through a vast surveillance network. Security laws allow the government to monitor individuals' private communications (including e-mail and cell phones) and movements.

The law prohibits unlawful searches and seizures; however, police at times disregarded constitutional requirements to safeguard citizens' privacy, especially in rural areas. By law police must obtain search authorization from a prosecutor or court, but in practice police did not always obtain prior approval. The law generally protects privacy, including that of mail, telephone, and electronic correspondence, but the government apparently violated these legal protections at times.

MoPS monitored citizens' activities; in addition an informal militia in urban and rural areas, operating under the aegis of the military, had responsibility for maintaining public order and reporting "undesirable elements" to police. The militia usually were more concerned with petty crime and instances of moral turpitude than with political activism, although in remote rural areas where the insurgency was active, the militia also played a role in providing security against insurgents and robbers. Members of the LPRP's many front organizations, including the Lao Women's Union, the Youth Union, and the Lao Front for National Construction (LFNC), served as watchdogs over the citizenry at all levels of society. MoPS also maintained a network of secret police whose job was to monitor the citizenry to prevent acts threatening the government.

The government monitored the e-mails of private citizens but to an unknown extent. All Internet service providers were licensed by the government and were required to report quarterly to the Internet Committee of the Prime Minister's Office regarding their activities.

The government continued its program to relocate highland slash-and-burn farmers, most of whom belong to ethnic minority groups, to lowland areas, in keeping with its plan to end opium production by the end of the year and slash-and-burn agriculture by 2010. In some areas district and provincial officials used persuasion to convince villagers to move to relocation areas. In other areas villagers relocated spontaneously to be closer to roads, markets, and government services. Although the government's resettlement plan called for compensating farmers for lost land and providing resettlement assistance, this assistance was not available in many cases or was insufficient to give relocated farmers the means to adjust to their new homes and new way of life. Moreover, in some areas farmland allocated to relocated villagers was of poor quality and unsuited for intensive rice farming. The result was that some relocated villagers experienced increased poverty, hunger, malnourishment, susceptibility to disease, and increased mortality rates. The government relied on assistance from NGOs, bilateral donors, and international organizations to cover the needs of those recently resettled, but such assistance was not available in all areas.

In January authorities in Ban Kokpho Village, Bolikhamsai Province, forced 104 ethnic Khmu Christians to leave the province. According to some witnesses, the villagers were expelled for their religious beliefs; however, local authorities claimed the villagers had settled in the area illegally and had elected to return to their original homes. The villagers were removed in military vehicles to Vientiane City, where their plight came to the attention of central government representatives, who forced Bolikhamsai officials to allow them to return to their village.

The government allowed citizens to marry foreigners only with prior approval. Premarital cohabitation was illegal. Although the government routinely granted permission to marry, the process was lengthy and burdensome and offered officials the opportunity to solicit bribes. Marriages to foreigners without government approval could be annulled, with both parties subject to arrest or fines.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government severely restricted political speech and writing in practice. The government also prohibited most criticism that it deemed harmful to its reputation. The law forbids slandering the state, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the state. Citizens who lodged legitimate complaints with government departments generally did not suffer reprisals, but criticism of a more general nature or targeting the leadership could lead to censure or arrest.

The state owned and controlled most domestic print and electronic media. Local news in all media reflected government policy. Television talk shows and opinion articles referred only to differences in administrative approaches. Although domestic television and radio broadcasts were closely controlled, the government made no effort to interfere with television and radio broadcasts from abroad. In practice many citizens routinely watched Thai television or listened to Thai radio, including news broadcasts. Citizens had 24-hour access to CNN and the BBC as well as other international stations accessible via satellite and cable television. The government required registration of receiving satellite dishes and a one-time licensing fee for their use, largely as a revenue-generating scheme, but otherwise made no effort to restrict their use. In addition a Chinese-owned company provided cable television service to subscribers in Vientiane. This government-registered cable service offered Thai and international news and entertainment programs without restriction from authorities. The government permitted the publication of several privately owned periodicals of a nonpolitical nature, including periodicals specializing in business, society, and trade topics. A few Asian and Western newspapers and magazines were available through private outlets that had government permission to sell them.

Foreign journalists must apply for special visas and were restricted in their activities. The authorities did not allow journalists free access to information sources, but journalists often were allowed to travel without an official escort. When escorts were required, journalists had to pay a daily fee for their services. As chair of the Association of Southeast Asian Nations (ASEAN), the government established special streamlined procedures for foreign journalists covering ASEAN-related events, such as the summit in November 2004 and the regional forum in July. These procedures required journalists to register with the Ministry of Foreign Affairs if they wished to report stories other than the ASEAN meetings.

Authorities prohibited the dissemination of materials deemed indecent, subversive of national culture, or politically sensitive. Any person found guilty of importing a publication deemed offensive to the "national culture" faced a fine or imprisonment for up to one year. A 2002 decree on religious practice permits the publication of religious material with permission from the LFNC. In practice, although several religious groups sought such permission, at year's end no Christian or Baha'i groups had received authorization to publish religious materials (see section 2.c.).

Films and music recordings produced in government studios must be submitted for official censorship; however, uncensored foreign films and music were easily available in video and compact disc format. The Ministry of Information and Culture repeatedly attempted to impose restrictions aimed at limiting the influence of Thai culture in Lao music and entertainment. These restrictions were widely ignored and appeared to have little effect.

The government controlled all domestic Internet servers and occasionally blocked access to Internet sites that were deemed pornographic or were critical of government institutions and policies. The government also sporadically monitored e-mail (see section 1.f.). Highly restrictive regulations regarding Internet use by citizens significantly curtailed freedom of expression. "Disturbing the peace and happiness of the community" and "reporting misleading news" are criminal acts. The Prime Minister's Office requires all Internet service providers to submit quarterly reports and link their gateways to facilitate monitoring, but the government's ability to enforce such regulations was limited. Fearful of monitoring by the authorities, many citizens used the Internet services of a growing number of Internet cafes rather than personal computers for private correspondence.

The law provides for academic freedom; however, the government restricted it, although over the past several years it has relaxed restrictions in certain areas. Curriculum in schools, including private schools and colleges, was tightly controlled by the Ministry of Education to ensure that no subjects are taught that might raise questions about the political system. The government relaxed these restrictions somewhat in the case of private colleges, allowing teachers greater latitude in their courses of instruction. Both citizen and noncitizen academic professionals conducting research in the country may be subject to restrictions on travel, access to information, and publication. The government exercised some control over the ability of state-employed academic professionals to travel for research or obtain study grants, but it actively sought such opportunities worldwide and approved virtually all such proposals.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government restricted this right in practice. The law prohibits participation in an organization for the purpose of demonstrations, protest marches, or other acts that cause "turmoil or social instability." Such acts are punishable by a prison term from

one to five years. Defendants tried for crimes against the state could face sentences of up to 20 years or possible execution.

Freedom of Association.—The law provides citizens the right to organize and join associations, but the government restricted this right in practice. The government registered and controlled all associations and prohibited associations that criticized the government. Political groups other than popular front organizations approved by the LPRP were forbidden. Although the government restricted many types of formal professional and social associations, informal nonpolitical groups met without hindrance. The government has allowed the creation of some associations of a business nature, such as allowing hotel owners and freight forwarders to create their own business associations. The government also began permitting the establishment of nonprofit organizations designed to promote science and agriculture. The Prime Minister's Office oversees the small but growing body of organizations that have registered to conduct activities in these areas.

c. Freedom of Religion.—The law provides for freedom of religion; however, the authorities, particularly at the local level, interfered with this right.

Two members of the Lao Evangelical Church, Nyoht and Thongchanh, sentenced in 1999 for treason and sedition to 12 years and 15 years, respectively, remained in prison at year's end.

Although the state is secular, the LPRP and the government monitored Theravada Buddhism, which was followed by more than 40 percent of the population and was the faith of nearly all of the ethnic Lao population. The law does not recognize a national religion, but the government's support for and oversight of temples and other facilities and its promotion of Buddhist practices gave Buddhism an elevated status among the country's religions.

The constitution prohibits "all acts of creating division of religion or creating division among the people." The LPRP and the government used this to justify restrictions on religious practice by all religious groups, including practices of the Buddhist majority and of animists. Although official pronouncements acknowledged the positive benefits of religion, they also emphasized its potential to divide, distract, or destabilize. The constitution notes that the state "mobilizes and encourages" Buddhist monks and novices as well as priests of other religions to participate in activities "beneficial to the nation and the people."

Authorities continued to be suspicious of non-Buddhist religious communities, including some Christian groups, in part because these faiths did not share Theravada Buddhism's high degree of direction and incorporation into the government structure. In the past some authorities criticized Christianity in particular as a Western or imperialist "import." Local authorities, apparently in some cases with encouragement from government or LPRP officials, singled out Protestant groups as a target of abuse. Protestant churches' rapid growth since the early 1990s, contact with religious groups abroad, aggressive proselytizing on the part of some members, and independence of central government control contributed to government and Communist Party suspicion of the churches' activities.

The 2002 decree on religion permits minority religious groups to engage in a number of activities previously considered illegal, such as proselytizing and printing religious material; however, it requires religious groups or individuals to obtain permission in advance for these activities, in most cases from the LFNC. Although the intent of the decree is to clarify the rights and responsibilities of religious groups, many minority religious leaders complained that it was too restrictive in practice. The requirement that religious groups obtain permission, sometimes from several different offices, for a broad range of activities greatly limited the freedom of these groups.

The LFNC has recognized two Protestant groups: the Lao Evangelical Church (LEC), which is the umbrella Protestant church, and the Seventh-day Adventist Church. Nominally, all Protestant congregations in the country belonged to one of these two organizations, although in practice some congregations operated independently.

In most parts of the country, members of long-established congregations had few problems in practicing their faith, although long-time congregations in some parts of Savannakhet and Luang Prabang provinces continued to face restrictions from local authorities. Most incidents of harassment of Christian congregations took place in areas where Christianity had only recently spread. The authorities sometimes advised new congregations to join other religious groups with similar historical roots, despite clear differences between the groups' beliefs. In some areas, such as Luang Prabang and Xieng Khouang provinces, independent congregations were ordered to return to the LEC or face sanctions, including arrests of their leaders. In other

areas, however, authorities allowed congregations not affiliated with the LEC or Seventh-day Adventists to continue their worship unhindered.

The government's tolerance of religion varied by region. The LFNC often sought to intervene with local governments in cases where minority religious practitioners, particularly Christians, had been harassed or mistreated; however, incidents of religious intolerance by local officials continued in some areas. Although officials in a few urban areas—notably Vientiane City, Savannakhet, and Pakse—were relatively tolerant of Christian religious practice, government authorities in many regions restricted the practice of properly registered religious groups. During the year officials in Savannakhet Province's Muang Phine District arrested and detained religious believers without charges, apparently as a means of forcing them to change their religious beliefs (see section 1.d.). Authorities in other areas used threats of arrest as a means of intimidating local religious communities. Local officials in some parts of the country also threatened to withhold government identification cards and household registers and deny educational benefits to those who did not give up their religious beliefs.

The Roman Catholic Church was unable to operate effectively in the northern part of the country and had only intermittent contact with the bishop of Luang Prabang, who lived in Vientiane. The small Catholic communities in Luang Prabang, Sayaboury, and Bokeo provinces sporadically held services in members' homes, but there were no priests in the area, and pastoral visits from Vientiane were infrequent. However, the government granted permission for a Catholic community in Sayaboury Province to construct a new church. In December the bishop of Vientiane announced the scheduled ordination of the country's first new priest in 30 years. However, authorities did not allow the ordination to proceed, claiming the Church had not obtained the necessary authorization from provincial authorities. Government officials stated the ordination had only been "postponed," but at year's end it had not taken place.

During the year local authorities arrested or detained approximately 35 Christians in Savannakhet and Bokeo provinces and in Vientiane City. The five Christians arrested at the Friendship Bridge in September were released within days, as were most of those arrested in Savannakhet Province. However, two men arrested in Savannakhet were tried and convicted of weapons trafficking charges. Three of those arrested in Bokeo Province in October remained under detention, without being charged, at the end of the year (see section 1.c.). Most of those detained were released within a few days, but two men were brought to trial and eventually convicted of weapons trafficking (see section 1.c.). Members of the two men's religious community regarded their arrest and conviction to be motivated by local officials' desire to force the men to renounce their faith.

Followers of the Baha'i Faith were able to practice their religion without hindrance in Vientiane City, but in Savannakhet and Khammouane provinces small Baha'i groups continued to face restrictions from local authorities. The small Muslim community in Vientiane, made up almost exclusively of foreign nationals, was able to practice its religion without hindrance.

Animists generally experienced no interference from the government in their religious practices, which varied extensively among the approximately 70 identified ethnic groups and tribes in the country. However, the government actively discouraged animist practices that it regarded as outdated, unhealthful, or illegal, such as the practice in some tribes of infanticide of infants born with birth defects or of keeping the bodies of deceased relatives in homes.

Officials in Savannakhet continued to refuse requests by the Christian congregation in the village of Khamsan for the return of their church building, seized by authorities several years earlier. In October officials in Bokeo Province burned a bamboo church building built by local Protestants and arrested six leaders of the church. The church community had requested permission from village officials to construct a church; when permission was not forthcoming, the leaders of the congregation proceeded to build the church without permission. Both the church burning and the arrests were apparently in retaliation for this action. In several areas authorities continued to deny requests by local congregations to construct permanent church buildings but in other areas permitted the construction or renovation of churches. Authorities in some parts of the country used intimidation or threats of expulsion to force Christians to renounce their religious faith, particularly in parts of Savannakhet, Bolikhamsai, and Luang Prabang provinces (see section 1.f.).

Officials in some areas reportedly were suspicious of persons who converted to Christianity, but during the year there were no reports of the harassment or arrest of recent converts.

The government strictly prohibited foreigners from proselytizing, although it permitted foreign NGOs with religious affiliations to work in the country. Foreign per-

sons who distribute religious material may be arrested or deported. Although the 2002 decree permits proselytizing by religious practitioners provided they obtain permission for such activities from the LFNC, the LFNC did not grant such permission, and persons found evangelizing risked harassment or arrest.

The government permits the printing, import, and distribution of Buddhist religious material, but it made no such concessions to the printing or import of religious material and literature by non-Buddhist faiths. The 2002 decree authorizes the printing of religious material, provided permission is obtained from the LFNC, but the LFNC did not grant permission to Christian congregations. The government required and usually granted permission for formal links with coreligionists in other countries; however, in practice the distinction between formal and informal links was unclear, and relations with coreligionists generally were established without difficulty.

Societal Abuses and Discrimination.—For the most part, the various religious communities coexisted amicably. There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Migration, and Repatriation.—The law provides for these rights, but in practice the government restricted some of them. Citizens who traveled across provincial borders are not required to report to authorities; however, in designated security zones, roadblocks and identity card checks of travelers were conducted occasionally. Citizens who sought to travel to contiguous areas of neighboring countries could do so with travel permits that generally were easily obtained from district offices. Those wishing to travel farther abroad were required to apply for passports and exit visas. The government usually issued these documents for a fee, but officials at the local level denied permission to apply for passports and exit visas to some persons seeking to emigrate. Authorities restricted access by foreigners to certain areas, such as the Saisomboun Special Zone, an area administered by military forces, or remote districts in Xieng Khouang and Bolikhamsai provinces, where antigovernment insurgents continued to operate.

The government did not use forced exile; however, a small group of persons, who fled the country during the 1975 change in government and were tried in absentia for antigovernment activities, did not have the right of return.

Protection of Refugees.—The law provides for asylum and the protection of stateless persons, but the country is not a signatory to the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol. In practice the government did not provide protection against *refoulement*, the return of persons to a country where they feared persecution, and did not routinely grant refugee or asylum status. However, the government has shown some flexibility in dealing pragmatically with individual asylum cases.

In the years following their return, former refugees were subject to greater scrutiny by the authorities than were other citizens. However, these returnees have largely reintegrated and no longer receive unusual attention from officials. Many who fled after the 1975 change of government have returned to visit relatives, some have stayed and gained foreign resident status, and some have reclaimed citizenship successfully.

The Office of the UN High Commissioner for Refugees (UNHCR) has requested permission to reestablish a presence in the country to monitor the reintegration of former refugees who returned under UNHCR's resettlement program. However, the government has refused the request, stating that the UNHCR's mandate has expired and all former refugees have been successfully reintegrated.

In November Thai authorities in Petchaboon Province arrested a group of 29 ethnic Hmong, most of them teenage girls, who had fled to Thailand and were living in Petchaboon Province. Subsequent reports indicated that most of these Hmong were sent to Laos by Thai immigration authorities in early December. However, Lao authorities refused to acknowledge the presence of this group. At year's end the location and fate of this group were unknown, with some sources reporting that they were in jail in Vientiane and others that they were detained in Bolikhamsai Province.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have the right to change their government. Although the constitution outlines a system composed of executive, legislative, and judicial branches, the

LPRP controlled governance and the leadership at all levels through its constitutionally designated "leading role."

Elections and Political Participation.—The law provides for a representative national assembly, elected every five years in open, multiple-candidate, fairly tabulated elections, with voting by secret ballot and universal adult suffrage. However, it legitimizes only a single party, the LPRP; all other political parties are outlawed. Election committees, appointed by the National Assembly, must approve all candidates for local and national elections. Candidates need not be LPRP members, but in practice almost all were.

The National Assembly chooses a Standing Committee, generally based on the previous Standing Committee's recommendation. Upon the committee's recommendation, the National Assembly elects or removes the president and vice president. The committee has supervision of administrative and judicial organizations and the sole power to recommend presidential decrees. It also appoints the National Election Committee, which has powers over elections, including approval of candidates. Activities of the Standing Committee were not fully transparent.

The National Assembly, upon the president's recommendation, elects the prime minister and other ministers of the government. The 109-member National Assembly, elected in February 2002 under a system of universal suffrage, approved the LPRP's selection of the president at its inaugural session in March 2002, and in the same session it ratified the president's selection of a new prime minister and cabinet. The National Assembly may consider and amend draft legislation, but only permanent subcommittees of the assembly may propose new laws. The law gives the right to submit draft legislation to the Standing Committee and the ruling executive structure.

There were 22 women in the 109-member National Assembly and 3 women in the 53-member LPRP Central Committee were women, 1 of whom was also a member of the 7-member Standing Committee in the National Assembly. There were no women in the politburo or the Council of Ministers.

There were 9 Lao Soung (highland dwelling tribes) and 19 Lao Theung (mid-slope dwelling tribes) in the National Assembly. Most members of the assembly were ethnic Lao, who also dominated the upper echelons of the LPRP and the government. Three cabinet ministers were members of ethnic minority groups.

Government Corruption and Transparency.—There was a widespread public perception that many officials within the executive and judicial branches of the government were corrupt. Wages of all government officials were extremely low, and many officials, such as police members, had broad powers that they could easily abuse. During the year the National Assembly passed an anticorruption law with provisions that government officials declare their assets. The government also transferred a small number of high-ranking officials, especially at the province level, who were found to be corrupt. However, the LPRP's measures to suppress all information that would lead the population to conclude the Party was flawed ensured that there was no public censure of corrupt officials who were also party members.

There are no laws providing for public access to government information, and in general the government closely guarded the release of any information pertaining to its internal activities, deeming such secrecy necessary for "national security."

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no domestic nongovernmental human rights organizations, and the government does not have a formal procedure for registration. Any organization wishing to investigate and publicly criticize the government's human rights policies would face serious obstacles, if it were permitted to operate at all.

The government only sporadically responded in writing to requests for information on the human rights situation from international human rights organizations; however, the government maintained human rights dialogues with two foreign governments and continued to receive training in UN human rights conventions from several international donors.

The government maintained contacts with the ICRC, and government officials and military officers have received ICRC training on human rights law and the Geneva Conventions. The government continued to translate international human rights and humanitarian law conventions with ICRC support. Since the closing of the UNHCR office in 2001, the government has not permitted UNHCR personnel to conduct monitoring visits to the country.

A human rights unit in the Ministry of Foreign Affairs' Department of International Treaties and Legal Affairs has responsibility for investigating allegations of human rights violations. The Foreign Ministry on occasion responded to inquiries from the UN regarding its human rights situation.

The government permitted limited access by international organizations and NGOs to provide food assistance to former insurgents who had accepted government resettlement offers.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal treatment under the law for all citizens without regard to sex, social status, education, faith, or ethnicity. The government at times took action when well-documented and obvious cases of discrimination came to the attention of high-level officials, although the legal mechanism whereby a citizen may bring charges of discrimination against an individual or organization was neither well developed nor widely understood among the general population.

Women.—There were reports that domestic violence against women occurred, although it did not appear to be widespread. Spousal abuse is illegal. Rape reportedly was rare. In cases of rape that were tried in court, defendants generally were convicted with penalties ranging from three years' imprisonment to execution. Spousal rape is not illegal.

Trafficking in women and girls for prostitution was a problem (see section 5, Trafficking). Prostitution is illegal, with penalties ranging from three months to one year in prison.

Sexual harassment was rarely reported, but the actual extent was difficult to assess. Although sexual harassment is not illegal, "indecent sexual behavior" toward another person is illegal and punishable by six months' to three years' imprisonment.

The law provides for equal rights for women, and the Lao Women's Union operated nationally to promote the position of women in society. The family code prohibits legal discrimination in marriage and inheritance. Discrimination against women was not generalized; however, varying degrees of traditional, culturally based discrimination persisted, with greater discrimination practiced by some hill tribes. Many women occupied responsible positions in the civil service and private business, and in urban areas their incomes were often higher than those of men.

In recent years the government increased support for development programs designed to improve the position of women in society, including in the political system. In late 2004 the National Assembly passed a new Law on Women, with antitrafficking provisions as well as provisions protecting women and children from domestic violence. The law also establishes penalties for crimes against women that are significantly more severe than those contained in the criminal code. The law defines trafficking and violence against women and children as criminal actions and provides for the protection of victims internally and by international agencies. The law closely follows provisions of the UN Convention on the Elimination of Discrimination Against Women and the Convention on the Rights of the Child.

Children.—Although the government has made children's education and health care a priority in its economic planning, funding for children's basic health and educational needs was inadequate, and the country had a very high rate of infant and child mortality. Education is free and compulsory through the fifth grade; however, high fees for books and supplies and a general shortage of teachers in rural areas prevented many children from attending school. According to government statistics, 80 percent of primary school-age children, 50 percent of junior high school-age children, and approximately 25 percent of high school-age children were enrolled in school; however, the UN Development Program estimated that almost 40 percent of children did not attend school at all and only 10 percent entered secondary school. There was a significant difference in the treatment of boys and girls in the educational system: female literacy was 48 percent versus 70 percent for males; however, men and women attended the national university in approximately equal numbers.

The law prohibits violence against children, and violators were subject to stiff punishments. Reports of the physical abuse of children were rare.

Trafficking in girls for prostitution and forced labor was a problem (see section 5, Trafficking). Other forms of child labor generally were confined to family farms and enterprises (see section 6.d.).

Trafficking in Persons.—The law prohibits abduction and trade in persons as well as detaining persons against their will, procuring persons for commercial sex, and prostitution; however, trafficking in persons, particularly women and children, was a problem. In late 2004 the National Assembly passed a law on women that includes provisions protecting women and children from trafficking and domestic violence and imposes stiff penalties on traffickers (see section 5, Women).

The country was primarily a country of origin for trafficking in persons and, to a much lesser extent, a country of transit. The primary destination country was

Thailand. There was almost no effective border control. There was little reliable data available on the scope and severity of the problem until recently, when studies indicated that the scale of economic emigration, mostly by young persons between the ages of 15 and 30, was far greater than previously supposed. Approximately 7 percent of the total sample population in 3 southern provinces migrated, either seasonally or permanently, and approximately 55 percent were female. Thai authorities estimated that at least 180 thousand undocumented Lao worked in Thailand. An unknown number of these persons were actually trafficked in some sense of the term. The studies suggested that it was not the most impoverished who were likely to emigrate but rather better-educated peasants with some knowledge of life in Thailand. According to one study, a very small number of female citizens were trafficked to China to become brides for Chinese men.

The majority of trafficking victims have been lowland Lao, although small numbers of highland minority women have also been victimized by traffickers. Minority groups were particularly vulnerable because they do not have the cultural familiarity or linguistic proximity to Thai that Lao-speaking workers can use to protect themselves from exploitative situations. A much smaller number of trafficked foreign nationals, especially Burmese and Vietnamese, transited through the country.

Many labor recruiters in the country were local persons with cross-border experience and were known to the trafficking victims. For the most part, they had no connection to organized crime, commercial sexual exploitation, or the practice of involuntary servitude, but their services usually ended once their charges reached Thailand, where more organized trafficking operations operated.

There were few reports of official involvement in trafficking; however, anecdotal evidence suggested that local officials knew of trafficking activities, and some may have profited from them.

To date the government has prosecuted only a handful of traffickers, according to available information. All were prosecuted under other criminal statutes, prior to the implementation of antitrafficking provisions of the 2004 Law on Women. The government has established an antitrafficking police unit to investigate human trafficking cases and cooperated closely with police in Thailand to investigate specific trafficking cases involving Thai traffickers. Police occasionally arrested both citizens and foreigners for having sexual relations outside of marriage, which is prohibited under the law. Sexual relations with foreigners are forbidden under what the government refers to as a "special law."

The government has become actively involved in countering the worst forms of trafficking and the exploitation of underage persons, chiefly through cooperation with international NGOs working on trafficking problems. The government signed a Memorandum of Understanding with Thailand to increase cross-border cooperation on trafficking, and it also was a member of the Coordinated Mekong Ministerial Initiative Against Trafficking process.

The Ministry of Labor and Social Welfare (MLSW) has a unit devoted to children with special needs, including protection of trafficking victims and prevention of trafficking. The MLSW also maintains a small-scale repatriation assistance center for returned victims of trafficking, but the unit's effectiveness was limited by a small budget, inadequate international assistance, and a lack of trained personnel. The MLSW opened a second center for trafficking victims, funded by The Asia Foundation, the Japanese government, and the UN Children's Fund (UNICEF). The MLSW and the Lao Women's Union conducted pilot studies on antitrafficking information campaigns and began to pursue more active interventions in conjunction with NGOs. Financial constraints limited the contributions the government could make, but it offered the services of ministerial personnel and venues to NGOs doing antitrafficking work.

The Lao Women's Union and the Youth Union, both party-sanctioned organizations, offered educational programs designed to educate girls and young women regarding the schemes of recruiters for brothels and sweatshops in neighboring countries and elsewhere. These organizations were most effective in disseminating information at the grassroots level.

In the past some trafficking victims were punished for improper documentation or for crossing the border illegally. In September 2004 MoPS prohibited the practice of fining returning trafficking victims for illegal border crossing, and the Law on Women also prohibits the practice. With support from UNICEF, the National Commission for Mothers and Children continued an active program of support for victims.

Persons with Disabilities.—The constitution provides citizens protection against discrimination but does not specify that these protections apply to persons with disabilities. Regulations promulgated by the MLSW and the Lao National Commission for the Disabled protect such persons against discrimination; however, the regula-

tions lack the force of law. The law does not mandate accessibility to buildings or government services for persons with disabilities, but the MLSW has established regulations regarding building access and some sidewalk ramps in Vientiane.

National/Racial/Ethnic Minorities.—The law provides for equal rights for all minority citizens, and there is no legal discrimination against them; however, societal discrimination persisted. Moreover, critics have charged that the government's resettlement program for ending slash-and-burn agriculture and opium production has adversely affected many ethnic minority groups, particularly in the north. The program requires that resettled persons adopt paddy rice farming and live in large communities, ignoring their traditional livelihoods and community structures. The program has led to an active debate among international observers about whether the benefits of resettlement promoted by the government—access to markets, schools, and medical care for resettled persons—outweigh the negative impact on traditional cultural practices.

Less than half the population is ethnic Lao, also called "lowland Lao." Most of the remainder, approximately 60 percent, is a mixture of at least 47 distinct upland hill tribes whose members, if born in the country, are citizens. There were also ethnic Vietnamese and Chinese minorities and a small community of South Asian origin, particularly in urbanized areas. The law provides a means for foreigners to acquire citizenship, and each year some foreigners, mostly Vietnamese and Chinese, do so. The government encouraged the preservation of minority cultures and traditions; however, due to their remote location and inaccessibility, minority tribes had little voice in government decisions affecting their lands and the allocation of natural resources.

The Hmong are one of the largest and most prominent highland minority groups. There were a number of Hmong officials in the senior ranks of the government and LPRP, including at least five members of the LPRP Central Committee. However, societal discrimination continued against the Hmong (as well as other ethnic minorities), and some Hmong believe their ethnic group cannot coexist with the ethnic Lao population. This belief has fanned separatist or irredentist beliefs among some Hmong. In recent years the government focused limited assistance projects in Hmong areas to address regional and ethnic disparities in income. The government also provided for Hmong and Khmu language radio broadcasts.

The increased number of attacks by Hmong insurgents against civilian and military targets, coupled with the outbreak of a localized uprising in Houaphanh Province in 2003 and again in January, intensified ethnic tensions and aroused the government leadership's suspicion of Hmong irredentist desires. The heightened security problems also resulted in increased efforts by security forces to eliminate scattered pockets of insurgents living in remote jungle areas (see section 1.a.).

For several years the government has had a vaguely defined policy of giving resettlement assistance and "amnesty" to insurgents who surrender to authorities. At least partially in response to charges that it was trying to kill all insurgent elements, the government used family members of insurgents still living in the forest and former insurgents to approach these groups to urge them to surrender. Throughout the late 1990s and early 2000s, small groups accepted this offer and received small amounts of resettlement assistance from the government, especially in Vientiane, Bolikhamsai, and Xieng Khouang provinces and in the Saisomboun Special Zone. In some areas, such as in Bolikhamsai, this amnesty program included job training, land, and equipment for farming. However, in some cases this assistance was less than had been promised. Moreover, because of their past activities, amnestied insurgents continued to be the focus of government suspicion and scrutiny. The government generally refused offers from the international community to assist these surrendered insurgents directly, but it allowed some aid from the UN and other international agencies to reach them as part of larger assistance programs (see section 2.d.).

In June a group of approximately 170 persons, mostly women and children, associated with the insurgency surrendered to authorities in Xieng Khouang Province. Prior to the group's surrender, other insurgent bands also indicated their intention to turn themselves in to authorities. However, the arrest of four foreigners who traveled to Xieng Khouang to witness the surrender of this first group apparently had a chilling effect on other groups' intentions to surrender, and the anticipated mass surrenders of insurgents did not materialize. Nevertheless, there were reports of scattered surrenders of smaller groups, usually consisting of one or two families, subsequent to this event.

The government promised food, medicine, and resettlement assistance to insurgents who surrendered (see section 1.a.). The government initially refused international organizations permission to visit the 170 persons who surrendered in June or provide them with food and assistance, but after several months it allowed lim-

ited internationally donated food aid to reach them. The government also permitted international organizations to provide assistance to former insurgent families who surrendered in early 2004 and were resettled in Xieng Khouang Province's Muang Mok District.

The constitution states that foreigners and stateless persons are protected by "provisions of the laws," but in practice they did not enjoy the rights provided in the constitution.

Other Societal Abuses and Discrimination.—Within lowland Lao society, there was wide and growing tolerance of homosexual practice, although societal discrimination persisted.

There was no official discrimination against persons with HIV/AIDS, but social discrimination existed. The government actively promoted tolerance of those with HIV/AIDS, and during the year it conducted awareness campaigns to educate the population and promote understanding toward such persons.

Section 6. Worker Rights

a. The Right of Association.—Under the law labor unions may be formed in private enterprises as long as they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. However, most of the FLTU's approximately 99 thousand members worked in the public sector.

The government employed the majority of salaried workers, although this situation was changing as the government privatized state enterprises and otherwise reduced the number of its employees. Subsistence farmers made up an estimated 85 percent of the work force.

b. The Right to Organize and Bargain Collectively.—There is no right to organize and bargain collectively. The labor code stipulates that disputes be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority residing in the MLSW. According to NGOs and embassies based in Vientiane, the law generally was not enforced by the MLSW, especially in dealings with joint ventures in the private sector. Labor disputes reportedly were infrequent. According to labor activists the FLTU needs government permission to enter factories and must provide advanced notice of such visits; the FLTU is in effect powerless to protect workers who filed complaints. The government sets wages and salaries for government employees, while management sets wages and salaries for private business employees.

Strikes are not prohibited by law, but the government's ban on subversive activities or destabilizing demonstrations (see section 2.b.) made strikes unlikely, and none were reported during the year.

The labor code stipulates that employers may not fire employees for conducting trade union activities, lodging complaints against employers about labor law implementation, or cooperating with officials on labor law implementation and labor disputes, and there were no reports of such cases. Workplace committees were one mechanism used for resolving complaints, but there was no information on how effective these committees were in practice.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The labor code prohibits forced labor except in time of war or national disaster, during which time the state may conscript laborers. The code also prohibits forced or compulsory labor by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Under the labor code children under age 15 may not be recruited for employment, except to work for their families, provided the work is not dangerous or difficult. Many children helped their families on farms or in shops, but child labor was rare in industrial enterprises. Some garment factories reportedly employed a very small number of underage girls. The Ministries of Public Security and Justice are responsible for enforcing these provisions, but enforcement was ineffective due to a lack of inspectors and other resources.

e. Acceptable Conditions of Work.—The daily minimum wage was approximately $0.40 (4 thousand kip), which was insufficient to provide a decent standard of living for a worker and family. Most civil servants received inadequate pay. Some piecework employees, especially on construction sites, earned less than the minimum wage.

The law provides for a workweek limited to 48 hours (36 hours for employment in dangerous activities) and at least 1 day of rest per week.

The law provides for safe working conditions and higher compensation for dangerous work. Employers are responsible for compensating a worker injured or killed

on the job, a requirement generally fulfilled by employers in the formal economic sector. The law also mandates extensive employer responsibility for those disabled while at work, and it was enforced adequately. Although workplace inspections reportedly have increased over the past several years, the MLSW lacked the personnel and budgetary resources to enforce the labor code effectively. The labor code has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment.

There were a number of illegal immigrants in the country, particularly from Vietnam and China, and they were vulnerable to exploitation by employers. Some illegal immigrant Vietnamese children sold goods on the streets of Vientiane, although the government made some effort to stop this practice.

MALAYSIA

Malaysia is a federal constitutional monarchy with a population of approximately 25.6 million. It has a parliamentary system of government headed by a prime minister selected through periodic multiparty elections. The National Front, a coalition of political parties dominated by the United Malays National Organization (UMNO), has held power since 1957. The most recent national elections, in March 2004, were conducted in a generally transparent manner, but the opposition complained of the ruling coalition's exploitation of the powers of incumbency. The civilian authorities generally maintained effective control of the security forces.

The country's human rights performance improved during the year; nevertheless, problems remained. The following human rights problems were reported:

- abridgement of citizens' right to change their government
- incomplete investigation of detainee deaths and prisoner abuse
- overcrowded prisons
- detention of persons without trial or adequate access to legal representation
- lengthy confinement of immigrants in detention camps in poor and overcrowded conditions
- corporal punishment (caning) of illegal migrants and other prisoners
- restrictions on freedom of the press
- restrictions on freedom of assembly and association
- increased constraints on the ability of Muslims to change their religion
- violence against women
- treatment of trafficking victims as illegal migrants
- ethnic discrimination
- minimal labor law protection for household workers

There was a major trend toward greater public and government oversight of the police. The government partially addressed prison overcrowding by building new prisons. While freedom of expression remained subject to significant constraints, the media increased criticism of government policies and officials, exposure of government corruption, and coverage of contentious debates among elected officials. The government granted the Office of the United Nations High Commissioner for Refugees (UNHCR) unfettered access to detainees of possible interest to the UNHCR as well as to facilities at immigrant detention centers.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, local nongovernmental organizations (NGOs) reported that police killed nine persons while apprehending them, up from seven such killings in 2004. Local NGOs also reported that eight persons died in police custody during the year, up from two such deaths in 2004.

The criminal procedure code (CPC) empowers magistrates and public prosecutors to investigate deaths of persons in police custody and to charge those responsible under the penal code. However, by the end of 2004, inquests had been initiated for only 6 of the 80 custodial death cases recorded since 2000. In August the police deputy inspector general stated that investigations into 30 of the deaths had been completed during the year and that the remaining 50 cases were being investigated. At

year's end no prosecutions were initiated as a result of the investigations, and no investigation results had been released.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—No law specifically prohibits torture; however, laws that prohibit "committing grievous hurt" encompass torture. Unlike in 2004, there were no reports of torture by police. According to the government, every report of abuse of prisoners is investigated; however, the government routinely did not release information on the results of internal police investigations, and whether those responsible for abuses were punished was not always known.

In January 2004, 31 persons released from detention under the Internal Security Act (ISA) claimed that police subjected them to physical and mental abuse during the initial 60 days of their incarceration.

In November several female Chinese nationals alleged police mistreatment after they were wrongly accused of possessing falsified Chinese passports. They claimed that police stole their money while in detention and forced at least one of them to strip naked in front of a policewoman while a male officer watched. Also in November a member of parliament publicized a surreptitiously filmed video of a detained Malaysian woman forced to strip naked, hold her ears, and do squats in front of a policewoman. Police authorities later confirmed that such squats were standard police procedure to find detainees' hidden contraband. Many NGOs denounced this treatment as degrading. The prime minister established an independent commission to conduct a public investigation of the incident and recommend changes to police processing of detainees. The commission's investigation continued at year's end.

In May 2004 the international NGO Human Rights Watch (HRW) stated that some prisoners were subjected to sexually humiliating questioning and were made to stand semi-naked for long periods. The government denied these allegations.

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes, such as narcotics possession, criminal breach of trust, and alien smuggling. The Immigration Act prescribes up to six strokes of the cane for both illegal immigrants and their employers. In August 2004 Deputy Prime Minister Najib Razak stated that all arrested illegal immigrants would be prosecuted and punished before being deported. In August the minister of home affairs reiterated the government's position on caning of illegal immigrants, stating that all adult males under 50 years of age in this group faced caning prior to deportation.

Judges routinely included caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. Some state Shari'a (Islamic) laws, which bind only Muslims, also prescribe caning (see section 1.e.). The caning, carried out with a half-inch-thick wooden cane, commonly causes welts and at times scarring. Males older than 50 and women are exempted from caning. Male children 10 years of age and older may be given up to 10 strokes of a "light cane" (see section 5).

Prison and Detention Center Conditions.—Prison overcrowding remained a serious problem. To alleviate overcrowding, the government opened three new prisons during 2004 and 2005. Government statistics indicated that overcrowding in prisons declined to 21 percent during the first 6 months of the year, compared with 46 percent during the same period in 2004. However, the government also declared that 6 prisons near major cities still experienced overcrowding above 50 percent. A commissioner from Suhakam, the Human Rights Commission of Malaysia, disputed the government's aggregate statistics, stating in May that the country had more than 45 thousand prisoners in a prison system with an intended capacity of 30 thousand.

Children have the right to remain with their imprisoned mothers until the age of three years if the mother's incarceration is scheduled to end within three months, and they may stay beyond that age with approval of the director general of prisons.

NGOs and international organizations involved with migrant workers and refugees made credible allegations of inadequate food and medical care, poor sanitation, and abuse by guards in the 15 government detention camps for illegal immigrants. Immigrant detainees were not medically screened prior to placement in the camps. An NGO with access to the camps claimed that overcrowding and deficient sanitation sometimes facilitated the spread of disease. During the year local NGOs were allowed into the camps with mobile medical clinics.

The government does not have an agreement with the International Committee of the Red Cross permitting visits to prisoners. NGOs and the media generally were not permitted to monitor prison conditions. However, in June 2004 the government invited the media to inspect Kamunting prison in response to allegations that ISA detainees were abused. During the year Suhakam officials visited various prisons and immigration detention camps at different times.

In March the government granted the UNHCR "blanket access at any time" to any of the country's immigration detention camps. During the remaining months of the year, UNHCR staff members conducted hundreds of visits at various prisons and immigration detention facilities located throughout the country.

d. Arbitrary Arrest or Detention.—The law allows investigative detention, designed to prevent a criminal suspect from fleeing or destroying evidence while police conduct an investigation. Several laws also permit preventive detention, either to incarcerate an individual suspected of criminal activity or to prevent a person from committing a future crime. Such laws severely restrict, and in some cases eliminate, accused citizens' access to timely legal representation and a fair public trial.

On August 30, the attorney general banned the use of police-obtained confessions in the prosecution of criminal cases unless the public prosecutor explicitly allowed the confession. He claimed that the new directive should significantly reduce accusations of police abuse in obtaining confessions and force the police to become more proactive and thorough in their criminal investigations. He also stated that his directive was in line with police commission recommendations. A deputy public prosecutor claimed that the directive would enable speedier trials, since judges would no longer need to rule on the admissibility of confessions.

Role of the Police and Security Apparatus.—Modeled on the British system, the Royal Malaysia Police is under the command of the inspector general of police (IGP), who reports to the minister of internal security. For the past several years, the prime minister has also served as the minister of internal security. The IGP is responsible for organizing and administering the police force. Police functions generally are divided into five areas: enforcement of law and order, maintenance of national peace and security, prevention and detection of crimes, arrest and prosecution of offenders, and gathering of security intelligence. The police force consisted of approximately 93 thousand officers.

On April 29, a police commission formed in February 2004 to suggest ways to improve the police published a report with 125 recommendations for legal and procedural reform. It proposed that the CPC be amended to require a detailed report from the police to a magistrate within a week of a custodial death, followed by an autopsy within 24 hours and an independent inquest within a month.

The commission noted a rising incidence of police corruption and stated that it was endemic due to "the generally poor quality of senior supervising officers and poorly enforced supervisory system." The commission reported that disciplinary actions were initiated against 1,216 police personnel for corruption and other offenses during 2004, compared with 1,138 in 2003. Police offenses noted in the report included accepting bribes, theft, and rape; punishments included suspension, dismissal, and demotion. The report cited the strict monitoring effort aimed at improving the public image of the police force as the reason for the increase in the number of personnel sanctioned. The commission stated, "the war against corruption must be accorded the highest priority" and recommended enhanced internal anticorruption procedures, regular job rotations and tenure limitations, and education and training about the debilitating impact of corruption on the police force and society. The government disclosed that disciplinary actions were taken against 299 police personnel during the first 7 months of the year.

Following publication of the commission report, the prime minister assumed the chairmanship of a task force established to examine various elements of the commission report and recommend specific government actions to address the problems highlighted in the report. Recommendations based on the task force's analysis had not been completed or publicized by year's end.

During the latter half of the year, the government focused its initial reform efforts on improving the salaries, quarters, and general living conditions of police officers. In September, for example, the Public Works Department presented police leaders with designs for 27 thousand units of new living quarters.

In July 2004 the IGP directed the commander of the police training center to include human rights awareness training in its courses. Such human rights education continued during the year as part of the training program for new recruits.

Arrest and Detention.—The law permits police to arrest individuals for some offenses without a warrant and hold suspects for 24 hours without charge. A magistrate may extend this initial detention period for up to two weeks. Although police generally observed these provisions, the police commission reported that police sometimes released suspects and then quickly rearrested them and held them in investigative custody. Police often denied detainees access to legal counsel and questioned suspects without giving them access to counsel. Police justified this practice as necessary to prevent interference in ongoing investigations. Judicial decisions generally upheld this practice. The commission stated that an "arrest first, inves-

tigate later" mentality pervaded some elements of the police force, and it recommended that detention procedures be reviewed to prevent abuse.

Four laws permit the government to detain suspects without normal judicial review or the filing of formal charges: the ISA, the Emergency (Public Order and Prevention of Crime) Ordinance, the Dangerous Drugs (Special Preventive Measures) Act, and the Restricted Residence Act.

The ISA empowers police to arrest without warrant and hold for up to 60 days any person who acts "in a manner prejudicial to the national security or economic life of Malaysia." During this initial 60-day detention period in special police holding centers, suspects have not always been given access to counsel. Upon the recommendation of an advisory board, the internal security minister may authorize further detention for up to two years, with an unlimited number of two-year periods to follow. Some of those released before the end of their detention period are subject to "imposed restricted conditions." These conditions limit freedom of speech, association, and travel inside and outside the country. Since 1960 more than 10,500 persons have been arrested under the ISA, of whom more than 4,100 were detained beyond the initial 60-day detention period and 2 thousand were subjected to restriction orders.

Even when there are no formal charges, the ISA requires that the authorities inform detainees of the accusations against them and permit them to appeal to an advisory board for review every six months. However, advisory board decisions and recommendations are not binding on the internal security minister, are not public, and often are not shown to the detainee. In past years local human rights NGOs claimed that police at times intimidated and harassed family members of ISA detainees to prevent them from taking legal action against the police.

The 1988 amendments to the ISA circumscribed judicial review of ISA detentions. The Bar Council has asserted that ISA detentions should be subject to full judicial review; however, the courts do not concur with this interpretation and limit their review to procedural issues. Detainees freed by judicial order nearly always were immediately detained again. Following several successful procedural challenges to ISA detentions, in 2003 the Federal Court ruled that the courts should not intervene in matters of national security and public order.

In July the deputy minister of internal security stated that there were 112 persons in detention under the ISA, of whom 82 had been detained for more than 2 years. Three ISA detainees were subsequently released. The 109 remaining ISA detainees at year's end included 71 suspected of involvement with terrorist groups, 22 held for forging currency, and 16 held for falsification of documents or other offenses. The group included 21 foreigners and 2 women. According to Suaram, a local human rights NGO, none were formally charged with a criminal offense. Among those detained were members of the opposition Islamic Party (PAS), including Nik Adli, son of the PAS spiritual leader.

There were no reports of political detainees.

Opposition leaders and human rights organizations continued to call on the government to repeal the ISA and other legislation that deprived persons of the right to counsel and trial, but the government stated that the ongoing threat of terrorist activity in the country underscored the continued need for the ISA.

Under the Emergency Ordinance, the internal security minister may issue a detention order for up to two years against a person if he deems it necessary for the protection of public order, "the suppression of violence, or the prevention of crimes involving violence." In September local NGOs called for abolition of the ordinance, citing a 2004 Suhakam study that found more than one thousand detainees held under the measure at the Simpang Renggam detention facility. They stated that the ordinance was being used to detain alleged criminals when police lacked sufficient evidence to support a traditional prosecution. For example, in October a high court judge acquitted eight men of murder charges, citing insufficient evidence of their link to the crime. The men were immediately rearrested under the Emergency Ordinance. The police commission recommended repeal of the ordinance, stating "it has outlived its purpose and in some instances has facilitated the abuse of some fundamental liberties."

Provisions of the Dangerous Drugs Act give the government specific power to detain suspected drug traffickers without trial for up to 39 days before the internal security minister must issue a detention order. Once an order is issued, the detainee is entitled to a court hearing, which may order the detainee's release. Suspects may be held without charge for successive two-year intervals with periodic review by an advisory board, whose opinion is binding on the minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. Police frequently detained suspected narcotics traffickers under this act after the traffickers were acquitted of formal charges. According to the National

Anti-Drug Agency, the government detained 2,295 persons under the act during the first 11 months, compared with 1,897 persons during the same period in 2004.

The 1933 Restricted Residence Act allows the minister of internal security to place individuals under restricted residence away from their homes. These persons may not leave the residential district assigned to them by the government, and they must present themselves to police on a daily basis. As under the ISA, the term of detention may be renewed every two years. The minister is authorized to issue the restricted residence orders without any judicial or administrative hearings. The government continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted. In September 2004 the deputy minister of internal security told the press that 140 persons had been placed on restriction during the year. The police commission recommended repeal of the act, stating that "restricting residence is not practical and action can in any case be taken under other laws."

Immigration laws were used to detain illegal immigrants, who were often held for several months before deportation due to delays in processing. Illegal immigrants were kept in detention camps that were separate from prisons. No codified legal distinction is made between illegal workers, refugees, and trafficking victims (see sections 1.c. and 2.d.).

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years.

The CPC allows the detention of a person whose testimony as a material witness is necessary in a criminal case, if that person is considered likely to flee.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. However, constitutional provisions, legislation restricting judicial review, and other factors limited judicial independence and strengthened executive influence over the judiciary.

The government limited judicial independence significantly through a 1988 constitutional amendment that provided judicial powers would be conferred by parliament rather than being vested directly in the courts. The amendment also conferred certain judicial powers on the attorney general, including the authority to instruct the courts on which cases to hear, the power to choose venues, and the right to discontinue cases. The attorney general has control and direction of all criminal prosecutions under the CPC and has assumed responsibility for judicial assignments and transfers. Since 1988 senior judges have been appointed based on the recommendation of the prime minister.

Members of the bar, NGO representatives, and other observers expressed serious concern about the general decline of judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers.

Minor civil suits are heard by sessions courts. High courts have original jurisdiction over all criminal cases involving serious crimes. Juvenile courts try offenders below age 18. The special court tries cases involving the king and the sultans. The court of appeal has appellate jurisdiction over high court and sessions court decisions. The Federal Court, the country's highest court, reviews court of appeal decisions.

Trial Procedures.—The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage. Defendants have the right to counsel, bail is usually available, and strict rules of evidence apply in court. Defendants may make statements for the record to an investigative agency prior to trial. Limited pretrial discovery in criminal cases impeded defendants' ability to defend themselves. Defendants are presumed innocent and may appeal court decisions to higher courts. The 1964 Judiciary Court Act limits a defendant's right to appeal in some circumstances. The government stated that the limits expedite the hearing of cases in the upper courts, but the Bar Council declared that the act imposes too many restrictions on appeals.

The Essential (Security Cases) Regulations restrict the right to a fair trial by lowering the standard for accepting self-incriminating statements by defendants as evidence in firearm and certain national security cases. The regulations also allow authorities to hold the accused for an unspecified time before making formal charges.

Even when the Essential Regulations were not invoked, police sometimes used other tactics to limit the legal protections of defendants. For example, during a trial police may summon and interrogate witnesses who have previously given testimony that was not helpful to the prosecution. Human rights advocates accused police of using this tactic to intimidate witnesses. Police also have used raids and document seizures to harass defendants.

Contempt of court charges also restricted the ability of defendants and their attorneys to defend themselves; however, the use of such charges appeared to be decreasing.

Certain provisions of the Anticorruption Act impinge on the presumption of a public office holder's innocence. A 1997 amendment to the act requires that accused persons prove that they acquired monetary and other assets legally. Failure to satisfy the court's demand for a satisfactory explanation can result in imprisonment of up to 20 years and a fine. In practice few such cases have been brought.

Shari'a laws are administered by state authorities through Islamic courts and bind all Muslims, most of whom are ethnic Malays. These laws and the degree of their enforcement vary from state to state. In 2002 the government established a committee to recommend ways to harmonize Shari'a throughout the country; however, any recommendations must be adopted by individual state legislatures. Efforts to harmonize state Shari'a with federal laws have also proven difficult. Shari'a courts do not give equal weight to the testimony of women. Many NGOs also complained that women did not receive fair treatment from Shari'a courts, especially in matters of divorce and child custody (see sections 2.c. and 5).

In July approximately 70 members of the Sky Kingdom religious group were arrested in the state of Terengganu and charged with violating a state *fatwa* (Islamic edict) that banned support of "deviant" religious teachings. In August a judge postponed a hearing in the case after no Shari'a lawyer agreed to represent the group. The Sky Kingdom members remained free on bail, pending their hearing.

Indigenous peoples in Sarawak and Sabah have a system of customary law to resolve matters such as land disputes between tribes. Additionally, *penghulu* (village head) courts may adjudicate minor civil matters, but these were rarely used.

The military has a separate system of courts.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation allow police to enter and search without a warrant the homes of persons suspected of threatening national security (see section 1.d.). Police also may confiscate evidence under these provisions. Police used this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

The Anticorruption Act empowers a deputy public prosecutor to authorize the interception of any messages sent or received by a suspect through any means of communication, once a written application has been received from a senior police official involved in an official investigation. Information obtained in this way is admissible as evidence in a corruption trial.

The law permits the Internal Security Ministry to place criminal suspects under restricted residence in a remote district away from their homes for two years (see section 1.d.).

The government bans membership in unregistered political parties and organizations (see section 2.b.).

Certain religious issues posed significant obstacles to marriage between Muslims and adherents of other religions (see section 2.c.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, some important legal limitations exist. In practice the government restricted freedom of expression, and journalists practiced self-censorship. According to the government, restrictions were imposed to protect national security, public order, and friendly relations with other countries.

The law provides that freedom of speech may be restricted by legislation "in the interest of security (or) public order." For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. In practice the Sedition Act, the Official Secrets Act, criminal defamation laws, and other laws were used to restrict or intimidate dissenting political speech.

The election law makes it an offense for a candidate to "promote feelings of ill will, discontent, or hostility." Violators could be disqualified from running for office, and during the March 2004 national elections both the election commission chairman and the prime minister warned candidates not to violate the amended law. No one was charged under the provision.

Under the penal code, criminal defamation is punishable by a maximum of two years in jail, a fine, or both. The Centre for Independent Journalism, a local NGO, claimed that the threat of imprisonment and large monetary judgments for criminal defamation reinforced self-censorship. In September, immediately following a complaint filed by state-owned oil company Petronas, police initiated an investigation

of *Malaysiakini*, the country's largest independent Internet news organization. Petronas accused *Malaysiakini* of criminal defamation for publishing a former Petronas executive's allegations of financial malfeasance within the company. A police investigation of *Malaysiakini* was underway at year's end.

Print journalism was dominated by eight daily newspapers—two each in English and Malay and four in Chinese. Parties in the ruling coalition owned or controlled a majority of shares in each of the English and Malay dailies and in two of the Chinese dailies. Politically well-connected tycoons owned the other two Chinese-language newspapers. Self-censorship and biased reporting in the print media, while common, were not uniform; the English-, Malay-, and Chinese-language press sometimes provided balanced reporting on sensitive issues. The mainstream press increasingly printed editorials and interviews with opposition leaders that included criticism of government policy. Observers believed this indicated the government had relaxed its interpretation and enforcement of press restrictions.

The Printing Presses and Publications Act limits press freedom. Under the act, domestic and foreign publications must apply annually to the government for a permit. The act makes publication of "malicious news" a punishable offense, empowers the government to ban or restrict publications, and prohibits court challenges to suspension or revocation of publication permits. According to the government, these provisions ensured that "distorted news" was not disseminated to the public. Government power over annual license renewal and other policies created an atmosphere that inhibited independent or investigative journalism and resulted in extensive self-censorship. Government officials continued to argue that the act helped to preserve harmony and promote peaceful coexistence in a multiracial country. In November the deputy internal security minister stated that during the first nine months of the year, the Home Affairs Ministry had inspected more than a million foreign publications to assess whether their content threatened national security, public order, or morality. During that time the ministry blocked 8,812 (mostly English-language) titles and confiscated more than 431 thousand copies of books, newspapers, magazines, and comic books.

In August, in response to public health concerns about heavy haze blanketing large sections of the country, the government for the first time began to publicize daily air pollution index readings for the entire country. Publication of such information was previously banned because the government viewed it as prejudicial to the country's image.

At year's end the appeal of human rights monitor Irene Fernandez was pending. In 2003 she was sentenced to 12 months' imprisonment for malicious publication of false material regarding abuse and torture of migrant workers at detention camps.

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the government retained significant influence over these publications by requiring the annual renewal of publishing permits and limiting circulation only to organization members. In the past the PAS newspaper *Harakah* was the target of several ruling party-sponsored libel suits. *Harakah* was the only major Malay- or English-language print media forum for opposition views, and its circulation rivaled that of mainstream newspapers. Under government stricture, *Harakah* has been limited to publishing twice monthly instead of twice a week.

Most major newspapers had online editions, which generally fell outside government regulations since they are not required to have publication permits. However, in July police raided the home of the editor of *Malaysia Today*, an independent Internet news provider, and seized two computers after *Malaysia Today* published corruption allegations against royal family members in the state of Negri Sembilan.

Printers, who also must have their permits renewed annually, often were reluctant to print publications that were critical of the government.

Radio and television stations were restricted more tightly than the print media and were almost uniformly supportive of the government's news coverage and commentary. News of the opposition was tightly restricted and reported in a biased fashion. In the period before the March 2004 elections, opposition representatives said they were unable to have their views heard and represented on the country's television and radio stations. Following a government-approved acquisition in October, a large domestic media company became the sole owner of the country's four privately held free-to-air television stations.

Broadcasting licenses permit only Malay-language news from 8:00 to 9:00 p.m., except on a ministry of information channel. In 2004 one of the new stations appealed the terms of its license agreement and began broadcasting the 8:00 p.m. news in English. The appeal was denied, and the English broadcasts ceased. Internet television faced no such restrictions. PAS continued daily Internet television broadcasts that began in 2001.

The government censored books and films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censored programming in line with government guidelines. Some foreign newspapers and magazines were banned, and, infrequently, foreign magazines or newspapers were censored, most often for sexual content. However, the Internet provided a means to bypass such restrictions. The government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or radio broadcasts. The government continued to try to block the production, distribution, and sales of unauthorized video compact discs and digital video discs, especially those with pornographic or sensitive political content.

The Communications and Multimedia Act (CMA) requires certain Internet and other network service providers to obtain a license. In the past the government stated that it did not intend to impose controls on Internet use but noted that it would punish the "misuse" of information technology under the CMA. During the year the government did not use licensing provisions under the CMA to interfere with Internet access or to restrict Internet content.

The CMA also permits punishment of the owner of a Web site or blog for allowing content of a racial, religious, or political nature that a court deems offensive. In September, in an attempt to avert possible police action against them, two bloggers lodged police reports against an anonymous writer who posted racist remarks on their blogs.

The government generally restricted remarks or publications that might incite racial or religious disharmony; it also attempted to restrict the content of sermons at mosques in the states controlled by the governing coalition. Some state governments banned certain Muslim clergymen from delivering sermons. The Religious Affairs Department continued to conduct background checks on all clergymen. The government also cracked down on the distribution and sale of the opposition party's video compact discs and audiocassettes. In June the government confiscated an edition of the weekly Chinese-language newspaper *Epoch Times* that was produced in Indonesia and contained comments supportive of the China-based Falun Gong movement. The government banned two later editions of the newspaper, and its importer quickly ceased its distribution. The government provided no official rationale for its actions.

The government placed some restrictions on academic freedom, particularly the expression of unapproved political views, and the government enforced restrictions on teachers and students who expressed dissenting views. The government continued to require that all civil servants, university faculty, and students sign a pledge of loyalty to the king and the government. Opposition leaders and human rights activists claimed that this was intended to restrain political activity among civil servants, academics, and students. According to news reports, two lecturers at Universiti Utara Malaysia were fired during the year for failing to sign the loyalty pledge.

Although academics sometimes were publicly critical of the government, there was clear self-censorship among public university academics whose career advancement and funding depended on the government. Private institution academics practiced self-censorship as well, fearing that the government might revoke the licenses of their institutions. The law also imposes limitations on student associations and student and faculty political activity (see section 2.b.).

In August Universiti Kebangsaan Malaysia, a public university, terminated the employment contract of a senior professor who had publicly spoken out against the political, social, and economic policies of the governing coalition.

The government has long stated that students should be apolitical and used that assertion as a basis for denying parties access to student forums. According to student leaders, students who signed antigovernment petitions sometimes were expelled or fined. The government enforced this policy selectively and did not refrain from spreading government views on political issues among students and teachers.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of peaceful assembly; however, in practice the government placed significant restrictions on this right. This right may be limited in the interest of security and public order, and the Police Act requires police permits for all public assemblies except for workers on picket lines. Police define a public assembly as a gathering of five or more persons.

The decision to grant a permit rests with the district police chief; however, senior police officials and political leaders have influenced the grant or denial of some permits. Police granted permits routinely to government and ruling coalition supporters but used a more restrictive policy with government critics and human rights activists. In August local news media reported that police in Kuala Terengganu used tear

gas and water cannons to break up a gathering of approximately two thousand PAS supporters. The gathering, which police deemed an illegal assembly, was led by PAS state and local party leaders. Several police officers were injured and seven persons were detained.

In September, following a meeting between the IGP and PAS leaders, the IGP directed police to decide within five days whether to approve an application for public assembly. The previous timeframe was 14 days.

In March police arrested six members of the opposition Democratic Action Party (DAP) at a party-sponsored demonstration in Kuala Lumpur's Merdeka Square. Approximately 70 persons attended the event, which commemorated the 40th anniversary of the government's decision to suspend direct elections of local government officials. Before their arrest, DAP party leaders urged the government to restore local government elections. After their release from jail, they claimed they had obtained verbal approval for their public assembly from the city's deputy police chief.

In June police detained 68 protesters outside the Burmese embassy in Kuala Lumpur. The ethnic Burmese demonstrators, who were protesting the detention in Burma of democracy leader Aung San Suu Kyi, were arrested for assembling without a police permit and failure to obey a police dispersal order. Their cases were pending at year's end.

The police commission recommended that sections of the Police Act restricting public assembly be amended. The commission stated that the recent addition to this act of restrictive assembly provisions "spells the end of the freedom of assembly, speech, and association provided by the constitution."

Freedom of Association.—The constitution provides for the right of association; however, the government placed significant restrictions on this right, and certain statutes limit it. Under the Societies Act, only registered organizations of seven or more persons may function as societies. The government sometimes refused to register organizations or imposed conditions when allowing a society to register. The government prohibited the Communist Party and affiliated organizations from registering and has blocked the registration of the Socialist Party of Malaysia since 1999 (see section 1.f.). The government also has the power to revoke the registration of an existing society for violations of the act, a power that it enforced selectively against political opposition groups.

The Universities and University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations and faculty members from engaging in political activity. Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the government argued that the act still was necessary. After repeated requests during prior years, several of the country's 17 public universities agreed to allow Suhakam to monitor campus elections of student representatives in September. This followed previous allegations of scare tactics, discriminatory candidate approval procedures, and irregularities in polling practices. The campus elections proceeded without major incident, in part due to election boycotts by candidates at five major universities. According to Suaram, several universities took disciplinary action against a total of 10 students who had called for free and fair campus elections.

c. Freedom of Religion.—The law provides for freedom of religion; however, the government placed some restrictions on this right. Sunni Islam is the official religion, and the practice of Islamic beliefs other than Sunni Islam was significantly restricted. Non-Muslims, which included large Buddhist, Christian, Hindu, and Sikh communities, were free to practice their religious beliefs with few restrictions. The government provided financial support to an Islamic religious establishment and also provided more limited funds to non-Islamic religious communities. State authorities imposed Islamic religious laws administered through Islamic courts on all ethnic Malays (and other Muslims) in some matters but generally did not interfere with the religious practices of the non-Muslim community.

Prime Minister Abdullah has emphasized religious tolerance towards all faiths. During the year the government promoted *Islam Hadhari*, which emphasized tolerance towards other religions and a moderate, progressive interpretation of Islam.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits.

Various religious groups were not recognized as such by the government, and they sometimes registered themselves under the Companies Act to operate legally. In June nine Falun Gong members were fined for committing technical violations of

the Companies Act, such as failure to provide minutes of the organization's meetings within the required timeframe.

In practice Muslims are not permitted to convert to another religion. In several recent rulings, secular courts have ceded jurisdiction to Islamic courts in matters involving conversion to or from Islam. In September the court of appeal denied the request of a Muslim who had converted to Christianity to change the religion designated on her national identity card. The court ruled that a Shari'a court must first approve a request by a Muslim citizen to convert to another religion. In practice Shari'a courts routinely denied such requests.

In December a high court ruled that it lacked jurisdiction over Shari'a court decisions on matters that concern Islamic law. The case involved the disposition of the remains of a Hindu man who allegedly converted to Islam before his death. The man's Hindu wife struggled with Islamic authorities over which religion should control his burial. As a non-Muslim, the wife had no standing in the Shari'a court to appeal its decision, and Islamic religious authorities buried the man under Muslim rites.

In February the government rejected efforts led by the Bar Council and NGOs to establish a statutory interfaith commission. Proponents sought to foster cooperation among the country's faiths and bolster freedom of religion. The prime minister stated that he preferred "interfaith dialogues" to improve cooperation among the respective followers of the country's religions.

In August the Selangor State Religious Department announced its decision to withhold support for visa applications by foreign Muslim *imams* and religious teachers. Local media reported that the decision was largely targeted at the ethnic Indian Muslim community in an effort to increase the number of "homegrown" *imams*. Ethnic Indian religious leaders expressed concern that some mosques and religious schools might need to be closed.

The government generally respected non-Muslims' right of worship; however, state governments have authority over the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. Approvals for building permits sometimes were granted very slowly. In 2003 the minister of housing and local government announced that building permit approvals would no longer be required for construction of places of worship; however, minority religious groups reported that state governments sometimes blocked construction using restrictive zoning and construction codes. In September a Catholic church opened near Kuala Lumpur after more than 10 years of legal delays. Church officials publicly accused the state of intentionally delaying construction of the church by demanding relocation of proposed building sites and revoking previously approved building plans and designs.

Proselytizing of Muslims by members of other religions is strictly prohibited, although proselytizing of non-Muslims faced no obstacles. In April two foreign citizens were arrested and detained for allegedly distributing Christian religious pamphlets to Muslims. After 10 days in police custody, they were dismissed without charge.

The government discouraged but did not ban distribution in peninsular Malaysia of Malay-language translations of the Bible, Christian tapes, and other printed materials. The distribution of Malay-language Christian materials faced few restrictions in the eastern states of Sabah and Sarawak.

While representatives of non-Muslims do not sit on the immigration committee that approves visa requests from members of the clergy, the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism is asked for its recommendation.

The government continued to monitor the activities of the Shi'a minority, and state religious authorities reserved the right to detain members of what they considered Islamic "deviant sects," i.e., groups that do not follow the official Sunni teachings, under the ISA. According to the government, no individuals were detained under the ISA for religious reasons during the year.

The government is concerned that "deviationist" teachings could cause divisions among Muslims. The government's Islamic Development Department has established written guidelines concerning what constitutes a "deviationist" behavior or belief. State religious authorities, in making their determinations on these matters, have generally followed the federal guidelines. Members of groups deemed "deviationist" may be arrested and detained, with the consent of the Islamic court, in order to be "rehabilitated" and returned to the "true path of Islam." In June the religious affairs minister told parliament that 22 "deviant" religious groups with an estimated 2,820 followers had been detected in the country. The minister stated that the members of these groups were subject to prosecution, detention under the ISA, or rehabilitation. In August the government's Islamic Development Department published a list of 56 religious teachings or schools that were deemed to be "deviationist."

In July 2004 the Federal Court dismissed an appeal by four followers of Ayah Pin, leader of a religious group in Terengganu State known as the Sky Kingdom. The appeal from the four former Muslims sought a statutory declaration that Sky Kingdom followers have the right to practice the religion of their choice. The Federal Court held that their attempt to renounce Islam did not free them from the jurisdiction of the state Shari'a court. In July 70 Sky Kingdom members were arrested at the sect's main compound in Terengganu. In August all nonresidential buildings on the compound were destroyed on the instruction of state officials, who asserted that nonfarming structures had been built on property zoned exclusively for agricultural use. The 50 remaining individuals living on the compound were ordered to vacate their residences. No Shari'a law-qualified lawyers agreed to defend the Sky Kingdom followers, forcing postponement of their August hearings. The Sky Kingdom's leader and one of his four wives remained at large and were sought by religious authorities for supporting "deviant" religious practices.

The government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of particular religions, especially Islam. The government also restricted the content of sermons at mosques. In recent years both the government and the opposition Islamic party PAS have attempted to use mosques in the states they control to deliver politically oriented messages. Several states have attempted to ban opponent-affiliated *imams* from speaking at mosques. Some states also have announced measures including vigorous enforcement of existing restrictions on the content of sermons and replacement of mosque leaders and governing committees.

For Muslim children, religious education according to a government-approved curriculum is compulsory. Muslim civil servants are required to attend Islamic religious classes taught by government-approved teachers.

In family and religious matters, all Muslims are subject to Shari'a. According to some women's rights activists, women were subject to discriminatory interpretations of Shari'a and inconsistent application of the law from state to state. In Kelantan local authorities enforced wearing of headscarves by Muslim women and imposed fines for violators. Since the defeat of the opposition Islamic party PAS in Terengganu in the March 2004 elections, state and local officials have significantly reduced enforcement of dress codes for women. In November the minister of higher education stated that non-Muslim women who attend the International Islamic University of Malaysia in Kuala Lumpur must wear headscarves when attending lectures and during graduation ceremonies.

Efforts by the PAS-led government of Kelantan to implement Shari'a criminal law (see section 5), which would impose Islamic penalties for theft, robbery, illicit sex, drinking alcohol, and the renunciation of Islam, have been challenged in Federal Court, and the cases were pending at year's end.

In January federal religious police raided a nightclub in Kuala Lumpur, detaining approximately 100 young Muslims for drinking and frequenting an establishment where liquor was sold. Non-Muslims were free to remain in the club. The religious affairs minister stated that 28 such raids had been conducted in Kuala Lumpur between 2002 and January.

The government has a legislatively based, comprehensive system of hiring that favored ethnic Malays and members of a few other groups, known collectively as *bumiputras*, or "sons of the soil," most of whom are Muslim (see section 5).

Societal Abuses and Discrimination.—Relations among religious groups were generally amicable. No reliable estimate of the country's Jewish population was available, and there was no locally based Jewish community or synagogue in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice, although there were restrictions in some circumstances. The eastern states of Sabah and Sarawak controlled immigration and required citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. In past years NGOs claimed that some citizens were blacklisted and not permitted to travel outside of the country because they might "tarnish the reputation" of the country, but there was no indication that this practice occurred during the year.

The government regulated the internal movement of provisionally released ISA detainees. The government also used the Restricted Residence Act to limit movements of those suspected of some criminal activities (see section 1.d.).

Citizens must apply for government permission to travel to Israel.

The constitution provides that no citizen may be banished or excluded from the country. However, according to the terms of a 1989 peace agreement, Chin Peng, the aged former leader of the communist insurgency in the country, continued to live in exile in Thailand and has been denied permission to return.

Protection of Refugees.—The country is not a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. It sometimes granted temporary refuge to asylum seekers. In August, 131 Thai citizens illegally entered the country, ostensibly to escape clashes between security forces and villagers in southern Thailand. The government decided not to return the group involuntarily and granted the UNHCR access to them. One asylum seeker wanted by the Thai government for criminal offenses was returned to Thailand.

The UNHCR listed 33,499 persons as refugees at year's end, of whom 56 percent were Indonesians from Aceh Province and 41 percent were Burmese nationals. The UNHCR received 14,595 new applications for refugee status during the year, down from 20,663 applications in 2004.

At year's end the UNHCR stated that 10,839 persons had active asylum cases pending in the country, of which 76 percent were Burmese nationals. The UNHCR assisted in the resettlement of 672 persons to third countries during the year.

According to the UNHCR, 2,469 persons arrested during the year were identified by the UNHCR as asylum seekers, recognized refugees, or individuals granted "temporary protection." The UNHCR facilitated the release of 1,277 of these individuals from police lockups and immigration detention camps. In August the deputy head of prosecution in the Attorney General's Office issued a directive to drop all charges against persons detained solely for immigration violations if they had been granted UNHCR refugee or asylum-seeker status prior to their arrest. The government released 248 such detainees between August and December, compared with 17 during all of 2004.

The government continued to deport some asylum seekers and refugees but allowed certain asylum seekers and persons of concern to remain, pending resettlement to other countries.

The government generally did not distinguish between asylum seekers and illegal immigrants, detaining them in the same camps. Detention facilities were overcrowded and lacked medical facilities. Local human rights NGOs alleged that detainees were sometimes abused by prison officials and received inadequate food.

The immigration law provides for six months in prison and up to six strokes of the cane for immigration violations. In practice, due to delays in processing travel documents, many illegal immigrants were detained in camps for more than a year (see section 1.d.).

During the year the Prisons Department took over management of the immigrant detention centers from the Immigration Department. NGOs viewed this as a positive step, as the Prisons Department has more institutional expertise in running such facilities.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections; however, while votes generally were recorded accurately, there were irregularities that affected the fairness of elections.

Elections and Political Participation.—Opposition parties were unable to compete on equal terms with the governing coalition (which has held power at the national level since independence in 1957) because of significant restrictions on campaigning, freedom of assembly, freedom of association, and access to the media. Nevertheless, opposition candidates campaigned actively, with some success in state and national elections. In the most recent national elections, held in March 2004, opposition parties captured 19 of 219 parliamentary seats and 52 of 505 state assembly seats.

The lack of equal access to the media was one of the most serious problems encountered by the opposition in the March 2004 national elections (see section 2.a.). Opposition leaders also claimed that the election commission was perceived to be under government control and did not carry out its duties impartially. There were numerous opposition complaints of irregularities by election officials during the March 2004 campaign; however, most observers concluded that they did not substantially alter the results. Allegations were lodged of voter rolls being inflated by illegally registered "phantom" voters, who reportedly included voters from other districts brought in to vote in tightly contested districts; of nonregistered voters using fictitious names or the names of dead voters still listed on the voter rolls; and of

noncitizens illegally registered to vote. In addition ballots were marked with a serial number that could be matched against a voter's name.

The constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters; however, in practice the numbers varied significantly. The constitution also states that greater weight should be given to rural constituencies. In 2003, following nationwide redistricting, 25 new parliamentary seats were added, primarily in states in which the ruling coalition was strong. The opposition complained that the two states it controlled prior to the March 2004 elections did not get any new seats and that the redistricting was undertaken to weaken the opposition. Observers agreed that the redistricting favored government candidates for parliamentary seats but believed it had less influence on elections for state seats.

The Malay-based UMNO party dominated the ruling National Front coalition. Since 1969 the National Front coalition has maintained at least a two-thirds majority in parliament, which enabled the government to amend the constitution at will.

Over the years power increasingly has been concentrated in the prime minister, and parliament's function as a deliberative body has deteriorated. Legislation proposed by the government rarely was amended or rejected, while legislation proposed by the opposition was not given serious consideration. Parliamentary procedures allow the Speaker to suspend members of parliament, establish restrictions on tabling questions, edit written copies of members' speeches before delivery, and severely restrict members' opportunities to question and debate government policies. Nonetheless, government officials often faced sharp questioning in parliament, and this was reported in the press in greater detail than in the past. Unlike in 2004, no member of parliament was suspended by the Speaker.

After the 1969 race riots, the government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Under the Local Government Act, elections of public officials were confined to state assemblies and the federal parliament. Some politicians and NGO activists advocated the reintroduction of local government elections. Even some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the government.

Women faced no legal limits on participation in government and politics, and the government proposed a plan of action for the advancement of women to redress gender inequalities. In August 2004 the prime minister announced that 30 percent of decision-making posts in government would be allocated to women. At the end of the year, 3 of 33 cabinet ministers were women. Women held 20 of 193 seats in the lower house and 14 of the 61 senate seats filled at year's end.

Ethnic minorities were well represented in cabinet-level positions in government as well as in senior civil service positions. The political dominance of the Malay majority meant, in practice, that ethnic Malays held the most powerful senior leadership positions. Nonetheless, non-Malays filled 10 of the 33 ministerial posts and 20 of 38 deputy minister positions.

Government Corruption and Transparency.—There was an extensively held perception of widespread corruption and cronyism within the governing coalition and in government institutions. After taking office, Prime Minister Abdullah publicly denounced corruption, canceled a high-profile project tainted by cronyism, strengthened the Anti-Corruption Agency, proposed the creation of a civil service ethics training institute, and pushed government institutions to be more responsive to the public. The ethics training institute was subsequently established in April 2004. According to the prime minister, 183 civil servants were charged with corruption during the first 9 months of the year, compared with 242 during all of 2004.

In June a UMNO vice president who was also a cabinet minister was suspended from the party for six years for buying votes. In August a former senior UMNO politician was sentenced to 2 years in jail and fined approximately $10 thousand (35 thousand ringgit) for bribery. Following this court ruling, the NGO Transparency International praised the government's progress in reducing corruption within UMNO. In February 2004 the former managing director of a government-owned steel company and the then federal minister for land and cooperative development were arrested in separate cases on corruption-related charges. Their cases were pending at year's end. In November 2004 UMNO suspended 16 members for possible vote buying in party elections.

There was no law designed to facilitate citizens' requests for government statistics or other information collected and compiled by the government. Individual members of parliament are allowed to request and obtain such information on an ad hoc basis, some of which is then made available to the public.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international NGOs, including the Bar Council and other public interest groups, devoted considerable attention to human rights. The government generally tolerated their activities but often did not respond to their inquiries or press statements. However, under Prime Minister Abdullah there generally has been a more cooperative atmosphere toward human rights NGOs.

The government generally did not encourage international human rights organizations to form domestic branches; however, it usually did not restrict access by representatives of those organizations. The 16 members of the police commission included an official of the opposition political party PAS, the president of the national chapter of Transparency International, the president of the Bar Council, and the executive secretary of Women's Aid Organization, a local NGO.

Suhakam has come to be seen by many analysts as a credible monitor of the human rights situation in the country and a check on police activities that previously lacked oversight. Suhakam is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject matter of a court case. In its most recent annual human rights report, published during the year, Suhakam focused on the rights of women and children, land rights for native tribes, and provision of adequate housing. In addition the report criticized prison conditions, deaths in police custody, detentions without trial, and some of the government-imposed restrictions on freedom of assembly. The report recommended that marital rape be made illegal, opposed caning, and highlighted the need to implement a national plan of action to counter trafficking in persons.

Suhakam commissioners traveled throughout the country to educate community leaders, including police officials, on the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions.

Analysts acknowledged Suhakam as one of the few institutions in society with any ability to challenge, however tentatively, executive control. Suhakam commissioners repeatedly have noted that a major unresolved challenge was the slow government response to their reports on major topics that touched on fundamental liberties.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal protection under the law and prohibits discrimination against citizens based on sex, religion, race, descent, or place of birth. However, the constitution also provides for the "special position" of ethnic Malays and the indigenous peoples of the eastern states of Sabah and Sarawak (collectively, *bumiputras*), and discrimination based on this provision persisted. Government policies and legislation gave preferences to *bumiputras* in housing, home ownership, awarding of government contracts, educational scholarships, and other areas.

Women.—Violence against women remained a problem. Reports of rape and spousal abuse drew considerable government, NGO, and press attention. According to the police commission, there were 3,101 cases of domestic violence reported in 2004, up from 2,555 cases in 2003.

The Domestic Violence Act of 1994 addresses violence against women in the home; however, women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view, the act fails to protect women in immediate danger by requiring separate reports of abuse to be filed with both the Social Welfare Department and the police, causing delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that, because the act is a part of the penal code, legal protection for victims is limited to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse. In August the minister of women, family, and community development stated that while the act provided adequate protection for women from a purely legal standpoint, police enforcement had been too lax.

Although the government, NGOs, and political parties maintained shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. There was a sexual investigations unit at each police headquarters as part of a nationwide effort to help victims of sexual crimes and abuse. Police responses and sensitivity to complaints of domestic violence continued to improve, but women's rights activists claimed that police needed additional training in handling domestic abuse and rape cases.

The police commission reported that police abuses of women's rights were largely the result of a lack of adherence to existing laws and the police code of conduct. The commission recommended hiring and training permanent police personnel to

work solely on sexual crimes and child abuse cases, rather than continuing to use temporary personnel on assignment from other types of police work. In response to the commission's recommendation and the increasing number of domestic violence cases, police in Kuala Lumpur assigned several female officers to work exclusively on domestic violence cases and provide basic counseling to victims.

Some Shari'a experts have urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorce on grounds of physical cruelty. However, provisions in state Shari'a laws generally prohibit wives from disobeying the "lawful orders" of their husbands and present an obstacle to women pursuing claims against their husbands in Shari'a courts. Muslim women were able to file complaints in civil courts.

Spousal rape is not a crime. Theoretically, a man who raped his wife could face charges of assault, although reportedly no man has been convicted under such circumstances. In August 2004 Suhakam and local NGOs called on the government to amend the penal code to include spousal rape as an offense.

Reports of rape were common in the press and among women's rights groups and NGOs. According to the police commission, 1,760 women were raped during 2004, compared with 1,479 in 2003. Many government hospitals had crisis centers where victims of rape and domestic abuse could make reports without going to a police station. NGOs and political parties also cooperated in providing counseling for rape victims. However, cultural attitudes and a perceived lack of sympathy from the largely male police force resulted in many victims not reporting rapes. According to the Ministry of Women, Family, and Community Development and a leading women's NGO, only 10 percent of rape cases were reported to police. In 2003 the penal code was amended to increase the punishment for rape to include imprisonment for a term of from 5 to 30 years, caning, and a fine. While some rapists received heavy punishments, including caning, women's groups noted that other rapists received inadequate punishments.

Prostitution is illegal and was prosecuted. Statistics were available only for foreigners arrested on immigration charges with suspected involvement in prostitution. During the first 9 months, police arrested 4,678 such persons, compared with 5,783 arrested during all of 2004. Chinese nationals accounted for the largest percentage of such arrests (more than 40 percent). Police were accused of profiling female Chinese nationals as potential prostitutes, following several highly publicized arrests (see section 1.c.).

The country was a source, transit, and destination country for trafficking in women for purposes of prostitution (see section 5, Trafficking).

A government code of conduct provides a detailed definition of sexual harassment and attempts to raise public awareness of the problem, but women's groups advocated passage of a law on sexual harassment in lieu of the voluntary code. The Malaysian Employers Federation opposed any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations. Since the code's 1999 introduction, the number of reported incidents of sexual harassment has risen. In September the government published comprehensive sexual harassment guidelines for the country's almost one million civil servants. The guidelines define the various forms of sexual harassment and provide guidance to victims and supervisors in dealing with individual cases of such harassment. In August 2004 the Human Resources Ministry declared that the Employment Act would be amended to include a provision requiring all companies to appoint an officer from among senior management to handle sexual harassment in the workplace. However, no action had been taken by year's end.

Polygyny is allowed and practiced to a limited degree. Islamic inheritance law generally favors male offspring and relatives. There was a small but steadily increasing number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent.

Women's rights advocates asserted that women faced discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law and the lack of uniformity in the implementation of such laws among the various states. In addition the country had no female Shari'a court judges. In December, over strongly voiced objections from several members of parliament within the governing coalition as well as NGOs including Suhakam, parliament passed a series of amendments to the 1984 Islamic Family Law Act. The new law standardizes Shari'a-based legal provisions in all states governing polygamy, divorce, and inheritance among Muslims. The law enhances the ability of Muslim men to divorce, take multiple wives, claim a share of an existing wife's property upon taking a further wife, and curtail a wife's ability to dispose of her property.

Non-Muslim women are subject to civil (secular) law. The Guardianship of Women and Infants Act gives mothers equal parental rights. Four states extend the provi-

sions of the bill to Muslim mothers, and women's groups urged the other states to do the same.

The government undertook a number of initiatives to promote equality for women and the full and equal participation of women in education and the work force. In February, for the first time, a woman was appointed chief judge of Malaya, the country's third-highest judicial position. In the scientific and medical fields, women made up more than half of all university graduates and comprised more than 50 percent of university students. According to the national union of bank employees, 65 percent of members were women, but only 1 out of 8 principal banking officials was a woman. Women comprised approximately 10 percent of board members at publicly traded companies during each year from 2000 to 2004, and they accounted for 13.5 percent of senior corporate executives at the end of 2004, compared with 12.3 percent in 2003.

Children.—The government has demonstrated a commitment to children's rights and welfare and allocated approximately 25 percent of the national budget to education. The government provides free education for children through age 15. Although primary education is compulsory, there is no enforcement mechanism governing school attendance. Attendance at primary school was 96 percent, while secondary school attendance was 82 percent. A variety of programs provided low cost health care for most children.

The 2001 Child Act prescribes severe punishments for child trafficking, abuse, molestation, neglect, and abandonment. It also mandates the formation of children's courts; during the year these courts were established in each court district. The act allows that a maximum of 10 strokes with a "light cane" be applied to male children between ages 10 to 18.

The government recognized that sexual exploitation of children and incest were problems. Incest in particular was a problem in rural areas. The law provides for from 6 to 20 years' imprisonment and caning for individuals convicted of incest. The police commission stated that there were 334 cases of incest reported in 2004, up from 254 cases in 2003. Approximately 65 percent of those cases involved children under 15. In September 2004 the local press reported that in a survey of 133 convicted sex predators, 23 percent of the victims of sexual offenses were daughters of the offender. Under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others recommended that the Evidence Act be amended to accept the testimony of children and that courts implement special procedures to hear the testimony of children.

Statutory rape occurred and was prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with *khalwat*, or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations), even if she is under the age of 18 and her partner is an adult. Thus Shari'a courts sometimes punished the victims of statutory rape. Moreover, Shari'a courts sometimes were more lenient with males charged with *khalwat*. However, in many cases Muslim men were charged and punished for statutory rape under secular law. The police commission stated that 66 percent of all rapes reported in 2004 involved children under 15 years old.

Child prostitution existed, but child prostitutes often were treated as delinquents rather than victims (see section 5, Trafficking).

Child labor occurred in certain areas of the country (see section 6.d.).

Sabah State had a problem of street children. Estimated to number anywhere from a few score to a few hundred, they were born in the country to illegal immigrant parents who had been deported. These children lacked citizenship and access to government-provided support.

Trafficking in Persons.—There is no law that specifically and comprehensively criminalizes trafficking in persons. However, the Child Act prohibits all forms of trafficking of children under 18, and the penal code comprehensively addresses trafficking for the purpose of prostitution. The government also uses other laws, such as the Immigration Act, the Restricted Residence Act, and the ISA, to prosecute traffickers.

The country was a source, transit, and destination country for women and girls trafficked for the purpose of sexual exploitation. Women and girls from Thailand and the Philippines were trafficked through the country to destinations such as Australia, Canada, Japan, Korea, and the United States. Young women primarily from Indonesia, China, and Thailand, with smaller numbers from the Philippines and other countries, were trafficked into the country for sexual exploitation. These women often worked as karaoke hostesses, "guest relations officers," and masseuses.

In addition some foreign women and girls employed as household servants were held in conditions that amounted to forced labor (see section 6.e.).

According to police, the Bar Council, and Suhakam, many foreigners found to be involved in prostitution were possible trafficking victims. Foreign embassies, NGOs, and government authorities reported that at least 300 to 400 trafficking victims were rescued and repatriated. There were allegations of corruption among law enforcement personnel, since some trafficking victims were known to pass through two or more ports of entry without travel documents.

A small number of Malaysian women and girls were trafficked for sexual purposes, mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, female citizens who were victims of trafficking were usually ethnic Chinese, although ethnic Malay, ethnic Chinese, and ethnic Indian women worked as prostitutes domestically. Police and NGOs believed that criminal syndicates were behind most of the trafficking. Information from the Ministry of Foreign Affairs and NGOs indicated that fewer than 100 Malaysian women were trafficked to other countries during the year, and that the number has declined in recent years.

Foreign trafficking victims were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, and physical abuse. During the year there were reports of foreign women escaping from apartments where they were held and forced to serve as unwilling prostitutes. According to news reports, these women said that they were lured to the country by promises of legitimate employment but forced into prostitution upon their arrival in the country. In September authorities rescued eight trafficked Indonesian women forced to work as prostitutes in conditions intended to make them pregnant. According to a senior police official, their babies were sold soon after birth by the traffickers.

The penal code includes extensive provisions that prohibit buying or selling any person, using deceitful means to bring anyone into or out of the country, and wrongfully restraining (defined to include using threats, withholding clothing, or holding a person's passport) any person with the intention to use that person for prostitution. Punishment for these offenses includes a maximum 15-year prison term, caning, and a fine, to be determined at the discretion of the sentencing judge. In 2004 police prosecuted 38 cases under laws that criminalize procuring and brothel operations, respectively; 17 individuals were convicted. During the first 9 months of the year, 28 such cases were prosecuted, but only 2 persons were convicted. During the same period, police arrested 48 individuals under the Restricted Residence Act for allegedly arranging prostitution activities.

On April 7, 40 police officers raided 3 brothels in the state of Johor and rescued 53 trafficking victims. The police raids were done in cooperation with an international NGO and government caseworkers. On October 14, police raided a brothel in Johor and freed 10 trafficking victims. Police arrested the same trafficker apprehended during the April 7 raid.

In January Suhakam published a report that characterized existing trafficking laws as "piecemeal" and called for passage of a comprehensive antitrafficking act. The report also proposed government-funded education programs for border control officials, law enforcement personnel, labor inspectors, and the judiciary.

The government assisted some underage prostitutes and rescued some trafficked women and girls during the year. The Malaysian Chinese Association (MCA), the largest ethnic Chinese political party in the ruling National Front coalition, reported that the number of trafficking victims who sought MCA assistance declined to 39, compared with 56 in 2004. In April diplomatic officials from two neighboring countries stated that cooperation with Malaysian police had improved over prior years in countertrafficking operations and victim assistance.

Police had no comprehensive policy to protect trafficking victims. Police often arrested or deported possible victims for immigration offenses. Police and members of the Bar Council's legal aid bureau advised that this was the fastest way to expedite victims' return to their home countries. Trafficking victims who exhibited signs of physical abuse could be sent to a women's shelter instead of being detained by the police; however, permission from the police to allow victims to reside in a shelter was sometimes difficult to obtain. The Ministry of Women, Family, and Community Development stated that amendments to the Immigration Act, or an entirely new antitrafficking law, would be necessary to permit the government to treat trafficked women as victims rather than as illegal immigrants. The ministry said that, lacking such legislation, it could not legally establish a shelter for trafficked women.

A number of foreign embassies arranged temporary shelter for their respective trafficking victims and assisted in their repatriation.

Persons with Disabilities.—Neither the constitution nor other laws explicitly prohibit discrimination based on physical or mental disabilities, but the government promoted public acceptance and integration of persons with disabilities.

The government did not discriminate against persons with disabilities in employment, education, or in the provision of other state services. A public sector regulation reserves 1 percent of all public sector jobs for persons with disabilities. In 2003 the prime minister ordered that all buildings be made "disabled-friendly." However, few public facilities were adapted, and the government has not mandated accessibility to transportation for persons with disabilities. New government buildings were generally outfitted with a full range of facilities for persons with disabilities. The budget for the fiscal year included additional tax benefits for persons with disabilities and their spouses.

A code of practice serves as a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs. Suhakam has recommended legislation to address discriminatory practices and barriers facing persons with disabilities, and it organized dialogues among persons with disabilities, government departments, and NGOs to promote awareness of the rights of persons with disabilities.

Special education schools existed but were not sufficient to meet the needs of the population with disabilities. The government undertook many initiatives to promote public acceptance of persons with disabilities, make public facilities more accessible to such persons, and increase budgetary allotments for programs aimed at aiding them. Recognizing that public transportation was not "disabled-friendly," the government reduced by 50 percent the excise duty on locally made cars and motorcycles adapted for persons with disabilities.

National/Racial/Ethnic Minorities.—The law and government policy provide for extensive preferential programs designed to boost the economic position of *bumiputras*. Such programs limited opportunities for *nonbumiputras* in higher education, government employment, business permits and licenses, and ownership of land. According to the government, these programs were necessary to ensure ethnic harmony and political stability. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups.

In June the government suspended an ethnic Indian deputy minister for three months after he implied racial bias by the government in its decision to withdraw recognition of medical degrees from a university in Ukraine. The university had attracted many ethnic Indian students, who had received government permission to study at the school.

Indigenous People.—Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states) generally enjoyed the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people of the peninsular region, known as the *Orang Asli*, vest considerable authority in the minister for rural development to protect, control, and otherwise decide issues concerning this group. As a result, indigenous people in peninsular Malaysia had very little ability to participate in decisions that affected them.

The Orang Asli, who numbered approximately 149,500, were the poorest group in the country. According to government statistics, approximately 77 percent of Orang Asli households were categorized as living below the poverty level. A government-sponsored national advisory council monitored the development of Orang Asli, but only 5 of its 17 members were Orang Asli. In addition, only one Orang Asli held a management position in the government's Department of Orang Asli Affairs. In 2004 the government allocated $26.3 million (100 million ringgit) for development projects for the Orang Asli. These focused on improving health, preschool education, infrastructure, and economic activities.

The dropout rate among Orang Asli students remained high. Government statistics indicated that 25,354 Orang Asli pupils were registered at the primary school level, while only 7,559 students were registered in secondary schools.

Under the Aboriginal People's Act, the Orang Asli were permitted to live on designated land as tenants-at-will, but they did not possess land rights. Observers reported that over the years the total area of land reserved for Orang Asli had decreased, and some land previously set aside as Orang Asli reserve had been re-zoned for development.

The uncertainty surrounding Orang Asli land ownership made them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli and other indigenous groups in the Borneo states.

In 2002 the high court found that an Orang Asli group, the Temuans, were the rightful owners of land used for the construction of the Kuala Lumpur International

Airport and ordered the Selangor state government to give compensation. The federal government, the Selangor state government, and the country's highway authority appealed the decision. On September 19, the court of appeal upheld the high court ruling, which conferred upon the Orang Asli legal recognition of their native ancestral land titles under common law. At year's end the government had taken no action to appeal.

Indigenous people in Sarawak continued to protest encroachment by state and private logging and plantation companies onto land that they consider to be theirs under native customary rights.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers to which indigenous people may have no access. In past years this led to indigenous people being deprived of their traditional lands with little or no legal recourse.

Other Societal Abuses and Discrimination.—Although there are no laws that prohibit homosexuality, laws against sodomy and "carnal intercourse against the order of nature" exist and were enforced. Religious and cultural taboos against homosexuality were widespread. The government's response to HIV/AIDS was generally nondiscriminatory, although stigmatization of AIDS sufferers was common.

Section 6. Worker Rights

a. The Right of Association.—By law most workers have the right to engage in trade union activity, but as of September only 9 percent of the labor force was represented by the 617 trade unions. Those restricted from joining a union include public sector workers categorized as "confidential" and "managerial and executive," as well as defense and police officials. With certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. In theory foreign workers can join a trade union; however, the Immigration Department placed conditions on foreign workers' permits that effectively barred them from joining a trade union (see section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or participation in lawful trade union activities. However, contrary to International Labor Organization (ILO) guidelines, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries." The director general of trade unions may refuse to register a trade union and, in some circumstances, may also withdraw the registration of an existing trade union based on provisions outlined in the act. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association.

Trade unions from different industries may join in national congresses, but such congresses must register separately as societies under the Societies Act (see section 2.b.).

Malaysian Trade Union Congress (MTUC) officials continued to express frustration about delays in the settlement of union recognition disputes. While the Industrial Relations Act requires that an employer respond to a union's request for recognition within 21 days of application, it was not uncommon for such applications to be refused and unions to go unrecognized for 1 to 4 years. In the first 9 months there were 54 applications for trade union recognition under the Industrial Relations Act, compared with 101 applications in 2004. According to the Ministry of Human Resources, there were 10 court challenges in 2004 by private companies regarding decisions authorizing the formation of unions.

Government policy inhibited the formation of national unions in the electronics sector, the country's largest industry. The government believed that enterprise-level unions were more appropriate for this sector. According to MTUC officials, 150 thousand electronics workers were unable to organize, and only 8 in-house unions were formed in the electronics industry.

In December 2004 the court of appeal upheld a high court decision that a name change by an in-house union in an electronics company to mirror the company's new name was illegal and not permissible. MTUC officials stated that the ruling placed enterprise unions in a vulnerable situation, since companies could change their names and effectively block the in-house unions from continuing to function.

Unions maintained independence from both the government and political parties, but individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in parliament. Trade unions were free to associate with national labor congresses, which exercised many of the responsibilities of national labor unions, although they cannot bargain on behalf of local unions.

There are two national labor organizations. The MTUC is a society of trade unions in both the private and government sectors and is registered under the Soci-

eties Act. As such, the MTUC does not have collective bargaining or industrial action rights but provides technical support for affiliated members. The other national organization is the Congress of Unions of Employees in the Public and Civil Service, a federation of public employee unions registered under the Trade Unions Act.

Although the law grants public servants the right to organize at the level of ministries and departments, the government did not respond to ILO requests for specific information on the numbers and categories of civil servant employees covered or details regarding the collective bargaining agreements reached. There were three national joint councils representing management and professional civil servants, technical employees, and nontechnical workers.

Trade unions were permitted to affiliate with international trade union organizations, such as global union federations and the International Confederation of Free Trade Unions, subject to the approval of the director general of trade unions.

b. The Right to Organize and Bargain Collectively.—Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized. The government placed limits on collective bargaining agreements in companies designated as having "pioneer status." The ILO continued to object to legal restrictions on collective bargaining in "pioneer" industries.

Charges of discrimination may be filed with the Ministry of Human Resources or the industrial court. Critics alleged that the industrial court was slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources failed. To address the problem of backlogged cases, the number of industrial court chairpersons was increased from 21 to 28. In addition, beginning in September 2004 the court introduced voluntary mediation as a means for faster case settlements, with 66 cases settled through such mediation from September 2004 through February. The industrial court does not enforce its own awards, and unions complained that employers often ignored the court's judgments with impunity.

The government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with ILO standards. The minister of human resources can suspend for up to six months any trade union deemed to be used for purposes prejudicial to or incompatible with security or public order. The government has taken no such action during the past several years.

Although strikes are legal, the right to strike is severely restricted. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions. MTUC officials said that requirements imposed by the authorities were so stringent that it was almost impossible to strike. According to Ministry of Human Resources statistics, there were 10 minor strikes during the first 9 months of the year. Employees in the public sector do not have the right to collective bargaining.

The Industrial Relations Act requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action may be taken. The ministry's Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the minister has the power to refer the dispute to the industrial court. Strikes or lockouts are prohibited while the dispute is before the industrial court. The act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. However, some trade unions questioned the effectiveness of the provisions.

Companies in free trade zones (FTZs) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies were organized, especially in the textile and electrical products sectors.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, and the government generally enforced this prohibition. Certain laws allow imprisonment with compulsory labor as punishment for persons who express views opposed to the established order or who participate in strikes. However, these laws were not applied and appear to be constitutionally prohibited.

Some of the estimated 260 thousand foreign women employed as household workers were subjected to physical abuse and forced to work under harsh conditions. The Workmen's Compensation Act and the Employment Act provide a minimum standard of protection to workers. However, in several important respects they do not apply to household employees (see section 6.e.).

The government prohibits forced and compulsory labor by children, and there were no reports that such practices occurred in the formal sector, although some child household employees worked in conditions amounting to forced labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children younger than age 14 but permits some exceptions,

such as light work in a family enterprise, work in public entertainment, work performed for the government in a school or in training institutions, or work as an approved apprentice. In no case may children work more than six hours per day, more than six days per week, or at night.

Child labor occurred in certain areas of the country. There was no reliable estimate of the number of child workers. Most child laborers worked informally in the agricultural sector, helping their parents in the field. However, only adult members of the family received a wage. In urban areas, child labor could be found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses but maintained that foreign workers have largely replaced child labor and that child labor provisions were vigorously enforced.

Mechanisms for monitoring workplace conditions were inadequate, and the resolution of most abuse cases frequently was left to private, for-profit labor agencies that were themselves often guilty of abuses. Bilateral labor agreements with Indonesia do not provide adequate protections for household workers.

e. Acceptable Conditions of Work.—There was no minimum wage provision governing all workers, as the government preferred to allow market forces to determine wages. Prevailing market wages generally provided a decent standard of living for citizens, although not for all migrant workers. Wage councils, which were established by a 1947 act to provide a recommended minimum wage in those sectors in which the market wage was determined insufficient, had little impact on wages in any sector. According to MTUC officials, the wage councils had not met for more than 14 years, and their recommended wages have long been obsolete.

Plantation workers generally received production-related payments or daily wages. Under a 2003 agreement, plantation workers received a minimum wage of $92 (350 ringgit) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to nearly $184 (700 ringgit).

Under the Employment Act, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources is responsible for enforcing these standards, but a shortage of inspectors precluded strict enforcement.

Significant numbers of contract workers, including numerous illegal migrants, worked on plantations and in other sectors. According to statistics from the National Union of Plantation Workers (NUPW), foreign workers made up 50 percent of the plantation work force; however, the true number may have been higher, since illegal immigrants were not counted. Working conditions for these laborers compared poorly with those of direct-hire plantation workers, many of whom belonged to the NUPW.

Work-related accidents were especially high in the plantation sector. According to the Human Resources Ministry, 14 percent of all reported industrial accidents during 2004 occurred on plantations.

Foreign workers in the construction and other sectors, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. During 2004, in addition to expanding programs to regularize the status of immigrant workers, the government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the law.

The Workmen's Compensation Act covers both local and foreign workers but provides no protection for foreign household workers. According to the government, foreign household workers are protected under the Employment Act with regard to wages and contract termination. However, these workers are excluded from provisions of the act that would otherwise ensure that they received 1 rest day per week, an 8-hour work day, and a 48-hour work week.

Employers sometimes failed to honor the terms of employment and abused their household servants. The terms of the contract for Indonesian household workers were vague and open to abuse. The typical contract provided for a monthly salary of $100 (380 ringgit) but did not specify the number of working hours per day. NGOs reported that many Indonesian household workers were required to work 14 to 18 hours a day, 7 days a week. The contract for Filipina household workers included more comprehensive protections, but both groups suffered from a lack of education concerning their legal rights.

In May 2004 the government signed a Memorandum of Understanding (MOU) with Indonesia with regard to migrant workers; however, the MOU excluded household workers.

Some workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, and physically assaulted them. However, local NGOs advised that workers have the right to take legal action against abusive employers. According to NGOs, the courts generally have sided with employees and ruled that employers must pay all back salary and compensate plaintiffs for injuries.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, Nepal, Vietnam, and other countries constituted approximately 20 percent of the work force. Illegal foreign workers have no legal protection under the law and have no legal recourse in cases of abuse.

The Occupational Safety and Health Act covers all sectors of the economy except the maritime sector and the military. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and cooperate with employers to create a safe, healthy workplace. Employers or employees that violate the act are subject to substantial fines or imprisonment for up to five years, although MTUC complained that some employers flouted the rules with impunity. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

MARSHALL ISLANDS

The Republic of the Marshall Islands is a constitutional democracy with a population of approximately 56 thousand. The constitution provides for executive, legislative, and judicial branches. The legislature consists of a 33-member parliament (Nitijela) and a council of chiefs (Iroij), which serves a largely consultative function dealing with custom and traditional practice. In November 2003 voters elected the Nitijela in free and fair elections. The president is elected by majority Nitijela vote and appoints his cabinet from its membership. In January 2004 the Nitijela elected President Kessai Note to a second four-year term. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in a few areas. The following human rights problems were reported:

- poor prison conditions
- government corruption
- violence against women and child abuse

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards. As of December all of the 45 male prisoners were housed in a single facility attached to police headquarters, consisting of 3 interconnected rooms and 4 small cells. On-duty police officers also served as guards, separated from the jail area by a closed door. Lighting, ventilation, and sanitation were inadequate, and there was no program in place to ensure regular access to outside activity. Security was poor. In January six prisoners, including a convicted murderer, escaped by breaking through a storeroom door; however, all were recaptured by the next day.

Some male juveniles were held together with adults; as juvenile crimes increased in number and seriousness over the past several years, the courts tried more male juveniles as adults and ordered them held with the general prison population. Pretrial detainees were not separated from the general prison population. There were no prison facilities for female prisoners, including juveniles; they were held under house arrest.

The government permitted annual prison visits by independent human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—There are local police forces and a national police force under the Ministry of Justice. Police officers do not carry firearms and generally used the minimum force necessary to detain a suspect. Although there were some instances of police corruption, including the disappearance of evidence in a drug case, it was not widespread. The Ministry of Justice appointed a former police officer to the position of chief of investigations in the attorney general's office to handle allegations of police abuse and corruption.

Arrest and Detention.—The courts issue warrants, which are required for arrests. Detainees may request bond immediately upon arrest for minor offenses; most serious offenses require the detainee to remain in jail until a hearing can be arranged, normally the morning after arrest.

Families had access to detainees, and detainees have the right to lawyers of their choice. There is a functioning system of bail, and the government provides a lawyer if the defendant is indigent.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary consists of a Supreme Court with appellate jurisdiction, a High Court with general jurisdiction in civil and criminal matters and appellate jurisdiction over subordinate courts at the district and community levels, and a Traditional Rights Court with jurisdiction in cases involving customary law and traditional practice. The cabinet appoints judges.

Few citizens were trained in the law, and the judicial system relied heavily on noncitizen public prosecutors and defense attorneys. Most lower court judges were citizens; the higher courts relied on noncitizen judges, in part to prevent conflicts of interest in the small, highly interrelated society. The chief justice of the High Court is a foreign national appointed for a 10-year term.

During the year the High Court chief justice, with foreign assistance, continued work on development of a judicial training program and improvements in trial procedures.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants can choose either a bench trial or a four-member jury trial. In recent years defendants increasingly opted for jury trials, which had a higher rate of acquittals. Defendants enjoy a presumption of innocence and have the right to counsel, to question witnesses, to access government-held evidence, and to appeal convictions.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

During the year the government granted permission for the nongovernmental organization (NGO) Women United Together in the Marshall Islands (WUTMI) to broadcast its outreach programs on the government-owned radio station. Previously the government had denied such permission.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There were few known individuals of Jewish background in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law does not prohibit forced exile; however, the government did not employ this practice.

Protection of Refugees.—Although not a signatory, the government adhered to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and it cooperated with the Office of the UN High Commissioner for Refugees in assisting refugees and asylum seekers. The government has not established a system for providing protection to refugees; however, it has granted asylum in the past.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Executive power is centralized in the president and his cabinet. Citizens 18 years of age and older elect the Nitijela and mayors by secret ballot every 4 years. Elections for the 33-member Nitijela were held in November 2003; President Kessai Note's United Democratic Party won a majority of the seats, and the Nitijela reelected him in January 2004.

There were no serious allegations of electoral fraud. However, the complex electoral system, which grants voters the option of voting where they have land rights instead of where they reside, requires almost every polling place to provide for voters from many other districts. A significant number of absentee ballots also were cast in the 2003 elections. As a result several close elections generated formal complaints against election officials for alleged mishandling of ballots and other problems, including some allegations of favoritism. The courts upheld the decisions of the electoral commission in all cases except one still pending on appeal before the Supreme Court at year's end. Complainants protested the courts' reluctance to overturn the commission; the attorney general's office noted that disinterested, foreign-national judges heard several of the appeals. In August the government appointed a new electoral commissioner.

There are no restrictions on the formation of political parties, although many candidates prefer to run independently or loosely aligned with informal coalitions. The law prohibits political activity by foreigners.

There are no legal impediments to women's participation in government and politics; however, traditional attitudes of male dominance, women's cultural responsibilities, traditionally passive roles, and the generally early age of pregnancies made it difficult for women to obtain political qualifications or experience. There was 1 woman in the Nitijela and 4 women in the 12-seat House of Iroij. There were no female judges, but the chief public defender was a woman. Society is matrilineal, and traditional leadership and land ownership powers generally are derived from one's mother's lineage. The traditional authority exercised by women has declined with growing urbanization and movement of the population away from traditional lands; nonetheless, many observers believed women continued to be a significant social force.

There were several hundred non-ethnic Marshallese who were citizens. Only one, who served as an ambassador at large, was a member of the national government.

Government Corruption and Transparency.—According to the general audit report of 2003, performed by an independent accounting firm, government corruption was a problem, including instances of misuse of public funds and irregularities in the collection of certain taxes. The attorney general's office is responsible for investigating cases of alleged corruption, but only a few cases have been prosecuted. In 2003 the auditor general and the finance minister were replaced and the Finance Ministry reorganized in an effort to increase accountability.

The law does not provide specifically for public access to government information, and the government routinely denied such access. Although there is no specific statutory basis for denying such information, the government has taken the position that the burden for overcoming a denial of access rests with the public, and a court filing showing the reason the information is required is often necessary.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Human rights groups generally operated without government restriction, but few local groups have been formed. The government was not always responsive to NGOs' concerns. The women's NGO WUTMI worked on women's, children's, and family issues and played a significant role in social issues.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of sex, race, color, language, religion, political or other opinion, national or social origin, place of birth, and family status or descent, and the government generally observed these provisions.

Women.—Spousal abuse was common. Domestic violence was not condoned, and most assaults occurred while the assailant was under the influence of alcohol. According to a 2003 WUTMI survey, more than 80 percent of women had been affected by spousal abuse. Violence against women outside the family occurred, and women in urban centers risked assault if they went out alone after dark. Police generally responded to reports of rape and domestic assault, and the government's health office provided counseling in reported spousal and child abuse cases, but many cases apparently went unreported. Rape and assault are criminal offenses, but women involved in domestic violence were reluctant to prosecute spouses in the court system. Most observers believe that few sexual offenses are prosecuted because cultural constraints may discourage victims from reporting such crimes to the police. Women's groups under the WUTMI umbrella continued to publicize women's issues and promote a greater awareness of women's rights.

Prostitution is illegal but continued to occur, particularly on the Majuro and Kwajalein atolls. Organized prostitution on Majuro, run primarily by foreigners, increased significantly during the year and no longer catered only to the crews of foreign fishing vessels. There were no specific reports of violence against prostitutes, although the government assumed that it existed.

There is no law against sex tourism, but none has been reported.

Sexual harassment is not prohibited by law but was not considered a widespread or serious problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance in the traditional system. Many educated women held prominent positions, particularly in government. However, while female workers were very prevalent in the private sector, many were in low-paying jobs with little prospect for advancement.

Children.—The government showed commitment to children's welfare through its programs of health care and free education, but these have not been adequate to meet the needs of the country's sharply increasing population.

Education was compulsory and universal, and the national government did not charge school fees. However, individual schools were permitted to charge registration fees to help support their programs, and some schools did so. Despite government shortcomings in enforcing the existing compulsory education law, in August 2004 the Nitijela passed a law that expanded compulsory education from 6- to 14-year-olds to 4- to 18-year-olds. The plan was to enroll 5-year-olds in kindergarten as a first step; however, the government lacked the resources to implement the increased mandate. There was no difference between the attendance rates of boys and girls.

It was estimated that up to 20 percent of elementary school-age children did not attend school on a regular basis. In many cases this was because they lived too far away from a school or their families could not afford the monthly registration fee (which varied by school but averaged approximately $10) or incidental expenses. Despite the 2004 law extending compulsory education through age 18, there were not enough high schools to accommodate all high-school-age children. Admission to high school continued to be by competitive examination; not all children qualified to attend. The government's enrollment report indicated that only two-thirds of those completing eighth grade attended high school. Approximately 50 percent of high school students—or one-third of those who started elementary school—eventually graduated.

There were five public high schools in the country: two in Majuro and one each on Jaluit, Kwajalein, and Wotje. In addition there were a dozen private high schools, which were open to all who were able to pay the private school tuition. The government provided subsidized essential medical services for all citizens, including children.

In May the Nitijela enacted legislation specifying age 16 as the minimum age of consent for sexual activity. Convictions for violation of the law are punishable by up to 25 years in prison, depending on the degree of the offense. Child abuse and neglect are criminal offenses; however, public awareness of children's rights remained low. The law requires teachers, caregivers, and other persons to report instances of child abuse and exempts them from civil or criminal liability as a consequence of making such a report. However, there were few reports and few prosecutions. Child abuse and neglect were considered to be on the increase. In February a foreigner was convicted of attempted rape and attempted incest against his

minor daughter, a citizen of the country, and was sentenced to 8 to 15 years' imprisonment. The case was appealed to the Supreme Court, which scheduled a hearing for spring 2006.

Trafficking in Persons.—The law does not prohibit specifically trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There was no apparent discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services; however, there were no building codes and no legislation mandating access for persons with disabilities.

There were approximately 50 persons who could be medically defined as psychotic. When these individuals demonstrated dangerous behavior, they were imprisoned with the general prison population and visited by a doctor. On occasions when prison officials protested disruptions caused by this practice, other arrangements, such as house arrest, were made.

There were no reports of discrimination against persons with mental disabilities.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of free association in general, and the government interpreted this right as allowing the existence of labor unions, although none have been formed to date. With few major employers, there were few opportunities for workers to unionize, and the country has no history or culture of organized labor.

b. The Right to Organize and Bargain Collectively.—There is no legislation concerning collective bargaining or trade union organization. However, there were no legal impediments to either. Wages in the cash economy were determined by market factors in accordance with the minimum wage and other laws.

The law does not provide for the right to strike, and the government has not addressed this issue.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits involuntary servitude, and there were no reports of its practice among citizens. Officials suspected that some forced or compulsory labor existed among the illegal alien population; however, they did not uncover any specific cases during the year.

The law does not specifically prohibit forced and compulsory labor by children; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—There is no law or regulation setting a minimum age for employment of children. Children typically were not employed in the wage economy, but some assisted their families in fishing, agriculture, and other small-scale domestic enterprises.

e. Acceptable Conditions of Work.—The law establishes a minimum wage of $2.00 per hour for both government and private sector employees. (The US dollar is the national currency.) The national minimum wage did not provide a decent standard of living for a worker and family. However, in the subsistence economy extended families were expected to help less fortunate members, and there were often several wage earners to support each family. The Ministry of Resources and Development adequately enforced the minimum wage regulations. Foreign employees and Marshallese trainees of private employers who had invested in or established a business in the country were exempt from minimum wage requirements. This exemption did not affect a significant segment of the workforce.

There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday most businesses were closed, and persons generally refrained from working.

A government labor office makes recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards in accordance with International Labor Organization conventions. The office periodically convenes board meetings that are open to the public. No legislation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions. The law protects foreign workers in the same manner as citizens.

FEDERATED STATES OF MICRONESIA

The Federated States of Micronesia is a constitutional republic composed of four states: Chuuk, Kosrae, Pohnpei, and Yap. Its population was approximately 107 thousand. There are three branches of government: an executive branch led by a president who also serves as head of state; a unicameral legislature elected from the four constituent states that elects the president from among its members for a four-year term; and an independent judiciary. There were no political parties. Congress chose Joseph J. Urusemal as president in May 2003. The most recent elections for Congress, held in March, generally were considered free and fair. Individual states enjoy significant autonomy, and traditional leaders retain considerable influence in some states. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, there were problems in some areas. Government efforts to address societal problems such as family violence were constrained by traditional society. The following human rights problems were reported:

- judicial delays
- government corruption
- discrimination against women
- domestic violence and child neglect

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed torture; however, there were occasional reports of physical abuse by police.

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however, during the year Pohnpei and Chuuk States' underfunded corrections divisions failed to provide nutritionally adequate meals to prisoners.

Each of the four state jails included a separate cell for female prisoners. Since women rarely were detained, these cells typically were used to separate disruptive male prisoners from the general prison population. There were no designated juvenile detention facilities; however, juvenile crime was rare, and the states typically have decided against incarceration of juveniles. Pretrial detainees usually were held together with convicted prisoners. All four states used jail cells to house persons with mental illnesses but no criminal background (see section 5).

The question of prison visits by human rights observers did not arise during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—Each state has a department of public safety composed of police, corrections, fire, and emergency response functions. The directors of public safety are state cabinet-level positions. There is a small national police force under the Department of Justice. Some municipalities also have small police forces. In March voters in Chuuk State elected a new governor, who acted to reform the state's politicized, oversized, and underqualified force. There were reports of police favoritism toward relatives and occasional reports of physical abuse by the police. Many citizens preferred to rely on customary and traditional remedies to resolve criminal and civil matters.

Arrest and Detention.—Warrants are required for arrests, and detainees were promptly advised of the charges against them. Detainees must be brought before a judge for a hearing within 24 hours of arrest, and this requirement was generally observed in practice. Most arrested persons were released on bail, which usually was set at low levels except in cases involving flight risk. Detainees had prompt access to family members and lawyers. All defendants have the right to counsel; however, the public defender's office was underfunded, and not all defendants received adequate legal assistance in practice.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The president, with the advice and consent of the legislature, appoints the three justices of the Supreme Court. Each state also has a supreme court, and some municipalities have community courts. Some states have additional courts to deal with land disputes. The formal legal system coexists with traditional, mediation-based mechanisms for resolving disputes and dealing with offenders at the local level.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, although juveniles may have closed hearings. Judges conduct trials and render verdicts; there are no juries. Defendants enjoy a presumption of innocence and have the right to counsel, to question witnesses, to access government-held evidence, and to appeal convictions. Despite these provisions cultural resistance to litigation and incarceration as methods of maintaining public order allowed some persons to act with impunity. Serious cases of sexual and other assault and even murder have not gone to trial, and suspects routinely were released indefinitely. Bail, even for major crimes, usually was set at low levels (see section 1.d.).

Delays in some judicial appointments and underfunding of the court system hampered the judiciary's ability to function efficiently. Shortages or unavailability of court personnel and services occasionally hampered the right to a speedy trial.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet.

The number of independent media outlets was small. There was a biweekly national newspaper, the *Kaselehlie Press*. Yap also had a privately published newspaper, the *Yap Networker*, and Kosrae's *Sinlaku Sun Times/Alliance* continued to appear irregularly. On Pohnpei a new newspaper, *Da Rohng*, began publishing detailed articles on controversial subjects. Newspapers have published politically sensitive stories.

Each of the four state governments controlled a radio station that broadcast primarily in the local language. The government AM stations on Yap and Chuuk were off the air throughout the year, the former due to typhoon-related damage and the latter due to technical problems. Religious groups operated private radio stations. The populations of Pohnpei, Chuuk, Yap, and Kosrae increasingly had access to live international satellite broadcasts, but tape-delayed broadcasts of programming by the major US networks ended due to licensing problems.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for freedom of movement within the country. It does not address foreign travel, emigration, or repatriation, but in practice none of these were restricted.

The law does not explicitly prohibit forced exile; however, statutes that prescribe punishments for crimes do not provide for the imposition of exile, and the government did not employ it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. However, in November Congress introduced comprehensive legislation to establish a system for providing protection to refugees in accordance with the 1951 convention and 1967 protocol. The legislation was pending at year's end. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government

cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The 14-member Congress is elected by popular vote from each state. The Congress then chooses the president and vice president from among its four at-large senators by majority vote. Elections for Congress were held in March. Two incumbent senators, one of whom had introduced an unsuccessful bill that would have granted amnesty to government officials who had misused government funds, were defeated.

The elections were generally free and fair; however, there were serious discrepancies and evidence of fraud in two ballot boxes in Chuuk State. A court-ordered revote was held in one case, resulting in the incumbent's defeat. In the second case the director of elections determined that exclusion of the suspect ballot box's results would not affect the outcome in that electoral district. During the year no further action was taken regarding charges filed against an election worker in Chuuk State for allegedly withholding a ballot from a voter in the March 2003 elections.

State governors, state legislators, and municipal governments are elected by direct popular vote. There are no restrictions on the formation of political groups; however, there have been no significant efforts to form political parties, and none exist. Political support generally was sought from family and allied clan groupings, as well as religious groups.

Cultural factors in the male-dominated society limited women's representation in government and politics. Women were well represented in the middle and lower ranks of government at both the federal and state level, and women held the federal cabinet-level positions of attorney general and public defender.

There was one woman in the 23-seat Pohnpei State legislature and no women in the other state legislatures or in the national legislature.

Government Corruption and Transparency.—Government corruption was a problem, particularly in Chuuk State. Following the 2004 convictions of the then speaker of Congress, one other member of Congress, and two former members on charges relating to misuse of government funds, the Attorney General's Office investigated and indicted other Chuuk politicians for corrupt practices, although one indicted member of Congress retained his seat in the March elections.

There is no national law providing for public access to government information. Under rules in effect during the year, the speaker of Congress can declare any congressional documents confidential. State laws and practices varied. Legislative hearings and deliberations generally were open to the public. The Pohnpei State legislature's proceedings were televised, and Yap's were broadcast on FM radio. Information from other branches of government also was accessible; however, retrieval sometimes was complicated and delayed by the loss or mishandling of records and by the concern of lower level administrative personnel with verifying that release of the particular information requested was permissible. There were no reported cases of government denial of access to media; however, there were only a small number of media outlets, and their reporting resources were limited.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Although there were no official restrictions, no local groups concerned themselves exclusively with human rights. There were groups that addressed problems concerning the rights of women and children, and the government cooperated with these groups.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides explicit protection against discrimination based on race, sex, language, or religion, but the government's enforcement of these constitutional provisions often was weak.

Women.—Reports of spousal abuse, often severe, continued during the year. Although assault is a crime, there are no specific laws against domestic abuse, and there were no governmental or private facilities to shelter and support women in abusive situations. Effective prosecution of offenses was rare. In many cases victims decide against initiating legal charges because of family pressure, fear of further assault, or belief that the police will not involve themselves actively in what is seen as a private family problem. Rape is a crime; however, few cases were reported or

prosecuted. According to police and women's groups, there were a number of reports of physical and sexual assaults against women outside the family context. Such assaults were perpetrated against both citizens and foreigners. In this traditional society, unmarried women sometimes were considered to have invited such violence by living or traveling alone.

Within the traditional extended family unit, violence, abuse, and neglect directed against spouses or children were deemed offenses against the family, not just the individuals, and were addressed by a complex system of familial sanctions. However, traditional methods of coping with family discord have been breaking down with increasing urbanization, monetization of the economy, and greater emphasis on the nuclear family. No government agency, including the police, has succeeded in replacing the extended family system or in addressing the problem of family violence directly.

Prostitution is illegal and was not a major problem. The law does not prohibit sex tourism specifically, but it was not a problem. The law does not prohibit sexual harassment, which appeared to be pervasive, although seldom reported.

Women have equal rights under the law, including the right to own property, and there were no institutional barriers to education or employment. Women received equal pay for equal work. There continued to be extensive societal discrimination against women, although women were active and increasingly successful in private business. There was an active national women's advisory council that lobbied the government. Additionally several small NGOs were interested in women's issues, particularly those associated with family violence and abuse. The Women's Interest Section of the Department of Health, Education and Social Affairs worked to protect and promote women's rights.

Children.—The government was committed to children's welfare through its programs of health care and education; however, these programs were inadequate to meet the needs of the population, particularly in an environment in which the extended family was breaking down. Health officials and religious leaders ran peer support and family care groups to address factors that could contribute to youth suicides.

A compulsory education law requires all children to begin school at age six, but not all did so. A shortage of qualified teachers and lack of textbooks hampered progress. Education was free, and there was no difference between the education of boys and girls. Education levels differed among the states, but on average 75 percent of children finished eighth grade, 55 percent finished ninth grade, and 35 percent finished high school. Children may leave school when they reach the age of 14 or after completing the eighth grade, whichever comes first.

The government administered an immunization program throughout the country and provided some vitamin supplements.

There were some anecdotal reports of child abuse and neglect but no reliable statistics were available.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country. In 2003 Congress passed legislation to regulate foreign labor recruiters as part of a strategy to control abusive recruitment practices, but the government still had not promulgated implementing regulations by year's end.

Persons with Disabilities.—The law prohibits discrimination in public service employment against persons with disabilities. Children with physical or mental disabilities, including learning disabilities, were provided with special education, including instruction at home if necessary; however, such classes were dependent on foreign funding. There were no reports of discrimination against persons with disabilities in employment; however, they usually did not seek employment outside the home.

Neither laws nor regulations mandate accessibility to public buildings or services for persons with disabilities. Some private businesses provided special parking spaces and wheelchair ramps.

Some persons with mental illnesses, but no criminal background, were housed in jails rather than cared for in hospitals. However, during the year the authorities began to provide separate rooms in jails for persons suffering from mental illness.

National/Racial/Ethnic Minorities.—Each of the country's four states has a different language and culture. Traditionally the state of Yap had a caste-like social system with high-status villages, each of which had an affiliated low-status village. In the past, those who came from low-status villages worked without pay for those with higher status. In exchange those with higher status offered care and protection to those subservient to them. The traditional hierarchical social system has been gradually breaking down, and capable people from low-status villages can rise to senior positions in society. Nonetheless, the traditional system continued to affect

contemporary life, with individuals from low-status villages still likely to defer to those with higher status. Persons from low-status backgrounds tended to be less assertive in advocating for their communities' needs with the government. As a result low-status communities sometimes continued to be underserved.

The constitution prohibits noncitizens from purchasing land, and a 2002 law limits the occupations that noncitizens may fill. The national Congress grants citizenship to non-Micronesians only in rare cases. There is no permanent residency status. However, for the most part noncitizens shared fully in the social and cultural life of the country.

Section 6. Worker Rights

a. The Right of Association.—Under the law citizens have the right to form or join associations, and national government employees by law may form associations to "present their views" to the government without coercion, discrimination, or reprisals. For a variety of reasons, including the fact that most private-sector employment was in small-scale, family-owned businesses and citizens were not accustomed to collective bargaining, there were neither associations nor trade unions. Although foreign workers have the right to form unions, they have not done so.

b. The Right to Organize and Bargain Collectively.—No law deals specifically with trade unions or with the right to collective bargaining, and there were no reports of collective bargaining agreements during the year. Individual employers, the largest of which were the national and state governments, set wages. There is no specific right to strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. This prohibition does not mention specifically forced and compulsory labor by children, but there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law does not establish a minimum age for employment of children. In practice there was no employment of children for wages; however, children often assisted their families in subsistence farming and in family-owned shops.

e. Acceptable Conditions of Work.—The four state governments have established minimum wage rates for government workers. Pohnpei had a minimum hourly wage rate of $2.00 for government and $1.35 for private-sector workers. The other three states have established minimum hourly rates only for government workers: $1.25 for Chuuk, $1.49 for Kosrae, and $0.80 for Yap. The minimum hourly wage for employment with the national government was $2.64. (The US dollar is the national currency.) These minimum wage structures and the wages customarily paid to skilled workers were sufficient to provide a decent standard of living for a worker and family. The minimum wage was enforced through the tax system, and this mechanism was believed to be effective.

There are no laws regulating hours of work (although a 40-hour workweek was standard practice) or prescribing standards of occupational safety and health. A federal regulation requires that employers provide a safe workplace. The Department of Health has no enforcement capability, and working conditions varied in practice.

There is no law for either the public or private sector that permits workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

Foreign workers were not subjected to abuse or deported without cause. They have the right to a hearing if facing deportation.

Yap State permitted foreign laborers to work in garment manufacturing enterprises. With the end of the international textile quota regime early in the year, these factories closed. Foreign workers at one factory were not immediately repatriated and complained that they had not been paid for several months.

Working conditions on board some Taiwan- and People's Republic of China-owned fishing vessels operating in the country's waters were very poor. Crewmen reported a high incidence of injuries, beatings by officers, and nonpayment of salary.

MONGOLIA

Mongolia, with a population of approximately 2.8 million, continued its transition from a highly centralized, Communist-led state to a full-fledged, multiparty, parliamentary democracy; however, these gains have not yet been consolidated. The 1992 Constitution established a hybrid presidential-parliamentary system of govern-

ment. The demarcation of powers between the president and the prime minister has been the subject of several constitutional amendments and court challenges. A new president was elected in May, and observers noted minor irregularities in the election. Members of the national parliament are elected directly by voters for a four-year term. A 76-member parliament was chosen in June 2004, in elections that were marred by violations and irregularities. Parliament (the State Great Hural), with the agreement of the president, selects the prime minister, who is nominated by the majority party. There is no requirement that the prime minister be an elected member of parliament. A coalition government was formed in October 2004 after parliamentary elections gave no party a majority. The coalition government remained largely intact and stable during the year. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, the following human rights problems were noted:

- police abuse of prisoners and detainees, including at least one suspicious death due to violence in a pretrial detention center
- poor conditions at prisons and pretrial detention
- centers
- arbitrary arrests, lengthy detention, and corruption
- within the judicial system
- possible government intimidation of the media,
- resulting in self-censorship by the press
- domestic violence against women
- child abuse and child labor
- several reported cases of international trafficking of persons, and some domestic cases of child prostitution

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—In June a 36 year-old man died eight days after being released from the Ulaanbaatar pre-trial detention facility. The family alleged he was beaten by police during his three day detention; police said that he was beaten by fellow inmates. The case is under investigation by the State Investigation Department and the National Human Rights Commission.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices and reports of such actions have diminished; however, police (especially in rural areas) occasionally beat prisoners and detainees, and the use of unnecessary force in the arrest process was common. In June at the invitation of the government, the UN Special Rapporteur on Torture conducted a fact-finding visit. At the end of his visit, he publicly expressed concern about the persistence of incidents of torture, particularly in police stations and pretrial detention facilities. The Special Rapporteur noted favorably recent efforts by authorities to combat the problem, but said the lack of an adequate legal framework to investigate and punish torture creates a climate of impunity. In 2004 the prison administration completed the installation of television monitoring systems in all 22 prisons, which contributed to a significant decline in prison guard abuse of prisoners and detainees. While the prison administration stated that there were no cases of abuse during the year, there was at least one suspicious death which was under investigation (see section 1.a.).

Prison and Detention Center Conditions.—In general, conditions in pretrial detention and prison facilities were poor by international standards. Insufficient food, heat, and medical care threatened the health and life of inmates. Overcrowding continued to be a problem. The number of prisoners in the central detention facility in Ulaanbaatar, which had declined to 461 inmates in 2004, increased to 866, the level of previous years. Prison staff members, including guards, social workers, and medical staff, received human rights training. The Ministry of Justice and Home Affairs (MOJHA) Department for the Enforcement of Court Decisions monitored conditions in prisons and detention facilities, but new laws and procedures were not publicized widely.

Many inmates entered prison infected with tuberculosis or contracted it in prison. The government's tuberculosis hospital provided treatment for a large number of prisoners and generally isolated infected persons from the general prison popu-

lation. As a result, the number of inmates who died from the disease has declined significantly over the years.

Outside of Ulaanbaatar, juveniles between the ages of 14 and 18 who were charged with crimes were sometimes kept in the same detention centers as adult prisoners.

Improvements in detention and prison conditions outside the capital were minimal. However, families had better access to inmates, alleviating some of the difficulty in obtaining food and clothing. At least two domestic and six foreign NGOs worked to improve conditions in prisons and detention centers by providing clothing, food, books, English-language instruction, and vocational training in computers and trades.

The government permitted prison visits by human rights monitors, foreign diplomats, and journalists. Amnesty International, the UN Development Program's (UNDP) human rights monitor, diplomatic representatives, local journalists, and other observers visited detention centers and prisons. However, the government declined a request by the UN Special Rapporteur on Torture to visit two pretrial detention facilities.

d. Arbitrary Arrest or Detention.—The law provides that no person shall be searched, arrested, detained, or deprived of liberty except by law; however, arbitrary arrest and detention remained problems. General public awareness of basic rights and judicial procedures, including rights with regard to arrest and detention procedures, was limited, especially in the countryside.

Role of the Police and Security Apparatus.—Security forces are under the jurisdiction of the Ministry of Defense (MOD), MOJHA, and the General Intelligence Agency (GIA). Military forces under the MOD are responsible for external security, but civil defense is also subordinate to the MOD, giving the MOD a role in internal security. National police operate under the MOJHA, and during peacetime, the national border security guard force is also under MOJHA control. The GIA, formerly the State Security Agency, is responsible for both internal security and foreign intelligence collection and operations. The GIA's civilian head has ministerial status and reports directly to the prime minister. There was general agreement that corruption in law enforcement agencies was endemic, although the government did take some limited steps against the problem. While there were some efforts by the government to improve training and professionalism of the police, progress was slow. Laws and mechanisms to investigate police abuses were also inadequate. The UN Special Rapporteur on Torture said in June that police who abused detainees operated in a climate of impunity (see section 1.c.).

Arrest and Detention.—Police may arrest persons suspected of a crime and hold them for up to 72 hours before a decision is made to prosecute or release them. Under the criminal code, a court order must be requested to continue holding a suspect after 24 hours. If a court order is not granted within 72 hours, the suspect must be released. A detainee has the right to a defense attorney during this period and during all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the government must appoint an attorney. However, in practice, many detainees were not made aware of this right and did not assert it. There was a shortage of state attorneys, and the low quality of attorney training and the bureaucratic obstacles faced by attorneys and defendants were chronic problems. Detainees may be released on bail with approval of a prosecutor. The maximum pretrial detention with a court order is 24 months; an additional 6 months are allowed for particularly serious crimes such as murder. According to an administrative regulation, if a person is wrongly charged with a crime, the government must restore the person's rights and reputation and provide compensation; however, this regulation was rarely followed in practice.

In August 2003 GIA and police officers forcibly abducted a Mongolian citizen from France and returned him to Ulaanbaatar for questioning in connection with the 1998 killing of former Minister of Infrastructure Sanjaasuren Zorig. The officers acted without the knowledge, consent, or cooperation of the French Government or law enforcement authorities, or with the knowledge, consent, or cooperation of authorities in Belgium and Germany, through which they transited. The government subsequently stated that the person was returned pursuant to a court order to serve the remaining time on a fraud conviction. The court order appeared to have been issued after the abduction took place. At year's end the person was in prison serving the remainder of an 11-year sentence for fraud.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, corruption and outside influence were problems.

The judiciary consists of district, provincial, and separate constitutional and supreme courts. The 11-member Supreme Court is the court of final appeal, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. District courts primarily hear routine criminal and civil cases, while more serious cases, such as murder, rape, and grand larceny, are sent to the provincial courts. Provincial courts also serve as the appeals court for lower court decisions. The Constitutional Court, which is separate from criminal courts, has sole jurisdiction over constitutional questions. The General Council of Courts, an administrative body within the MOJHA, nominates candidates for vacancies on the courts; the president has the power to approve or refuse such nominations. The council also is charged with protecting the rights of judges and providing for the independence of the judiciary. The military judicial system was abolished in 1993; since then, all military cases have been handled in civilian courts.

Trial Procedures.—According to law, all accused persons have the right to due process, legal defense, and a public trial. Closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases as provided by law. The law provides that defendants are innocent until proven guilty; however, in practice this provision was rarely observed. Defendants may question witnesses and appeal decisions.

Political Prisoners.—Prison procedures allow parole for those who have served half of their sentences, and in August these procedures led to the release of L. Sanjaasuren. In November 2004 Sanjaasuren was sentenced to 18 months imprisonment for revealing state secrets during his defense of a Mongolian citizen abducted by authorities from France (see section 1.d.). Amnesty International had classified Sanjaasuren as a prisoner of conscience. There were no other reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. However, the head of the GIA, with the knowledge and consent of the prime minister, was allowed to direct the monitoring and recording of telephone conversations. The extent of such monitoring was unknown. Police wiretaps must be approved by the prosecutor's office and authorized for two weeks at a time.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. However, government interference with licensing and indirect intimidation of the press, particularly in broadcast media, remained a concern.

A variety of newspapers and other publications represented both major political party and independent viewpoints. Due to transportation difficulties, unreliable postal service, and fluctuations in the amount of newsprint available, not all publications were available in rural areas. The media law bans censorship of public information and any legislation that would limit the freedom to publish and broadcast. The government monitored all media for compliance with antiviolence, antipornography, anti-alcohol, and tax laws. While there was no direct government censorship, the press alleged indirect censorship in the form of government and political party harassment, such as frequent libel lawsuits and tax audits. The law places the burden of proof on the defendant in libel and slander cases. In past years, some officials used criminal libel suits to harass political opponents and journalists who expressed or published views critical of the government. However, no such incidents occurred during the year. Journalists may also be subjected to threats and physical intimidation. In December a television journalist was assaulted by unknown assailants; the journalist linked the incident to his investigation of corruption allegations in a government agency. In late November, the General Intelligence Agency (GIA) sent official letters to two independent television stations asserting that news coverage of recent demonstrations had allegedly incited additional criminal acts, and the broadcasts were therefore illegal. The letters, which did not provide specifics on which broadcasts were illegal, demanded that the stations stop such coverage or suffer legal action. The GIA subsequently retracted the letters and apologized to the two stations. As a result, some media practiced self-censorship. However, other independent media outlets at times were strongly critical of the government.

While the print media was relatively open and free of political interference, the same was not true for broadcast media. Both a lack of transparency during the tender process, as well as a truly independent licensing authority, has inhibited fair competition for broadcast frequency licenses and benefited those with political con-

nections. In 2004 three new licenses for nationwide broadcasting were issued in a nontransparent process to television stations with political connections to the Mongolian People's Revolutionary Party (MPRP). In September, in an equally non-transparent process, four new licenses were awarded to individuals and companies with connections to the Democratic Party. At the provincial level local government control of the licensing process has similarly inhibited the development of independent television stations.

Mongol TV remained the major source of television programming in the country, although three additional VHF stations and several cable television providers were beginning to make inroads and to provide alternatives.

In January the coalition government passed legislation that finally allowed movement to implement a 1999 law banning state ownership of mass media. Under the new law, Mongol Radio and TV shifted to "public" status, overseen by a national council. The national council has the power to determine whether programs meet the new law, approve functional and ethical rules, determine the structure of public radio and television, appoint the general director, and approve rules to select other senior officials. The national council has 15 members, 4 of whom are nominated by the president, 7 by the parliament, and 4 by the prime minister on behalf of the government. The parliament approves all of the nominees. Parliament did not approve the nominees for the council until October, and the shift to public status had not been fully implemented by the end of the year. Under the new law, the main financial sources for the stations were license fees, state subsidies, and sponsorship.

Due to local government control over the licensing process, local entities reported difficulties in acquiring licenses for local radio stations. However, one independent radio station was broadcast widely and there were increasing numbers of small local FM stations. In Ulaanbaatar the Voice of America and the British Broadcasting Company were broadcast in English only.

Access to the Internet was available, and the government did not interfere with its use.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. However, a 2004 National Human Rights Commission study found that 21 of 165 applications filed between 1998 and 2003 by groups requesting permission to stage demonstrations in the capital were denied, often without citing any rationale or sometimes providing questionable reasons for denial. In February and March police clashed several times with a civil society group that attempted to stage unauthorized demonstrations in Ulaanbaatar's central Sukhbaatar Square. In November the law was amended to permit demonstrations in the square. The law was also amended to allow applications to hold demonstrations to be submitted three days prior to an event, rather than the previous six days.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. However, the law limits proselytizing, and some groups that sought to register faced bureaucratic harassment and extortion from lower level officials acting on their own.

The constitution explicitly recognizes the separation of church and state. However, although there is no official state religion, traditionalists believe that Buddhism is the "natural religion" of the country. While the government contributed to the restoration of several Buddhist sites that are important religious, historical, and cultural centers it did not otherwise subsidize Buddhism.

The Kazakh Muslim minority, whose population of approximately 100 thousand is primarily concentrated in the western part of the country, generally enjoyed freedom of religion. However, the government did not allow the Kazakh community in Ulaanbaatar to construct a mosque. According to Muslim leaders the government was concerned increased visibility of the Muslim population might provoke anti-Muslim sentiment. The government monitors the Kazakh community closely for any activity that could be construed as "Kazakh political separatism" or "terrorism."

Religious groups are required to register with the MOJHA. However, the registration process was decentralized and bureaucratic, and officials sometimes demanded bribes in exchange for authorization. Local assemblies have the authority to approve applications at the local level. In general, the primary difficulties with registering were due to the actions of local officials who attempted to extort financial assistance for projects not publicly funded. During the year, 12 new Christian churches registered; no churches were known to have been refused registration. However, procedural changes to the registration process reportedly resulted in indefinite delays for 14 churches that applied during the year.

Under the law, the government may supervise and limit the number of clergy and places of worship for organized religions; however, there were no reports that the government did so during the year.

The law does not prohibit proselytizing, but it forbids the use of incentives, pressure, or "deceptive methods" to introduce religion. In addition, a Ministry of Education directive bans mixing foreign language or other training with religious instruction.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts during the year. There was no identified Mongolian Jewish population, and the number of resident foreign Jews was very small.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. In an effort to reduce the strain on city resources, Ulaanbaatar has initiated bureaucratic measures such as increased fees for residency applications.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—Mongolia is not a party to the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol. The law does not provide asylum or refugee status, and the government has not established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but it did not routinely grant refugee or asylum status. The government continued talks with the Office of the UN High Commissioner for Refugees (UNHCR) representatives on refugee and asylum issues.

Small groups of North Koreans reportedly continued to enter the country from China. The government's concerns about potentially attracting larger numbers of North Korean migrants increased opposition to accession to the 1951 UN Convention. The government cooperated with UNHCR and other humanitarian organizations and governments to assist with the resettlement of foreign migrants outside of Mongolia.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, and largely free and fair elections held on the basis of universal suffrage. However, the campaign and balloting process in the 2004 national parliamentary election was widely considered marred by violations and irregularities. Minor irregularities were noted in the May presidential election. The law limits the president to two four-year terms; parliamentary and local elections are held separately, also for four-year terms.

The law provides that the majority party in parliament, in consultation with the president, shall appoint the prime minister. Members of parliament may serve as cabinet ministers. There is no requirement that the prime minister must be a member of parliament.

Elections and Political Participation.—A presidential election was held in May. Voter turnout was 75 percent, slightly down from the 2000 presidential election. The candidate from the MPRP won 53 percent of the vote; the closest of four other candidates received 20 percent of the vote. Observers found a variety of minor irregularities in the election process, but no major problems were cited. A parliamentary by-election was held in an Ulaanbaatar constituency in late August. Due to a formal agreement between the two coalition parties on August 2, the Democratic Party agreed to withdraw its candidate against the MPRP nominee, who was the chairman of the party. Many Democratic Party members and foreign observers criticized this situation as undemocratic because it disenfranchised a large number of voters who would have voted for a Democratic Party candidate. Election observers found some irregularities in the by-election balloting process, including the prevalence of MPRP and government officials in key precinct election committee positions.

The campaign and balloting processes for the June 2004 parliamentary elections were marred by violations and inconsistencies. The president, major political forces, domestic and foreign observers all complained of numerous irregularities and violations by political parties, individual candidates, and members of the appointed district election committees. Domestic NGOs and observers documented widespread illegal use of state property and civil service workers, primarily by the MPRP, for campaign activities. Approximately 10 percent of the population moved from one district or precinct to another during the final 2 weeks of the campaign, in order

to exploit so-called transfer voter provisions in the law. Observers also reported abuses related to the control of mobile ballot boxes, ballot-box stuffing, police intimidation, fraudulent ballots, multiple voting and the removal of political party and foreign observers from polling stations. Two seats were disputed and resolved in court. An MPRP candidate was declared the winner and seated in parliament after a court-ordered partial revote in one constituency in February. In late September, the Supreme Court dismissed challenges to lower court rulings and ruled in favor of the Democratic Party candidate, who was sworn in shortly thereafter.

There were 18 registered political parties; 5 were represented in parliament.

There were no legal impediments to the participation of women or minorities in government and politics. There were 5 women in the 76-member parliament, as well as a minister and a vice-minister. This was a substantial decrease from the number of women in Parliament between 1996 and 2000. Women and women's organizations were vocal in local and national politics and actively sought greater female representation in government policymaking.

There were three ethnic Kazakhs serving in parliament.

Government Corruption and Transparency.—Corruption was perceived to be a growing problem at both lower and upper levels of government. Government and parliamentary decision making was not sufficiently transparent, and public legislative hearings were rare. The State Secrets Law inhibits freedom of information and government transparency and accountability. There were public calls to amend the law and implement the equivalent of a "freedom of information act."

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. At the invitation of the government, the UN Special Rapporteur on Torture made a fact-finding visit in June (see section 1.c.).

With UNDP assistance, a local representative in each provincial assembly monitored human rights conditions, among other duties.

The National Commission on Human Rights (NCHR) consists of three senior civil servants nominated by the president, the Supreme Court, and the parliament for terms of six years. The NCHR was responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs. The NCHR reported directly to parliament. In its annual reports, the NCHR has repeatedly criticized the government for abuses of the power of arrest and detention, poor conditions in detention and prison facilities, lengthy detentions without trial, and failure to implement laws related to human rights. The reports also faulted parliament and the courts for failing to protect human rights fully.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law states that "no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status," and that "men and women shall be equal in political, economic, social, cultural fields, and family." The government generally enforced these provisions in practice.

Women.—Domestic violence against women was a serious problem. Rape and domestic abuse are illegal, and offenders can be prosecuted after formal charges have been filed. During the year there were 209 reported domestic assaults. There was no law specifically prohibiting spousal rape. Rape, including spousal rape, remained a problem. During the year there were 320 cases of rape reported to authorities, down from 378 cases in 2004; however, many rapes are not reported.

In January a new comprehensive law specifically typesetting domestic violence came into effect. By year's end 20 cases had been brought to trial under the law. The law empowers central and local authorities to implement national policy aimed at combating and preventing domestic violence, funding such activities from the national budget, and enlisting the support and cooperation of NGOs in their efforts. The law requires police to accept and file complaints, visit the site of the incidents, interrogate the offenders and witnesses, explain the law, impose administrative criminal penalties, bring victims to refuge, and transfer custody of the relatives if necessary. Police may also detain an offender temporarily, send drunken offenders to "sobering houses," and inform social workers and advise relevant authorities of restrictions to place on an offender. The law outlines the role of social welfare organizations and NGOs and confidentiality provisions for the victims. The law also provides for the following sanctions on offenders: expulsion from home or separate accommodations, prohibitions on the use of jointly owned property, prohibitions on

meeting victims, and prohibitions on access to minors, compulsory training aimed at behavior modification, and compulsory treatment for alcoholism.

There were no reliable statistics regarding the extent of domestic abuse, but qualified observers believed that it affected as much as one-third of the female population. Virtually all of those who committed violent crimes in the home were men, and women typically were the victims. In recent years, domestic abuse became more violent, including increases in the number of murders. After many years of government and societal denial, there was increasing public and media discussion of domestic violence, including spousal and child abuse. However, the perception remained that domestic abuse was either a family issue or not a problem. In recent years, economic and societal changes have created new stresses on families, including loss of jobs, inflation, and lowered spending on social and educational programs. Some statistics showed that more than 60 percent of family abuse cases were related to alcohol abuse. The high rate of alcohol abuse contributed to increased instances of family abuse and abandonment and added to the number of single-parent families, most of which were headed by women. Women were hesitant to ask authorities to prosecute cases of domestic abuse because of likely long-term detention of spouses and the resulting loss of household income.

There was no official discrimination against those with HIV/AIDS; however, some social discrimination existed.

The Family Law details rights and responsibilities regarding alimony and parents' rights, and it is intended to bring about timely dispute settlement and ameliorate the causes of some domestic violence. The National Center against Violence operated branches in two districts of Ulaanbaatar and eight provinces. Two shelters for victims of domestic abuse existed in the country, largely funded by foreign charitable organizations.

Prostitution is legal. However, public solicitation for prostitution and organizing prostitution remains illegal. There were reports that some female and teenage citizens worked in the sex trade elsewhere in Asia and Eastern Europe; an unknown number of them may have been trafficked (see section 5, Trafficking).

There are no laws against sexual harassment.

The law provides men and women with equal rights in all areas. By law, women are to receive equal pay for equal work and have equal access to education. Women represented approximately half of the work force, and a significant number were the primary wage earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health, and the government effectively enforced these provisions. Many women occupied midlevel positions in government and business, and many were involved in the creation and management of new trading and manufacturing businesses.

There was no separate government agency to oversee women's rights; however, there was a national council to coordinate policy and women's interests among ministries and NGOs, and the Ministry of Social Welfare and Labor had a Division for Women and Youth Issues. There were approximately 40 women's rights groups that concerned themselves with issues such as maternal and child health, domestic violence, and equal opportunity.

Children.—Increased societal stress on the family structure had adverse effects on many children. Although the government has been unable to keep pace with the educational, health, and social needs of this rapidly growing segment of the population, in principle it remained committed to children's rights and welfare. The government provided children with free and, by law, compulsory public education through the age of 16; however, family economic needs and state budgetary troubles made it difficult for some children to attend school. In practice, female children over the age of 15 had better opportunities to complete their education than male children, because teenage males often were required to work at home, and schools generally were located far from homes (see section 6.d.). In addition, there continued to be a severe shortage of teachers and teaching materials at all educational levels.

There was growing awareness that child abuse, often associated with parental alcoholism, was a problem. In conjunction with efforts to counter violence against women, NGOs have begun to address the problem.

By year's end the national police documented 177 cases of underage prostitution.

Although society has a long tradition of raising children in a communal manner, societal and familial changes have orphaned many children. The government was more willing than in the past to admit the extent of the problem, but it lacked the resources to improve the welfare of children who have become victims. NGOs continued to assist orphaned and abandoned children. The government did not publish statistics on street children; however, the 2002 census identified approximately 1,300 homeless youths between 7 and 18 years of age. Of those, 840 lived in shelters

provided by 21 children's centers sponsored by international NGOs. Groups working in the field disagreed on the number of street children, but they estimated that there were as many as three thousand. Female street children, who accounted for one-third of all street children, sometimes faced sexual abuse. The government established the National Committee for Children to address this and other child welfare problems. The government supported two government-funded but privately owned and administered shelters, one for children from birth to the age 3 and the other for children from ages 3 to 16. While these facilities received some government funding, it was inadequate, and foreign aid was needed to sustain the orphanages.

Trafficking in Persons.—The law specifically prohibits trafficking in women and children; however, there was evidence that female and teenage citizens working in the sex trade in Asia and Eastern Europe may have been the victims of trafficking rings. The country was both a source and transit point for trafficking.

During the year, four cases of international trafficking involving 32 victims were under investigation, but antitrafficking groups stated they were aware of other potential cases. All seven suspects in the four cases under investigation were in detention at year's end.

Although most officials and NGOs found it difficult to estimate the extent of trafficking, increasing attention was focused on the problem. In 2004 the government worked with the United Nations Children's Fund (UNICEF) and tourist companies to develop a voluntary code of conduct to protect minors from sexual exploitation in the travel and tourist industry.

The primary targets of trafficking schemes were middle-class girls and young women, ranging from 14 to approximately 28 years of age, who were lured abroad by offers to study or work. Preventive steps to combat trafficking, such as increased law enforcement measures, remained limited. As a result, it was not difficult to traffic persons across the country's borders. Some NGO experts believed that members of the police sometimes were involved in trafficking young women and helping facilitate their movement across borders.

Protections for victims and witnesses were extremely limited, which discouraged them from coming forward. Furthermore, social stigma inhibited victims from telling their stories. The government had limited resources and divergent priorities, and therefore provided no direct assistance for trafficking victims. NGOs offered support when possible, and the government relied on NGOs to increase awareness and initiate prevention programs. The government worked with the UN on a three-year project for capacity building in the National Council on Gender Equality, which included giving more attention to trafficking and prostitution.

Persons with Disabilities.—The labor law prohibits discrimination in employment and education against persons with disabilities. The law also requires the government to provide benefits according to the nature and severity of the disability, which it did. The Law on Social Protection of the Disabled designates the provincial governors and the Ulaanbaatar governor with the responsibility to work with provincial councils and the Ulaanbaatar city council to develop and implement measures to protect persons with disabilities. However, NGOs claimed that the government did little to implement such measures, and in practice most persons with disabilities could not find jobs. The law requires companies employing more than 50 persons to hire at least 3 persons with disabilities. The government provided tax benefits to enterprises that hired persons with disabilities, whom some firms hired exclusively. Persons injured in industrial accidents have the right to reemployment when ready to resume work, and the government offered free retraining at a central technical school. There were several specialized schools for youth with disabilities, but these students also were free to attend regular schools. There is no law mandating access to buildings for persons with disabilities, which made it difficult for these persons to participate fully in public life. Persons with disabilities have demonstrated for higher government subsidies. Government pensions for persons with disabilities were approximately $33 (40 thousand tugrik) per month. Approximately 30 NGOs participated in activities assisting approximately 40 thousand persons with disabilities.

Other Societal Abuses and Discrimination.—There was no official discrimination against those with HIV/AIDS; however, some social discrimination existed.

Section 6. Worker Rights

a. The Right of Association.—The law entitles all workers to form or join unions and professional organizations of their choosing, and the government respected this right in practice. However, some legal provisions restrict these rights for some groups such as foreign workers, public servants, and workers without employment contracts.

Union officials estimated that union membership has declined over the years to 350 thousand, which represented less than half of the workforce. Workers who were self-employed or who worked at small firms generally did not belong to unions. No arbitrary restrictions limited who could be a union official, and officers were elected by secret ballot.

In 2003, the leadership of the Association of Free Trade Unions merged with the Mongolian Trade Unions Confederation, in effect leaving only one trade union confederation in the country.

b. The Right to Organize and Bargain Collectively.—The law regulates relations between employers, employees, trade unions, and the government. The government's role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Wages and other conditions of employment are set between employers, whether state or private, and employees, with trade union input in some cases. The Labor Dispute Settlement Commission resolves disputes involving an individual; disputes involving groups are referred to intermediaries and arbitrators for reconciliation.

The law provides for the right to strike, and workers exercised this right in practice. If an employer fails to comply with a recommendation, employees may exercise their right to strike. The law protects workers' right to participate in trade union activities without discrimination. However, the government does not allow intervention in collective bargaining by third parties, and prohibits third parities from organizing a strike. Such restrictions are not in line with the International Labor Organization (ILO) Conventions, to which the country is a signatory.

Persons employed in essential services, which the government defines as occupations critical for national defense and safety, including police, utility, and transportation workers, do not have the right to strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law specifically prohibits forced or compulsory labor, and the government generally enforced this provision. During the year, the government signed and ratified the ILO Convention against Forced Labor. Although most prisoners were required to work as part of their sentences, they did receive monetary compensation to send to their families or use to buy food, books and sanitary items. Prisoners in maximum security or serving custodial prison sentences of less than six months were excluded from compulsory labor.

Beginning in 2004, North Korean laborers were employed (under contracts between the DPRK Ministry of Light Industry and private companies, with government approval), primarily in the construction and service industries. Approximately two hundred North Korean workers brought in through official channels were working in the country during the year. The contract terms generally required that the laborers return to North Korea at the end of the contract and according to the Ministry of Labor, most had departed by year's end. The Ministry of Labor did not monitor the working or living conditions of these workers. Some North Korean workers may not have been free to leave their employment or complain if work conditions were unacceptable. These workers, who reportedly were monitored closely by "minders" from their government, did not routinely receive direct and full salary payments. In addition, possible pressure on family members in North Korea raised additional concerns that the labor of these workers was not fully voluntary.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law in general prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under 18 may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Enforcement of these prohibitions, as well as all other labor regulations, was the responsibility of state labor inspectors assigned to regional and local offices. These inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited, due to the small number of labor inspectors and the growing number of independent enterprises.

Children worked informally in petty trade, scavenging in dumpsites, working in unauthorized small-scale mining, and herding animals. Increasing alcoholism and parental abandonment made it necessary for many children to have an income to support themselves, their siblings, and sometimes their parents. Estimates placed the number of children in the labor force as high as 58 thousand.

In addition, due to economic pressures, fewer children, especially teenage boys in the countryside, stayed in school until the age 18 (see section 5). Children most often herded family livestock, but reports of children working in factories or coalmines continued.

The government prohibits forced and compulsory labor by children and effectively enforced this prohibition.

e. Acceptable Conditions of Work.—The legal minimum wage established for the year was approximately $33 (40 thousand tugrik) per month. This minimum wage, which applied to both public and private sector workers and was enforced by the Ministry of Social Welfare and Labor, did not provide a decent standard of living for a worker and family. Virtually all civil servants earned more than this amount, and many in private businesses earned considerably more. Some employees received housing benefits.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. By law, overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited by law from working overtime. For those 16 and 17 years of age, the workweek is 36 hours, and overtime work is not allowed. These laws generally were enforced in practice.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards. However, the near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the mining, power, and construction sectors. Enforcement of occupational health and safety standards was inadequate. The labor monitoring unit employed only 73 inspectors to inspect a growing number of enterprises throughout the country. According to the law, workers have the right to remove themselves from dangerous work situations and still retain their jobs. There were increasing numbers of Chinese workers in low-wage construction jobs, who often lived under sparse conditions, but generally enjoyed the same protections as citizens. However, due to various pressures and restrictions, a small number of North Korean workers in the construction and service industries may not have been able to speak out about working conditions (see section 6.c.).

NAURU

The Republic of Nauru is a parliamentary democracy with a unicameral parliament. Its population was approximately 10 thousand, of which an estimated 1,450 were foreign workers and their families. The most recent parliamentary elections, held in October 2004, were generally free and fair. Parliament elects one of its members to be president, who is both chief of state and head of government. The civilian authorities maintained effective control of the police force.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. During the year the government adopted measures to address charges that the country's financial and commercial regulations were not sufficient to protect against money laundering. The Australian government was in the process of deactivating its refugee processing center on Nauru, which at year's end held only two persons. The following human rights problems were reported:

- detention of asylum seekers in isolated, Spartan living conditions in a refugee processing center
- limited access to the refugee processing center
- judicial delays
- reduced levels of social services for stranded foreign workers and their families

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—During the year the country's prison facility was refurbished by the Australian government. The facilities were austere but generally met international standards.

There were no local human rights groups, and the question of visits to the prison by human rights observers did not arise. Prison visits by church groups and family members were permitted.

Beginning in 2001 the country hosted a refugee processing and detention center, funded by Australia. At year's end only 2 unsuccessful asylum seekers remained at the facility (see section 2.d.), down from 58 at the beginning of the year and the last of approximately 1,200 refugees at one time held at 2 centers. At year's end the Australian government was deactivating the remaining center and had moved the two asylum seekers to an administrative building. The two persons, deemed security risks by Australia, were awaiting the outcome of legal challenges to their status. Australian human rights organizations had repeatedly expressed concern about detention center conditions.

Human rights groups protested that journalists, human rights activists, doctors, lawyers, and clergy members have been denied visas to visit asylum seekers held in the detention centers. In July the government denied a visa to an Australian parliamentarian critical of the center.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The country has no military force, and the 129-member police force is responsible for law enforcement and maintenance of order. Under a cooperative agreement, Australian federal police officers were seconded to the country's police force to facilitate organizational reforms and training and increase police accountability, skills, professionalism, and community responsiveness. There were no reported cases of police corruption.

Arrest and Detention.—Arrests are made openly, based either on warrants issued by authorized officials or for proximate cause by a police officer witnessing a crime. Police may hold a person for no more than 24 hours without a hearing before a magistrate. A functioning bail system was in place. Authorities confiscated the passports of some accused persons released on bail to prevent flight. The law provides accused persons access to legal assistance.

Judicial delays were a problem. The lack of qualified magistrates and judges, coupled with severe financial constraints, caused delays of up to two years, during which defendants were released from detention to await trial.

Since 2002 human rights activists have asserted that the detention by Australian authorities of asylum seekers in the country was in violation of Nauru's and Australia's constitutions. The courts of both countries have ruled that the detention arrangements are legal.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The Supreme Court is the highest court addressing constitutional issues; it is presided over by the chief justice. Parliament cannot overturn court decisions. Under the Appeals Act, the High Court of Australia may review cases on criminal and civil actions, but this rarely was done. The post of resident magistrate, who presides over the district court, and also the family court as chairman of a three-member panel, was unfilled during the year. Instead, three lay magistrates handled simple cases; serious matters were given directly to the Supreme Court. The constitution also provides for two quasi-courts, the public service appeal board and the police appeal board, but these did not meet during the year. The chief justice presides over both boards.

Trial Procedures.—Procedural safeguards are based on English common law. They include the presumption of innocence; the right to be informed promptly of charges; a guarantee of adequate time and facilities to prepare a defense; the right to confront witnesses, present evidence, and appeal convictions; the right to trial by jury; and a prohibition on double jeopardy and forced self-incrimination. Trials are public, defendants have the right to legal counsel, and a representative for the defense is appointed when required "in the interest of justice." Bail and traditional reconciliation mechanisms rather than the formal legal process were used in many cases—usually by choice but sometimes under communal pressure.

Stranded contract workers from Kiribati and Tuvalu who formerly worked in the moribund mining sector did not have recourse to effective communal assistance and were disadvantaged in complaints against citizens. There were few trained lawyers, and many persons were represented in court by "pleaders," trained paralegals certified by the government.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An effective judiciary and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The constitution provides for freedom of religion; however, the government restricted this right in some cases. In recent years the government has prevented Mormons and members of Jehovah's Witnesses from practicing their religion freely on some occasions, and members of these religions were subjected to arbitrary licensing and immigration requirements.

Societal Abuses and Discrimination.—The relationships among religions generally were amicable. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

By regulation foreign workers were required to apply to their employers for permission to leave the country during the period of their contracts; however, the nearly complete suspension of mining operations has made the regulation moot. At year's end an estimated 1,450 unpaid foreign workers and family members were awaiting imminent repatriation (mostly to Tuvalu and Kiribati) after Taiwan agreed to fund the process. The two remaining persons detained at the Australia-funded processing camp were permitted to move freely during the day but had to return to the facility in the evening.

Neither the constitution nor law prohibits forced exile; however, the government did not use it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; the country is a party to neither. Although the government has not established a system for providing protection to refugees, under its 2002 agreement with Australia establishing the refugee processing centers, the country undertook not to commit *refoulement*, the return of persons to a country where they feared prosecution. The government did not accept refugees for resettlement, nor did it grant refugee status or asylum. However, the government cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

Beginning in 2001 the country hosted an Australian government processing center for persons seeking asylum in Australia. The persons were detained under national law while their status as refugees was determined and possible applications for asylum in Australia were adjudicated. These persons were held in facilities funded by Australia but administered by officials of the International Organization for Migration. The UNHCR took a limited role, on "an exceptional basis," in conducting refugee determinations of some applicants when the processing centers were first opened. In subsequent years the UNHCR also assisted in resettling some of the successful applicants in countries other than Nauru, but it was not active during the year. Nearly all of the 58 asylum seekers held at the processing center at the beginning of the year were from Afghanistan and Iraq. Of these, 56 asylum seekers were removed to Australia during the year, many on temporary visas while processing continued. At year's end only two persons, determined by Australia to be security risks, remained at the center, and the Australian government was in the process of deactivating it.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Citizens 20 years and older directly elect an 18-member unicameral parliament in compulsory voting for a term of 3 years. Following general elections in October 2004, Ludwig Scotty was reelected president by parliament. Multiple candidates stood for all parliamentary seats in each of the country's eight constituencies.

There are no legal impediments to participation in politics by women, but in general women traditionally have been less prominent in politics than men. There were no women in the 18-seat parliament or the cabinet. Women held many senior civil service positions, including the head of the civil service and the presidential counsel.

Government Corruption and Transparency.—During the year the government took corrective measures in government and in publicly owned corporations to combat corruption. Loose controls on the enormous revenues generated by phosphate mining led to mismanagement and misappropriation of vast sums of public funds. With the effective end of mining in recent years, within a decade the country went from great wealth to de facto bankruptcy. A search for new sources of income led to the creation of facilities to register offshore businesses and banks. This led in turn to the creation of thousands of shell banks and companies and to massive money laundering. In 2000 the country was placed on a list of noncooperative countries by the Organization for Economic Cooperation and Development (OECD) antimoney laundering taskforce and forced to close its offshore banking sector and revise its business incorporation program. In recognition of its corrective actions, in October the OECD removed the country from the list. The financial and regulatory crises, accompanied by continued corruption and severe national impoverishment, dominated national politics from the late 1990s. The 2004 elections were widely interpreted as a victory for reformists dedicated to addressing corruption and economic problems.

There are no legal provisions providing for public access to government information, and the government did not freely provide such access.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no government restrictions on establishing local human rights organizations, but no such groups have been formed. The government restricted or denied entry visas to representatives of foreign nongovernmental organizations and other persons focused on the refugee processing center. In July the government denied a visa to an Australian Green Party senator asking to visit the center.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, sex, disability, language, or social status, and the government generally observed these provisions.

Women.—The government did not record incidents of physical and domestic abuse against women. However, credible reports indicated that sporadic abuse, often aggravated by alcohol use, occurred. Families normally sought to reconcile such problems informally and, if necessary, communally. The judiciary and the government treated major incidents and unresolved family disputes seriously.

Spousal rape is not a crime, but police investigate and file charges if allegations of rape are made against a spouse. Prostitution is illegal and was not widespread. Sexual harassment is a crime but was not a serious problem.

The law grants women the same freedoms and protections as men. The government officially provides equal opportunities in education and employment, and women are free to own property and pursue private interests. However, in practice societal pressures and the country's impoverished economic circumstances often limited opportunities for women to exercise these rights fully. The Women's Affairs Office was responsible for promoting professional opportunities for women.

Children.—Government resources for education and health care for children were severely constrained by the country's economic crisis. Education is compulsory until age 16. The Bureau of Statistics reported that 60.3 percent of school-age children attended primary school in 2000. The government declared that truancy was as high as 60 percent in some schools. Most children did not complete secondary school. Foreign workers left unemployed and stranded by the virtual closure of the phosphate mines complained that health and educational services to their children were inferior to those provided to citizens.

Child abuse statistics were not compiled, and there were no reported cases of child abuse or child prostitution during the year. However, anecdotal evidence indicated that abuse occurred.

Trafficking in Persons.—The law does not specifically prohibit trafficking, but there were no reports of persons trafficked to, from, or within the country.

Persons with Disabilities.—There was no reported discrimination in employment, education, access to health care, or in the provision of state services to persons with disabilities. However, no legislation mandates services for persons with disabilities or access to public buildings. The country's economic crisis has led to an overall deterioration in funding for health care facilities and services.

There are no formal mechanisms to protect persons with mental disabilities.

National/Racial/Ethnic Minorities.—Ethnic Chinese, who composed 5 to 8 percent of the population, and their property were the targets of racially motivated attacks, most of a minor character. Theft, property damage, and violence directed at the Chinese community increased during the year.

Workers from other Pacific Islands, primarily Tuvalu and Kiribati, who were unemployed and stranded in the country experienced discrimination. The foreign workers previously had been provided free housing as part of their contracts, and they continued to occupy this housing, but it was poorly maintained and overcrowded.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of citizens to form and belong to trade unions or other associations. However, the country has virtually no labor laws, nor does it have any formal trade unions. Historically, the transient nature of the mostly foreign workforce hampered efforts to organize trade unions.

b. The Right to Organize and Bargain Collectively.—The right to strike is not protected, prohibited, or limited by law. Although there were no legal impediments, collective bargaining did not take place. A tiny private sector, mostly family-run stores and restaurants, employed approximately 1 percent of salaried workers. Salaries, working hours, vacation periods, and other employment matters for government workers are nominally governed by public service regulations. However, as a consequence of the economic crisis, all civil servants, parliamentarians, and members of government were paid a common salary of approximately $105 (A$140) every other week.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law forbids forced or compulsory labor, including by children, and the government effectively enforced these prohibitions.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum age of employment at 17. The only two large employers, the government and the Nauru Phosphate Corporation (NPC), honored this rule. Some children under 17 worked in small, family-owned businesses.

e. Acceptable Conditions of Work.—As an emergency measure, the government decreed a single maximum public servant wage equal to approximately $105 ($A140) every 2 weeks, which did not provide a decent standard of living for a worker and family. The measure was valid for all civil servants, including parliamentarians and government ministers. This represented a major salary reduction for most workers and families. However, prior to the wage measure, public service salaries often went unpaid, frequently for months.

Hundreds of foreign workers formerly employed by NPC remained in the country. Previously, they and their families received free housing, utilities, medical treatment, and often a food allowance. At year's end NPC was unable to meet unpaid wages claims. The government began paying the foreign workers a stipend of $37 ($A50) every other week, barely enough to survive. They continued to occupy company housing at no cost, but their circumstances were dire. The government of Taiwan agreed in October to compensate these laborers for some portion of their unpaid NPC back wages and to finance and facilitate their repatriation, mostly to Tuvalu and Kiribati.

By regulation the workweek in both the public and private sectors was 36 hours for office workers and 40 hours for manual laborers. Neither the law nor regulations stipulate a weekly rest period; however, most workers observed Saturdays and Sundays as holidays.

The government sets health and safety standards. NPC had an active safety program that included an emphasis on worker education and the use of safety equipment such as helmets, safety shoes, and dust respirators. NPC also had a safety officer specifically responsible for improving safety standards and compliance throughout the company. However, with operations in the phosphate industry almost at a standstill, enforcement of these regulations was lax.

NEW ZEALAND

New Zealand is a parliamentary democracy with a population of approximately 4.1 million. Queen Elizabeth II is chief of state and is represented by the governor general. Citizens periodically choose their representatives in free and fair multiparty elections. The 121-member Parliament is elected in a mixed-member, proportional representation system, with 7 seats reserved for members of the native Maori population. The most recent elections were held in September. The Labor Party won 50 parliamentary seats and formed a minority coalition government; Helen Clark remained prime minister. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- disproportionate societal problems for indigenous people

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

There were no further developments in the August 2004 police killing of a man who attacked his wife and police officers with a knife. For the 12-month period ending June 30, 9 new cases of death involving a police officer were received and under investigation at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

During the year there were some complaints that individual members of the police committed abuses. The Independent Police Complaints Authority handled complaints of police abuse, ranging from use of abusive language to allegations of complicity in deaths.

In March an assistant police commissioner and 2 former police officers were arrested for sexual offenses against 2 women in Rotorua dating back to 1986 and were charged with 20 counts of rape, indecent assault, and unlawful sexual connection. The case was awaiting trial at year's end.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by human rights observers. In June 2004 Parliament passed a new corrections act, which came into force in June. The objectives of the act were to eliminate private management of prisons, establish individual management plans for prisoners, and make prisoners' minimum entitlements more consistent with UN standards.

In the 12-month period ending June 30, there were 9 serious assaults on staff by inmates and 18 assaults of inmates by other inmates. During the same period there were 12 recorded deaths in custody, including 5 suicides.

Prison overcrowding was a problem during the year. At year's end there were 6,965 male prisoners and 455 female prisoners, while prison capacity was 6,942 beds for male prisoners and 455 for female prisoners. To alleviate overcrowding, during the year the government continued expansion and new prison construction efforts, used double bunking at prisons, and housed prisoners in police and court cells. In March the Northland Region Correction Facility opened, and its full 350-bed capacity was operational by year's end. An additional 380 beds were added at existing facilities during the year, and 3 new correctional facilities were under construction that would add space for 1,286 inmates over the next 2 years.

Juvenile detainees come under the jurisdiction of Child, Youth, and Family Services (CYFS) rather than the police. On October 4, to relieve pressure on overcrowded facilities, CYFS completed a new youth justice facility, raising to 102 the number of beds available for juvenile offenders serving residential orders and juvenile pretrial detainees. As of November juveniles spent more than 600 detention nights in police cells during the year while waiting for a bed in a youth justice residence.

A government report released in December 2004 concerning the use of excessive force by the Canterbury Emergency Response Unit, also known as the "goon squad," found that management failings in the Department of Corrections allowed the unit to develop an inappropriate militaristic culture, and the department disciplined some unit members for violating proper procedures. On January 28, the Christ-

church District Court dismissed a civil suit for compensatory damages brought by one affected prisoner.

In 2003 nine inmates of Auckland's Paremoremo Prison Behavioral Management Regime (BMR) brought a case against the Department of Corrections, alleging that the practices employed by the BMR, a special unit that isolates prisoners who pose a risk to staff or other inmates, constituted torture. In September 2004 the Wellington High Court awarded compensation of $91 thousand (NZ$130 thousand) to 5 of the claimants for breaches of their rights under the Bill of Rights Act, although the court did not find that their treatment constituted torture. The claimants appealed to dispute the amount of the compensation, and in December the Court of Appeal increased the amount awarded in the High Court to $98 thousand (NZ$140 thousand) to correct for a calculation error.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The police commissioner, appointed by the governor general, is the chief executive of the police force and reports to the minister of police. A board of commissioners, consisting of the commissioner and two deputy commissioners, is responsible for high-level leadership and makes decisions on police strategy, governance, and performance management. The police are organized into 12 districts. There are three operational branches: general duties, criminal investigation, and traffic safety. Allegations of corruption or impunity are referred to the Independent Police Complaints Authority, which can refer cases directly to Parliament. The police generally did not have problems with corruption and impunity.

Arrest and Detention.—Police may arrest a suspect without a warrant if they have reasonable cause. Police also may request a warrant from a district court judge. Police may enter premises without a warrant to arrest a person if they reasonably suspect the person of committing a crime on the premises, or if they have found the person committing an offense and are in pursuit. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest.

After a suspect has been arrested and charged, police have the power to release the person on bail until the first court appearance. That bail comes to an end at the first court appearance and is distinct from court bail. Court bail is granted unless there is good reason to believe that the suspect would flee or is likely to be a danger to the community. Police bail is not normally granted for more serious offenses such as serious assault or burglary. Attorneys and families were granted prompt access to detainees.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The Supreme Court is the country's highest court of appeal. It is composed of the chief justice and four other judges appointed by the governor general. Below the Supreme Court is the Court of Appeal; it hears appeals from the High Court, which has original jurisdiction for major crimes and important civil claims. The Court of Appeal also hears appeals on decisions of the district courts in serious criminal matters. The High Court hears appeals from lower courts and reviews administrative actions. Remaining original jurisdiction rests with the 63 district courts. Special courts include the Employment Court, Family Court, Youth Court, Maori Land Court, Maori Appellate Court, and Environment Court. The country's military forces have their own court system, with a Courts Martial and a Courts Martial Appeals Court; appeals from the Courts Martial Appeals Court may be made to the Court of Appeal and the Supreme Court.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy the rights found in other common-law jurisdictions, including a presumption of innocence, a right to a jury trial, a right of appeal, and the right to counsel, to question witnesses, and to access government-held evidence.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective ju-

diciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—In November a man was convicted and sentenced to 15 months' imprisonment for abuse directed at Muslims at a bus stop and on a bus in South Dunedin. Also in November, a court sentenced 2 former members of the National Front, a white supremacist group, to 12 months' imprisonment for vandalizing mosques in Auckland following the July subway bombings in London. In July the person charged in October 2004 for sending racist letters to members of Wellington's Somali community and other Muslims was convicted of harassment and in September was sentenced to six months' imprisonment.

The Jewish community numbered approximately 10 thousand persons. There were no reports of anti-Semitic acts during the year. The government-funded Human Rights Commission (HRC) actively promoted religious tolerance.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

There is no statutory authority for imposing a sentence of exile, and the government did not practice forced exile.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided protection to individuals who may not qualify under the definition of the 1951 convention and the 1967 protocol. Under its refugee quota, the government resettles up to 750 UNHCR-approved refugees per year. In the 12-month period ending July 30, the government approved 761 persons for refugee status.

During the year asylum seeker and former member of the Algerian Parliament Ahmed Zaoui continued to be the subject of a national security risk certificate issued by the Security Intelligence Service, which continued its review of the certificate at year's end. Zaoui was released from detention on bail by order of the Supreme Court in December 2004.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Parliamentarians are elected under a mixed-member, proportional representation system. In the most recent general elections, held in September, the Labor Party won 50 of 121 parliamentary seats and formed a minority government with Jim Anderton's Progressive Party (1 seat) and support from the center-right New Zealand First (7 seats) and United Future (3 seats) parties. The Labor Party also had a cooperation agreement with the Green Party (6 seats). Three other political parties were represented in Parliament: the National Party (48 seats), Maori Party (4 seats), and ACT party (2 seats). Executive authority is vested in a 21-member cabinet led by the prime minister.

Women participated fully in political life. There were 39 women in the 121-seat Parliament. There were 7 women (including the prime minister) on the executive council, which comprises 29 ministers (21 within the cabinet and 8 outside the cabinet). The cabinet included five women. The prime minister, the speaker of the house, and the chief justice of the Supreme Court were women; the governor general also was a woman. There were 2 women in the 25-seat Parliament of the dependent territory of the Cook Islands and 3 women in the 20-seat Parliament of the dependent territory of Niue.

Seven seats in Parliament are reserved for persons of Maori ancestry. The number of Maori seats is adjusted every five years, based on the number of persons of Maori ancestry who register to vote on the Maori electoral roll.

There were 21 Maori in Parliament, including the 7 reserved seats; 3 members of Pacific Island origin; and 1 member each of East and South Asian heritage. The cabinet included at least two members with Maori ancestry.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The law provides for public access to government information, to be provided within 20 working days of a request. Information must be made available unless a good reason, such as concern for national security, exists for not doing so. The requester must be provided with an estimate of any fees before the information is provided.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, sex, religion, disability, and national or ethnic origin, and the government actively enforced it. The HRC, a UN-accredited national human rights institution, investigated complaints of human rights violations and unlawful discrimination and acted as a conciliator. The HRC, which presents an annual report to Parliament, is funded by the government but acts independently.

Women.—Violence against women affected all socioeconomic groups. According to a national survey of crime victims conducted in 2001 and released in 2003, an estimated 32 percent of Maori, 17 percent of persons of European ancestry, and 12 percent of Pacific Islanders reported violent abuse by a heterosexual partner at least once in their lifetime; these figures included both men and women. One in four of the women included in the survey reported experiencing violent behavior from a partner at least once. In the year ending June 30, there were 3,374 convictions involving assault by a male on a female. Of these convictions, 51 percent involved Maori men, 30 percent men of European ancestry, and 15 percent Pacific Islanders. Although Maori women and children constituted less than 10 percent of the population, during the 12-month period ending June 30, approximately half of the 19,949 women and children who used the National Collective of Independent Women's Refuges were Maori; 33 percent were of European ancestry, and 6 percent were Pacific Islanders. In March the government established the Taskforce for Action on Violence within Families to coordinate a variety of government initiatives to eliminate family violence, including continuation of its *Te Rito* program, a national strategy to address all forms and degrees of domestic violence. The government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services. The Family Violence Intervention Program provided training for 1,600 social benefits staff to improve the government's response to clients facing issues of family violence.

The law penalizes spousal rape. During the year the government prosecuted and convicted a small number of persons for spousal rape or unlawful sexual connection with a spouse. Rape crisis groups existed throughout the country and included centers focusing specifically on Maori and Pacific Islanders.

It is illegal to perform female genital mutilation (FGM) or to remove a child from the country to carry out the procedure; violations of the law are punishable by up to seven years in prison. The government funded a national FGM education program. There were no FGM cases reported during the year.

Prostitution is legal. The Prostitution Reform Act sets a minimum age of 18 to work in the sex industry, gives prostitutes the same workplace protections as other industries, and provides for a licensing regime for brothels. The law also eliminates a client's defense of claiming ignorance that a person engaged in commercial sexual activity was under 18, and it extends culpability to any person who receives financial gain from such activity involving an underage person. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts. During the year there were no reports of abuse or of the involuntary detention of women involved in prostitution, and no reports of such persons having passports held until employer bonds were repaid.

The Prostitution Reform Act also established a statutory Prostitution Law Review Committee (PLRC) to review the act within three to five years of its enactment (by June 2008), including an assessment of the act's impact on the number of persons engaged in prostitution, and the nature and adequacy of resources available to assist persons in avoiding or leaving employment in the commercial sex industry. The government also had an agreement with the United Future Party to review the act to "address problems associated with street soliciting, under age involvement and local authority control over brothel zoning." In April the PLRC published a baseline profile of the commercial sex industry as a basis for comparison in future years' reviews.

The law prohibits sexual harassment. The HRC offered sexual harassment prevention training.

The Ministry of Women's Affairs addresses problems of discrimination and gender equality, and there is a minister of women's affairs in the cabinet. While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the government acknowledged that a gender earnings gap persisted in practice and in December 2004 set up a unit dedicated to this issue within the Department of Labor. The unit administers a fund supporting employer and union initiatives to promote pay and employment equity and accepted its first round of applications from May to July.

Children.—The law provides specific safeguards for children's rights and protection. The government demonstrated its commitment to children's rights and welfare through its well-funded systems of public education and medical care. The government provides 14 weeks of government-funded, paid parental leave to care for children born after December 1. The office of the commissioner for children played a key role in monitoring violence and abuse against children.

The law provides for compulsory, free, and universal education through age 16, and the government effectively enforced the law. As of July 2004 on average 99 percent of children age 6 to 16 were enrolled in formal education. The government provided free health care to all children under age five.

Child abuse continued to be of concern to the government. The government promoted information sharing between the courts and health and child protection agencies to identify children at risk of abuse. During the calendar year there were 26,765 applications to Family Court under the Guardianship Act and 8,688 applications under the Domestic Violence Act. There were 318 convictions involving assaults on children in the 12-month period ending June 30. Of those convicted, 144 were Maori, 83 were of European decent, 64 were Pacific Islanders, 14 were members of other ethnic groups, and the ethnicity of 13 was unknown.

Commercial sexual exploitation of children remained a problem (see section 5, Trafficking).

The Department of Internal Affairs' Censorship Compliance Unit actively policed Internet child sex abuse images and prosecuted offenders. The government maintains extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to or from the country. No new confirmed cases of internationally trafficked persons have been brought to the attention of the authorities since 2001, although there was evidence that some women from Asia, and more recently the Czech Republic and Brazil, were working illegally in the country as prostitutes. Although prostitution has been decriminalized (see section 5, Women), it remains illegal for nonresidents to work in the commercial sex industry.

The government has signed the relevant international instruments dealing with trafficking and has adopted tough domestic legislation to criminalize trafficking, with penalties of up to 20 years in prison and fines of up to $349,650 (NZ$500 thousand). Laws against child sexual exploitation and slavery carry penalties of up to 14 years in prison. During the year the government began work on a national plan of action against trafficking in persons, due for completion in early 2006, addressing the areas of prevention, protection, prosecution, and victim reintegration.

Commercial sexual exploitation of children was a problem. Under the Prostitution Reform Act, it is illegal to use a person under 18 years of age in prostitution. A study by the PLRC completed in April 2004 estimated that approximately 200 young persons under the age of 18 were working as prostitutes. During the year 3 brothel operators and 1 client were prosecuted for the use of persons under age 18 in prostitution. The client and two of the brothel operators were convicted, and one operator was awaiting trial at year's end. The government worked with nongovernmental organizations (NGOs) to address trafficking in children and provided fund-

ing for NGO outreach programs in Auckland and Christchurch that provided accommodations and other support for young persons at risk for involvement in prostitution. The government had a national plan of action against the commercial exploitation of children developed in concert with NGOs and completed a progress review of the plan during the year; its report on the review was scheduled for release in 2006.

Shakti Migrant Services Trust, an antitrafficking NGO, reported abuses resulting from the immigration of Indian women for arranged marriages and provided services to abused women through four refuges located in three cities: Auckland, Christchurch, and Tauranga. In December the UN's special rapporteur on human trafficking, while on a private visit to the country, asserted in the press that although in many cases such groups as mail-order brides, migrant workers, foreign fishermen, and those in arranged marriages enter the country voluntarily, they could be at risk of losing their autonomy and becoming victims of trafficking.

An extensive infrastructure of government and NGO assistance programs was available to victims of trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to places and facilities, and the provision of goods, services, and accommodation. Compliance with access laws varied. The government is prohibited from discrimination on the basis of disability, mental or physical, unless such discrimination can be "demonstrably justified." Of the 7,344 inquiries and complaints that the HRC received during the 12-month period ending June 30, it received more complaints of discrimination based on disability than for any other type of discrimination (23.3 percent of all inquiries and complaints). In its action plan for human rights released in February, the HRC noted that persons with disabilities faced major barriers in obtaining and retaining employment and earning adequate income.

The government's Office for Disabled Issues worked to protect and promote the rights of persons with disabilities. In addition, during the year both the HRC and the Mental Health Commission continued to address mental health issues in their antidiscrimination efforts.

National/Racial/Ethnic Minorities.—Pacific Islanders, who made up 6.5 percent of the population, experienced societal discrimination and accounted for approximately 11 percent of prison inmates and 17 percent of those serving community sentences. On July 29, the Department of Corrections launched its Pacific Strategy 2005–08, designed to reduce the crime rate and recidivism among Pacific Islanders through the use of culturally based techniques. Asians, who made up less than 5 percent of the population, also reported discrimination.

Indigenous People.—Approximately 15 percent of the population claimed at least 1 ancestor from the country's indigenous Maori or Moriori minorities. The law prohibits discrimination against the indigenous population; however, there was a continuing pattern of disproportionate numbers of Maori on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households. In November the special rapporteur on human rights and fundamental freedoms from the UN Commission on Human Rights (UNCHR) visited the country at the government's invitation to obtain information on human rights related to treaty settlements, and indigenous economic, social and cultural rights in general. The rapporteur's report to the UNCHR was due in 2006.

On June 23, the coordinating minister for race relations completed a mandated review of government policies and programs to ensure that they were directed at persons in need, without racial bias. Of 49 policies and programs reviewed, the minister recommended changes to 20, and an additional 15 were under further review for possible revision. Recommended changes involved widening program eligibility to include all groups in need and improving program delivery of the desired results.

Maori continued to constitute half the prison population and 17 percent of persons serving community sentences. The government addressed the problem of recidivism among Maori through Maori focus units and special cultural assessments of Maori offenders.

Government policy recognized a special role for indigenous people and their traditional values and customs, including cultural and environmental issues that affected commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous people. A special tribunal established in 1975 continued to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi.

In November 2004 legislation was enacted that regulates ownership of the foreshore (the land between high and low tide) and the seabed. The law grants ownership of the foreshore and seabed to the state and provides for universal public ac-

cess. It also established a mechanism to accommodate customary indigenous rights of land use, including preservation of existing fishing rights. This legislation was the focus of protests by Maori groups asserting customary title to the land and by non-Maori groups opposing such claims. Concerns about the impact of the legislation on Maori customary rights resulted in the 2004 resignation of Labor Party member of Parliament Tariana Turia, who then helped to found the Maori Party (see section 3).

Section 6. Worker Rights

a. The Right of Association.—The law provides workers the right to form and join organizations of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Nearly all unionized workers were members of the Council of Trade Unions, a federation that included unions representing various trades and locations. A few small, independent labor unions also existed. Unions represented approximately 22 percent of all wage earners.

Labor organization was rudimentary in the territory of Tokelau (population 1,500) and in the Freely Associated State of Niue (population 1,700). In the more developed Associated State of the Cook Islands (population 19 thousand), most workers in the public sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of national legislation.

The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. Sworn police officers (which includes all uniformed and plainclothes police but excludes clerical and support staff) are barred from striking or taking any form of industrial action. However, police have freedom of association and the right to organize and to bargain collectively. Disputes that cannot be settled by negotiation between the police association and management are subject to compulsory, final-offer arbitration.

b. The Right to Organize and Bargain Collectively.—The law provides for the right of workers to organize and contract collectively, and workers exercised this right in practice.

The Employment Relations Act governs industrial relations and promotes collective bargaining. In order to bargain collectively, unions must be registered, be governed by democratic rules, be independent, and have at least 15 members. Unions may not bargain collectively on social or political issues.

There were a number of strikes during the year. The Council of Trade Unions reported 31 work stoppages for the year through mid-August. During the 12-month period ending June 30, 41 work stoppages ended and 4 were ongoing.

There are no special laws or exemptions from regular labor laws in export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. Inspection and legal penalties ensured respect for provisions against forced labor. There were no reports of the involuntary detention of women involved in prostitution and no reports that foreign commercial sex workers had their passports held by employers until bonds were repaid.

d. Prohibition of Child Labor and Minimum Age for Employment.—Department of Labor inspectors effectively enforced a ban on the employment of children under the age of 15 in manufacturing, mining, and forestry. Children under age 16 may not work between the hours of 10 p.m. and 6 a.m. By law children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

There were reports of children involved in the commercial sex industry (see section 5).

e. Acceptable Conditions of Work.—A 40-hour workweek is traditional. There are legal limits regarding hours worked. There is premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it was the norm. The law provides for a minimum 3-week annual paid vacation and 11 paid public holidays. The minimum wage was approximately $6.65 (NZ$9.50). Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage generally was adequate to provide a decent standard of living for a worker and family. There was a separate youth minimum wage of approximately $5.32 (NZ$7.60) for younger workers (ages 16 to 17). A majority of the work force earned more than the minimum wage.

Raising the minimum wage was a significant campaign issue during the September general election. Both the New Zealand First and the Green parties concluded agreements with the government to continue annual increases in the min-

imum wage with a target of $8.40 (NZ$12.00) by the end of 2008, economic conditions permitting.

Extensive laws and regulations govern health and safety issues. Employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, as well as ensuring that their actions do not harm others.

Workers have the legal right to strike over health and safety issues, as well as the right to withdraw from a dangerous work situation without jeopardy to continued employment. Department of Labor inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The Department of Labor normally investigated reports of unsafe or unhealthy working conditions within 24 hours of notification.

PALAU

Palau is a constitutional democracy with a population of approximately 20,900. The constitution provides for executive, judicial, and legislative branches. The president, the vice president, and members of the legislature, the Olbiil Era Kelulau, are elected for four-year terms. There are no political parties. In free and fair elections held in November 2004, President Tommy E. Remengesau, Jr. was reelected, and Camsek Chin was elected vice president. The country is organized politically into 16 states. The Council of Chiefs, consisting of the highest traditional chiefs from each state, advises the president on traditional laws and customs. The civilian authorities generally maintained effective control over the security forces.

The government generally respected the human rights of its citizens; however, there were problems in a few areas. The following human rights problems were reported:

- government corruption
- domestic violence
- trafficking in persons
- discrimination and some abuse against foreign workers

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. However, during the year the country's sole prison continued to suffer from overcrowding resulting from increased convictions and mandatory sentences for firearms and drug-related offenses.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The Bureau of Public Safety within the Ministry of Justice has a force of approximately 145 officers and performs both police and emergency response functions. Law enforcement personnel received training both locally and in other countries. The police generally were considered effective. Since 2000 the overall crime rate has fallen, and investigations, prosecutions, and convictions for drug offenses have increased. Police corruption and impunity were not major problems. An internal affairs officer within the bureau investigates reports of police misconduct. There also is a special prosecutor, with authority to investigate reports of misconduct by government employees.

Arrest and Detention.—Warrants for arrests are prepared by the Office of the Attorney General and signed by a judge. The law provides for a prompt judicial determination of the legality of detention, and this was observed in practice. Detainees were informed promptly of the charges against them and had prompt access to family members and lawyers. If a detainee could not afford a lawyer, the public defender or a court-appointed lawyer was available. There was a functioning system of bail.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary consists of the Supreme Court, the Land Court, and the Court of Common Pleas. The constitution also provides for a national court; however, other courts absorbed its caseload and it is inactive. The president appoints judges to the Supreme Court from a list submitted by the Judicial Nominating Commission. Appointments are for life.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The government has an independent special prosecutor and an independent public defender system.

Trials are public and are conducted by judges; there are no juries. Defendants enjoy a presumption of innocence and a right of appeal. They can question witnesses, present evidence on their own behalf, and access government-held evidence in their cases.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. However, in November, under instructions from the Office of the Attorney General, police seized a bag of outbound mail without a court order in connection with a criminal investigation. The mail later was released to the sender and sent to its original destination.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The government required religious organizations to obtain charters as nonprofit organizations from the Office of the Attorney General. This process was not protracted, and the government did not deny any groups charters during the year.

Societal Abuses and Discrimination.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law does not provide for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees.

In November two Burmese men entered the country on visitor permits and requested asylum. Since the country has no law providing for asylum and the two men had no connections to the country, the government decided to return the men to the Philippines, their prior destination before entering Palau. In December both men returned to Manila after the expiration of their visitor permits.

The government coordinated with the Office of the UN High Commissioner for Refugees (UNHCR) in the case of the two Burmese men who requested asylum. There were no other cases during the year involving the issue of cooperation with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The legislature, the Olbiil Era Kelulau, consists of two houses: the 9-member Senate and the 16-member House of Delegates. Legislators are elected by popular vote every four years. The president and vice president also are elected every four years, and there is no limit on the number of their terms, except that the president may serve only two consecutive terms. Although there have been political parties in the past, there were none during the year. In November 2004 President Tommy E. Remengesau, Jr. was reelected, and Camsek Chin was elected vice president.

There are no legal impediments to women's participation in government and politics. Women constituted 14 percent of state government legislators. There were no women in the Olbiil Era Kelulau, and no women served as state governors during the year. There were some women candidates, but no women were elected to office in the 2004 elections. Two of the three associate justices of the Supreme Court were women. A woman served as the bureau director for cultural affairs in the Ministry of Community and Cultural Affairs.

There were 2 members of minorities in the 16-member House of Delegates.

Government Corruption and Transparency.—Government corruption was a problem, which the government took some steps to address. The special prosecutor has authority to investigate allegations of corrupt practices. In June the special prosecutor charged the governor of Ngiwal State with grand larceny, forgery, and other offenses for allegedly diverting at least $25 thousand in state funds to his personal use and for other alleged misconduct. The case was still pending at year's end. In October 2004 an employee of the Koror State government was charged with cashing for his personal use $30 thousand in checks intended for the state government. During the year the employee entered into a plea agreement with the Office of the Attorney General to serve two years in jail and pay a five thousand dollar fine.

The law provides for the right of citizens and noncitizens to examine government documents and observe official deliberations of any government agency, and the government generally respected this provision in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restraint, investigating human rights issues and publishing their findings. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of sex, race, place of origin, language, religion or belief, social status, or clan affiliation, and the government generally observed these provisions.

Women.—The Office of Victims of Crimes under the Ministry of Health reported 54 incidents of violence against women in the 2004 fiscal year (October 1, 2003 to September 30, 2004), an estimated 10 percent increase from the previous 12-month period. Most involved domestic abuse. Alcohol and illegal drug abuse increasingly contributed to this problem. According to the Office of the Attorney General, the Ministry of Health, and women's groups, only a relatively small number of cases are reported to the authorities. Although assault is a criminal offense and the police responded when such cases were reported, women were reluctant to prosecute their spouses. The government conducted public education efforts to combat domestic violence.

The law prohibits rape, including spousal rape, and such crimes were not common. There was one conviction for rape during the year.

Prostitution is illegal; however, it was a problem. There were reports of women being trafficked to the country from the People's Republic of China (PRC), Taiwan, and the Philippines to work in karaoke bars as hostesses and prostitutes (see section 5, Trafficking). There was one conviction for trafficking for prostitution during the year.

Sex tourism is illegal, and it was not a problem. Sexual harassment is illegal and did not appear to be a major problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. There were no reported instances of unequal pay for equal work or sex-related job discrimination.

Since 1993 local women's groups have organized an annual women's conference that focuses on women's and children's issues, including health, education, drug abuse, prostitution, and traditional customs and values. Government officials, including the president, vice president, ministers, and traditional chiefs, have participated in the conference to discuss these issues. The 12th annual women's conference held in March continued its focus on previously discussed issues and problems.

Children.—The government provided a well-funded system of public education and medical care for children. There was no difference in the treatment of girls and boys in educational opportunities or in the availability of scholarships to attend postsecondary education abroad. Education was free, universal, and mandatory from ages 6 to 17. Of the 94 percent of school-age children who attended school, 97 percent finished elementary school, and 78 percent completed high school. Girls and boys received equal treatment in health care services.

The Office of Victims of Crimes reported 21 incidents of child abuse in fiscal year 2004. The Office of the Attorney General has prosecuted such cases successfully. In November a man was sentenced to 10 years in prison for molesting 2 underage girls. Children's rights generally were respected, although there were isolated reports of child neglect. Commercial sexual exploitation of children was neither accepted within society nor practiced.

The annual women's conference held in March included discussion of children's issues, such as education and drug abuse among youth (see section 5, Women).

Trafficking in Persons.—An antitrafficking law adopted in May provides for penalties of up to 25 years' imprisonment and a fine of up to $250 thousand for trafficking involving force, fraud, or deception; penalties of up to 50 years' imprisonment and a fine of up to $500 thousand for trafficking involving a child "by any means for the purpose of exploitation"; and penalties of up to 10 years' imprisonment and a fine of up to $50 thousand for exploiting or otherwise profiting from a trafficked person. There are also laws against slavery, fraud, and prostitution. There have been reports of women and some men being trafficked to the country from the PRC, Taiwan, and the Philippines to work in karaoke bars as hostesses and prostitutes, as domestics in private homes, and on construction sites.

In December a PRC national was convicted under the new antitrafficking law on two counts of exploiting a trafficked person. She recruited two Chinese women ostensibly to work as waitresses, but the women instead were forced into prostitution. The defendant was sentenced to six months in jail, with a possible three-month reduction in the sentence if restitution was paid to the victims. The victims were repatriated to the PRC at their own request.

The Divisions of Immigration and Labor are involved in combating trafficking; however, the government lacked the resources and expertise to address the problem in practice. There was no formalized assistance available for victims, and victims normally were detained, jailed, or deported if they committed a crime such as prostitution. No nongovernmental organizations specifically addressed trafficking.

Persons with Disabilities.—The National Code includes the Disabled Persons' Anti-Discrimination Act and the Programs and Services for Handicapped Children Act, which cover both persons with mental disabilities and persons with physical disabilities, and the government enforced the provisions of these acts. No discrimination was reported against persons with disabilities in employment, education, access to health care, or the provision of other state services. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. The public schools have established special education programs to address problems encountered by persons with disabilities.

National/Racial/Ethnic Minorities.—The law prohibits noncitizens from purchasing land or obtaining citizenship. A majority of citizens viewed negatively the rapid increase over the past several years in foreign workers, who, according to estimates during the year, constituted nearly 30 percent of the population and 69 percent of the work force. Foreign residents were subjected to some forms of discrimination and were targets of petty, and sometimes violent, crimes, as well as other random acts against person and property. Foreign residents made credible complaints that the authorities did not pursue or prosecute crimes against noncitizens with the same vigor as crimes against citizens.

Some foreign nationals experienced generalized discrimination in employment, pay, housing, education, and access to social services, although the law prohibits such discrimination. While precise data was lacking, there continued to be anecdotal reports of the abuse of foreign workers by employers (see section 6.e.).

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of all persons to assemble peacefully and to associate with others for any lawful purpose, including the right to join and organize labor unions. However, there were no active labor unions or other employee organizations; the majority of businesses were small-scale, family-run enterprises employing relatives and friends.

b. The Right to Organize and Bargain Collectively.—There is no law concerning trade union organization or collective bargaining, although there are no legal impediments to either. Wages in the cash economy were determined by market factors.

The law does not provide for the right to strike, and the government has not addressed this issue.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits slavery or involuntary servitude except to punish crime. The law does not prohibit specifically forced or compulsory labor by children; however, there were no reports that such practices occurred.

Some foreign workers, particularly domestic helpers and unskilled laborers, reportedly were forced to accept jobs different from those for which they were recruited. Employers sometimes verbally threatened or withheld passports and return tickets of foreign workers desiring to leave unfavorable work situations.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law states that the government shall protect children from exploitation. There is no minimum age for employment. Children typically were not employed in the wage economy, but some assisted their families with fishing, agriculture, and other small-scale family enterprises. By regulation no foreigner under age 21 may be admitted into the country for employment purposes, and the government enforced this regulation effectively.

e. Acceptable Conditions of Work.—The law sets the minimum wage at $2.50 per hour. (The US dollar is the national currency.) Foreign workers are not included under the minimum wage law. It generally was assumed that legislators specifically exempted foreign contract workers from the minimum wage law to ensure a continued supply of low-cost labor in industries that the legislators often control. The national minimum wage provided a decent standard of living for a worker and family. Anecdotal evidence indicated that unskilled workers for commercial firms (usually foreigners) were paid only $1.50 to $2.00 per hour. However, foreign workers usually were provided, in addition to their wages, basic accommodations and food at no or nominal cost. Although these wages were low, the country continued to attract large numbers of foreign workers from the Philippines and the PRC. During the year there were over 6,500 foreign nationals with work permits in the country; of these, 76 percent were from the Philippines, 13 percent from the PRC, and 11 percent from South and Southeast Asia.

There is no legislation concerning maximum hours of work, although most businesses are closed on either Saturday or Sunday. The Division of Labor has established some regulations regarding conditions of employment for nonresident workers. The division may inspect the conditions of the workplace and employer-provided housing on the specific complaint of the employees, but actual enforcement was sporadic. Working conditions varied in practice. No law specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no law protects workers who file complaints about such conditions.

Reports of mistreatment of foreign workers by their employers continued during the year. The foreign workers most likely to be abused were those who worked under contracts as domestic helpers, farmers, waitresses, beauticians, hostesses in karaoke bars and massage parlors, construction workers, and other semiskilled workers, the majority of whom were from the Philippines, the PRC, and Taiwan. The most commonly reported abuses included misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, substandard food and housing, and at times physical abuse. In a number of instances, local authorities took corrective action when alerted by social service and religious organizations. Nonetheless, foreign workers often were reluctant to seek legal redress for fear of losing their employment and, thus, permission to remain in the country.

PAPUA NEW GUINEA

Papua New Guinea is a federal multiparty parliamentary democracy. The population was approximately 5.9 million, and there were more than 800 indigenous tribes. Citizens elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. The most recent general elections were held in June 2002; there were localized instances of voter intimidation, violence, and influence peddling. A coalition government, led by Prime Minister Michael Somare, was formed following the election. While civilian authorities generally maintained

effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were serious problems in some areas. The following human rights problems were reported:

- arbitrary or unlawful killings by police
- beatings and other abuses by police, including of children
- poor prison conditions
- lengthy pretrial detention
- police infringement of citizens' privacy rights
- government corruption
- violence and discrimination against women, and child abuse
- discrimination against persons with disabilities
- intertribal violence

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, police killed a number of persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. However, public concern about police violence continued. On October 31, police fired into a crowd of students in Enga Province, killing 3 and reportedly injuring at least 20. A police official stated that police were confronted by rock-throwing students when they attempted to arrest the headmaster of Porgera primary school, and, fearing for their safety, opened fire to disperse the crowd. Two officers involved in the shootings were suspended, and the police commissioner opened an investigation into the incident; the investigation was still ongoing at year's end. Early in the year 3 police officers were sentenced to 15 years in jail for shooting a young suspect in late 2004 and throwing him back into his burning home, where he bled to death.

In the past few years, due to the availability of modern weapons, there have been an increasing number of deaths resulting from violent tribal conflicts (see section 5).

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, individual members of the police frequently beat and otherwise abused suspects during arrests, interrogations, and in pretrial detention. There were numerous press accounts of such abuses, particularly against young detainees. In August the minister for internal security revealed that the government paid more than $120 million (352.8 million kina) in damages to victims of police abuse over the past 10 years. In September the nongovernmental organization (NGO) Human Rights Watch (HRW) published a report detailing widespread police abuse of children in custody, including severe beatings and sexual abuse. Following the report's release, the police commissioner stated that since 2002 more than 500 cases of police abuse had been reported and more than 100 police officers had been dismissed as a result.

Although abuses such as citizens being permitted to beat suspects reportedly did not occur during the year, no action was taken against offenders from previous years.

On February 7, persons from a neighboring village reportedly burned down more than 80 houses in Bau village in Madang Province. One person was reported hospitalized and two were reported missing in the incident.

Prison and Detention Center Conditions.—Prison conditions were poor. According to the minister for correctional services, at year's end there were more than 3,300 detainees, of whom approximately 90 percent were male. During most of the year, 15 of the country's 17 jails were operational. The prison system suffered from serious underfunding. During most of the year, prisons closed because of life-threatening conditions remained closed. Some prisons in urban areas were seriously overcrowded. In rural areas infrequent court sessions and bail restrictions for certain crimes exacerbated overcrowding (see section 1.d.).

Male and female inmates usually were housed separately, but some rural prisons lacked separate facilities, and there were reports of assaults on female prisoners. There were no separate facilities for juvenile offenders; however, in some prisons juveniles were provided with separate sleeping quarters. HRW reported that juveniles

routinely were held with adults in police lockups. Pretrial detainees were not separated from convicted prisoners.

Prisoners were often confined in crowded conditions in police stations. Prison guards' living conditions were as poor as those of the prisoners. Prison escapes were common, even from high-security installations. In January 65 prisoners escaped from Bomana Prison near Port Moresby; the following month more than 60 prisoners escaped in 2 separate jailbreaks in the highlands region. In October 33 inmates escaped from Baisu Prison near Mount Hagen; police fatally shot one escapee while attempting to recapture him. Seventeen of the remaining escapees remained at large at year's end.

The government permitted prison visits by human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—A commissioner who reports to the minister for internal security heads the country's national police force, the Royal Papua New Guinea Constabulary. A new commissioner appointed in 2002 replaced much of the police leadership in an effort to address corruption and inefficiency. During the year some police officials were suspended for involvement in corruption or other criminal activity. Police effectiveness was impeded both by a serious lack of resources and by clan rivalries; within the constabulary, clan members often attempted to thwart remedial or disciplinary actions against fellow members of their clan.

Police shootings are investigated by the police department's internal affairs office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police may challenge the coroner's finding in the National Court, with the assistance of the public solicitor's office. Cases of accidental shootings of bystanders by police during police operations are also investigated and reviewed by a coroner's court.

In September 2004 the minister for internal security published a highly critical report on the administration and operation of the police force. Among other problems, the report cited widespread police corruption and abuses, inadequate resources, poor discipline, and lack of accountability, and recommended reforms. The report's publication coincided with the launch of the Australian-sponsored Enhanced Cooperation Program (ECP), under which 210 Australian Federal Police (AFP) officers were sent to work alongside the constabulary to improve police practices. The ECP met with some initial success, but in May the Papua New Guinea Supreme Court ruled that immunity of AFP officers from prosecution in local courts, which had been a condition of the ECP, was unconstitutional. Virtually all AFP officers left the country after the court's decision, but approximately 40 advisers working in ministries and offices remained. At year's end the two governments were engaged in negotiations on a possible scaled-down version of the ECP, which would increase the number of advisers but probably not include AFP police on the streets.

Arrest and Detention.—Under the law, to make an arrest police must have reason to believe that a crime was committed, is in the course of being committed, or will be committed. A warrant is not required, and police made the majority of arrests without one. Citizens may make arrests under the same standards as the police, although this was rare in practice. Police, prosecutors, or citizens may apply to a court for a warrant; however, police normally did so only if they believed it would assist them in carrying out an arrest.

Under the law only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases the police or magistrates may grant bail. Arrested suspects have the right to legal counsel, to be informed of the charges against them, and to have their arrests subjected to judicial review. The government did not always respect these rights in practice. Access to counsel by detainees was not a problem during the year. During the year there were reported instances of politicians directing or bribing police officials to arrest or intimidate individuals seen as political enemies or as possible whistle-blowers on corruption or misuse or theft of public assets.

Due to very limited police and judicial resources and a high crime rate, suspects often were held in pretrial detention for lengthy periods. Although pretrial detention is subject to strict judicial review through continuing pretrial consultations, the slow pace of police investigations and occasional political interference or police corruption frequently delayed cases for months. Additionally, circuit court sittings were infrequent because of a shortage of judges and travel funds. Some detainees have been held in jail for more than two years because of shortages of judges.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The Supreme Court is the final court of appeal and has original jurisdiction on constitutional matters. The National Court hears most cases and appeals from the lower district (provincial) courts. There also are village courts headed by lay persons (generally local chiefs, known as "big-men"), who judge minor offenses under both customary and statutory law.

Trial Procedures.—The legal system is based on British common law. The law provides for due process, including a public trial, and the court system generally enforced these provisions. Judges conduct trials and render verdicts; there are no juries. Defendants have the right to an attorney. The public solicitor's office provides legal counsel for those accused of "serious offenses" who are unable to afford counsel. Serious offenses are defined as charges for which a sentence of two years or more is the norm. Defendants and their attorneys may confront witnesses, present evidence, plead cases, and appeal convictions. The shortage of judges created delays in both the process of trials and the rendering of decisions (see section 1.d.). During the year development aid was provided for some training and education of the judiciary.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, there were instances of abuse. Police raids and searches of illegal squatter settlements and the homes of suspected criminals often were marked by a high level of violence and property destruction. Police units operating in highland regions sometimes used intimidation and destruction of property to suppress tribal fighting (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. All newspapers included a variety of editorial viewpoints and reported on controversial issues. There was no evidence of officially sanctioned government censorship; however, newspaper editors complained of intimidation tactics aimed at influencing coverage.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government often has limited this right in practice. Public demonstrations require police approval and 14 days' notice. In recent years police, asserting a fear of violence from unruly spectators, rarely gave approval. Police reportedly received no requests for such approval during the year. In May several hundred persons held demonstrations outside the Australian High Commission in Port Moresby; while the demonstrators reportedly did not have police approval, the police took no action to disrupt the demonstrations.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. Associations wishing to open a bank account and conduct financial transactions must register with the government. The process of registration was slowed by bureaucratic inefficiency, but there was no policy of denying registration. International affiliation of church and civic groups was permitted freely.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The Department of Education set aside one hour per week for religious instruction in the public schools. Religious representatives taught the lessons, and parents chose the class their children would attend. Children whose parents did not wish them to attend the classes were excused, but there were no classes for members of non-Christian religions.

Societal Abuses and Discrimination.—There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—Although a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not enacted enabling legislation and has not established a system for providing protection to refu-

gees. In practice the government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or 1967 protocol.

During the year the government provided protection for several hundred persons who fled the Indonesian province of Papua (formerly Irian Jaya). Several hundred more lived in informal, unrecognized camps adjacent to the border with Indonesia. A government reservation to the 1951 convention regarding the issuance of travel documents restricted the travel of some persons from the Indonesian province of Papua living in a refugee camp in the western part of the country.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. Any citizen may stand for election. Because of the large number of candidates, some members of Parliament (MPs) have won election with less than 10 percent of the total votes cast.

Elections and Political Participation.—The most recent general election was held in June 2002. Of the 109 seats in Parliament, 77 changed hands. Prime Minister Michael Somare formed a coalition government following the election. Fraud, voter intimidation, theft of ballot boxes, and violence, including rape and murder, marred the election in some parts of the country, and the polls were declared failed in six electoral districts in the Southern Highlands. New elections in those districts, financed by Australia and accompanied by very little violence, were held successfully in April 2003.

The law provides that a losing candidate may dispute an election result by filing a petition with the National Court. Such petitions may question actions of the winning candidate and his supporters or allege malfeasance by the election officials. The procedure is fair, but time consuming and expensive both to initiate and to defend. Following the 2002 election, 83 such petitions were filed against winning candidates. A number of the petitions were successful, and new elections were held in those cases.

In August 2001 the government signed a peace agreement with Bougainville rebels, and in November 2004 a new Bouganville constitution was approved in a referendum. In May legislative and presidential elections for a new Autonomous Bouganville Government (ABG) were held; international observers considered them to be free and fair. Voters elected Joseph Kabui as the first president of the ABG. The UN Observer Mission in Bougainville (UNOMB) closed following the inauguration of President Kabui in June.

The weapons-surrender program mandated in the 2001 Bougainville peace agreement and carried out under UN supervision was declared successful and formally concluded in 2003, but the collection of weapons continued during the first half of the year. Weapons collection ended in June with the closure of the UNOMB.

There is no law limiting political participation by women, but the country's deeply rooted patriarchal traditional culture impeded women's full participation in political life. There was 1 woman in the 109-seat Parliament, compared with 2 in the previous Parliament. She was named minister for welfare and social development, the only cabinet position held by a woman. There were no female Supreme Court justices or provincial governors.

There were five members of minorities (non-Melanesians) in the Parliament. Of these, two were in the cabinet and two were provincial governors.

Government Corruption and Transparency.—Corruption at all levels of government was a serious problem, primarily because clan-related obligations continued to undermine allegiance to constituents or to the country as a whole.

In February a court overturned a December 2004 lower court ruling to dismiss an MP and former minister of public works from office following his November 2004 conviction for failing to account for approximately $578,230 (1.7 million kina) in public funds during his 1992–97 tenure as minister. The MP took his seat in Parliament days after the court's decision, after paying a nominal fine.

In August the leader of the opposition party was arrested and charged with misappropriation of government funds. He was released on bail and continued to sit in Parliament. The investigation into his conduct was ongoing at year's end.

At year's end more than 50 government officials were under investigation by the ombudsman's office.

No law provides for public access to government information. The government published frequent public notices in national newspapers and occasional reports on specific issues facing the government; however, it generally was not responsive to individual requests, including media requests, for access to government information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no official barriers to the formation of human rights groups. The government cooperated with both domestic and international human rights NGOs, but at times was slow in responding to their requests for information. The International and Community Rights Advocacy Forum, an umbrella group, concentrated on human rights and the environment during the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal protection under the law irrespective of race, tribe, place of origin, political opinion, color, creed, religion, or sex. Despite these constitutional and other legal provisions, women often faced discrimination. Geographic diversity prevents any one tribe or clan from dominating the country. Successive governments, based on loose coalitions, have consistently avoided favoring any group. Skirmishes and conflicts tended to be based on disputes between clans over issues such as boundaries, land ownership, and injuries and insults suffered by one clan at the hands of another; they were not ethnically based.

Women.—Violence against women, including domestic violence and gang rape, was a serious and prevalent problem. Domestic violence was common and is a crime. However, since most communities viewed domestic violence as a private matter, few victims pressed charges and prosecutions were rare. Traditional village mores, which served as deterrents, were weakening and were largely absent when youths moved from their village to a larger town or to the capital. Although rape is punishable by imprisonment and sentences were imposed on convicted assailants, few rapists were apprehended. The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecution made the crime difficult to combat. In July several thousand women demonstrated in Kainantu, in the Eastern Highlands, calling for government action to combat the high rate of violent crime in the area, including numerous rapes.

In late 2004 Madang provincial governor James Yali was charged with raping his sister-in-law, a 17-year-old high school student, during the 2004 national governors' conference. On December 13, the National Court found him guilty of rape and remanded him to Beon Jail in Madang until sentencing, scheduled for January 2006.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was still customary, an increasing number of women were charged with the murder of another of their husband's wives. According to one report, 65 percent of women in prison were there for attacking or killing another woman.

Prostitution is illegal; however, the laws were not enforced and the practice was widespread. There were no reports of sex tourism during the year. Sexual harassment is not illegal, and it was a widespread problem.

The laws have provisions for extensive rights for women dealing with family, marriage, and property issues. Some women have achieved senior positions in business, the professions, and the civil service. However, traditional discrimination against women persisted. Many women, even in urban areas, were considered second-class citizens. Village courts tended to impose jail terms on women found guilty of adultery, while penalizing men lightly or not at all. By law a district court must endorse orders for imprisonment before the sentence is imposed, and circuit-riding National Court justices frequently annulled such village court sentences. Polygyny and the custom in many of the country's tribal cultures of paying a bride price tended to reinforce the view that women were property. In addition to the purchase of women as brides, women also sometimes were given as compensation to settle disputes between clans. The courts have ruled that such settlements denied the women their constitutional rights. In May police reported that tribesmen in the Western Highlands were trading young women and girls for guns to use in fights with rival tribes.

According to statistics published in the UN Development Program's 2003 human development report, women continued to lag behind men in literacy and education. Adult literacy was 65 percent; 58 percent of women were literate, compared with 71 percent of men. There were approximately 10 percent fewer girls in primary schools than boys. According to government statistics cited in a UN Children's Fund (UNICEF) report published during the year, the maternal mortality rate was approximately 370 deaths per every 100 thousand live births based on available data for the period 1990–2004.

During the year the Ministry of Community Development was responsible for women's issues and had considerable influence over the government's policy toward women.

Children.—Independent observers generally agreed that the government did not dedicate significant resources to protecting the rights and welfare of children. Religious and secular NGOs operated programs to protect and develop youth and children. In the past, children were well cared for within the family and under traditional clan and village controls; however, small-scale studies indicated that this situation has changed over the last decade, especially in areas where households have become isolated from the extended family support system and depend on the cash economy for a livelihood.

Primary education was not free, compulsory, or universal; substantial fees were charged. According to a UNICEF report published during the year, the primary school enrollment rate was 79 percent for boys and 69 percent for girls based on data for the period 2000–2004. Many children did not progress further. Government-provided free medical care for citizens, including children, was no longer available due to budget cuts and deteriorating infrastructure, particularly in rural areas. Boys and girls had equal access to medical care, but many children did not have effective care. Many villages were geographically isolated, and malnutrition and infant mortality rates were very high. Nearly 70 of every 1,000 children born did not survive their first year.

According to a report prepared by the government and UNICEF, sexual abuse of children was believed to be frequent. There were some cases of commercial sexual exploitation of children in urban areas, including children working in bars and nightclubs. A report by HRW documented numerous instances of police abuse of children (see section 1.c.). Some children were forced to work long hours as domestic servants in private homes, often to repay a family debt to the "host" family.

The legal age for marriage is 18 for boys and 16 for girls.

There is a lower legal marriage age (16 for boys and 14 for girls) with parental and court consent. However, customary and traditional practices allow marriage of children as young as age 12, and child marriage was common in many traditional, isolated rural communities. Child brides frequently were taken as additional wives or given as brides to pay family debts and often were used as domestic servants. Child brides were particularly vulnerable to domestic abuse.

Trafficking in Persons.—Although the law does not prohibit trafficking in persons, there was no evidence that persons were trafficked to, from, or within the country. However, over the last several years, the government investigated allegations of corruption among officials dealing with passport issuance and immigration. These allegations primarily involved the illegal issuance of residence and work permits for Chinese or South Asian nationals migrating to the country. Nevertheless, there was concern that the country may be used as a route for trafficking in persons to Australia.

Persons with Disabilities.—Through the National Board for the Disabled, the government provided funds to a number of NGOs that provided services to persons with disabilities. The government did not provide programs or services directly. Apart from the traditional clan and family system, services and health care for persons with disabilities did not exist in several provinces. No legislation mandates accessibility to buildings. Persons with disabilities faced discrimination in education, training, and employment. Most persons with disabilities did not find training or work outside the family structure. The government provided free consultation and treatment for persons with mental disabilities; however, such services were rarely available outside major cities.

National/Racial/Ethnic Minorities.—Centuries-old animosities among isolated tribes, a persistent cultural tradition of revenge for perceived wrongs, and the lack of police enforcement sometimes resulted in violent tribal conflict in the highland areas. In the last few years the number of deaths resulting from such conflicts has risen due to the availability of modern weapons.

Other Societal Abuses and Discrimination.—The 2004 AIDS/HIV Management and Protection Act makes it illegal to impede the access of any person to goods or services for protection against HIV infection, including relevant medical care and information; prohibits the termination of employees because of AIDS/HIV status; gives the ombudsman and the courts authority to deal with unlawful discrimination against persons with AIDS/HIV; and provides for criminal penalties for intentional transmission of the HIV virus. There were no reports of government discrimination against persons with AIDS/HIV; however, there was a strong societal stigma attached to AIDS/HIV infection, and there were reports that companies have dismissed HIV positive employees after learning of their condition.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form and join labor unions, subject to registration by the Department of Labor and Industrial Relations. The government did not use registration to control unions; however, an unregistered union has no legal standing with the Department of Labor and Industrial Relations or before the courts and thus cannot operate effectively. About half of the approximately 250 thousand wage earners in the formal economy were organized and were members of approximately 50 trade unions. Most unions representing private-sector workers were associated with the Trade Unions Congress. The Public Employees Association represented an estimated 23 thousand persons employed by national, provincial, and municipal governments, or one-third of the public sector work force. The law prohibits antiunion discrimination by employers against union leaders, members, and organizers; however, it was enforced selectively. Unions were independent of the government and of political parties.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to engage in collective bargaining and to join industrial organizations, and workers exercised these rights in practice. Under the law the government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. The International Labor Organization has criticized this law. The Department of Labor and Industrial Relations and the courts are involved in dispute settlement. Wages above the minimum wage are set through negotiations between employers and employees or their respective industrial organizations.

The law provides for the right to strike, although the government can and often does intervene in labor disputes to require arbitration before workers can legally strike. The law prohibits retaliation against strikers; however, it was not always enforced. Employees of some government-owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies. These strikes were brief and ineffective. In December more than four thousand nurses nationwide went on strike after the government failed to respond to a May proposal by the nurses' association for higher pay and other benefits. The government declared the strike illegal; the nurses' association asserted that the strike was legal. The dispute was ongoing at year's end.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law forbids slavery and all forms of forced or compulsory labor, including that performed by children, and there were no reports that such practices occurred in the formal economy. Some children were obliged to work long hours as domestic servants in private homes (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law establishes the minimum working age as 18. However, children between the ages of 11 and 18 may be employed in a family-related business or enterprise provided they have parental permission, a medical clearance, and a work permit from a labor office. This type of employment was rare, except in subsistence agriculture. Some children under 18 were working in bars and nightclubs (see section 5).

e. Acceptable Conditions of Work.—The Minimum Wage Board, a quasi-governmental body with labor and employer representatives, sets minimum wages for the private sector. The national youth wage, for new entrants into the labor force between 16 and 21 years of age, was set at 75 percent of the adult minimum wage. During the year the minimum wage was increased to $12.75 (37.50 kina) per week. Although it is above the national per capita income, the minimum wage did not provide a decent standard of living for a worker and family who lived solely on the cash economy.

The law regulates minimum wage levels, allowances, rest periods, holiday leave, and overtime. Although the Department of Labor and Industrial Relations and the courts attempted to enforce the minimum wage law, enforcement was not effective. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas. The law provides for at least one rest period of 24 consecutive hours every week; however, enforcement was lax. Enforcement of the Industrial Health and Safety Law and related regulations is the responsibility of the Department of Labor and Industrial Relations. The law requires that work sites be inspected on a regular basis; however, due to a shortage of inspectors, inspections took place only when requested by workers or unions. Workers' ability to remove themselves from hazardous working conditions varied by workplace. Unionized workers had some measure of protection in such situations.

The law protects legal foreign workers. The few illegal foreign workers lacked full legal protection.

PHILIPPINES

The Philippines, with a population of 87 million, is a democratic republic with an elected president, an elected bicameral legislature, and a fractious but functioning multiparty system. The May 2004 national elections for president and both houses of congress continued to be a source of contention, and the political opposition called for the president's impeachment alleging election fraud and corruption. Civilian authorities generally maintained effective control of the security forces; however, some elements of the security forces committed human rights abuses.

The government generally respected the human rights of its citizens. However, pervasive weakness in the rule of law, official impunity, and the wide disparity between rich and poor contributed to cynicism about official justice. The constitutionally mandated Commission on Human Rights (CHR) described the Philippine National Police (PNP) as the worst abuser of human rights. The following human rights problems were reported:

- arbitrary, unlawful, and extrajudicial killings by elements of the security services; and political killings, including killings of journalists, by a variety of actors, which often go unpunished
- disappearances
- physical and psychological abuse of suspects and detainees and instances of torture
- arbitrary arrest and detention
- police, prosecutorial, and judicial corruption
- long delays in trials
- harsh prison conditions
- societal discrimination against Muslims
- harassment of some human rights and left-wing political activists by local military and police forces
- violence against women and abuse of children, as well as child prostitution, and trafficking in persons
- child labor, including underage domestic servants
- ineffective implementation and enforcement of worker rights

Violent clashes between government forces and communist insurgents and Islamic terrorists continued, but negotiations with the remaining Muslim separatist movement made progress. The terrorist New People's Army (NPA), the military arm of the long-standing communist insurgency, continued to operate nationwide, and committed numerous human rights violations, including political assassinations, kidnappings, and torture. The terrorist Abu Sayyaf Group (ASG) bombed civilian targets, at times with the suspected involvement of the regional terrorist group Jemmah Islamiyah. Both the NPA and the ASG continued to use children both as soldiers and as noncombatants.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Police forces and antigovernment insurgents committed a number of arbitrary and unlawful killings. The nongovernmental organization (NGO) Task Force Detainees of the Philippines (TFDP) documented the summary execution of 9 individuals by government forces by year's end, compared with 11 in 2004. The CHR investigated 381 complaints of killings between January and September, compared with a total of 307 complaints of killings during 2004. The CHR included killings by antigovernment insurgents in its investigations, although the majority of the cases involved the security forces and local officials. The CHR suspected PNP members in a majority of the human rights violations including deaths that it investigated during the year.

In combating criminal organizations, security forces sometimes resorted to the summary execution of suspects, or "salvaging." Police and military spokesmen explained these killings as the unavoidable result of an exchange of fire with suspects or escapees. The Philippine Alliance of Human Rights Advocates (PAHRA) reported that police used excessive force including summary executions on March 15 while

ending a siege at the Metro Manila district jail that began with an escape attempt (see section 1.c.).

Summary killings by vigilante groups in two major cities increased, and local officials seemed to condone and even encourage them. Through December vigilantes killed some 147 persons in Davao City, Mindanao (compared with 104 killings in 2004), and 104 in Cebu City in the central Visayan region. The cities of Toledo and Carcar on Cebu island also saw apparent extrajudicial killings. Most of the victims were suspected of involvement in criminal activities, and the killings appeared to have popular support. The authorities made no arrests in these cases. A court dismissed two cases filed last year in Davao because the victims' relatives withdrew their complaints. In June the Office of the Ombudsman suspended four police officers in Davao for failing to solve extrajudicial killings in their jurisdiction; however, on July 4, the court of appeals reinstated them.

On March 3 and 13, gunmen killed a leader of the leftist political party Bayan Muna (People First) and a priest of the Aglipayan Church who were involved in supporting a strike by plantation workers in Tarlac Province; officials arrested a suspect in one of these cases. The CHR has not released a final report of its investigation of the November 2004 killing by security forces of seven persons during the strike.

There were no developments in the case of four human rights workers, allegedly killed by the military in February 2004 in Mindoro Oriental and Mindoro Occidental.

There were no developments in the August 2004 killing of human rights activist Jacinto Manahan in Davao. A police investigation did not identify any suspects.

In December 2004 the Department of Justice dismissed the case against members of the Armed Forces of the Philippines (AFP) for the 2003 abduction and killing of two members of a team of human rights advocates in Mindoro Oriental. The CHR also dismissed its inquiry proceedings after the complainants withdrew the case.

In recent years there have been deaths as a result of military hazing. On March 11, a freshman cadet at the Philippine Merchant Marine Academy died after a senior cadet beat him. Police detained two individuals on charges of homicide. There were no developments in the June 2004 case of a PNP cadet who died allegedly from maltreatment during training.

Government forces killed a number of civilians during clashes with antigovernment forces and the ASG and NPA (see section 1.g.).

Killings of community activists, church workers, lawyers, and members of leftist political parties, particularly the left-wing political party Bayan Muna, increased during the year. Through December unidentified assassins, whom Bayan Muna and other leftist groups alleged to be members of the security forces, killed more than 40 activists, at least 20 of whom were members of Bayan Muna. Bayan Muna officials claimed that more than 73 of its leaders and sympathizers have been killed, and about 10 others were still missing since Bayan Muna's entry to the Congress in party-list elections in 2001.

On March 9, a gunman shot and killed Romeo Sanchez, Bayan Muna coordinator for the Ilocos region and a radio broadcaster in Baguio City. The police created a special task force that investigated the killing and identified the gunman; however, at year's end he remained at large.

On March 14, two unidentified men on a motorcycle shot and killed Felidito Dacut, Bayan Muna coordinator for eastern Visayas and a human rights lawyer in Tacloban City. Dacut's family and colleagues alleged that elements of the Eighth Infantry Division of the AFP were involved in the killing. Other activists in the operating area of the Eighth Division also have been shot or attacked in eastern Samar and Leyte.

On May 12, unidentified assailants killed Reverend Edison Lapuz, a member of Bayan Muna and a minister of the United Church of Christ in the Philippines (UCCP), in Tacloban, Leyte. Police made no arrests in the case. On August 20, Bayan Muna activist and UCCP pastor Raul Domingo was shot by armed men in Puerto Princesa, Palawan; he died on September 4. The UCCP reported at least seven other attacks on its members in several regions during the year.

On September 23, a regional trial court judge was killed in her house in Natividad, Pangasinan. Police identified two suspects, but no warrants were issued for their arrest, and the case remained under preliminary investigation. On December 31, two men riding a motorcycle shot and killed a Pasay City regional trial court judge. Trials in the 2004 killings of two judges were underway, and prosecutors filed charges in the third case. Ten cases of the killing of judges remained pending at year's end.

On October 25, unidentified assailants killed Ricardo Ramos, the local leader of the sugar workers' union at the Hacienda Luisita plantation in Tarlac Province. Po-

lice questioned two AFP soldiers about the killing and filed murder charges against the two in mid-November.

Journalists were also targets for murder. During the year 10 journalists were killed, 8 of them in work-related slayings, according to the Criminal Investigation and Detection Group Task Force "Newsmen." On November 29, a court convicted and sentenced to life imprisonment a policeman (who was relieved of duty during the investigation) for the 2002 killing of journalist Edgar Damalerio in Pagadian, the first conviction in the killing of a journalist since 1999 (see section 2.a.). There have been approximately 38 killings of journalists since 1999.

In July 2004 authorities arrested and charged 15 suspected NPA members for the June 2004 killing of the police chief of Angat, Bulacan. There have been no known developments in the case since the arrests.

Unlike the 249 incidents of election-related violence reported by the PNP during the 2004 national elections, no election-related violence occurred during the August 8 elections in the Autonomous Region of Muslim Mindanao (ARMM).

The government continued to hold in jail five Moro Islamic Liberation Front (MILF) members charged with the 2003 Davao airport and seaport bombings. Their trial began in March and was ongoing at year's end.

The terrorist ASG continued to kill civilians in bombings throughout the year (see section 1.g.). The ASG claimed responsibility for one bombing in Manila and two in Mindanao on February 14, which killed 13 civilians. On June 22, a court sentenced seven members of the ASG to death for their role in the 2001 kidnapping and subsequent murder of 12 hostages. Authorities suspected the ASG of bombings in Mindanao during August that injured dozens of civilians.

Communist insurgents, mainly from the NPA, continued to kill political figures, military and police officers, and civilians, including suspected military and police informers. 0n June 13, NPA rebels killed nine soldiers of the 50th Infantry Battalion and injured three others during an ambush in Ilocos Sur.

b. Disappearance.—Local human rights NGOs believed government forces were responsible for disappearances. On July 26, a group of suspected military intelligence agents abducted left-wing political activist Armando Barquillo and his associate Lirio de Castro in Tansa, Cavite Province. Their whereabouts remained unknown as of year's end. At year's end, the domestic NGO Families of Victims of Involuntary Disappearances (FIND) documented seven cases of disappearances involving 21 victims; 6 were found alive, 14 were still missing, and 1 was found dead. The Police Anticrime and Emergency Response Task Force recorded 38 cases of abduction involving 48 victims, of which 28 remained unsolved at year's end. FIND recorded 30 disappearances in 2004; 2 were found dead, 15 later reappeared and said they had been detained in military detention centers, and 13 remained missing. FIND suspected government forces in all 30 cases.

The courts and police failed to address adequately complaints of victims' families concerning past disappearances in which security forces were suspected. The police do not assume that a missing person case involves a crime. Evidence of a kidnapping or killing is required in order for charges to be filed. FIND and Amnesty International's Manila office continued to support the efforts of victims' families to press charges. In most cases, evidence and documentation were unavailable, and convictions were rare. FIND reported that only 15 cases were pending in court at year's end. During the year FIND filed a petition for a writ of habeas corpus against the suspected perpetrators in one case involving four victims, but the court has not yet granted it. Judicial inaction on the vast majority of disappearances contributed to a climate of impunity and undermined public confidence in the justice system.

Efforts to locate three members of Bayan Muna reportedly abducted in Manila in July 2004 by 10 armed men were unsuccessful. FIND claimed the Intelligence Service of the AFP was responsible.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits torture, and evidence obtained through its use is inadmissible in court; however, members of the security forces and police routinely abused and sometimes tortured suspects and detainees. The CHR provides the police with mandatory human rights training, and senior PNP officials appeared receptive to respecting the human rights of detainees; however, rank-and-file awareness of the rights of detainees remained inadequate.

The TFDP stated that torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation reportedly included striking detainees and threatening them with guns. The TFDP reported that arresting officers often carried out such beatings in the early stages of detention.

Within the AFP, the CHR continued to observe greater sensitivity to the need to prevent human rights violations. CHR is required to certify that an officer being

considered for promotion does not have a history of human rights violations (see section 4); however, a negative CHR finding does not preclude promotion. The CHR also vets PNP officers at the senior superintendent level. Nevertheless, abuses still occurred. Human rights activists complained of abuses by security forces against suspected ASG and NPA members in captivity. According to the Moro Human Rights Center, members of the AFP continued to beat ASG suspects.

The TFDP reported 15 cases of torture involving 32 victims during the year.

In April four farmers in Laak, Mindanao, accused the AFP of torturing them as suspected NPA collaborators. The CHR began an investigation of the case but by year's end had not yet released any conclusion.

A man arrested in June by the AFP 65th Infantry Battalion as a suspected NPA leader alleged the use of torture while he was in captivity. A CHR investigation confirmed that the victim had signs of beatings on his back and black marks on his hand from electric shock. The commanding officer of the battalion denied the allegations. No case was filed before the courts.

Prison and Detention Center Conditions.—Prison conditions were rudimentary and sometimes harsh. Provincial jails and prisons were overcrowded, lacked basic infrastructure, and provided prisoners with an inadequate diet. Jails managed by the Bureau of Jail Management and Penology (BJMP) in metropolitan Manila operated at 390 percent of designed-capacity, compared with 323 percent last year. The BJMP had a budget of $40.85 million (P2.25 billion), an increase of 16 percent from the 2004 budget. Administrators budgeted a daily subsistence allowance of about $0.73 (P40) per prisoner, up from 2004. Prison inmates often depended on their families for food because of the insufficient subsistence allowance and the need to bribe guards to receive food rations.

The slow judicial process exacerbated the problem of overcrowding. Some inmates took turns sleeping, and others slept on their feet. Some prison wardens reportedly allowed wives or children to move in with inmates or stay in the prison compound because they could help feed the prisoners. Lack of potable water and poor ventilation continued to cause health problems in jails.

The number of inmates in overcrowded detention centers increased, in part because of the intensified campaign against illegal drugs. As of October there were 62,462 inmates in centers managed by the BJMP nationwide, and 29 thousand inmates in prisons managed by the Bureau of Corrections, compared with 59,225 and 28,530 in 2004.

There were reports of widespread corruption among guards. Guards demanded that prisoners pay to receive food, to use sanitary facilities, and to avoid beatings by other prisoners. Jail administrators reportedly delegated to senior inmates authority to maintain order. The CHR and TFDP reported that beatings by prison guards and other inmates were common but that prisoners, fearing retaliation, refused to lodge complaints. Corruption appeared to be a problem at higher levels of authority within the prison system as well. Favored inmates reportedly enjoyed access to prostitutes and drugs.

There were reports that guards abused prisoners. Women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. Victims often were afraid to report incidents (see section 5). Some detainees at Bureau of Immigration detention centers reportedly gained release by making cash payments to guards.

As of October the BJMP recorded 27 successful prison escapes involving 65 inmates; 34 were recaptured and 31 remained at large. Police blamed the escapes on lenient security and the poor quality of detention facilities. On March 15, inmates at Metro Manila District Jail killed three guards and broke into the prison armory during an escape attempt. After 24 hours, police recaptured the facility, killing 26 inmates (see section 1.a.).

According to regulation, male and female inmates are to be held in separate facilities and, in national prisons, overseen by guards of the same sex; however, there were anecdotal reports that these regulations were not uniformly enforced. In provincial and municipal prisons, male guards sometimes supervised female prisoners directly or indirectly. Although prison authorities attempted to segregate children in some instances, they were held in facilities not fully segregated from adult male inmates (see section 5). Only 232 out of 1,132 jails managed by the BJMP and PNP had separate cells for minors, while 435 jails had separate cells for females. In Bureau of Immigration detention facilities, male and female inmates were segregated by sex, but male guards oversaw both sexes.

International monitoring groups, including the International Committee of the Red Cross, were allowed free access to jails and prisons.

d. Arbitrary Arrest or Detention.—The law requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, in a number of cases, police arrested and detained citizens arbitrarily. At year's end the TFDP documented 37 cases of illegal arrest and detention involving 88 victims, a considerable decline from the 128 cases CHR recorded in 2004.

Role of the Police and Security Apparatus.—The Department of National Defense directs the AFP, which has primary responsibility for counterterrorism and counterinsurgency operations. The Department of Interior and Local Government controls the PNP, which is responsible for enforcement of law and order; however, governors, mayors, and other local officials have considerable influence. The 115 thousand-member PNP has deep-rooted institutional deficiencies dating back to the 1990–91 reorganization that changed it from a constabulary force within the AFP to a national police force. The PNP suffered from a widely-held and accurate public perception that it was corrupt, and the PNP's Internal Affairs Service remained largely ineffective. Members of the PNP were regularly accused of torture, of soliciting bribes, and of other illegal acts committed with impunity. However, efforts were underway to reform the institution. From January to December, the PNP Directorate for Investigation and Detective Management dismissed 197 policemen. Of the 4,670 administrative cases filed against PNP officers and personnel, 2,344 were resolved, 1,288 remained under preliminary investigation, and 1,038 underwent summary hearings.

Arrest and Detention.—Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence or death (when evidence is strong), the right to bail; however, only 6.5 percent of detainees were able to post bail. Authorities are required to file charges within 12 to 36 hours of arrests made without warrants, with the time given to file charges increasing with the seriousness of the crime. Lengthy pretrial detention remained a problem (see section 1.e.), but during the 26 months from June 2003 to August 31, the courts released 2,087 detainees who had been in jail longer than the maximum prison term they would have served if convicted.

Various human rights NGOs maintained lists of incarcerated persons they alleged to be political prisoners; estimates usually ranged from a few to over 250. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons on these lists had not been convicted (see section 1.e.).

The NPA, as well as some Islamic separatist groups, were responsible for a number of arbitrary detentions, often in connection with informal courts set up to try military personnel, police, local politicians, and other persons for "crimes against the people" (see section 1.e.).

Amnesty.—There were no amnesties during the year. After the National Democratic Front (NDF), the political arm of the Communist Party, announced in July that it would withdraw from peace talks, the government suspended—but later reinstated—security and immunity from arrest guarantees for 97 NDF members who had been involved in negotiations. The government suspended these guarantees again on October 5, citing aggressive NPA activities and a lack of progress in the peace talks.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties and sometimes venality resulted in impunity for some wealthy and influential offenders and widespread skepticism that the judicial process could ensure due process and equal justice. The Supreme Court continued efforts to ensure speedier trials and to sanction judicial malfeasance, and is in the midst of a five-year program to increase judicial branch efficiency and raise public confidence in the judiciary.

During the year, two judges were killed, but the motives for the killings were unclear (see section 1.a.).

The national court system consists of four levels: local and regional trial courts; a national court of appeals divided into seventeen divisions; a 15-member supreme court; and an informal local system for arbitrating or mediating certain disputes outside the formal court system. The *Sandiganbayan*, the government's anticorruption court, hears criminal cases brought against senior officials. A Shari'a (Islamic law) court system, with jurisdiction over domestic and contractual relations among Muslim citizens, operates in some Mindanao provinces.

Trial Procedures.—The law provides that those accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial before a judge. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, but

poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the Public Attorney's Office (PAO), but their workload was large and resources were scarce. The PAO provides legal representation for all indigent litigants at trial; however, during arraignment, courts may at their option appoint any lawyer present in the courtroom to provide counsel to the accused.

According to the law, cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for the Court of Appeals; and 3 months for lower courts. However, these time limits are not mandatory, and, in effect, there are no time limits for trials.

Lengthy pretrial detention remained a problem. In May the UN Development Program (UNDP) and the Supreme Court released a study that found that the average trial takes over three years. Trials take place in short sessions over time and as witnesses become available, these non-continuous sessions created lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Judgeship vacancy rates were high; of the total 2,153 trial court judgeships (including Shari'a courts), 684 or 31 percent were vacant, a small decline from 2004. Courts in Mindanao and other poorer provinces had higher vacancy rates than the national average. Shari'a court positions were particularly difficult to fill because of the requirement that applicants be members of both the Shari'a Bar and the Integrated Bar. All 5 Shari'a district court judgeships, and 41 percent of circuit court judgeships, remained vacant. Shari'a courts do not have criminal jurisdiction.

The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for "crimes against the people." The NPA executed some of these "defendants." The MILF also maintained similar "people's courts."

On January 12, NPA gunmen shot and killed a retired police colonel in Lucena City, Quezon Province. The NPA said its "people's court" meted out the death penalty to the retired officer for grave crimes and human rights violations committed during the 1970s and 1980s.

International and domestic NGOs criticized many court proceedings that resulted in death sentences, stating that the judicial system did not ensure due process and legal representation. At times defendants in death penalty cases lacked adequate legal representation at the time of arrest, indictment, or trial. By law the Supreme Court reviews all death sentences. No executions have been carried out since the president lifted a three-year moratorium on the application of the death sentence in 2003. On February 21, the President granted a 90-day reprieve to 14 death row convicts and then again on April 21 to an additional 21 death row convicts. At the expiration of the 90-day reprieves, although no further announcements were made, the prisoners were not executed.

Political Prisoners.—Various human rights NGOs maintained lists of incarcerated persons they alleged to be political prisoners. In November the TFDP said that there were 252 political prisoners. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons listed have not been convicted. Some NGOs asserted that it was frequent practice to make politically motivated arrests of persons for common crimes and to continue to detain them after their sentences expired. The government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it did not consider the persons listed to be political detainees or prisoners.

Unlike in 2004, the government did not release any persons whom NGOs claimed were political prisoners.

The government permitted access to alleged political prisoners by international humanitarian organizations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides that a judge may issue search warrants on a finding of probable cause; however, while the government generally respected restrictions on search and seizure within private homes, searches without warrants occurred. Judges declared evidence obtained illegally to be inadmissible.

The government generally respected the privacy of its citizens; however, leaders of communist organizations complained of what they described as a pattern of surveillance of their activities.

Forced resettlement of urban squatters, who made up at least 30 percent of the urban population, continued during the year. The TFDP documented one case of alleged illegal demolition of squatters' homes in Metro Manila, affecting more than 20 thousand persons. The law provides certain protections for squatters; eviction was often difficult, especially because politicians recognized squatters' voting power. Government relocation efforts were constrained by budget problems, and the issuance of land titles to squatters targeted by displacement was limited.

Unlike in past years, there were no reports that paramilitary units linked to the AFP used forced conscription of indigenous peoples.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Some citizen groups complained that the AFP, in confronting the terrorist ASG and NPA, illegally detained citizens, torched houses, displaced residents, and shelled villages. The AFP defended its actions (see sections 1.a., 1.d., and 2.d.). In February a Moro rights advocate, his wife, and son were killed in Sulu, allegedly by members of the AFP conducting counterinsurgency operations. In retaliation for this and other alleged military abuses, a Moro National Liberation Front (MNLF) splinter group and ASG elements attacked government forces in Sulu, setting off several weeks of intense fighting in the region that displaced at least 26 thousand civilians (see section 2.d.).

NGOs also accused the police of wrongful detention, excessive force, and extrajudicial killings (see section 1.c.). In January members of a Muslim police unit raided the Islamic Information Center in Manila and detained 17 suspected Islamic militants, including 3 women. Police asserted the group was planning to bomb the Catholic celebration of the feast of the Black Nazarene. However, police released 15 of the suspects shortly after their arrest, due to lack of evidence.

During an attempted jailbreak at the Metro Manila District Jail on March 15, 26 prisoners, most alleged to be ASG members, 3 jail guards, and 1 police officer died. PAHRA claimed that police used excessive force including summary executions in ending the siege.

There were no reported developments with regard to the February 2004 extrajudicial killings in the Western Police District of Metro Manila, the March 2004 killing of three civilians caught in a crossfire between PNP and NPA elements, the 2004 killing of two teenage boys in Catarman, Northern Samar, and the April 2004 wounding of two minors by National Antikidnapping Task Force personnel.

On January 3, the three-year-old daughter of a government militiaman was killed when the NPA attacked a military camp in Rizal Province.

The ASG bombed multiple targets, killing and wounding civilians. Throughout the year, clashes between the AFP and ASG, mostly in the Zamboanga peninsula and Sulu archipelago, contributed to the displacement of civilians.

During the year the NPA killed political activists, mayors, other civilians, and military and police personnel. The NPA also harassed businesses and burned buses to enforce the collection of "revolutionary taxes." The AFP reported that the NPA killed 40 civilians and 80 AFP and PNP personnel from January through August. The NPA continued actively to recruit minors both as combatants and noncombatants (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The government owned several television and radio stations; however, most print and electronic media were privately owned. The media were active and expressed a wide variety of views without restriction. Broadcast and print media were freewheeling and often criticized for lacking rigorous journalistic ethics. They tended to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom were close associates of present or past high-level officials. Special interests often used bribes and other inducements to solicit one-sided and erroneous reports and commentaries that supported their positions.

Journalists continued to be targets for murder. By year's end 10 journalists were killed, according to the National Union of Journalists of the Philippines. The Criminal Investigation and Detection Group Task Force "Newsmen" classified eight of these cases as work-related slayings. According to the task force, 7 of more than 60 cases of journalist killings since 1986 resulted in convictions. In 2004 the International Federation of Journalists recorded 13 killings of journalists.

Human rights NGOs frequently criticized the government for failing to protect journalists. The National Union of Journalists accused the police and the government of failing adequately to investigate these killings and of subjecting journalists to harassment and surveillance. In some situations, it was difficult to discern if violence against journalists was carried out in retribution for their profession or if these journalists were the victims of random crime. According to a study released by the Center for Media Freedom and Responsibility (CMFR) on September 6, most of the slain journalists were not professionally trained as journalists or formally accredited to any national media organization. CMFR listed 54 journalists killed since democracy was restored in 1986.

On March 24, a gunman accompanied by three accomplices shot Marlene Esperat, a columnist for a newspaper in Tacurong City, Mindanao. Esperat was an antigraft crusader and had filed a number of cases against local and national government offi-

cials before the national Ombudsman. The police arrested and filed charges against four suspects, including a military intelligence agent. The police also filed charges against two officials of the Department of Agriculture regional office in Mindanao, but the Department of Justice recalled the arrest warrants issued by the trial court while charges were being reviewed.

On May 10, three gunmen killed Philip Agustin, editor of a local newspaper in Dingalan, Aurora Province. Agustin's family accused the Dingalan mayor of being behind the killing. Agustin had criticized the mayor's use of municipal funds. On May 14, National Bureau of Intelligence agents arrested a suspect and filed murder charges against him; his trial was on-going at year's end. Two other suspects remained at large.

In August a wreath meant for the dead was sent anonymously to a news magazine editor, who had been writing about alleged military participation in election fraud.

In November 2004 a case was filed against four suspects, including a police officer, for the July 2004 murder of Ilocos Norte radio commentator Roger Mariano. At year's end the suspects had not yet been arraigned.

In January the national Ombudsman dismissed the charges against the *barangay* (neighborhood) chairman suspected of involvement in the August 2004 murder of a newspaper writer in Batangas for lack of evidence. Charges remained in effect against the chairman's nephew and another suspect, both of whom remained at large.

There were no developments in the August 2004 attempted murder of Mindanao-based radio commentator Edward Balida.

The former policeman accused of killing journalist Edgar Demalerio in Western Mindanao in 2002 was convicted of murder and sentenced to life imprisonment on November 29. By year's end this was the only conviction in any of the cases of journalists killed since 1999.

The government did not restrict Internet use.

In June the intelligence service of the AFP released a presentation, "Know Your Enemy," listing some press unions and student organizations as "enemies of the state" or communist fronts. The government did not otherwise interfere with academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly, and the government generally respected this right in practice. Although the law requires that groups request a permit to hold a rally, the government at times followed an unwritten policy of allowing rallies to occur without requiring the filing of a request.

On June 24, police stopped about eight thousand protesters demanding the resignation of President Arroyo from proceeding toward a landmark in Manila because they did not have a permit to demonstrate. The mayor of Manila did not issue a permit to the opposition group, forcing them to assemble at the boundary of Manila and Quezon City.

On September 21, President Arroyo declared that the police and armed forces would no longer exercise "maximum tolerance" in dealing with protestors. The presidential palace subsequently explained that it was urging municipalities to enforce strictly the requirements that protests be staged in designated areas and only with government permits. In practice there did not appear to be any notable change in the way the authorities dealt with demonstrators.

In November 2004 police fired into a crowd of striking sugar plantation workers, killing an estimated 12 and wounding more than 100 (see section 1.a.).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. Although Christianity, particularly Roman Catholicism, was the predominant religion, there is no state religion, and church and state are legally separate.

The government's campaign against the terrorist ASG has led some human rights NGOs to accuse the police and military of unfairly targeting Muslims for arrest and detention. However, most observers believed that discrimination against Muslims was grounded in cultural differences, not religious beliefs or practices. There also were reports of Muslim discrimination against Christians in areas where Muslims were the majority.

Intermittent government efforts to integrate Muslims into political and economic society have achieved only limited success. Many Muslims claimed that they continued to be underrepresented in senior civilian and military positions and cited the lack of proportional Muslim representation in national government institutions (see section 3). Predominantly Muslim provinces in Mindanao lagged far behind the rest of the country in most aspects of socioeconomic development. Poverty levels in the

ARMM were almost twice as high as the national average, with per capita income of $285 (P15,760) per year.

The teaching of religious classes in public schools was permitted with the written consent of parents, provided that there was no cost to the government. The Department of Education required schools to ensure the protection of the religious rights of students. These measures included allowing Muslim girls to wear their head coverings (*hijab*) and not requiring them to wear shorts during physical education classes.

The Commission on Higher Education, which oversees higher education, offered study grants for some former Muslim separatists who could not afford college. The program aimed to contribute to peace and order by upgrading the education of these individuals.

In August the government began implementation of a curriculum designed to integrate madrassas into the national education system. Several private madrassas began training educators to teach math, science, English, and Filipino, in addition to religious subjects. In addition, public elementary schools that have at least 25 Muslim students will be required to begin offering Arabic language and Islamic values classes. The Department of Education estimated that approximately 100 thousand students attended more than 2 thousand madrassas nationwide. To date, 1,140 madrassas seeking financial assistance from local and foreign donors were registered with the Office on Muslim Affairs, while only 40 were registered with the Department of Education.

Societal Abuses and Discrimination.—Muslims were the largest minority religious group. Estimates of the size of the Muslim population ranged from 3.9 million to 7 million, or 5 to 9 percent of the population. Muslims resided principally in Mindanao and nearby islands, but there were Muslim communities throughout the country.

Historically, the Christian majority marginalized Muslims. The national culture, with its emphasis on familial, tribal, and regional loyalties, creates informal barriers whereby access to jobs or resources is provided first to those of one's own family or group network. Muslims reported difficulty renting rooms or being hired for retail work if they used their real names or wore distinctive Muslim dress. As a result, some Muslims used Christian pseudonyms and did not wear distinctive dress when applying for housing or jobs.

An estimated four hundred to one thousand Jews lived in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Travel abroad was limited only in rare circumstances, such as when a citizen has a pending court case. Government authorities discouraged travel by vulnerable workers to areas in which they face personal risk (see section 5).

The government retained its ban on travel to Iraq to work. The Philippine Overseas Employment Administration (POEA) sought to limit departures for work abroad to persons the POEA certified as qualified for the jobs. More than 8.02 million citizens worked overseas and remitted money home. Such remittances accounted for approximately 11 percent of the gross national product.

Forced exile is illegal, and the government did not use it.

Internally Displaced Persons (IDPs).—Continuing clashes between the AFP and the NPA, ASG, and a breakaway group of the MNLF displaced thousands of persons. According to the Department of Social Welfare and Development (DSWD), 143,487 persons were displaced in central Mindanao and the ARMM at year's end, mostly due to armed conflict. Since 2004 DSWD has established 707 shelter units to resettle IDPs in the area. Other agencies, including UNDP, the Mindanao Emergency Relief Network, and the Red Cross provided food and essential items such as medicine, blankets, mosquito nets, and soap to IDPs.

Protection of Refugees.—The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, there is no comprehensive legislation that provides for granting refugee status or asylum. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The refugee unit in the Department of Justice determined which asylum seekers qualify as refugees; such determinations in practice implemented many of the basic provisions of the 1951 convention. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations

in assisting refugees. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or its 1967 protocol and provided it to approximately two thousand persons during the year.

The government allowed approximately two thousand asylum seekers from Vietnam to remain in the country although none had been found to be refugees under the UNHCR-administered Comprehensive Plan of Action in the 1990s. The majority of this group was being processed for resettlement in the United States. An estimated 400 persons who married Philippine citizens remained in legal limbo: ineligible for resettlement in other countries and not granted permanent asylum.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections that largely were free and fair and held on the basis of universal suffrage.

Elections and Political Participation.—There were no reported incidents of election-related violence during August 8 elections in the ARMM. Election-related violence during the 2004 national election was a serious problem (see section 1.a.).

In May 2004 national elections were held for president, senators, representatives, provincial governors, and local government officials. Voter turnout was high, with approximately 74 percent of eligible voters participating; however, voting was marred by numerous irregularities. From April to July 2004, an election monitoring survey conducted by a consortium of three international NGOs concluded that an antiquated voting system, system error, and improper management of registration databases disenfranchised thousands of voters. Widespread reports indicated that local politicians and their supporters engaged in vote buying and that conditions did not ensure that balloting was secret. Observers also received reports of NPA activists imposing "permission to campaign" fees on local candidates.

During the year allegations intensified that President Arroyo, with the assistance of Commission on Elections officials, had manipulated the vote.

Multiple political parties were able to present candidates for office, raise funds, and mobilize voters. However, parties tended to be personality driven; dynastic and family influences were strong, and issues generally were less important. Campaign financing, antidynasty, and other political party laws and provisions often were not observed.

The 2004 election marked the first time that overseas Filipinos were able to vote. Only 230 thousand of 354 thousand registered overseas voters, or 65 percent, actually voted, a small portion of the estimated 8.67 million Filipinos working overseas. The low rate of registration was attributed to lack of information about the procedures, inaccessible registration centers, strict employers who did not allow overseas workers to take a day off, and the requirement that voters execute an affidavit to return to the country to reside within three years.

The Commission on Elections did not allow first-time voters among squatters in communities of the urban poor to register for the elections unless they could prove that they were bona fide residents of their locale. NGOs estimated that this registration residence requirement deprived one million squatters of the right to vote. Among those who did register, vote buying was common and many residents accepted bribes to vote in a certain way or to act as "flying voters," voting in several precincts.

There were no restrictions in law or practice on participation by women and members of minorities in politics. Many women, including the president, held positions of leadership and authority. There were 4 women in the 24-seat Senate and 37 women in the 236-seat House of Representatives. There were 3 women in the 23-member Cabinet, 5 female associate justices on the 15-member Supreme Court, and 14 female governors.

Along with many other citizens, Muslims argued that electing senators from a nationwide list favored established political figures from the Manila area, to the disadvantage of Muslims. Election of senators by region would require a constitutional amendment, and many Muslims and members of other groups underrepresented in the national legislature favored such an amendment. There were no Muslim cabinet members and no Muslim senators. There were 12 Muslim members in the 236-seat House of Representatives, including some elected from Christian majority districts.

Government Corruption and Transparency.—A justifiable public perception of corruption in the judicial, executive, and legislative branches remained high. Both the government and the private sector have established a number of anticorruption bodies including an Ombudsman's Office and an anticorruption court. Cases were opened against high-ranking military officers and against officials in the Department of Public Works and Highways, the Bureau of Customs, and the Department

of Transportation and Communication. Nonetheless, the perception remains of a "very high" and "steady" level of corruption in public agencies.

The law provides for a right to information on matters of public concern, and the Supreme Court has affirmed this provision. However, denial of such information often occurred when the information related to an anomaly or irregularity in government transactions. Much government information was not available electronically and was difficult to retrieve.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A large and active group of human rights NGOs generally operated without government interference, investigating and publishing their findings on human rights cases. Most government officials were responsive to NGO views. Many domestic NGOs were critical of the government's human rights record. While acknowledging that respect for human rights has improved under President Arroyo, many NGOs criticized the government for being overzealous in its efforts to defeat the various insurgencies in the country. These groups cited indiscriminate arrests, torture of suspects, and the shelling of civilian areas the AFP suspected of harboring insurgents.

Some NGOs expressed concern over what they perceived as hostile government rhetoric toward human rights activists. NGOs also expressed concerns over statements by local government officials that condoned extrajudicial killings as an acceptable means to fight crime. Human rights activists were the victims of apparent extrajudicial killings (see section 1.a.).

On June 16, two unidentified assailants shot and wounded a board member of the TFDP in Tacloban City, Leyte. Officials of the TFDP accused members of the Eighth Infantry Division in eastern Visayas of the attack.

Member organizations of the Philippine Alliance of Human Rights Advocates, a leading NGO network, monitored human rights problems and sought redress through their contacts with government agencies, the Congress, and the CHR. Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from the area in which incidents under investigation took place.

The CHR is an independent agency mandated to protect and promote human rights. It is empowered to investigate all human rights violations and to monitor the government's compliance with international human rights treaty obligations. The CHR has nonbinding authority to clear on military promotions. The commission has a chairperson and four members. CHR monitoring and investigating continued to be hamstrung by insufficient resources. Approximately one-third of the country's 42 thousand barangays had Human Rights Action Centers, which coordinated with CHR regional offices; however, the CHR's regional and subregional offices remained understaffed and underfunded. The CHR budget for the year was $3.59 million (P197.38 million), down 6 percent in peso value from 2004.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

Women.—Violence against women, both in and out of the home, remained a serious problem. The 2004 Anti-Violence Against Women and their Children Act criminalized physical, sexual, and psychological harm or abuse to women and their children committed by their spouses or partners. During the year the PNP reported 818 cases under the new law and 2,015 other cases of wife battering and physical injuries under older laws. This number likely underreported significantly the level of violence against women in the country. A 2003 survey by the NGO Social Weather Station found that 12 percent of men admitted having physically harmed women (39 percent of these respondents indicated violence against their wife, 15 percent against their girlfriend, and 4 percent against their partner). Women in the same survey cited the following reasons for not reporting violence: embarrassment; not knowing how or to whom to report; belief that nothing would be done; and believing it was too small of a thing.

The PNP and DSWD both maintained women's help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Approximately 7 to 8 percent of PNP officers were women.

Rape continued to be a serious problem. During the year the PNP reported 784 rape cases. There were reports of rape and sexual abuse of women in police or pro-

tective custody—often women from marginalized groups, such as suspected prostitutes, drug users, and lower income individuals arrested for minor crimes.

The law provides for the death penalty in cases of rape, and as of year's end there were a total of 968 prison inmates who had been sentenced to death for this crime. Spousal rape and abuse are also illegal, but enforcement was ineffective. Some NGOs argued that courts' imposition of death sentences for rape convictions inhibited some victims, particularly relatives of the accused, from pressing charges.

Prostitution is illegal but was a widespread problem. Many women suffered exposure to violence through their recruitment, often through deception, into prostitution (see section 5, Trafficking). Penalties for prostitution are light, but detained prostitutes were subjected to administrative indignities and extortion. The DSWD continued to provide temporary shelter and counseling to women engaged in prostitution. This helped only a small percentage of victims. From January to September, DSWD provided temporary shelter and counseling to 108 women who were victims of involuntary prostitution. Some local officials condoned a climate of impunity for those who exploited prostitutes. There were no convictions under the provision of the law criminalizing the act of engaging the services of a prostitute.

Sex tourism and trafficking in persons for sexual exploitation and forced labor were serious problems. A 2003 antitrafficking law outlawed a number of activities specifically related to trafficking and provided stiff penalties for convicted offenders (see section 5, Trafficking).

The law prohibits sexual harassment. However, sexual harassment in the workplace was thought to be widespread and underreported due to victims' fear of losing their jobs. Female employees in special economic zones (SEZs) were particularly at risk; most were economic migrants who had no independent workers' organization to assist with filing complaints. Women in the retail industry worked on three- to five-month contracts and were reluctant to report sexual harassment for fear their contracts would not be renewed.

The law does not provide for divorce, although the courts generally recognize the legality of divorces obtained in other countries if one of the parties is a foreign national. The government recognizes religious annulment, but the process can be costly, which precludes annulment as an option for many women. Many lower-income couples simply separated informally without severing their marital ties. The family code provides that in child custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of seven are placed in the care of the mother unless there is a court order to the contrary. Children over the age of seven normally also remained with the mother, although the father could dispute custody through the courts.

In law, but not always in practice, women have most of the rights and protections accorded to men. Women continued to face some discrimination in employment, despite the fact that more women than men entered secondary and higher education. Unemployment rates for women remained higher than for men.

The National Commission on the Role of Filipino Women, composed of 10 government officials and 13 NGO leaders appointed by the president, acted as an oversight body whose goal is to press for effective implementation of programs benefiting women.

Children.—The government devoted considerable resources to the education, welfare, and development of children. The Department of Education (DOE) had the largest budget of any cabinet department: 12.3 percent of the national budget. Nevertheless, children faced serious problems.

Elementary and secondary education is free and is compulsory through age 11, but the quality of education remained poor due in part to inadequate resources. During the year, according to DOE figures, the estimated annual per pupil expenditure for basic education was $106 (P5,729). The DOE received a budget of $2.04 billion (P112.04 billion) for the year. The public school enrollment rate for 2004–05 was 76 percent, down from 94 percent for the 2002–03 school year. According to UN Children's Fund (UNICEF) statistics, girls and boys attend school in approximately equal numbers.

According to government reports, 68.3 percent of children were well nourished, and 64 percent were fully immunized. The child mortality rate was 36 out of 1,000 children under age five. Most of the malnourished children were in villages in Maguindanao, Lanao del Sur, and Tawi-Tawi provinces. According to UNICEF data from 1995 to 2003, 31 percent of children under age five were moderately or severely underweight.

Child abuse remained a problem. DSWD offices served 6,904 victims of child abuse from January to September, of whom 69 percent were girls. Approximately 50 percent of the girls were victims of sexual abuse, while 4 percent (199 girls) were victims of sexual exploitation. The majority of the boys had been abandoned or ne-

glected. Several cities ran crisis centers for abused women and children. The problem of foreign pedophiles continued, and the government continued to prosecute accused pedophiles. Children also were victims of police abuse while in detention for committing minor crimes. In March the University of the Philippines Center for Integrative and Development Studies released a report highlighting child pornography as a significant problem in the country.

Child prostitution continued to be a serious problem (see section 5, Trafficking). During the year the Department of Labor and Employment (DOLE) ordered the closure of at least one establishment for allegedly prostituting minors. The trial was on-going at year's end.

Children were targeted for recruitment as combatants and noncombatants by the NPA and ASG. There were an estimated two thousand child soldiers in the country. By mid-year an International Labor Organization (ILO)-led program demobilized and reintegrated into society three hundred children. The NPA claimed that it assigned persons 15 to 18 years of age to self-defense and noncombatant duties; however, there were reports that the NPA continued to use minors in combat. In a July 2004 report the Council for Welfare of Children estimated that children constituted between 13 to 18 percent of armed rebel combatants. In the last several years, the AFP on numerous occasions captured or killed NPA fighters who turned out to be minors.

The ASG also recruited teenagers to fight and participate in its activities. There were reports that a significant number of ASG members staffing the groups' camps were teenagers. The AFP stated that some Islamic schools in Mindanao served as fronts to indoctrinate children and that the ASG used children as couriers and spies.

According to UNICEF and ILO studies, approximately 2.4 million children were exposed to hazardous working environments, such as in quarries, mines, and at docksides (see section 6.d.). Since 1995, only four persons have been convicted of violating the child labor law.

The government estimated that there were at least 22 thousand street children nationwide. UNICEF estimated that there were approximately 250 thousand street children. Welfare officials believed that the number increased as a result of widespread unemployment in rural areas. Many street children appeared to be abandoned and engaged in scavenging or begging.

A variety of national executive orders and laws provide for the welfare and protection of children. Police stations have child and youth relations officers to ensure that child suspects are treated appropriately. However, the procedural safeguards were often ignored in practice. According to UNICEF, approximately 28 children were arrested every day. The BJMP stated that approximately 1,700 minors were in jail; at least 7 had been sentenced to death, while 21 were serving life sentences. Many child suspects were detained for extended periods without access to social workers and lawyers, and were not segregated from adult criminals. NGOs said that children held in integrated conditions with adults were highly vulnerable to sexual abuse, recruitment into gangs, forced labor, torture, and other ill treatment. There were also reports that many children detained in jails appeared to have been arrested without warrants.

In April Justice Secretary Raul Gonzalez ordered a nationwide review of cases of juvenile offenders. During the year government agencies and NGOs worked to segregate juvenile offenders, secure the release of minors wrongfully imprisoned, and transfer others to rehabilitation centers. DSWD ran 11 regional youth rehabilitation centers for children in conflict with the law. There were three detention centers for children in Manila.

A number of NGOs actively promoted children's rights.

Trafficking in Persons.—Trafficking in persons is prohibited under a comprehensive 2003 antitrafficking law, which defines several activities related to trafficking as illegal and imposes stiff penalties—up to life imprisonment—for convicted offenders. Nonetheless, trafficking remained a problem in the country. During the year, five persons were convicted and sentenced to life imprisonment under the antitrafficking law; three other convicted persons received light sentences as a result of plea bargains.

Although the government investigated trafficking-related cases under the new law as well as old laws, its efforts were hampered by resource constraints. In January the Department of Justice assigned an additional 10 prosecutors to handle the preliminary investigation and prosecution of trafficking cases at the national level, bringing the total to 14, in addition to other prosecutors in the regional trial courts. The principal investigative agencies were the National Bureau of Intelligence, the Bureau of Immigration, and the PNP's Criminal Investigation and Detection Group. The government cooperated with international investigations of trafficking.

The country was a source, transit, and destination country for internationally trafficked persons. Internal trafficking was also a problem. NGOs and government agencies estimated that from 300 to 400 thousand women and from 60 to 100 thousand children were trafficked annually. The most serious problem appeared to be the trafficking of women across international borders for purposes of sexual exploitation. Organized criminal gangs typically trafficked persons from China through the country to other destinations, although occasionally the country was the final destination.

On June 2, the NGO International Justice Mission filed trafficking charges against a police officer, the first public official to be charged under the antitrafficking law. In July DOLE ordered the permanent closure of a bar owned by the police officer.

In August Malaysian authorities rescued and expatriated four Filipino women who were allegedly victims of trafficking. The four were recruited in Davao del Norte Province to work as entertainers in Brunei but were taken instead to Malaysia. A case was filed under the antitrafficking law against the suspected traffickers at the municipal court in Carmen, Davao Del Norte. An arrest warrant was issued but the accused managed to elude arrest.

Both adults and children were trafficked domestically from poor, rural areas in the southern and central parts of the country to major urban centers, especially Metro Manila and Cebu, but also increasingly to cities in Mindanao. A significant percentage of the victims of internal trafficking were from Mindanao and were fleeing the poverty and violence in their home areas. Approximately 75 percent of the trafficking victims provided with temporary shelter and counseling by the NGO Visayan Forum Foundation were from Mindanao. The Visayan islands were also a source of trafficking victims. Women and girls were far more at risk of becoming victims of trafficking than men and boys.

The Virlanie Foundation, a local child protection NGO, estimated that there were at least 20 thousand child prostitutes in the country, most in the Metro Manila area. Other NGOs estimated that as many as 100 thousand children were involved in the commercial sex industry. Most of these children were girls, and nearly all had dropped out of school. These children come from very poor families with unemployed or irregularly employed parents.

The Virlanie Foundation offered housing, training, and counseling services to child prostitutes. An ILO program resulted in more than six thousand children being removed or prevented from engaging in the worst forms of child labor, including the commercial sex industry.

Traffickers targeted persons seeking overseas employment. Most recruits were females ages 13 to 30 from poor farming families. The traffickers generally were private employment recruiters and their partners in organized crime. Many recruiters targeted persons from their own hometowns, promising a respectable and lucrative job.

There was anecdotal evidence that some lower-level officials (such as customs officers, border guards, immigration officials, local police, or others) received bribes from traffickers or otherwise facilitated trafficking.

Victims faced exposure to sexually transmitted or other infectious diseases, and were vulnerable to beatings, sexual abuse, and humiliation.

The government devoted significant resources to assist and protect victims. The concept of a trafficked person as a victim rather than a perpetrator was strong. The government, in conjunction with NGO partners, assisted victims by providing temporary residency status and relief from deportation; shelter; and access to legal, medical, and psychological services. As of September, DSWD had provided temporary shelter and social services to 67 female and 88 juvnile victims of trafficking. In 2004 DSWD provided services to 162 women victims of illegal recruitment, 85 victims of involuntary prostitution, and 85 victims of trafficking.

DSWD and many private groups have established shelters and rehabilitation centers. DSWD provided economic aid to victims, including residential care. Additional protective services included hot lines for reporting cases and the operation of 24-hour halfway houses in 13 regions of the country to respond to victims. Although the government provided some funding to domestic and foreign NGOs for services to victims, religious groups, multinational donor agencies, and private foundations typically funded most of the budgets for these NGOs.

The government rarely deported or charged victims of trafficking with crimes; however, police sometimes charged alleged prostitutes with vagrancy. No reliable statistics indicating whether these individuals were victims of trafficking were available.

Victims may file civil suits or seek legal action against traffickers. Most victims who chose to do so filed charges of illegal recruitment. However, the government lacked the resources to pursue these cases effectively.

Numerous government agencies and officials, as well as NGOs and international organizations, continued to support public information campaigns against trafficking. The government supported programs to prevent trafficking, such as the promotion of women's participation in economic decision making and efforts to keep children in school. The government provided skills training to women, lessening the need for them to go to urban centers or overseas for employment. However, funding remained limited.

Persons with Disabilities.—The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments and for "the rehabilitation, self-development, and self-reliance of disabled persons and their integration into the mainstream of society." The DOLE's Bureau of Local Employment (BLE) maintained registers of persons with disabilities indicating their skills and abilities. BLE monitored private and public places of employment for violations of labor standards regarding persons with disabilities and also promoted the establishment of cooperatives and self-employment projects for persons with disabilities.

Estimates of the number of persons with disabilities in the country varied significantly. The National Council for the Welfare of Disabled Persons estimated that persons with disabilities make up 10 percent of the population. The 2000 census registered 992 thousand persons with disabilities; however, only 580 thousand were registered with the Department of Health as of July. Advocates suspected the data were incomplete due to the social stigma attached to persons with disabilities. It was estimated that most persons with disabilities were less than 65 years of age and lived at home with their families. Assisted living centers were understaffed and underfunded. DSWD operated two assisted living centers in Metro Manila, and five community-based vocational centers for persons with disabilities nationwide.

Advocates for persons with disabilities contended that equal-access laws were ineffective because implementing regulations were weak, funding was inadequate, and government programs were inadequately focused on integration. Many public buildings, particularly older ones, lacked functioning elevators. Many schools had architectural barriers that made attendance difficult for persons with disabilities.

Government efforts to improve access to transportation for persons with disabilities have been halting. Only one of Manila's light rail lines was wheelchair-accessible, and many stops had out-of-service elevators. Buses lacked wheelchair lifts, and there were reports of drivers who failed to stop for passengers in wheelchairs. A small number of sidewalks had wheelchair ramps, but garbage cans and street vendors often blocked access. Many of the sidewalk wheelchair ramps were crumbling or too steep. The situation was worse in many smaller cities and towns.

Indigenous People.—Indigenous people lived throughout the country but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They accounted for approximately 14 percent of the national population, with over 60 percent of the total in Mindanao. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevented their full integration into society. Indigenous children suffered from lack of health, education, and other basic services. NGOs estimated that up to 70 percent of indigenous youth leave or never attend school because of the discrimination they experienced.

Indigenous people suffered disproportionately from armed conflict, including displacement from their homes, because they often inhabit mountainous areas also favored by guerrillas. Their lands were often the sites of armed encounters, and various parties to the fighting have recruited many indigenous people.

The 1997 Indigenous Peoples' Rights Act established a National Commission on Indigenous People (NCIP), staffed by tribal members, to implement constitutional provisions to protect indigenous people. During the year, NCIP had a budget of $7.37 million (P405 million), a decrease from $9.56 million (P536 million) in 2004. By the end of 2004, the NPIC had awarded Certificates of Ancestral Land Title covering over 1.49 million acres of land claimed by indigenous persons in the country. It awarded such "ancestral domain lands" on the basis of communal ownership, impeding sale of the lands by tribal leaders. The law requires a process of informed consultation and written consent by the indigenous group to allow mining on tribal lands, and assigns indigenous groups the responsibility to preserve their domains from environmentally inappropriate development. The government was slow to implement the legislation, primarily because of opposition from mining and agribusiness interests, but some limited progress was made.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the government. Unions have the right to form or join federations or other labor groups.

The Bureau of Labor Relations reported 139 registered labor federations and more than 24 thousand private sector unions. The 1.6 million union members represented 4.6 percent of the total workforce of 35.1 million. The number of firms using contractual labor, primarily large employers, continued to grow. There were 1,400 public sector unions, slightly fewer than in 2004, with a total membership of over 272 thousand.

Allegations of intimidation and discrimination in connection with union activities are grounds for review before the quasi-judicial National Labor Relations Commission (NLRC) as possible unfair labor practices. However, unions maintained that widespread ignorance of basic standards and rights was a major obstacle to union organization. Before disputes reach the NLRC, the DOLE provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. The DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

The International Confederation of Free Trade Unions (ICFTU) alleged that a new union may be registered only if it represents at least 20 percent of workers in a bargaining unit, and that the law requires an excessively high number of unions—10—before a federation can be formed. The ICFTU currently has two complaints pending before the ILO regarding these requirements.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively. The labor code provides for this right for employees both in the private sector and in government-owned or controlled corporations. A similar right is afforded to most government workers. Approximately 5 percent of the work force was organized. Collective bargaining was practiced; however, it is subject to hindrance and union leaders may be subject to reprisal. Moreover, an ICFTU report in June noted that collective bargaining in the public sector is limited, and that the right to strike is banned outright for public sector workers. The number of workers covered by collective bargaining agreements rose to approximately 296 thousand or about 16 percent of union members, from 271 thousand in 2004. There are no special laws or exemptions from regular labor laws in special economic zones (SEZs).

Subject to certain procedural restrictions, strikes in the private sector are legal; however, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must have been exhausted. The secretary of labor and employment may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the secretary decides that the industry involved in the strike is vital to national security. From January to November, DOLE reported that there were 26 strikes involving 8,496 workers; in 2004 there were 25 strikes involving approximately 11 thousand workers.

Although the labor code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to three years, there never has been a conviction under this provision.

Trade union officials reported that underpayment of the minimum wage and the use of contract employees to avoid the payment of required benefits were common practices, including in the government-designated SEZs, where tax benefits were used to encourage the growth of export industries. Dismissal or threatened dismissal of union members also was common. Labor groups alleged that companies in the SEZs have used frivolous lawsuits as a means of harassing union leaders.

Labor law applies uniformly throughout the country, including the SEZs; however, local political leaders and officials who govern the SEZs have attempted to frustrate union organizing efforts by maintaining union-free or strike-free policies. A conflict over interpretation of the SEZ law's provisions for labor inspection created further obstacles to the enforcement of workers' rights to organize. DOLE can conduct inspections of local SEZ establishments, although local SEZ directors claimed authority to conduct their own inspections as part of the zones' privileges intended by Congress. Hiring often was controlled tightly through SEZ labor centers. Union successes in organizing in the SEZs have been few and marginal. In the Subic SEZ, only one firm was unionized. Some mainstream unions declined to mount a major unionizing effort in the lower-wage SEZ industries, such as the garment industry.

They considered it unpromising in view of both the organizers' restricted access to the closely guarded zones and the rapid turnover of the young, mainly female staff who worked on short-term contracts in the zones' many electronics and garment factories.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced labor, including forced and compulsory labor by children; however, despite the government's efforts, there were some reports of forced and compulsory labor, particularly by children, mainly in prostitution, drug trafficking, and other areas of the informal sector (see sections 5 and 6.d.). The legal minimum age for employment as a domestic worker is 15. However, an estimated 4 million children 17 years of age or younger, including many under 15, were employed. Some recruiters reportedly brought children to work in Manila or other cities under terms that involved a "loan" advanced to their parents that the children were obliged to repay through their work. The DOLE continued to address the problem of underage workers in family work settings by prosecutions and fines of violators (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians, or in cases in which employment in cinema, theater, radio, or television is essential to the integrity of the production. The law allows employment of those between the ages of 15 and 18 for such hours and periods of the day as are determined by the secretary of labor but forbids the employment of persons less than 18 years of age in hazardous or dangerous work. However, child labor remained a common problem, and a significant number of children were employed in the informal sector of the urban economy or as unpaid family workers in rural areas—some as bonded laborers (see section 6.c.). The most recent government survey reported approximately 4 million working children, approximately 2.4 million of whom were exposed to hazardous working environments, such as quarries and mines, docksides, and fishing boats, which are defined in the nation's laws as among the worst forms of child labor. Striking union workers at Macabalan Port in Cagayan de Oro City alleged that laborers hired by the port management company in October to replace the strikers included minors under the age of 17. DOLE's initial inspection did not corroborate the allegation; at year's end DOLE was still investigating.

Most child labor occurred in the informal economy, often in family settings. The government rarely sought to prosecute a poor family because it had a working child. Nevertheless, the government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop other, safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the government made attempts to devote more resources to child labor programs, resources remained inadequate.

The government and NGOs implemented programs to prevent the engagement of children in exploitative child labor; they educated communities on child labor and provided counseling and other activities for children. The DOLE and the DOE worked with NGOs, UNICEF, and the ILO International Program on the Elimination of Child Labor to assist children to return to school. The government also imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. Between January and June, the DOLE continued its efforts to rescue exploited child workers, rescuing 71 minors in 24 different operations, compared with 73 operations involving 195 minors in 2004. The Employers Confederation of the Philippines pursued an active and highly visible program against child labor.

e. Acceptable Conditions of Work.—The national minimum wage did not provide a decent standard of living for a worker and family. Tripartite regional wage boards set minimum wages and in June implemented wage increases in most regions of the country. The highest rates were in the National Capital Region (NCR), where the minimum daily wage for nonagricultural workers was $5.90 (P325). Although this represents an increase of 25 pesos over last year, it still did not provide a decent standard of living for a worker and family in the NCR. The lowest minimum wages were in the ARMM, where the daily agricultural wage was $3.27 (P180). The regional wage board orders covered all private sector workers except domestic servants and others employed in the personal service of another person. Boards exempted some employers because of factors such as business size, industry sector, export intensity, financial distress, and level of capitalization. These exemptions excluded substantial additional numbers of workers from coverage under the law. Over 80 businesses in Metro Manila requested exemptions from the minimum wage order issued in June. The regional wage boards approved 251 out of 335 employer applica-

tions for exemptions during 2003–04. Unions have filed complaints about the minimum wage exemption policies.

Violation of minimum wage standards was common. Many firms hired employees for less than the minimum apprentice rates, even if there was no approved training in their production-line work. During the first quarter of the year, 62 percent of commercial establishments inspected by DOLE were out of compliance with the prevailing minimum wage. The DOLE acknowledged that the shortage of inspectors made the law difficult to enforce. In addition to fines, the government also made use of administrative procedures and moral suasion to encourage employers to voluntarily rectify violations. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

By law the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an 8-hour per day limit. The government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates one day of rest each week. However, there is no legal limit on the number of overtime hours that an employer may require. The DOLE conducted only sporadic inspections to enforce limits on workweek hours. The DOLE's 208 labor inspectors made nearly 21 thousand inspections last year to check on companies' compliance with general labor and working standards.

The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with too few inspectors nationwide, local authorities often must carry out enforcement. The DOLE continued a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The government and several NGOs worked to protect the rights of the country's 8.02 million overseas citizens, most of whom were temporary or contract workers. The government placed financial sanctions on and criminal charges against domestic recruiting agencies found guilty of unfair labor practices. Although the POEA registered and supervised domestic recruiters' practices successfully, the authorities sometimes lacked sufficient resources to ensure workers' protection overseas. It sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

The labor laws protect foreign workers in the country. Foreign workers must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens.

SAMOA

Samoa is a parliamentary democracy that incorporates certain traditional practices into its governmental system. The country has a population of approximately 177 thousand. Executive authority is vested in the head of state, Malietoa Tanumafili II, who holds the position for life. The cabinet consists of the prime minister and 12 ministers chosen by the prime minister. Parliament, elected by universal suffrage, is composed primarily of the heads of extended families, or "matai." All laws passed by Parliament need the approval of the head of state. The most recent elections, held in March 2001, were marred by charges of bribery. As a result of election challenges filed by losing candidates, the supreme court ordered four by-elections. The Human Rights Protection Party (HRPP) has dominated Parliament as the majority party for the past six terms. The civilian authorities generally maintained effective control of the national police force.

The government generally respected the human rights of its citizens; however, the following human rights problems were reported:

- deteriorated prison conditions for male inmates
- unfair parliamentary proceedings
- violence against women and children
- discrimination against women and non-matai

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the government or its agents. On February 25, police officer Tupou Ainu'u was found not guilty of manslaughter in the death of a man in police custody.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions deteriorated significantly for male inmates but remained fairly basic with respect to food, water, and sanitation. Diplomatic observers reported that each concrete cell held approximately 15 inmates. Most of the cells had gravel floors, no toilets, poor ventilation, and almost no lighting. Meals were served through the cell bars. During the year toilets and concrete floors were added to approximately 10 percent of the cells. It was unclear if all cells would receive the same refurbishment.

There were no known requests by independent human rights observers to visit prisons; however, the government indicated that it would allow such visits. The government permitted family members and church representatives to visit prisons every two weeks.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The country has a small national police force and no external defense force. Enforcement of rules and security within individual villages is vested in the "fono" (Council of Matai). Judgments by the fono usually involved fines or, more rarely, banishment from the village.

The country's police, prison guards, and firefighters all belong to one consolidated national service. A commissioner appointed to a three-year term heads this service. He is assisted by four assistant commissioners and reports to the minister of police. Corruption and impunity were not significant problems among the police; however, a lack of resources limited police effectiveness.

Arrest and Detention.—The supreme court issues arrest warrants based on sufficient evidence. The law provides for the right to a prompt judicial determination regarding the legality of detention, and the authorities generally respected this right in practice. Detainees are informed within 24 hours of the charges against them, or they are released. There was a functioning system of bail. Detainees were allowed prompt access to family members and a lawyer of their choice. If the detainee is indigent, the government provides a lawyer.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary consists of the district court, the lands and titles court, the supreme court, and the Court of Appeal. The district court has jurisdiction over matters involving values less than $4 thousand (WST$10 thousand) and criminal offences with penalties less than five years. The lands and titles court has jurisdiction over all lands and titles cases. The supreme court has jurisdiction over matters of more than $4 thousand (WST$10 thousand) and criminal offences with penalties of more than five years. The Court of Appeal is the highest court. It has appellate jurisdiction only and can review the rulings of any other court. It is composed of a panel of retired New Zealand judges and sits once a year for several weeks.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The accused person must be charged within 24 hours. A trial judge examines evidence and determines if there are grounds to proceed. Defendants have the presumption of innocence until proven guilty. Trials are public, and juries are used. Defendants have the right to be present and to timely consultation with an attorney, at public expense if required. Defendants may confront witnesses and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence, and defendants have the right to appeal a verdict.

Many civil and criminal matters were handled by village fono, which varied considerably in their decision-making styles and the number of matai involved in the decisions. The law recognizes the decisions of the fono and provides for limited appeal to the lands and titles court and the supreme court. The nature and severity of the dispute determines which court receives an appeal. For all lands and titles

appeals, the lands and titles court first uses its own appellate court presided by the president, after which appeals may be taken up to the supreme court and Court of Appeal if necessary. For other civil and criminal disputes, appeals may be taken first to the supreme court and later to the Court of Appeal if necessary. According to a 2000 supreme court ruling, fono may not infringe upon villagers' freedom of religion, speech, assembly, or association (see section 2.c.).

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. However, there is little or no privacy in villages, where there can be substantial societal pressure on the resident to grant village officials access without a warrant.

In accordance with traditional law, village fono may impose a punishment of banishment (see section 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. In general the independent media were active and expressed a wide variety of views without restriction. The law stipulates imprisonment for any journalist who refuses to reveal a confidential source despite the issuance of a court order upon request from any member of the public at large. However, there has been no court case invoking this law.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The constitution acknowledges an "independent state based on Christian principles and Samoan custom and traditions"; however, there is no official or state denomination. The law grants each person the right to change religion or belief and to worship or teach religion alone or with others, but in practice the matai often choose the religious denomination of the extended family. During the year there were no cases of individuals being banished by villages due to their practicing religion differently from that practiced by village majority.

Societal Abuses and Discrimination.—There were no documented statistics of a Jewish population in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Nevertheless, traditional law governs villages, and village fono regularly banned citizens from village activities or banished citizens from the village for failing to conform to village laws or obey fono rulings. In some cases civil courts have overruled banishment orders (see section 1.e.).

The law prohibits exile, and the government did not use it.

Protection of Refugees.—The country is a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, the government has not enacted enabling legislation or established a system for providing protection to refugees. The government was prepared to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees, but the need did not arise during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The most recent elections were in March 2001, but they were marred by charges of bribery. As a result of election challenges filed by losing candidates, the supreme court ordered four by-elections; the HRPP won all four. The HRPP has dominated the political process, winning six consecutive elections since 1982.

The law does not prohibit the formation of opposition parties, and there were a few such parties; however, in April the country became a one-party state when the Speaker of the House ruled that the Samoa Democratic United Party (SDUP) could

not be recognized as a political party, due to a 1997 standing order that members of Parliament (MPs) are required to remain members of the same party throughout their parliamentary term and that new political parties are not allowed to form between an old political party and other independent members. The SDUP deputy leader, who had been leading a campaign against the HRPP, was suspended from Parliament for four months. The opposition lodged a report with the Inter-Parliamentary Union (IPU) addressing these alleged unfair practices, and the IPU submitted a report to the government providing recommendations for better parliamentary practices. The government condemned the IPU report.

While the constitution gives all citizens above the age of 21 the right to vote and run for office, by social custom candidates for 47 of the 49 seats in Parliament are drawn from the approximately 25 thousand matai. Matai are selected by family agreement; there is no age qualification. Although women sometimes are selected, 95 percent of matai were men. Matai control local government through the village fono, which are open to them alone.

There were 3 women in the 49-member Parliament and 1 in the 13-member cabinet.

The political rights of citizens who are not of ethnic Samoan heritage are addressed by the reservation of two parliamentary seats for "at large" voters. One cabinet minister was an at large MP of mixed European-Samoan heritage. Citizens of mixed European-Samoan or Chinese-Samoan heritage were well represented in the civil service.

Government Corruption and Transparency.—Government corruption was not widespread, although there were some instances of corrupt practices involving misuse of public funds. During 2004 and 2005, charges were brought against several current and former employees from the Ministry of Health and the Department of Customs for theft of government funds, and the chief executive officer of the Ministry of Health was suspended. At year's end the cases were pending.

The law provides for an ombudsman to investigate complaints against government agencies, officials, or employees, including allegations of corruption. The ombudsman may require the government to provide information relating to a complaint.

Under the law, government information is subject to disclosure in civil proceedings involving the government, unless the information is considered privileged or its disclosure would harm the public interest.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, sex, disability, language, or social status, and the government generally respected this in practice. However, politics and culture reflected a heritage of matai privilege and power, and members of certain families had some advantages. While there was discrimination against women and non-matai, who only occasionally reached high office, women (and particularly the few female matai) played an important role in society.

Women.—The law prohibits abuse of women, but social custom tolerated their physical abuse within the home, and such abuse was common. The role and rights of the village fono and tradition prevented police from interfering in domestic violence. Domestic abuses typically went unreported due to social pressure and fear of reprisal. Village fono typically punished domestic violence offenders, but only if the abuse was considered extreme (that is, there are visible signs of physical abuse). Village religious leaders also may intervene in domestic disputes. When police received complaints from abused women, the government punished the offender, including by imprisonment. The government did not keep statistics on domestic abuse cases but acknowledged the problem to be one of considerable concern.

Many cases of rape went unreported because tradition and custom discourage such reporting; spousal rape is not illegal. Nonetheless, in recent years the authorities noted a considerable number of reported cases of rape, as women slowly became more forthcoming with the police. Rape cases that reached the courts were treated seriously. Convicted offenders often received sentences of several years' imprisonment.

Prostitution is illegal, and it existed but was not a major problem. The law does not address sex tourism specifically; however, it was not a problem. The law pro-

hibits sexual harassment; it was not a widespread problem but was believed to be underreported.

Women have equal rights under the constitution and statutory law, and the traditional subordinate role of women is changing, albeit slowly, particularly in the more conservative parts of society. The Ministry of Women, Community, and Social Development oversees and helps secure the rights of women. To integrate women into the economic mainstream, the government sponsored literacy programs and training programs for those who did not complete high school.

Children.—The government made a strong commitment to the welfare of children through the implementation of various youth programs by the Ministries of Education and Health. Education is compulsory through age 14; however, the government did not enforce this law, and the children of families that could not pay the required school fees were unable to attend. All children at every level are required to pay school fees for tuition and books. Boys and girls were treated equally and attended school in approximately equal percentages. Most children attended school through junior high school.

The government provided health care for children at public hospitals for minimal charge. Law and tradition prohibit severe abuse of children, but both tolerate corporal punishment. Police noted an increase in reported cases in 2004 of child abuse, attributing the rise to citizens' increased awareness of the need to report physical, emotional, and sexual abuse of children. The government aggressively prosecuted such cases. There were no reports of commercial sexual exploitation of children.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons. While there was no national assessment of the scope of the problem, there was one isolated incident in 2003 in which 40 women were trafficked into prostitution to American Samoa. There were no reports that persons were trafficked to, from, or within the country during the year.

A transnational crimes unit monitored crimes related to trafficking in persons.

Persons with Disabilities.—There is no law pertaining specifically to the status of persons with disabilities or regarding accessibility for them. Tradition dictates that families care for persons with disabilities, and this custom was observed widely in practice. There were no reports of discrimination against persons with disabilities in the areas of employment, education, access to health care, or in the provision of other state services. Many public buildings were old, and only a few were accessible to persons with disabilities. Most new buildings provided better access, including elevators in most multistory buildings.

The Ministry of Women, Community, and Social Development has responsibility for protecting the rights of persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—Workers legally have unrestricted rights to establish and join organizations of their own choosing. There were no practical limitations to union membership, and approximately 20 percent of the private sector workforce was unionized. The Public Service Association (PSA) functioned as a union for all government workers, who comprised approximately 80 percent of the paid workforce, excluding the self-employed.

b. The Right to Organize and Bargain Collectively.—The law provides workers with the right to organize and bargain collectively, and workers exercised this right in practice. The PSA engages in collective bargaining on behalf of government workers, including bargaining on wages. Under the law, arbitration and mediation procedures are in place to resolve labor disputes, although such disputes rarely arise.

The supreme court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety, and workers have exercised this right. On September 9, government doctors began a strike for more pay and better working conditions. The attorney general deemed the strike illegal, and the Ministry of Health ordered them to return to work; however, the doctors defied the order. The government set up a commission of inquiry to examine the doctors' complaints and submitted a report to the cabinet on October 28. The cabinet approved the report, but the doctors on strike rejected it, claiming that the government had not met all of their demands. At year's end only a few doctors had returned to work, and the Ministry of Health was advertising vacancies for the doctors who had left. These same doctors were offered the opportunity to reapply if they wished to return to work for the ministry.

Workers in the private sector have the right to strike, but there were no strikes in the sector during the year. There are no special laws or exemptions from regular labor laws in the sole export-processing zone.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but persons, including minors, frequently were called upon to work for their villages. Most persons did so willingly; however, the matai may compel those who do not.

d. Prohibition of Child Labor and Minimum Age for Employment.—It is illegal to employ children under the age of 15 except in "safe and light work." The Ministry of Labor refers complaints of illegal child labor to the attorney general for enforcement; however, no cases were prosecuted during the year. Children frequently were seen vending goods and food on Apia street corners. The government has not made a definitive determination as to whether this practice violates the country's labor laws, which cover only persons who have a place of employment. Although the practice may constitute a violation of the law, local officials mostly tolerated it. There were no reports of compulsory labor by children; however, the law does not apply to service rendered to the matai, some of whom required children to work for the village, primarily on village farms (see section 6.c.). The extent of this practice varied by village, but it generally did not significantly disrupt children's education.

e. Acceptable Conditions of Work.—The law establishes for the private sector a 40-hour workweek and an hourly minimum wage. In September the minimum wage was increased to $0.72 (WST$2.00) per hour, which did not provide a decent standard of living for a worker and family. An advisory commission to the minister of labor sets minimum wages. Wages in the private sector are determined by competitive demand for the required skills. Minimum wage rates were sufficient only when supplemented by subsistence farming and fishing.

The law also establishes certain rudimentary safety and health standards, which the attorney general is responsible for enforcing. However, independent observers reported that safety laws were not enforced strictly, except when accidents highlighted noncompliance. Many agricultural workers, among others, were inadequately protected from pesticides and other dangers to health. Government education and awareness programs addressed these concerns by providing appropriate training and equipment to agricultural workers for adequate protection from pesticides and other dangers to health. Safety laws do not apply to agricultural service rendered to the matai. While the law does not address specifically the right of workers to remove themselves from dangerous work situations, the commissioner of labor investigates such cases, without jeopardy to continued employment. Government employees are covered under different and more stringent regulations, which were enforced adequately by the Public Service Commission.

SINGAPORE

Singapore is a parliamentary republic in which politics is dominated overwhelmingly by the People's Action Party (PAP), which has been in power since 1959. The population was approximately 4.2 million, with foreign workers accounting for nearly one-seventh of the total. Opposition parties exist, and parliamentary elections take place at regular, constitutionally mandated intervals (most recently in November 2001); however, the PAP holds 82 of 84 elected parliamentary seats and all ministerial positions. The government maintained effective control over all security activities.

The government generally respected the human rights of its citizens; however, there were significant problems in some areas. The government has broad powers to limit citizens' rights and to handicap political opposition, which it used in practice. Caning was an allowable punishment for numerous offenses. The following human rights problems were reported:

- preventive detention
- executive influence over the judiciary
- infringement of citizens' privacy rights
- restriction of speech and press freedom, and the practice of self-censorship by journalists
- restriction of freedom of assembly and freedom of association
- some restriction on freedom of religion
- some trafficking in persons

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected these prohibitions. In March 2004 a detainee claimed that in 2003 police officers used physical means to force him to confess and threatened to arrest his wife. The trial judge ruled that the confession was involuntary, refused to allow it into evidence, and subsequently acquitted the man of all charges. In August 2004 the High Court sustained the ruling that the confession was involuntary and disallowed it. It nonetheless found the accused guilty and sentenced him to two years' imprisonment. The police force took no action against the officers accused of using "physical means" because the detainee had not lodged a complaint prior to the trial.

In previous years there were some cases of alleged police mistreatment of detainees. Persons alleging mistreatment were permitted to bring criminal charges against government officials suspected of involvement. The media reported fully on allegations of police abuse, and the government took action against abusers.

The penal code mandates caning, in addition to imprisonment, as punishment for approximately 30 offenses involving violence, such as rape and robbery, and for nonviolent offenses such as vandalism, drug trafficking, and violation of immigration laws. Caning is discretionary for convictions on other charges involving the use of force, such as kidnapping or voluntarily causing grievous hurt. All women, men over age 50 or under age 16, and anyone determined medically unfit are exempt from punishment by caning. Although statistics for the year were not available, caning was a regularly administered punishment.

Prison and Detention Center Conditions.—Prison conditions, while Spartan, generally met international standards.

The government did not allow human rights monitors to visit prisons; however, diplomatic representatives were given consular access to citizens of their countries.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The police are responsible for routine security within the country and for border protection, including action against illegal immigrants. The Internal Security Act (ISA) authorizes the Internal Security Department in the Ministry of Home Affairs to counter perceived threats to the nation's security such as espionage, international terrorism, threats to racial and religious harmony, and subversion. The police force was well trained and highly disciplined. Corruption was not a problem, and the police effectively maintained internal law and order. The Corrupt Practices Investigation Bureau, an independent agency under the Prime Minister's Office, investigates all allegations of corruption including police corruption. Allegations of criminal offences by police officers are investigated either by a police division other than the unit to which the accused are assigned or, in cases involving complaints of serious misconduct, by the Internal Investigation Division at police headquarters.

Arrest and Detention.—The law provides that, in most instances, arrests are to be carried out after issuance of an authorized warrant; however, some laws, such as the ISA, provide for arrests without warrants. Those arrested under warrants must be charged before a magistrate within 48 hours. The majority of those arrested were charged expeditiously and brought to trial. A functioning bail system exists, but no commercial bail bond services were available. Those who face criminal charges are allowed counsel; however, there was no access to counsel during the initial arrest and investigation before charges were filed. Legal experts in and out of government debated the merits of allowing potential criminal defendants access to counsel during the arrest and investigation phase. The Law Society administered a legal aid plan for those who could not afford to hire an attorney. In death penalty cases, the Supreme Court appoints two attorneys for defendants who are unable to afford their own counsel.

Some laws—the ISA, the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (MDA), and the Undesirable Publications Act (UPA)—have provisions for arrest and detention without a warrant or judicial review. The ISA has been employed primarily against suspected security threats. In the past, these threats were Communist related; however, in recent years, the ISA has been em-

ployed against suspected terrorists. The CLA has been employed primarily against suspected organized crime and drug trafficking.

The ISA and the CLA permit preventive detention without trial for the protection of public security, safety, or the maintenance of public order. The ISA gives broad discretion to the minister for home affairs, at the direction of the president, to order detention without filing charges if it is determined that a person poses a threat to national security. The initial detention may be for up to two years and may be renewed without limitation for additional periods of up to two years at a time. Detainees have a right to be informed of the grounds for their detention and are entitled to counsel. However, they have no right to challenge the substantive basis for their detention through the courts. The ISA specifically excludes recourse to the normal judicial system for review of a detention order made under its authority. Instead, detainees may make representations to an advisory board, headed by a supreme court justice, which reviews each detainee's case periodically and must make a recommendation to the president within three months of the initial detention. The president may concur with the advisory board's recommendation that a detainee be released prior to the expiration of the detention order, but he is not obligated to do so.

At year's end, 36 detainees were being held under the ISA as suspected terrorists. Of these detainees, 33 were suspected of belonging to the terrorist group Jemaah Islamiyah, and 3 were suspected of membership in the Philippines-based Moro Islamic Liberation Front. The first arrests of suspected terrorists occurred in 2001; another group was arrested in 2002, additional arrests took place in 2003 and 2004, and on August 5, a suspected Jemaah Islamiyah terrorist was arrested. Some of those detained have been released under restriction orders (ROs). A person subject to an RO must seek official approval for a change of address or occupation and for overseas travel and participation in any public organization or activity. Approximately 19 persons were under ROs as of mid-October; this number included both released detainees and suspected terrorists who were never arrested but who have been placed under ROs.

There were no reports of political detainees.

The CLA comes up for renewal every five years, and when parliament renewed it in September 2004, it also amended it to allow taking DNA samples. Under the CLA, the minister for home affairs may order preventive detention, with the concurrence of the public prosecutor, for an initial period of one year, and the president may extend detention for additional periods of up to one year at a time. The minister must provide a written statement of the grounds for detention to the Criminal Law Advisory Committee (CLAC) within 28 days of the order. The CLAC then reviews the case at a private hearing. CLAC rules require that detainees be notified of the grounds of their detention at least 10 days prior to this hearing, in which a detainee may represent himself or be represented by a lawyer. After the hearing, the committee makes a written recommendation to the president, who may cancel, confirm, or amend the detention order. However, persons detained under the CLA have recourse to the courts via an application for a writ of habeas corpus. Persons detained without trial under the CLA are entitled to counsel, but they may challenge the substantive basis for their detention only to the CLAC. The CLA is used almost exclusively in cases involving narcotics or criminal organizations and has not been used for political purposes. According to the most recent available official figures, 211 persons were in detention under the provisions of the CLA in 2003, down from 463 in 1998 and 1,263 in 1988. Persons who allege mistreatment while in detention may bring criminal charges against government officials alleged to have committed such acts.

Both the ISA and the CLA contain provisions that allow for modified forms of detention such as curfews, residence limitations, requirements to report regularly to the authorities, limitations on travel, and, in the case of the ISA, restrictions on political activities and association.

The MDA permits detention without trial. Under the MDA, the director of the Central Narcotics Bureau (CNB) also may commit—without trial—suspected drug abusers to a drug rehabilitation center for a six-month period, which is extendable by a review committee of the institution for up to a maximum of three years. As of September, 150 persons were held in drug rehabilitation centers, down from 225 persons in 2003. Under the Intoxicating Substances Act, the CNB director may order the treatment of a person believed to be an inhalant drug abuser for up to six months. Other sections of the MDA allow for capital punishment or incarceration of persons found guilty of narcotics trafficking offenses (see section 1.e.).

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected this provision; however, in practice laws that limit judicial review permit restrictions on constitutional rights. Some ju-

dicial officials, especially supreme court judges, have ties to the ruling party and its leaders. The president appoints judges to the Supreme Court on the recommendation of the prime minister and in consultation with the chief justice. The president also appoints subordinate court judges on the recommendation of the chief justice. The term of appointment is determined by the Legal Service Commission, of which the chief justice is the chairman. Under the ISA and the CLA, the president and the minister for home affairs have substantial de facto judicial power, which explicitly (in the case of the ISA) or implicitly (in the case of the CLA) excludes normal judicial review. These laws provide the government with the power to limit, on vaguely defined national security grounds, the scope of certain fundamental liberties that otherwise are provided for in the constitution.

Government leaders historically have used court proceedings, in particular defamation suits, against political opponents and critics (see sections 2.a. and 3). Both this practice and consistent awards in favor of government plaintiffs raised questions about the relationship between the government and the judiciary and led to a perception that the judiciary reflected the views of the ruling party in politically sensitive cases. On January 6, the High Court awarded former prime minister Goh Chok Tong and former senior minister Lee Kuan Yew $300 thousand (S$500 thousand) in damages for comments made by opposition leader Chee Soon Juan the 2001 election campaign.

The judicial system has two levels of courts: the Supreme Court, which includes the High Court and the Court of Appeal; and the subordinate courts. Subordinate court judges and magistrates as well as public prosecutors are civil servants whose specific assignments are determined by the Legal Service Commission, which can decide on job transfers to any of several legal service departments. The subordinate courts handle the great majority of civil and criminal cases in the first instance. The High Court may hear any civil or criminal case, although it generally limits itself to civil matters involving substantial claims and criminal matters carrying the death penalty or imprisonment of more than 10 years. The Court of Appeal is the highest and final court of review for matters decided in the subordinate courts or the High Court. In addition, the law provides for Islamic courts whose authority is limited to Islamic family law, which is applicable only to Muslims. Supreme court justices may choose to remain in office until the mandatory retirement age of 65, after which they may continue to serve at the government's discretion for brief, renewable terms at full salary.

Trial Procedures.—The judicial system provides citizens with an efficient judicial process. In normal cases the criminal procedures code provides that a charge against a defendant must be read and explained to him as soon as it is framed by the prosecution or the magistrate. Defendants enjoy a presumption of innocence and the right of appeal in most cases. They have the right to be present at their trials and to be represented by an attorney; the Law Society administers a criminal legal aid plan for those who cannot afford to hire an attorney. Defendants also have the right to question opposing witnesses, to provide witnesses and evidence on their own behalf, and to review government-held evidence relevant to their cases. Trials are public and heard by a judge; there are no jury trials. Despite the general presumption of innocence, the MDA stipulates that a person who the prosecution proves has illegal narcotics in his possession, custody, or control shall be assumed to be aware of the substance, and places the burden on the defendant to prove otherwise. The same law also stipulates that, if the amount of the narcotic is above set low limits, it is the defendant's burden to prove he did not have the drug for the purpose of trafficking. Convictions for narcotics trafficking offenses carry lengthy jail sentences or the death penalty, depending on the type and amount of the illegal substance. Persons charged with a capital offense under the MDA have the right to a public trial and to appeal conviction.

The constitution extends these rights to all citizens; however, persons detained under the ISA or CLA are not entitled to a public trial. In addition, proceedings of the advisory board under the ISA and CLA are not public (see section 1.d.).

A two-tier military court system has jurisdiction over all military personnel, civilians in the service of the armed forces, and volunteers when they are ordered to report for service. The system handles approximately 450 cases each year. The Military Court of Appeal has the jurisdiction to examine an appeal from a person convicted by a subordinate military court. Trials are public and the defendants have the right to be present. An accused individual also has the right to defense representation.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution does not address privacy rights; remedies for infringement of some as-

pects of privacy rights are available under statutory or common law. The government generally respected the privacy of homes and families; however, it had a pervasive influence over civic and economic life and sometimes used its broad discretionary powers to infringe on these rights. Normally the police must have a warrant issued by a court to conduct a search; however, they may search a person, home, or a property without a warrant if they decide that such a search is necessary to preserve evidence. The government has wide-ranging discretionary powers under the ISA, CLA, MDA, and UPA to conduct searches without a warrant if it determines that national security, public safety and order, or the public interest is at risk. Defendants may request judicial review of such searches.

Law enforcement agencies, including the Internal Security Department and the Corrupt Practices Investigation Board, have extensive networks for gathering information and conducting surveillance and highly sophisticated capabilities to monitor telephone and other private conversations. No court warrants are required for such operations. The law permits government monitoring of Internet use. It was believed that the authorities routinely monitored telephone conversations and the use of the Internet. The government brought charges against three individuals for allegedly racist comments made on Internet web logs (blogs) (see section 2.a.). It is widely believed that the authorities routinely conducted surveillance on some opposition politicians and other government critics.

The government enforced ethnic ratios for publicly subsidized housing, where the majority of citizens live and own their own units. The policy was designed to prevent ethnic/racial ghettos (see section 5). When a housing development is at or near the limit for a particular ethnic group, the policy could make it difficult for owners to sell their apartments and require them to sell to a person of an underrepresented group, potentially at a price below market value.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and freedom of expression but permits official restrictions on these rights, and, in practice the government significantly restricted freedom of speech and freedom of the press. The government's authoritarian style fostered an atmosphere inimical to free speech and a free press. Government intimidation and pressure to conform resulted in self-censorship among journalists; however, there continued to be some limited progress towards greater openness during the year, including a moderate level of ongoing debate in newspapers and on the Internet on various public issues.

Under the ISA, the government may restrict or place conditions on publications that incite violence, counsel disobedience to the law, have the potential to arouse tensions in the country's diverse population, or might threaten national interests, national security, or public order. While the ISA has not been invoked in recent years against political opponents of the government, political opposition and criticism remained restricted by the government's authority to define these powers broadly. In the past, occasional government references to speech that it considered "out-of-bounds" were understood to be implicit threats to invoke the ISA.

Government leaders urged that news media support the goals of the elected leadership and help maintain social and religious harmony. In addition, strict defamation and press laws and the government's demonstrated willingness to respond vigorously to what it considered personal attacks on officials sometimes led journalists and editors to moderate or limit what was published.

In August 2004 the government relaxed the Public Entertainment and Meetings Act (PEMA), which requires a permit for virtually any form of public speech or entertainment (see section 2.b.). Citizens do not need a permit to speak at indoor public gatherings outside the hearing or view of nonparticipants, unless the topic refers to race or religion. Nevertheless, police continued to invoke the PEMA for minor public protests. On August 28, eight cardboard cutout white elephants were placed outside a subway station to coincide with the visit of a government minister. Area residents complained that the station remained unopened despite being completed and thus was a "white elephant." Police initiated an investigation under the PEMA to determine the identity of the perpetrators, who could have been fined up to $6 thousand (S$10 thousand) for violation of the PEMA.

Government restrictions limit the ability to speak freely at the Speakers' Corner in a public park. Prospective speakers must be citizens, must show their identification cards, and must register in advance with the police. While it was not necessary to declare speech topics in advance, government regulations governing the Speakers' Corner state that "the speech should not be religious in nature and should not have the potential to cause feelings of enmity, ill will, or hostility between different racial or religious groups." In 2002, opposition figure Chee Soon Juan was fined $1,715 (S$3 thousand) for a speech criticizing the government ban on schoolgirls wearing

the *tudung*, a headscarf that some Muslims consider a religious requirement (see section 2.c.); under the law anyone fined more than $1,140 (S$2 thousand) cannot run for parliament for 5 years.

In April the government allowed a foreign researcher from Amnesty International to attend a public forum on the death penalty but not to speak. Plainclothes police who were present at the forum demanded to see the forum moderator's identity card to verify that she was a citizen. In May the government denied entry to a foreign national, Yeshua Moser-Puangsuwan, who had been invited by the opposition Singapore Democratic Party (SDP) to speak at a public workshop on nonviolent action. The Ministry of Home Affairs noted that foreigners were not allowed to interfere in domestic politics. The government also reportedly banned the workshop on nonviolence that he was scheduled to attend.

The government strongly influenced both the print and electronic media. Two companies, Singapore Press Holdings Ltd. (SPH) and MediaCorp, own all general circulation newspapers in the four official languages—English, Chinese, Malay, and Tamil. MediaCorp is wholly owned by the government investment company. SPH is a private holding company with close ties to the government; the government must approve (and can remove) the holders of SPH management shares, who have the power to appoint or dismiss all directors or staff. As a result, while newspapers printed a large and diverse selection of articles from domestic and foreign sources, their editorials, coverage of domestic events, and reporting of sensitive foreign relations issues usually closely reflected government policies and the opinions of government leaders. The government sets formal and informal constraints on the media; for example, a visiting academic whose views on religion the government considered unconventional was allowed to speak; the media reportedly was restricted with regard to coverage of the speech. Columnists' opinions and letters to the editor expressed a moderate range of opinions on public issues. The international nongovernmental organization (NGO) Reporters Without Borders noted strong government and ruling party influence over the media as well as continued censorship and self-censorship.

Government-linked companies and organizations operated all domestic broadcast television channels and almost all radio stations. Only one radio station, the BBC World Service, was completely independent of the government. Some Malaysian and Indonesian television and radio programming can be received, but satellite dishes are banned, with few exceptions. Cable subscribers had access to seven foreign television news channels and many entertainment channels, including some with news programs; these were not censored.

A substantial number of foreign media operations were located within the country. The law requires foreign publications that report on politics and current events in Southeast Asia, with circulation of 300 or more copies per issue, to register, post a $114,286 (S$200 thousand) bond, and name a person in the country to accept legal service. The government has granted exemptions to 19 of the 24 publications to which these requirements could apply. Nonetheless, these requirements strengthen the government's control over foreign media. Under the Newspaper and Printing Presses Act, the government may limit the circulation of foreign publications that it determines interfere with domestic politics. Although a wide range of international magazines and newspapers can be purchased uncensored, the importation of some publications is barred. Newspapers printed in Malaysia cannot be imported. In 2004 the circulation of the *Wall Street Journal Asia* and the *Far Eastern Economic Review*, both foreign publications, was limited (or "gazetted"), although the government raised the allowed circulation to correspond more or less to actual demand. The government also may ban the circulation of domestic and foreign publications under provisions of the ISA and the UPA. The Broadcasting Act empowers the minister for information, communication, and the arts to "gazette" or place formal restrictions on any foreign broadcaster deemed to be engaging in domestic politics. Once gazetted, a broadcaster can be required to obtain express permission from the minister to continue broadcasting in the country. The government may impose restrictions on the number of households receiving a broadcaster's programming and a broadcaster can be fined up to $57 thousand (S$100 thousand) for failing to comply with this provision.

Under the country's defamation laws, some plaintiffs can relatively easily win substantial judgments for damages and legal costs. Conviction on criminal defamation charges can result in a prison sentence of up to two years, a fine, or both. Threats of defamation actions often persuaded newspapers and others to apologize and pay damages for perceived slights. On September 13, a regional financial magazine, *FinanceAsia*, apologized to top national leaders for an article that described Temasek Holdings, the government's key state investment entity, as "the Lee family trust." The magazine also agreed to pay undisclosed damages to Prime Minister Lee

Hsien Loong, Senior Minister Goh Chok Tong, Minister Mentor Lee Kuan Yew, and Temasek and its board members. Similarly, in September 2004 the *Economist* magazine announced that it had agreed to pay damages to Prime Minister Lee Hsien Loong and Minister Mentor Lee Kuan Yew for an *Economist* article taken to imply that nepotism had played a part in the appointment of Ho Ching, the prime minister's wife, to head Temasek Holdings. Newspaper accounts reported that the amount paid was $229 thousand (S$380 thousand) plus legal costs.

The government has extended the threat of defamation actions to comments made in cyberspace. On May 5, the Agency for Science, Technology and Research (A*STAR—a government agency that supports scientific research) warned a Singapore student in a foreign country that he could suffer legal consequences for allegedly defamatory remarks he made about A*STAR in his Internet web log. The student apologized for his remarks and shut down his blog.

Critics charged that government leaders used defamation lawsuits or threats of such actions to discourage public criticism and intimidate opposition politicians and the press. The unbroken success of government leaders' suits in the last decade has fostered public caution about political speech, prompted a culture of self-censorship within the news media, and inhibited opposition politics. During the last decade, ruling party leaders have sued opposition politicians for defamation of individual government leaders. For example, in 2001, then senior minister Lee Kuan Yew and then prime minister Goh Chok Tong sued opposition leader Chee Soon Juan for defamation and on January 3, were awarded damages of $300 thousand (S$500 thousand) (see section 1.e.).

The Media Development Authority (MDA), a statutory board under the Ministry of Information, Communications and the Arts (MICA), continued to censor broadcast media and Internet sites and all other media, including movies, video materials, computer games, and music. Banned publications consisted primarily of sexually oriented materials but also included some religious and political publications. Both MDA and MICA developed censorship standards with the help of a citizen advisory panel. The ISA, the UPA, and the Films Act allow the banning, seizure, censorship, or restriction of written, visual, or musical materials by these agencies if they determine that such materials threaten the stability of the state, contravene moral norms, are pornographic, show excessive or gratuitous sex and violence, glamorize or promote drug use, or incite racial, religious, or linguistic animosities.

The Films Act bans political advertising using films or videos as well as films directed towards any political purpose. The act does not apply to any film sponsored by the government, and the act allows the MICA minister, subject to such conditions as he sees fit, to exempt any film from the act. Under government pressure a local filmmaker withdrew his film *Singapore Rebel*, about opposition leader Dr. Chee Soon Juan, from the Singapore International Film Festival in March. Police questioned the filmmaker about his film on May 16 and August 29. They ordered him to surrender his video camera, courier invoices, and tapes of his film. Although no criminal charges have been filed against him, authorities claimed that his film violated the Films Act, which prohibits films "directed towards any domestic political end." If charged and convicted, the filmmaker could be jailed for up to two years or fined up to $60 thousand (S$100 thousand). In protest of this investigation, an activist filed a complaint against the national broadcaster, MediaCorp, for screening two programs about the ruling People's Action Party leaders. The activist claimed that the Films Act is politically biased in favor of the ruling party. Other restrictions tightly control the types of campaign materials that can be distributed by or about candidates and parties during an election.

The MDA has the power to sanction broadcasters for airing what it believes to be inappropriate content. All content airing between 6:00 a.m. and 10:00 p.m. must be suitable for viewers of all ages. A list of banned films was available on the MDA website. Certain films that have been barred from general release may be allowed limited showings, either censored or uncensored, with a special rating. In practice censorship standards have been significantly relaxed in recent years for live theater performances. Plays with overtly sexual or anti-ruling party themes have been permitted.

Using a framework of Web site licenses, the MDA regulates access to material on the Internet. Internet service providers (ISPs) are required to ensure that content complies with the MDA's Internet code of conduct. The MDA also regulates Internet material by licensing the ISPs through which local users are required to route their Internet connections. The MDA was empowered to direct service providers to block access to Web sites that, in the government's view, undermined public security, national defense, racial and religious harmony, and public morals. Although the MDA ordered ISPs to block 100 specific Web sites that the government considered pornographic, the government actually focused on blocking only a small number of sites.

The government prosecuted three individuals for allegedly racist remarks they made on the Internet, accusing all three of violating the Sedition Act. The court sentenced one to one month in jail, another to one day. The third individual, who was 17 years old, was placed on probation and ordered to do 180 hours of community service in Malay welfare organizations.

Political and religious Web sites must register with the MDA.

All public institutions of higher education and political research have limited autonomy from the government. Although faculty members are not technically government employees, in practice they were subject to potential government influence. Academics spoke and published widely and engaged in debate on social and political issues. However, they were aware that any public comments outside the classroom or in academic publications that ventured into prohibited areas—criticism of political leaders or sensitive social and economic policies, or comments that could disturb ethnic or religious harmony or that appeared to advocate partisan political views—could subject them to sanctions. Publications by local academics and members of research institutions rarely deviated substantially from government views.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides citizens the right to peaceful assembly but permits Parliament to impose restrictions "it considers necessary or expedient" in the interest of security, public order, or morality; in practice the government restricted this right. Public assemblies of five or more persons, including political meetings and rallies, require police permission; however, in 2004 the government relaxed rules (see section 2.a.) so that citizens no longer need permits for some indoor speaking events. Spontaneous public gatherings or demonstrations were virtually unknown. On August 11, four protestors assembled outside the Central Provident Fund building to demand greater transparency and accountability in the state-managed pension fund and other government agencies. After more than a dozen antiriot police and several other officers warned the protestors they could be charged with "public nuisance" and ordered them to disperse, the protestors left. On September 30, three of the protestors petitioned the High Court asking that it declare the police dispersal "unconstitutional"; on December 7, the court dismissed the action.

The government closely monitored political gatherings regardless of the number of persons present. Plainclothes police officers attended and videotaped a July 9 book launch by opposition figure Chee Soon Juan. After his presentation, the police questioned Chee and seized a video of protests by Hong Kong residents that had been playing in the background. The police claimed that Chee did not have a certificate for public display of the video. Persons who wished to speak at a public function, excluding functions provided by or under the auspices of the government, needed to obtain a public entertainment license from the police; however, regulations exempt some cultural events (such as Chinese operas or lion dances), requiring seven-days advance notice to the police in lieu of a permit.

In August police allowed a concert opposing the death penalty on condition that the photograph of a drug trafficker executed in May be removed from all publicity and information materials about the concert. In July police disapproved the permit for the fourth annual gay and lesbian beach festival, after having approved the festival in prior years. On April 27, two female practitioners of Falun Gong were fined $12 thousand (S$20 thousand) and $14,400 (S$24 thousand) respectively for unlawful assembly and distribution of video compact discs about the group. In April police rejected the application of former opposition leader J.B. Jeyaretnam to demonstrate against the decision to license the city's first casino. In March the MICA minister upheld an MDA decision not to allow a concert organized by a gay group to raise money for HIV/AIDs.

Freedom of Association.—Most associations, societies, clubs, religious groups, and other organizations with more than 10 members are required to register with the government under the Societies Act. The government denied registration to groups that it believed were likely to have been formed for unlawful purposes or for purposes prejudicial to public peace, welfare, or public order. From 1999 to 2003, authorities denied registration to 16 of 1,864 groups seeking registration. The government has absolute discretion in applying criteria to register or dissolve societies. The government prohibits organized political activities except by groups registered as political parties or political organizations. This prohibition limits opposition activities and contributes to restricting the scope of unofficial political expression and action (see section 3). The prohibition affected the PAP less because of its long domination of the government and its overwhelming parliamentary majority; the PAP traditionally has been able to use nonpolitical organizations such as residential committees and neighborhood groups for political purposes far more extensively than

opposition political parties. Political parties and organizations are subject to strict financial regulations, including a ban on receiving foreign donations. Due to laws regulating the formation of publicly active organizations, there were few NGOs apart from nonpolitical organizations such as religious groups, ethnically oriented organizations, and providers of welfare services.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, the government banned some religious groups. The constitution provides that every citizen or person in the country has the right to profess, practice, or propagate his religious belief so long as such activities do not breach any other laws relating to public order, public health, or morality.

All religious groups were subject to government scrutiny. These groups must be registered under the Societies Act. The Maintenance of Religious Harmony Act (MRHA) gives the government the power to restrain leaders and members of religious groups and institutions from carrying out political activities, "exciting disaffection against" the government, creating "ill will" between religious groups, or carrying out subversive activities. The act was prompted by activities that the government perceived as threats to religious harmony, including aggressive and "insensitive" proselytizing and the "mixing of religion and politics." Violation of a restraining order issued under the MRHA is a criminal offense. The act also prohibits judicial review of its enforcement or of any possible denial of rights arising from its implementation.

The government played an active but limited role in religious affairs. It did not tolerate speech or actions, including those of a religious nature that it interpreted as adversely affecting racial and religious harmony. The government accused three individuals of violating the Sedition Act by making allegedly anti-Muslim remarks on the Internet (see section 2.a.). The government may issue restraining orders barring participation in activities adversely affecting religious harmony. The Presidential Council for Religious Harmony reviews such orders and makes recommendations to the president on whether to confirm, cancel, or alter a restraining order. The Presidential Council for Minority Rights examines all pending legislation to ensure it is not disadvantageous to a particular group, reports to the government on matters that affect any racial or religious community, and investigates complaints. The government maintains a relationship with the Muslim community through the Islamic Religious Council (MUIS), which was established under the Administration of Muslim Law Act. The MUIS advises the government on the Muslim community's concerns, maintains regulatory authority over Muslim religious matters, and oversees a fund financed by voluntary payroll deductions and used for mosque-building and social and educational purposes.

Under the Societies Act, the government banned meetings of Jehovah's Witnesses and the Unification Church. The government deregistered and banned Jehovah's Witnesses in 1972 on the grounds that its approximately 200 members refused to perform obligatory military service, salute the flag, or swear oaths of allegiance to the state. The government regarded such refusals as prejudicial to public welfare and order. While the government did not outlaw the profession or propagation of the beliefs of Jehovah's Witnesses and does not arrest members merely for being believers, the result of deregistration was to make meetings of Jehovah's Witnesses illegal. The community numbered approximately two thousand in the country, and Jehovah's Witnesses continued to refuse to perform national military service. The government also banned all written materials published by the Jehovah's Witnesses' publishing affiliates, the International Bible Students Association and the Watch Tower Bible and Tract Society. A person in possession of banned literature can be fined up to $1,140 (S$2 thousand), and for holding a meeting, the fine can be as high as $2,285 (S$4 thousand). In 2004 the authorities briefly detained 11 persons for attempting to bring Jehovah's Witnesses publications into the country, although only one case was referred by police to the Media Development Authority, and the individual received a warning from the police in December 2004. The authorities made no such detentions during the year.

In 2004 the Ministry of Education indefinitely suspended four children for failing to sing the national anthem and participate in the flag ceremony, down from eight suspensions in 2003. No such suspensions were reported during the year. There have been 34 such cases since 2000. All 34 students made alternate schooling arrangements; none has returned to public school. The students can return if they are prepared to sing the anthem, salute the flag, and say the pledge of allegiance.

Missionaries, with the exception of members of Jehovah's Witnesses and representatives of the Unification Church, were permitted to work, publish, and distribute religious texts. However, while the government did not prohibit evangelical

activities in practice, it discouraged activities that could upset inter-communal relations, such as unsolicited public proselytizing.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts. For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides citizens the right to move freely throughout the country; however, while the government generally respected this right in practice, it limited this right in a few respects. For example, citizens' choice of where to live sometimes was limited by the government's legal requirement for ethnic balance in publicly subsidized housing, in which the great majority of citizens lived (see sections 1.f. and 5). The government required all citizens and permanent residents over the age of 15 to register and to carry identification cards. The government may refuse to issue a passport and did so in the case of former ISA detainees. Under the ISA a person's movement may be restricted (see section 1.d.). According to official press releases, at year's end there were 19 suspected terrorists subject to such restrictions.

The law prohibits forced exile, and the country did not employ it.

The right of voluntary repatriation was extended to holders of national passports. The government actively encouraged citizens living overseas to return home or at least to maintain active ties with the country. A provision of law allows for the loss of citizenship by citizens who resided outside the country for more than 10 consecutive years, but it was not known to have been used.

Men are required to serve 24 months of national service upon turning 18 years of age. They also are required to undergo reserve training up to the age of 40 (for enlisted men) or 50 (for officers). Male citizens with national service reserve obligations are required to advise the Ministry of Defense if they plan to travel abroad. Boys age 11 to 16½ years are issued passports that are valid for 2 years and are no longer required to obtain exit permits. From the age of 16½ until the age of enlistment, male citizens are granted 1-year passports and are required to apply for exit permits for travel that exceeds 3 months.

The law stipulates that former members of the Communist Party of Malaya (CPM) residing outside the country must apply to the government to be allowed to return. They must renounce communism, sever all organizational ties with the CPM, and pledge not to engage in activities prejudicial to the country's internal security. In addition, the law requires them to submit to an interview by the Internal Security Department and to accept any restrictive conditions imposed on them.

Protection of Refugees.—The law does not provide for the granting of refugee status or asylum to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol. In practice the government provides protection against *refoulement*, the return of persons to a country where they feared persecution, but does not grant refugee or asylum status.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully. Opposition parties are free to contest elections, and the voting and vote-counting systems are fair and free from tampering; however, the PAP, which has held power continuously and overwhelmingly for more than four decades, has used the government's extensive powers to place formidable obstacles in the path of political opponents.

Elections and Political Parties.—Following the 2001 elections, the PAP held 82 of 84 elected seats; the opposition Singapore People's Party and the Workers' Party each held 1 seat. The opposition continued to criticize what it described as PAP abuse of its incumbency advantages to handicap opposition parties. The PAP maintained its political dominance in part by developing voter support through effective administration and its record in bringing economic prosperity to the country, and in part by manipulating the electoral framework, intimidating organized political opposition, and circumscribing the bounds of legitimate political discourse and action. The belief that the government might directly or indirectly harm the employment prospects of opposition supporters inhibited opposition political activity; however, there were no confirmed cases of such retaliation. As a result of these and other factors, opposition parties were unable to seriously challenge the ruling party. The PAP claimed that the lack of an effective opposition was due to disorganization, weak leadership, and a lack of persuasive alternative policies.

The country has a parliamentary system in which the majority party in Parliament has the authority to constitute the government, which is headed by a prime minister. The parliamentary term is for no more than five years after the first sit-

ting of parliament following a general election. Parliament may be dissolved early by presidential proclamation, which normally follows a request by the prime minister. Elections must be held within three months of Parliament's dissolution. The constitution allows a parliamentary committee to select and the president to appoint nominated members of parliament (MPs) to serve 2½-year terms without facing election. A constitutional amendment requires at least three opposition MPs. Therefore, if fewer than three are elected, the government will appoint a "nonconstituency MP" who is the opposition candidate who obtains the highest share of the vote without winning a seat. Nonconstituency MPs and nominated MPs can participate in parliamentary debate and can vote on some, but not all, types of legislation.

The PAP has an extensive grassroots system and a carefully selected, highly disciplined membership. The establishment of government-organized and predominantly publicly funded Community Development Councils (CDCs) has further strengthened the PAP's position. The CDCs promote community development and cohesion and provide welfare and other assistance services. The PAP dominates the CDCs even in opposition-held constituencies and has threatened to withdraw publicly funded benefits.

The PAP completely controlled key positions in and out of government, influenced the press and courts, and limited opposition political activities. Often the means were fully consistent with the law and the normal prerogatives of the government, but the overall effect (and many argued the ultimate purpose) was to disadvantage and weaken political opposition. For example, the government dramatically altered the boundaries of election districts only 17 days before the 2001 general election. Since 1988 it has changed all but nine single-seat constituencies into group representational constituencies (GRCs) of three to six parliamentary seats, in which the party with a plurality wins all of the seats. According to the constitution, such changes are permitted to ensure ethnic minority representation in Parliament; each GRC candidate list must contain at least one Malay, Indian, or other ethnic minority candidate. These changes made it more difficult for opposition parties, all of which had very limited memberships, to fill multimember candidate lists.

Although political parties legally were free to organize, they operated under the same limitations that applied to all organizations, and the authorities imposed strict regulations on their constitutions, fundraising, and accountability (see section 2.b.). There were 24 registered political parties in the country; however, only 6 of these were active. Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations. Government regulations hindered attempts by opposition parties to rent office space in government housing or to establish community foundations. In addition, government influence extended in varying degrees to academic, community service, and other NGOs.

The Films Act bans political films and recorded televised programs, which further puts opposition parties at a disadvantage since they received less coverage in the government-influenced press and media. A filmmaker was being investigated for a film about opposition leader Dr. Chee Soon Juan that allegedly violated the Films Act (see section 2.a.). The ban, which ostensibly exists to prevent the sensationalist or emotional effect that video or film productions could have on political issues, applies to the PAP as well as to the opposition parties. An activist filed a lawsuit claiming that the Films Act was interpreted with bias in favor of the PAP (see section 2.a.). The law regulates the use of the Internet by political parties and others for political purposes during election campaigns (see section 2.a.).

The threat of civil libel or slander suits, which government leaders have often used against political opponents and critics and consistently won, had a stifling effect on the full expression of political opinion and disadvantaged the political opposition (see section 2.a.). Large judgments in libel suits can lead to bankruptcy, and, under the law, bankrupt persons are ineligible to sit in Parliament. The law also provides for criminal defamation offenses.

In the past, the government used parliamentary censure or the threat of censure to humiliate or intimidate opposition leaders.

The duties of the president are largely ceremonial. Nonetheless, the president has significant budget oversight powers, as well as some powers over civil service appointments and internal security affairs. The law provides for a popularly elected president to be elected for a six-year term from among candidates who are approved by a constitutionally prescribed committee selected by the government. On August 13, the committee decided that the PAP-endorsed incumbent, President S.R. Nathan, was the only qualified candidate out of four applicants. The election was cancelled and Nathan was inaugurated for a second term on September 1. The government placed significant obstacles in the way of opposition political figures' presidential candidacies. For example, opposition members were much less likely to satisfy the requirement that candidates have experience in managing the financial af-

fairs of a large institution, since many of the country's large institutions are government run or linked to the government.

Voting is compulsory, and women and minorities voted at approximately 95 percent in contested constituencies. There is no legal bar to the participation of women in political life; women held only 10 of the 84 elected parliamentary seats, an increase from 6 female MPs in the previous parliament. After an August 2004 cabinet reshuffle, there were two female ministers of state, although none of cabinet rank. Three of the 14 Supreme Court justices were women.

There are no restrictions in law or practice against minorities voting or participating in politics; they actively participated in the political process and were well represented throughout the government, except in some sensitive military positions. Malays made up approximately 14 percent of the general population and hold approximately the same percentage of elected seats in Parliament. Indians made up approximately 7 percent of the general population and held approximately 10 percent of the elected seats in Parliament. Minority representation in Parliament is, in part, the result of a legal requirement that candidate slates in every multi-seat constituency have at least one minority representative. There was one ethnic Malay minister and three ethnic Indian ministers. Two of the 14 members of the Supreme Court were ethnic Indian; there were no Malays on the court.

Government Corruption and Transparency.—There were no reports of government corruption during the year, and the government actively prosecutes officials involved in corruption.

There are no laws that specifically provide for public access to government information; however, significant amounts of information was available on government Web sites.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Efforts by independent organizations to investigate and evaluate government human rights policies faced the same obstacles as those faced by opposition political parties. NGOs were subject to registration under the Societies Act (see section 2.b.). Some domestic NGOs criticized restrictions on human rights or suggested changes that would relax or remove restrictions.

There is a Presidential Council on Minority Rights that monitors pending legislation for anything possibly disadvantageous to minorities (see section 5).

The government permitted international human rights organizations to observe human-rights-related court cases.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution states that all persons are equal before the law and entitled to the equal protection of the law, and the government generally respected these provisions in practice; there is no explicit provision granting equal rights for women and minorities. Mindful of the country's history of intercommunal tension, the government took measures to ensure racial, ethnic, religious, and cultural nondiscrimination. Social, economic, and cultural benefits and facilities were available to all citizens regardless of race, religion, or sex. Men do not have the right to seek alimony from their wives in cases of divorce or separation.

Women.—The law criminalizes domestic violence and sexual or physical harassment; however, violence or abuse against women occurred. A victim of domestic violence can obtain court orders barring the spouse from the home until the court is satisfied that the spouse ceased aggressive behavior. The number of court orders for protection against violent family members has increased in recent years, in part because the definition of violence includes intimidation, continual harassment, or restraint against one's will. The law prescribes mandatory caning and a minimum imprisonment of two years for conviction on any charge of "outraging modesty" that caused the victim fear of death or injury. The press gave prominent coverage to instances of abuse or violence against women. There were several organizations that provided assistance to abused women. The Association of Women for Action and Research ran a hot line that offered counseling and legal advice. The Family Protection and Welfare Service, an office of the Ministry of Community Development, Youth, and Sports, documented physical and psychological abuse, and provided counseling and other support services to abused women. The Star Shelter accepted children, women, and men, and can accommodate up to 30 persons. The government enforced the law against rape, which provides for imprisonment of up to 20 years and caning for offenders. Under the law rape can only be committed by a man, and spousal rape is not a crime; however, husbands who force their wives to have intercourse can be prosecuted for other offenses, such as assault. During the year 12 persons were prosecuted for rape; 2 were convicted, 9 were awaiting trial, and 1 case resulted in

a discharge not amounting to acquittal. The Ministry of Education and the police both carried out programs aimed at preventing rapes.

The country's laws neither ban nor authorize prostitution; however, public solicitation, living on the earnings of a prostitute, and maintaining a brothel are illegal. The authorities periodically carried out crackdowns on solicitation for prostitution and arrested and deported foreign prostitutes, particularly when their activities took place outside informally designated red light areas. In practice police unofficially tolerated and monitored a limited number of brothels; prostitutes (the great majority of whom were foreign and working illegally) in such establishments were required to undergo periodic health checks and carry a health card.

There were no specific laws prohibiting stalking or sexual harassment; however, the Miscellaneous Offenses Act and laws prohibiting insults to modesty were used successfully to prosecute these offenses. Sexual harassment was not considered a significant issue.

Women accounted for 55 percent of civil service employees. They enjoyed the same legal rights as men, including civil liberties, employment, commercial activity, and education. The Women's Charter gives women, among other rights, the right to own property, conduct trade, and receive divorce settlements. Muslim women enjoyed most of the rights and protections of the Women's Charter. For the most part Muslim marriage law falls under the administration of the Muslim Law Act, which empowers the Shari'a (Islamic law) court to oversee such matters. The laws allow Muslim men to practice polygyny, although requests to take additional spouses may be refused by the Registry of Muslim Marriages, which solicits the views of an existing wife or wives and reviews the financial capability of the husband. There were 450 applications for polygynous marriage from 1999 to 2003; 122 were approved, approximately 0.5 percent of all Muslim marriages during that period. From 2003 to 2005, there were 142 applications for polygynous marriage and 50 applications were approved. Both men and women have the right to initiate divorce proceedings; however, in practice women faced significant difficulties that often prevented them from pursuing proceedings. This included the lack of financial resources to obtain legal counsel.

In 2004 women constituted 44.9 percent of the labor force and were well represented in many professions, but, with several prominent exceptions, they held few leadership positions in the private sector and no ministerial positions in the government. They were overrepresented in low-wage jobs such as clerks and secretaries; however, there were some women who held senior corporate leadership positions. Salaries for women ranged between 62 and 100 percent of men's salaries depending on the occupational grouping. The wage gap has narrowed in recent years; in some specific occupations women earned more than their male counterparts. Observers noted that the wage differential was smaller in professional jobs and that wage disparities could be attributed in part to differences in average educational levels and work experience.

In April Parliament amended the constitution to eliminate the inequality whereby female citizens could not automatically transmit citizenship to their children born abroad, but male citizens could.

Children.—The government demonstrated a strong commitment to children's rights and welfare through well-funded systems of public education and medical care, and access was equal for all children. Six years of public (or government-recognized private) education is compulsory for all children. Virtually 100 percent of children were enrolled through grade 6, and the dropout rate for secondary school was low. The Children and Young Persons Act established protective services for orphaned, abused, "troubled," and children with disabilities, and created a juvenile court system. The Ministry of Community Development, Youth, and Sports worked closely with the National Council for Social Services to oversee children's welfare cases. Voluntary organizations operated most of the homes for children, while the government funded from 50 to 100 percent of living expenses and overhead, as well as expenses for special schooling, health care, or supervisory needs.

Some child prostitution occurred. In 2004, 35 of the more than 5,239 foreign women arrested for prostitution were believed to be under the age of 18. Sexual intercourse with girls under the age of 16 is illegal, but there is no legal prohibition on commercial sex with "consenting" partners ages 16 and 17. The authorities have the power to detain persons under the age of 21 who are believed to be engaged in prostitution, as well as to prosecute those who organize or profit from prostitution, who bring women or girls to the country for prostitution, or who coerce or deceive women or girls into prostitution.

The Ministry for Community Development, Youth, and Sports sponsored activities promoting children's causes, including family stability. This agency and several

NGOs focused on keeping fathers involved in their children's lives and on preventing child abuse.

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking in persons occurred.

The three major laws that govern trafficking and prostitution are the Women's Charter, the Children and Young Person's Act, and the penal code. Trafficking in women and children, whether or not it is related to prostitution, is punishable by up to 5-years' imprisonment, a $5,881 (S$10 thousand) fine, and caning. Traffickers could be prosecuted under provisions governing kidnapping, abduction, slavery, and forced labor, which carry maximum punishments of 10 years' imprisonment and a fine. Convicted traffickers could be found guilty of violating more than one law. There was no specific campaign to combat or prevent the use of fraud or coercion to recruit foreign women as prostitutes, although some persons were prosecuted and punished for crimes involving such acts.

In 2004 there were three prosecutions, two of which involved forced prostitution, and one of which involved bringing a woman into the country under false pretenses for the purpose of prostitution. The latter case involved a Sri Lankan woman, who was recruited in Sri Lanka and told she would be a maid, but was forced into prostitution. Her two "vice abettors" were each fined $15,476 (S$26 thousand).

The police and other elements of the government were widely recognized to be both effective and among the least corrupt such institutions to be found. There were no reports of any official involvement in trafficking in persons.

In practice successful investigation and prosecution of trafficking in persons required that victims remain in or return to the country to testify. Victims were urged by police to remain in the country until a case was prosecuted, and generally they did; however, some abused domestics left and were brought back to testify. Victims did not receive government assistance during this period or at other times and indicated they sometimes were not granted permission for alternative employment and were dependent on support from their embassy. Laws prohibiting the harboring, aiding, or abetting of illegal immigrants could hamper assistance to trafficking victims by putting NGOs in the position of harboring a victim who has no legal status; however, the authorities did not appear to investigate or prosecute such assistance. The authorities notified embassies of the arrest of nationals, including for prostitution-related offenses, and allowed consular access. Prostitutes rarely contacted embassies voluntarily, unless detained for solicitation or immigration offenses during police sweeps. However, victims of crimes, including domestics alleging abuse, sometimes requested and received assistance from their embassies.

Persons with Disabilities.—The government maintained a comprehensive code on barrier-free accessibility; this established standards for facilities for persons with physical disabilities in all new buildings and mandated the progressive upgrading of older structures. There was no legislation addressing equal opportunities for persons with disabilities in education or employment; however, the National Council of Social Services, in conjunction with various voluntary associations, provided an extensive job training and placement program for persons with disabilities. The government also ran vigorous campaigns to raise public awareness of issues confronting persons with disabilities and the services available to them. A tax deduction of up to $58,800 (S$100 thousand) was available to employers to defray building modifications to benefit employees with disabilities. Informal provisions in education have permitted university matriculation for the visually impaired, deaf, and for students with physical disabilities. There were 20 special education schools that enrolled more than 4 thousand students. It is expected that upon completion of retrofitting, one out of every eight schools will be accessible to handicapped students. The government provided funds for 6 childcare centers to take in 60 children with special needs.

The government allowed a tax deduction of up to $2 thousand (S$3,500) per individual for families caring for a sibling, spouse, or child with a disability. Mental and physical disabilities were treated in the same way. Press coverage of the activities and achievements of persons with disabilities was extensive, and discrimination or abuse of persons with disabilities did not appear to be a problem.

National/Racial/Ethnic Minorities.—Ethnic Malays constituted approximately 14 percent of the population. The constitution acknowledges them as the indigenous people of the country and charges the government to support and to promote their political, educational, religious, economic, social, cultural, and language interests. The government took steps to encourage greater educational achievement among Malay students as a key to economic advancement. However, ethnic Malays have not yet reached the educational or socioeconomic levels achieved by the ethnic Chinese majority, the ethnic Indian minority, or the Eurasian community. Malays re-

mained underrepresented at senior corporate levels, and, some assert, in certain sectors of the government and the military. This reflected their historically lower educational and economic levels, but some argued that it also was a result of employment discrimination. The government has issued guidelines that call for eliminating language referring to age, gender, or ethnicity in employment advertisements; restrictive language pertinent to job requirements, such as "Chinese speaker" or "physically strong" remains acceptable. These guidelines were generally followed.

The Presidential Council on Minority Rights examined all pending bills to ensure that they were not disadvantageous to a particular group. It also reported to the government on matters that affected any racial or religious community and investigated complaints.

The government enforced ethnic ratios for publicly subsidized housing, where the majority of citizens lived and owned their own units, a policy designed to achieve an ethnic mix more or less in proportion to that of society at large.

Other Societal Abuses and Discrimination.—Some individuals with HIV/AIDS claimed that they were socially marginalized and faced employment discrimination if they revealed they were suffering from the disease. The government discouraged discrimination, supported initiatives that countered misperceptions about HIV/AIDS, and praised employers that welcomed workers with HIV/AIDS. In July police disapproved the permit for the fourth annual gay and lesbian beach festival, after having approved the festival in prior years. In March the MICA minister upheld an MDA decision not to allow a concert organized by a gay group to raise money for HIV/AIDs.

Section 6. Worker Rights

a. The Right of Association.—The law provides all citizens the right to form associations, including trade unions; however, Parliament may impose restrictions based on security, public order, or morality grounds. The right of association was restricted by the Societies Act, and by labor and education laws and regulations. Under these laws any group of 10 or more persons is required to register with the government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions such as prohibitions on the unionization of uniformed personnel or government employees. The Amalgamated Union of Public Employees was declared exempt from these provisions, and its scope of representation was expanded over the years to cover all public sector employees except the most senior civil servants.

The Trade Unions Act restricts the right of trade unions to elect their officers and whom they may employ. Foreigners and those with criminal convictions may not hold union office or become employees of unions. However, the minister of manpower could grant exemptions. The Trade Unions Act limits the objectives on which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes. In 2004 the national labor force was made up of approximately 2.18 million workers, nearly 420 thousand of whom were represented by 68 unions. Almost all of the unions (which represented virtually all of the union members) were affiliated with the National Trade Union Congress (NTUC), an umbrella organization with a close relationship with the government.

The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic. The NTUC's Secretary General, Lim Boon Heng, a PAP MP, was a member of the cabinet as minister in the prime minister's office. Young PAP MPs with no union experience were often elected to leadership positions in the NTUC or a member union. The NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. While the NTUC is financially independent of the PAP, the two share a common ideology and work closely with management in support of nonconfrontational labor relations. The NTUC is free to associate regionally and internationally.

b. The Right to Organize and Bargain Collectively.—Collective bargaining was a normal part of labor-management relations in the industrial sector. Collective agreements must be certified by the tripartite Industrial Arbitration Court (IAC) before going into effect. The IAC could refuse certification at its discretion on the ground of public interest. Transfers and layoffs were excluded from the scope of collective bargaining. However, in practice employers consulted with unions on both issues, and the Tripartite Panel on Retrenched Workers issued guidelines calling for early notification to unions of layoffs. Disputes could be settled through discussions with the Ministry of Manpower. If conciliation fails, the parties may submit their cases to the IAC. In limited situations, the law provides for compulsory arbitration, which has not been used since 1980. Agreements between management and labor were renewed every two to three years, although wage increases were negotiated annually.

The National Wages Council (NWC), a group composed of labor, management, and government representatives, issues yearly guidelines on raises and bonus pay that serve as the starting point for bargaining agreements. Subject to negotiation in each enterprise, up to 10 percent of salaries were considered "variable" each month, allowing companies to eliminate that portion of pay if there were financial problems.

Workers in "essential services" are required to give 14 days' notice to an employer before striking, and there is a prohibition on strikes by workers in the water, gas, and electricity sectors. Other workers have the legal right to strike but rarely did so. There were no specific laws that prohibited retaliation against strikers. The law provides that before striking, unionized workers must vote in favor of the strike by secret ballot.

Most disagreements are resolved through informal consultations with the Ministry of Manpower. If conciliation fails, the disputing parties usually submit their case to the IAC, which is composed of representatives from labor and management, and chaired by a judge. Besides these labor dispute mechanisms and the close working relationship and shared views among labor, management, and the government, the maintenance of labor peace has been a product of high economic growth rates, regular wage increases, and a high degree of job mobility in a virtual full-employment economy.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government enforced the Employment Act, which prohibits employment of children under the age of 12. Restrictions on the employment of children between the ages of 12 and 16 are rigorous and fully enforced. Children under the age of 14 generally are prohibited from employment in the industrial sector. Exceptions include family enterprises; children may work in a business in which only members of the same family are employed. A child of 12 or older may be employed in light work, subject to medical clearance. Employers must notify the commissioner of labor within 30 days of hiring a child between the ages of 14 and 16 and attach a medical certification of the child's fitness for employment. The incidence of children in permanent employment was low, and abuses were almost nonexistent.

Ministry of Manpower regulations prohibit night employment of children and restrict industrial work for children between the ages of 14 and 16 to no more than 7 hours a day, including the hours spent in school. Children may not work on commercial vessels, with moving machinery, on live electrical apparatus lacking effective insulation, or in any underground job. The minister of manpower effectively enforced these laws and regulations.

e. Acceptable Conditions of Work.—There are no laws or regulations on minimum wages or unemployment compensation; however, the NWC monitored the economy and made annual recommendations to the government concerning wage guidelines. The labor market offered good working conditions and relatively high wages, which provided a decent standard of living for a worker and family.

The Employment Act sets the standard legal workweek at 44 hours and provides for 1 rest day each week. In 2004 the government moved to a 5-day, 42-hour workweek.

The Ministry of Manpower effectively enforces laws and regulations establishing working conditions and comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, were implemented to reduce the frequency of job-related accidents. While workers have the right under the Employment Act to remove themselves from a dangerous work situation, their right to continued employment depended upon an investigation of the circumstances by the Ministry of Manpower.

Because of a domestic labor shortage, approximately 600 thousand foreign workers were employed legally, constituting approximately 30 percent of the total work force. There were no reliable estimates of the number of foreigners working illegally. Most foreign workers were unskilled laborers and household servants from other Asian countries. Foreign workers faced no legal wage discrimination; however, they were concentrated in low-wage, low-skill jobs and were often required to work long hours. Most foreign construction workers live on worksites in substandard conditions.

Although the great majority of the approximately 150 thousand maids (mainly from the Philippines, Indonesia, and Sri Lanka) worked under clearly outlined contracts, their low wages, dependence on their employers for food and lodging, and relative isolation made them vulnerable to mistreatment and abuse. The authorities

fined or imprisoned employers who abused maids. On June 1, a woman who assaulted her maid over an 18-month period was sentenced to 5 months in jail. Debate on how to prevent abuse of maids was ongoing. Effective January 1, the Ministry of Manpower raised the minimum age for maids from 18 to 23 years, and required all maids to show that they had 8 years of formal education before allowing them to enter. All new maids and new employers of maids must undergo mandatory training on maids' rights and responsibilities. Since April it has been mandatory that maids take a written entrance exam that covers topics such as safety and English comprehension.

Most maids worked six days per week from early morning until late in the evening. Many contracts allowed only one day off per month. Contracts often stipulated that, even when not working, a maid was required to remain on the premises unless on official duties or on her day off. Maids often had to set aside most or all of their wages for the first several months of employment to reimburse their placement agents. Work permits for low-wage foreign workers could be cancelled if a worker applied to marry or married a citizen or permanent resident.

The Employment Act protects foreign workers such as the many employed in the construction industry; however, domestic servants are not covered by the act and are not eligible for limited free legal assistance from the government. However, the Ministry of Manpower offered conciliation services for all employees, foreign or local. The Foreign Workers Unit of the Ministry of Manpower provided free advisory and mediation services to foreign workers experiencing problems with employers. The government allowed complainants to seek legal redress. The government also established a hot line for maids.

On December 6, the international NGO Human Rights Watch (HRW) issued a detailed report on actual and potential abuses of foreign domestic workers and recommended remedial actions. On December 7, the Ministry of Manpower issued a press statement citing its efforts over the past few years to address the concerns highlighted in the HRW report and reiterating that it does not tolerate abuse or exploitation of foreign domestic workers.

SOLOMON ISLANDS

The Solomon Islands is a multiparty parliamentary democracy with a population of approximately 480 thousand. Citizens elect a single-chamber parliament of 50 members. Executive authority is vested in the prime minister, who is elected by a majority vote of Parliament, and his cabinet. A new parliament was elected in 2001 with Sir Allan Kemakeza of the People's Alliance party as prime minister; the elections were considered generally free and fair. Between 1998 and 2003, conflict between two of the main ethnic groups in the country—the Malaitans and the Guadalcanalese—led to a serious deterioration in the human rights situation. In 2003 the Regional Assistance Mission for Solomon Islands (RAMSI), a multinational police-centered force organized by Australia, arrived in the country at the government's invitation to assist in restoring law and order and rebuilding the country's institutions. By the end of 2004 law and order largely had been restored. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- lengthy pretrial detention
- government corruption
- violence and discrimination against women

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed unlawful or arbitrary killings.

Since 2003 RAMSI has investigated and arrested a number of police officers and militants who allegedly had committed murder and other criminal acts, and brought them to trial (see sections 1.c. and 1.d.). At year's end prosecutions were ongoing. Arrests have included senior political figures, one of whom was a former cabinet minister charged, among other things, with being an accomplice to murder. He remained in custody awaiting trial at year's end.

At year's end a former police sergeant arrested for murder in the 2003 killing of retired police commissioner Sir Frederick Soaki, and who subsequently escaped from custody, remained at large.

In July a former police officer was convicted of murder in the 2000 death of an arson suspect detained in Rove Prison. The detainee was shot in the prison and died en route to a hospital. A former militia commander was convicted of inflicting grievous bodily harm on another suspect in the same arson case (see section 1.c.). A second former police officer was acquitted in the case.

In December 2004 an Australian Federal Police (AFP) officer attached to RAMSI was shot and killed while on patrol in Honiara. Police arrested four suspects and charged them with murder in the case; at year's end they were detained awaiting trial.

In October a Honiara court convicted three former members of the Guadalcanal Liberation Front of the 2003 murders of six members of the Melanesian Brotherhood, an Anglican religious order, and sentenced them to life imprisonment. A fourth suspect, a juvenile, was scheduled to be tried separately in 2006. In March former Guadalcanal Liberation Front leader Harold Ke'ke and two codefendants were convicted of the 2002 murder of cabinet minister Father Augustine Geve and sentenced to life imprisonment. At year's end Ke'ke faced charges on 14 additional counts of murder, scheduled for trial in 2006.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no confirmed reports of such practices by the police during the year. There were a few allegations by detainees that they were mistreated by police during questioning. In October a court acquitted two RAMSI officers of wrongdoing against a local citizen. The citizen alleged that the officers mistreated him during a police search for the killer of an AFP officer (see section 1.a.).

During the year one person was sentenced to prison for burning down at least 30 houses at Marassa on the Weathercoast of Guadalcanal and committing other acts of violence against Guadalcanal residents in August 2004. Thirteen others charged in the case were in jail awaiting trial at year's end. An additional eight suspects were freed on bail and were in hiding at year's end.

Since its arrival in 2003, RAMSI apprehended and charged persons allegedly responsible for human rights abuses and other criminal acts. More than 240 persons, including approximately 40 police officers and Ke'ke and other militants, were arrested. More than 600 charges were lodged against them. Some of those arrested were tried and convicted during the year, while others were awaiting trial at year's end.

In July a former leader of the militant group Malaita Eagle Force was convicted of inflicting grievous bodily harm in the beating of a suspect in a 2000 arson case.

Prison and Detention Center Conditions.—Prison conditions generally met international standards.

In 2002 the national ombudsman found conditions at the provincial jail in Gizo to be in violation of human rights standards. In 2003 RAMSI began renovations at the provincial jails in Gizo and Auki; rehabilitation of those jails continued at year's end. Overcrowding at those facilities was alleviated by transferring persons jailed for serious offenses to the newly renovated Rove Prison in Honiara, where more space was available.

On October 14, approximately 200 inmates at Rove Prison staged a protest, reportedly demanding that the authorities provide them with television sets and more privacy for spousal visits. Violence broke out when the inmates refused to return to their cells and some attacked prison officials and police; police used pepper spray to subdue the inmates and no serious injuries were reported. In August 2004 between 100 and 200 inmates broke out of their cells at Rove Prison, occupied part of the compound, and reportedly threw stones at police. During the year the government and RAMSI completed an inquiry into the incident, but the resulting report's findings and recommendations were not made public.

Rove Prison had separate facilities for juveniles. Provincial jails did not have separate facilities for juveniles, but juveniles in long-term custody were sent to Rove Prison.

The government permitted prison visits by human rights observers, including the International Committee of the Red Cross (ICRC). The ICRC also facilitated visits to Rove Prison by family members of some prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—A commissioner, who reports to the minister of police, heads the police force of approximately 1,100 members. During the year an Australian police official served as commissioner on a contract funded by the Australian government.

Prior to RAMSI's arrival, the police were largely ineffectual. Corruption was a problem, and there was a lack of accountability for police officers involved in abuses. The situation improved after RAMSI's arrival. By late 2003 nearly 40 police officers, including some of senior rank, had been arrested on more than 90 charges, including murder, assault, intimidation, robbery, and inappropriate use of firearms. During the year some of the arrested officers, including two former deputy commissioners, were tried and convicted of criminal offenses and received prison terms. By year's end RAMSI had re-established 20 police stations throughout the country. The police service has an inspection unit to monitor police discipline and performance.

Arrest and Detention.—The law provides for a judicial determination of the legality of arrests. Detainees generally were informed promptly of the charges against them. Detainees have the right to counsel. The public solicitor's office provided legal assistance to indigent defendants. Detainees had prompt access to family members and to counsel. Officials found to have violated civil liberties are subject to fines and jail sentences. There was a functioning system of bail. However, delays in adjudication of the large number of cases before the courts resulted in lengthy pretrial detention for some prisoners.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judicial system consists of the High Court, the Court of Appeals, and magistrates' courts. RAMSI expanded the public solicitor's staff to 16, of whom 10 were foreign nationals. The number of public prosecutors increased to 10, including 7 foreign nationals. During the year four additional courtrooms were completed for the High Court and two additional High Court judges were hired.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Trial procedures normally operated in accordance with British common law, with a presumption of innocence, access to attorneys, and the right to access government-held evidence, confront witnesses, and appeal convictions. Judges conduct trials and render verdicts; there are no juries. Accused persons are entitled to counsel.

Backlogs in the investigation and prosecution of cases remained a problem at year's end (see section 1.d.), but all persons in custody prior to September had initial trial dates assigned.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet.

Given the high rate of illiteracy, radio broadcasting was more influential than the print media.

In April eight secondary school students in Central Province were suspended for alleged violation of school regulations after the students complained about a lack of adequate resources at their school. A member of Parliament (MP) from the province criticized the suspension, and the students later were reinstated.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice. Demonstrators must obtain permits, which the government generally granted.

Freedom of Association.—The law provides for freedom of association, but at times the government restricted this right. The government has outlawed the principal militant groups. Other groups associated freely, and a good governance oversight group, the Civil Society Network, continued to raise issues of concern with the government.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The public school curriculum included 30 minutes daily of religious instruction, the content of which was agreed upon by the Christian churches; students whose

parents did not wish them to attend the class were excused. However, the government did not subsidize church schools that did not align their curriculums with governmental criteria. Although non-Christian religions theoretically can be taught in the schools, there was no such instruction in practice.

Societal Abuses and Discrimination.—The Jewish community was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not use it. Native-born citizens may not be deprived of citizenship on any grounds.

Protection of Refugees.—Although a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a system for providing protection to refugees. The government cooperated with the Office of the UN High Commissioner for Refugees and the Red Cross in assisting refugees and asylum seekers, and has not returned persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for persons 18 years of age and older.

Elections and Political Participation.—The 2001 national parliamentary elections were regarded as generally free and fair, although there was evidence of vote buying and of coercion by armed persons in a number of constituencies. On several occasions since independence, changes of government resulted from either parliamentary votes of no confidence or the resignation of the prime minister.

Traditional male dominance limited the role of women in government. There were no women in the 50-member Parliament. Three women served as permanent secretaries in the government.

There were three members of minorities (non-Melanesians) in Parliament, two of whom were in the cabinet. In addition, one of the prime minister's advisors was a member of a minority group. During the year an indigenous chief in Gela criticized other local leaders for supporting the candidacy of an ethnic Chinese for Parliament in the 2006 national elections rather than an indigenous candidate. However, in response, another chief in Gela supported the right of ethnic minorities to run for Parliament.

Government Corruption and Transparency.—Government corruption and impunity in both the executive and legislative branches were serious problems, compounded by the breakdown in law and order that resulted from the ethnic conflict. During the year RAMSI continued to work with the government and nongovernmental organizations (NGOs) to reform the public service, including financial support and administrative reorganization of existing "watchdog" agencies such as the auditor general and the ombudsman's office. Despite this progress the government declined to implement a RAMSI proposal to establish an independent leadership integrity commission. During the year a number of provincial officials and community leaders attended workshops on good governance.

During the year corruption-related charges were lodged against a number of current and former government officials. In February the prime minister replaced two cabinet ministers charged with corruption-related offenses, including the minister of police. In October the minister of health was charged with theft of development aid funds and was released on bail pending trial. During the year a former East Honiara MP and a former cabinet minister charged, respectively, in October 2004 and in January with official corruption involving the granting of certificates of naturalization to Chinese nationals were acquitted due to lack of sufficient evidence. The government appealed the cases to the High Court; a hearing was scheduled for early 2006.

According to an audit performed by the auditor general and reported to Parliament in November, nearly $800 thousand (SI$6 million) of a loan from the Taiwan export-import bank for compensation payments to persons whose property was damaged during the period of ethnic tensions was unaccounted for, and many of the claims submitted were either excessive or entirely false. The auditor general stated that the then finance minister was informed of the audit results in 2004 but took

no action on them; the former finance minister asserted that action on the matter would have been divisive.

No law provides for public access to government information. In practice the government generally was responsive to inquiries from the media during the year.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The law provides for an ombudsman, with the power to subpoena and to investigate complaints of official abuse, mistreatment, or unfair treatment. While the ombudsman's office has potentially far-ranging powers, it was limited by a shortage of resources. It organized occasional workshops and undertook a few tours during the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides that no person—regardless of race, place of origin, political opinion, color, creed, or disability—shall be treated in a discriminatory manner with respect to access to public places. The constitution further prohibits any laws that would have discriminatory effects and provides that no person should be treated in a discriminatory manner by anyone acting in an official capacity. Despite constitutional and legal protections, women remained the victims of discrimination in this tradition-based society. Unemployment was high, and there were limited job opportunities for persons with disabilities.

Women.—Although statistics were unavailable, incidents of domestic violence appeared to be common. The law does not address domestic violence; however, there are provisions against common assault and rape. In the rare cases of domestic abuse that were reported, charges often were dropped by the victims before the court appearance or the case was settled out of court. The magistrates' courts dealt with physical abuse of women as with any other assault, although prosecutions were rare. In part due to the breakdown in law and order and the lack of an effective, functioning police force after June 2000, women and teenage girls in particular were vulnerable to abuse, including rape. Following RAMSI's arrival rape charges were brought against a number of persons. As part of a new police curriculum, officers were given specialized training on how to work with victims of rape.

According to a 2004 study by Amnesty International, violence against women, including rape and domestic abuse, remained a serious problem, with nearly 200 rapes reported to police in the first 6 months of 2004. Among the reasons cited for the failure to report many incidents of abuse were pressure from male relatives, fear of reprisals, feelings of shame, and cultural taboos on discussion of such matters. To combat the problem, in May the police established a sexual assault unit, staffed mostly by female officers, and NGOs conducted awareness campaigns on family violence during the year. There were two church-run facilities for abused women and an NGO-supported family center that provided counseling, legal assistance and other support services for women.

Prostitution is illegal, but the statutes were not enforced. There is no law against sex tourism specifically, although such offenses could be prosecuted under laws against prostitution. There were some press reports of sex tourism during the year, but no specific cases were reported to the police.

Sexual harassment is not prohibited by law and was a problem.

The law accords women equal legal rights, including the right to own property. However, in this traditional society, men are dominant and women are limited to customary family roles. This situation has prevented women from taking more active roles in economic and political life. A shortage of jobs also inhibited the entry of women into the work force. The majority of women were illiterate; this was attributed in large part to cultural barriers. The National Council of Women and other NGOs attempted to make women more aware of their legal rights through seminars, workshops, and other activities. The government's Women's Development Division also addressed women's issues.

Children.—Within the limits of its resources, the government was committed to the welfare and protection of children. During the year major foreign assistance helped to bolster the educational system, which had languished over the previous several years. With foreign assistance, all of the country's schools were operating at year's end, and an additional 200 classrooms were being built. However, education was not compulsory, and high school fees severely limited attendance at secondary and tertiary institutions. A higher percentage of boys than girls attended

school. During the year primary school fees were eliminated, and reports indicated that most children at the primary school level were attending school, a significant improvement compared with past years, when less than 60 percent were enrolled. All medical care for children was free; however, the lack of resources seriously reduced the quality and availability of medical care.

The law grants children the same general rights and protections as adults. Existing laws are designed to protect children from sexual abuse, child labor, and neglect. Children generally were respected and protected within the traditional extended family system, in accordance with a family's financial resources and access to services, although some cases of child abuse were reported. Virtually no children were homeless or abandoned.

Both boys and girls may legally marry at age 15, and the law permits marriage at age 14 with parental and village consent. Marriage at such young ages did not appear to be common; however, a church worker reported cohabitation and sometimes marriage between young girls and foreign loggers on Makira island. Reportedly the loggers often abandoned the girls when they moved on to another village.

Several hundred children (generally boys) under the age of 18 were active combatants during the ethnic conflict or assisted in militants' camps. Many of these underage militants joined criminal gangs immediately following the conflict, but most have returned to their villages and reentered civil society. However, some unemployed youth in urban areas were involved in petty crime.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There is no law or national policy on persons with disabilities, and no legislation mandates access to buildings for such individuals. Their protection and care are left to the traditional extended family and NGOs. With high unemployment countrywide and few jobs available in the formal sector, most persons with disabilities, particularly those in rural areas, did not find work outside of the family structure.

The Ministry of Home Affairs is responsible for protecting the rights of persons with disabilities.

The country had one educational facility for children with disabilities, which was supported almost entirely by the Red Cross. An education unit at the College of Higher Education, staffed by Australian volunteers, trained teachers in the education of persons with disabilities. Such training was compulsory for all student teachers at the college. Persons with mental disabilities were cared for within the family structure; there were very limited government facilities for such persons. In late 2004 the Kilufi Hospital in Malaita opened a 10-bed ward for the treatment of psychiatric patients.

National/Racial/Ethnic Minorities.—The country is composed of more than 27 islands with approximately 70 language groups. In the precolonial era these groups existed in a state of continual warfare with one another, and even today many islanders see themselves first as members of a clan, next as inhabitants of their natal island, and only third as citizens of their nation. Over the past century, and particularly since World War II, many persons from the poor, heavily populated island of Malaita settled on Guadalcanal, the island on which the capital of Honiara is located. The tensions and resentment between the Guadalcanalese and the Malaitans on Guadalcanal culminated in violence beginning in 1998, when Guadalcanalese militants began a campaign of threats and intimidation against Malaitans on Guadalcanal. Civilians were the victims of abuses by both sides. Ethnic tension between Malaitans and Guadalcanalese was greatly reduced with the presence of RAMSI in the country, although underlying problems between the two groups remained to be addressed, including issues related to jobs and land rights.

There was occasional societal discrimination against ethnic Chinese.

Other Societal Abuses and Discrimination.—Same-sex relationships are illegal, and persons engaged in same-sex relationships are often the subject of societal discrimination.

Section 6. Worker Rights

a. The Right of Association.—The law implicitly recognizes the right of workers to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights, and workers exercised them in practice. Only about 10 to 15 percent of the population participated in the formal sector of the economy. Approximately 60 to 70 percent of wage earners were organized (approximately 90 percent of employees in the public sector and 50 percent of those in the private sector).

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and to bargain collectively, and unions exercised these rights. Wages and conditions of employment are determined by collective bargaining, usually at the level of individual firms. Disputes between labor and management that cannot be settled between the two sides are referred to the Trade Disputes Panel (TDP) for arbitration. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral.

The law permits strikes. Private sector disputes usually were referred quickly to the TDP for arbitration, either before or during a strike. In practice the small percentage of the work force in formal employment meant that employers had ample replacement workers if disputes were not resolved quickly. However, employees are protected from arbitrary dismissal or lockout while the TDP is deliberating.

During most of the year the longstanding standoff continued between the National Union of Workers and the Russell Islands Plantation Estate, Limited (RIPEL), and the TDP had the dispute under review. In December the workers' strike ended after an agreement was reached with RIPEL's owners. Approximately 12 persons were charged with willful destruction of company property and were awaiting trial at year's end.

The law protects workers against antiunion activity, and there were no areas where union activity was officially discouraged.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and normally, except as part of a court sentence or order, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law forbids labor by children under the age of 12, except light agricultural or domestic work performed in the company of parents. Children under age 15 are barred from work in industry or on ships; those under age 18 may not work underground or in mines. The commissioner of labor is responsible for enforcing child labor laws, but few resources were devoted to investigating child labor cases. Given low wages and high unemployment, there was little incentive to employ child labor.

e. Acceptable Conditions of Work.—The minimum wage rate is US $0.20 (SI$1.50) per hour for all workers except those in the fishing and agricultural sectors, who receive $0.17 (SI$1.25). The legal minimum wage did not provide a decent standard of living for an urban family living entirely on the cash economy. However, most families were not dependent solely on wages for their livelihoods.

The law regulates premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to 6 days per week. There are provisions for maternity leave and for premium pay for overtime and holiday work.

Both an active labor movement and an independent judiciary provided enforcement of labor laws in major state and private enterprises. The commissioner of labor, the public prosecutor, and the police are responsible for enforcing labor laws; however, they usually reacted to complaints rather than routinely monitoring adherence to the law. The extent to which the law was enforced in smaller establishments and in the subsistence sector was unclear. Safety and health laws appeared to be adequate. The Safety at Work Act requires employers to provide a safe working environment and forbids retribution against an employee who seeks protection under labor regulations or removes himself from a hazardous job site. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

THAILAND

Thailand is a democratically governed constitutional monarchy, with a population of more than 65 million. The king exerts strong informal influence but has never used his constitutionally mandated power to veto legislation or dissolve the elected bicameral parliament. On February 6, there were multi-party elections for the lower house of parliament. Incumbent Prime Minister Thaksin Shinawatra's party, Thai Rak Thai, won an overwhelming victory, and following October by-elections held 375 of the 500 seats. The election process was viewed as generally free and fair, but marred by widespread vote buying. The civilian authorities generally maintained effective control of the security forces; however, there were instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were significant problems in some areas. Separatist violence against government authorities and civilians continued in the southern provinces of Narathiwat, Yala, Pattani, and Songkhla. Martial law was in effect in some or all of these provinces until July 16, when it was replaced by the emergency decree, which gave the government significant powers to restrict certain basic rights and delegates certain internal security powers to the armed forces. The violence and increased security measures led to occasional clashes with the police and to growing resentment among the local populace in the affected region. The media, while still vigorous, continued to be targeted by lawsuits both against individuals and against media outlets. A significant number of court rulings were seen as positive developments for the protection of fundamental human rights. The following human rights problems were reported:

- arbitrary and unlawful killings by both security force personnel and insurgents as well as deaths in police custody
- torture and excessive use of force by police
- poor conditions in some prisons and immigrant detention facilities
- arbitrary arrest and prolonged detention without charge
- impunity for human rights abusers
- intimidation of the press leading to self-censorship
- widespread corruption
- violence and discrimination against women
- trafficking in persons
- discrimination against hill tribes and other minorities
- inadequate protection of worker rights
- forced labor and child labor
- mistreatment of foreign migrant workers

Violence by ethnic Malay separatist insurgents in the southern part of the country against symbols and representatives of government authority as well as against civilians resulted in hundreds of killings in the provinces of Narathiwat, Yala, Pattani, and Songkhla.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports of politically motivated killings by the government or its agents; however, security forces continued to use excessive, lethal force against criminal suspects and committed or were connected to numerous extrajudicial, arbitrary, and unlawful killings.

On June 17, Phra Supoj Suwajano, an environmental advocate, was stabbed to death, after he exposed a log-poaching network in Chiang Mai Province. Phra Supoj and other local monks had received death threats. Nobody has yet been held responsible for Phra Supoj's murder. Police said the investigation was ongoing. Nongovernment organizations (NGOs) criticized the police for ignoring a number of leads and possible connections to a government official.

On August 29, Satopa Yushoh, an imam in Narathiwat Province was shot and killed by unknown attackers. Before dying, Satopa reportedly said he had been shot by government soldiers.

On October 3, three ethnic Karen suspects who had been arrested for amphetamine possession were found dead, hung by their shoelaces, in their jail in Chiang Mai Province. Police ruled the deaths suicides, although NGOs argued this was physically impossible. On November 19, another detainee allegedly hanged himself in the same prison.

In April 2004 elements of the police and military killed more than 100 persons while repelling multiple attacks in Yala, Pattani, and Narathiwat provinces by unnamed separatist Muslim men. Of this total, 32 were killed at Krue Se mosque in Pattani, when security forces stormed the mosque after a nine-hour standoff. According to an official independent commission report on the Krue Se mosque incident, the commander on the scene ordered the raid after failed negotiations and the deaths of three soldiers. Civilian authorities in Bangkok, including the deputy prime minister in charge of security, claimed that the raid was conducted without their approval. The commission concluded that force was used when negotiations would have been more appropriate and that the level of force employed was excessive.

In September 2004 Ilmin Nehlae reportedly was shot and killed while under control of paramilitary rangers. Four paramilitary soldiers were charged with murder. At year's end the case was being prosecuted in the Yala Provincial Court.

In October 2004 78 Muslim detainees being transported to an army camp after a violent demonstration in Tak Bai, Narathiwat Province, died from asphyxiation after police and military forces stacked them horizontally onto truck beds for transport. In December 2004 an independent commission reported that three senior security officials, including the 4th Army commanding general, failed to properly perform their duty and responsibility to monitor their subordinates in transporting detainees in a humane manner. The commission stated that seven persons remained missing. The commission suggested no legal action or punitive measures, but the government directed the Ministry of Defense to conduct a military disciplinary investigation of the three senior officers cited in the report, and it also directed the police to conduct a criminal investigation. Three generals were placed in inactive status, but no police or military personnel were prosecuted for these actions. The government paid compensation to the families of the Tak Bai victims.

There were approximately 1,300 extrajudicial killings of suspected drug traffickers during the government's "War on Drugs" campaign in 2003, and more than one thousand investigations into these cases. By year's end most were closed, due to "a lack of evidence." Many cases were settled out of court, with officers paying compensation to the family of the deceased. The government maintained that the deaths resulted from disputes between those involved in the drug trade. Local and international human rights groups, including the National Human Rights Commission (NHRC), disputed this claim. In addition senior prosecutors and NGO legal associations claimed that most cases against police or military officers accused of extrajudicial killings eventually were dismissed because regulations outlined in the criminal code require public prosecutors to rely exclusively upon the recommendations of the police when determining whether to bring a case for criminal prosecution.

Procedures for investigating suspicious deaths, including deaths occurring in police custody, required among other things that the prosecutor, a forensic pathologist, and a local administrator participate in the investigation and that family members have legal representation at the inquests. However, these procedures often were not followed. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrest.

According to the Ministry of Interior's Investigation and Legal Affairs Bureau, during the first 9 months of 2004, 1,632 persons died in prison or police custody, 131 due to the actions of police officers (see section 1.c.). Authorities attributed most of these deaths to natural causes. Following an investigation into the 2003 death of a detainee at the Kanchanaburi police station, the provincial public prosecutor charged a police corporal with murder; the trial continued at year's end.

No one was charged in the 2003 deaths of detainees in the Muang Surathani police station, despite an aggressive investigation by the NHRC, which suspected that the victims died from beatings by policemen. The victims' cellmates were charged with murder; their case was referred to the criminal court, but no progress was made during the year.

No further action was taken in the in June 2004 case of environmental activist Charoen Wataksorn, who was shot and killed while returning home after testifying in parliament. Five persons were charged in connection with his killing, including a provincial official. All charges were dropped except for those against the gunmen who remained in custody at year's end.

During the year, 10 political canvassers were killed in the period before the February parliamentary elections. At least three others were killed in the period prior to subdistrict (*tambon*) elections in August. Police investigations indicated that many of incidents were "politically motivated," but in some cases personal or business disputes were the suspected motive

A number of journalists were killed during the year. On February 2, unknown person(s) killed Phruttiphong Marohabut, a cameraman for iTV in Pattani Province. On February 14, Kiat Saetang, the outspoken managing editor of the local *Hat Yai Post* was shot and killed by two unknown gunmen in Pattani Province. On June 1, Manop Ratanajaroongporn, a stringer for *Matichon*, was shot by unknown gunmen in Phang Nga Province. On November 2, Santi Lamaneenil, owner of the *Pattaya Post* and freelance reporter, was found dead, blindfolded, and bound (see section 2.a.).

In September 2004 three gunmen shot and killed Pattani provincial court judge Rapin Ruankaew on his way to work. Police arrested a student of a local *pondok* Islamic school. Three other alleged accomplices remained at large. In January police

claimed they had broken up a "cell" responsible for the killing. By year's end no further developments in the case were announced.

On September 29, a former village headman and four subordinates were sentenced to death for the 2003 killings of six Burmese migrant workers in Mae Sot. The defendants appealed the sentence.

Separatist violence against government and religious representatives, including teachers, monks, and court officials occurred throughout the year. Among the most notable incidents were the detonation of a car bomb on February 17th, and a train derailment on October 24th. Bombings and targeted killings, sometimes in public areas, resulted in death and injury.

On September 20, ethnic Malay villagers in Narathiwat Province took two marines, whom they believed had been involved in the murder of two civilians earlier that day, hostage. While women and children prevented security forces from entering the village, the two marines were tortured and killed. A total of 34 persons were arrested in connection with the killing, although a number subsequently were released.

According to the Thailand Mine Action Center, through August 31, 3 persons were reported killed and 21 injured by landmines in border areas. Some of these incidents were caused by landmines from former conflicts on the Laotian and Cambodian borders, while others were attributed to recent conflicts on the Burmese border.

b. Disappearance.—NGOs expressed great concern over reported disappearances in the southern provinces. In many cases the persons disappeared allegedly after being questioned by security officials. Estimates of the number of disappeared varied widely but appeared to be more than 50, mostly Muslim men.

On March 21, the trial of five police officers charged in the March 2004 robbery and abduction of Muslim attorney and human rights activist, Somchai Neelapaijit, began. Somchai had represented a number of Muslim defendants accused of antigovernment activities. Following their arrest in connection with the disappearance the five officers were placed on administrative leave. However, at least one of the five resumed active duty during the trial, and there were allegations that the defendants had access to information compiled by the police investigation. There were allegations that witnesses were intimidated, and Somchai's wife also received threats. The trial concluded in December, and a verdict was scheduled to be announced in early 2006. Somchai was presumed dead.

There were no developments in the June 2004 abduction of Sukip-li Asae in Narathiwat, allegedly by five police officers.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, NGOs and legal organizations continued to report that some members of the police occasionally tortured and beat suspects to obtain confessions. During the year there were newspaper reports of numerous cases in which citizens accused police of using brutality, threatening false charges, and extorting bribes. Investigations were undertaken in most of the cases, including several in which the accused police officers were suspended pending the results of internal investigations.

A Thai senator, testifying as a character witness at the trial of four Muslim suspects accused of membership in Jemaah Islamiya, said that while in police custody bags were put over the suspects' heads, and they were beaten on the back and the abdomen. The four were acquitted by the criminal court in June and released from custody. Police opened an internal investigation, but at year's end no criminal charges had been filed.

On October 15, in Tak Province, a police officer said to be drunk at the time forced his way into a home, threatened and beat an older woman, and allegedly tried to rape an 18-year-old Burmese migrant worker. The policeman reportedly had previously extorted money from the girl. The two women returned to Burma, but a complaint was lodged on their behalf with the NHRC.

In March 2004 five suspects in the 2004 Narathiwat military camp raid alleged that police beat and administered electric shocks to them in order to obtain confessions. The suspects filed a formal complaint with the Ministry of Justice through their lawyer, Somchai Neelapaichjit, who subsequently disappeared and was presumed dead (see section 1.b.). Police opened an internal investigation of the officers suspected of abuse, but at year's end no criminal charges had been filed.

There were no reported developments in the internal police investigation into the November 2004 claim by a married couple that they were beaten and robbed while under detention for 102 days without charge at the Lumpini police station in Bangkok.

In November 2004 police in Ayutthaya Province reportedly beat and applied electric shock to a man's genitals to coerce a confession after arresting him for sus-

pected robbery; 23 members of the police were transferred to Bangkok in connection with the incident, pending an internal police investigation. In December the complainant reportedly withdrew his complaint following an out-of-court settlement.

Prison and Detention Center Conditions.—Prison conditions were poor and severely overcrowded. The prison population of approximately 168 thousand inmates was held in 139 prisons and detention centers designed for 111 thousand prisoners. Sleeping accommodations were insufficient. Medical care was inadequate and communicable diseases were widespread in some prisons. The number of full-time medical professionals increased significantly in 2004. The corrections department employed 17 full-time doctors, 309 full-time nurses, and 6 full-time dentists. There were also a small number of part-time doctors to supplement the permanent medical staff. Prisoners who are seriously ill now may be transferred to provincial or state hospitals. A 500-bed hospital at Klong Prem Prison opened during the year.

Prison authorities sometimes used solitary confinement of not more than three months to punish difficult male prisoners who consistently violated prison rules or regulations. They also used heavy leg irons to control prisoners who were deemed escape risks and often for prisoners serving life sentences or on death row. There were unconfirmed reports that in some institutions designated prisoners were authorized to discipline other prisoners.

Approximately 23 percent of the total prison population were pretrial detainees, who were not segregated from the general prison population. Men, women, and children often were held together in police station cells pending indictment. During the year the government opened a number of juvenile detention centers, and at year's end separate facilities for juvenile offenders were available in 64 of the country's 76 provinces; but in some regions of the country, juveniles were detained with adults. An additional 12 facilities were scheduled to be opened in 2006.

Conditions in Bangkok's Suan Phlu immigration detention center met minimum international standards; however, conditions in nine provincial detention centers remained poor. Immigration detention facilities were administered by the Immigration Police Bureau, which reported to the Office of the Prime Minister and were not subject to many of the regulations that governed the regular prison system. There were credible reports that guards physically abused detainees in some detention centers. Overcrowding and a lack of basic medical care continued to be serious problems.

Access to prisons was not restricted, and the government permitted visits by independent human rights observers and the International Committee of the Red Cross (ICRC).

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily.

Role of the Police and Security Apparatus.—The Royal Thai Police (RTP) is under the direct supervision of the prime minister and a 20-member police commission. The RTP consisted of approximately 213 thousand officers in 10 geographic regions. The police commissioner-general is appointed by the prime minister and subject to cabinet and royal approval. The border patrol police have special authority and responsibility in border areas to combat insurgent or separatist movements.

Corruption remained widespread among police officers. Police officials complained that low pay made them susceptible to bribes. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. Complaints of police abuse can be filed directly with the superior of the accused police officer, the Office of Inspector General, or the police commissioner-general. The NHRC, the Law Society of Thailand, the National Counter-Corruption Commission (NCCC), and the Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsmen. When the police department receives a petition, an internal investigation committee first takes up the matter and may temporarily suspend the officer during the investigation. Various administrative penalties exist, and serious cases can be referred to the criminal court. In 2004 the police inspector general received 77 petitions alleging police abuse or corruption. In nine cases officers were found guilty, and disciplinary or administrative punishments were applied. In 2004 the NCCC received 157 petitions alleging police abuse or corruption. No figures were available on actions taken by the NCCC on these complaints. The RTP increased professional training at the main branch of the Police Cadet Academy and at provincial police training schools.

Some police officers were involved in prostitution and trafficking in women and children (see section 5). In August 2004 after an internal investigation, the police department reinstated four police colonels who had been removed from active duty in 2003 for allegedly accepting financial and sexual bribes. The status of approximately 40 other officers involved in this case remained publicly unknown.

Arrest and Detention.—In practice the system for issuing arrest warrants was subject to misuse by police officers who provided false evidence to courts to obtain arrest warrants. By law persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. The law provides for access to counsel for criminal detainees; however, lawyers and human rights groups claimed that local police often ignored this and conducted interrogations without providing access to an attorney. Foreign prisoners sometimes were pressured to sign confessions without the benefit of a competent translator.

Under normal conditions the law requires the police to submit criminal cases to prosecutors for the filing of court charges within 48 hours of arrest, with extensions of up to three days permitted. Police may seek court permission to hold suspects for additional periods (up to a maximum of 82 days for the most serious offenses) to conduct investigations. Laws and regulations place offenses for which the maximum penalty is less than three years under the jurisdiction of the district courts, which have different procedures. In these cases, police are required to submit cases to public prosecutors within 72 hours of arrest. Lawyers reported that police rarely brought cases to court within the 48-hour period. As in previous years, several Burmese activists were arrested and held, generally on immigration violation charges. In January three Burmese workers for NGO World Visions' Burma branch were rounded up, beaten, and detained in an iron cage by armed vigilante groups, including a village chief. A fourth worker (a Thai national) was beaten while trying to negotiate their release. The three were eventually released.

The law provides defendants the right to bail, and the government generally respected this right. However, some human rights groups reported that police frequently did not inform detained suspects of their right to bail or refused to recommend bail after a request for bail was submitted.

Pretrial detention of criminal suspects for up to 60 days was common. Some persons from countries without diplomatic representatives in the country faced trial delays of many months.

The emergency decree in effect in Yala, Narathiwat, and Pattani provinces, plus parts of Songkhla, allowed authorities to arrest and detain suspects for up to 30 days without charge. After the expiration of these 30 days, authorities could begin holding suspects under normal criminal law. Unlike martial law, these detentions required the consent of a court of law. According to newspaper reports, 60 persons were arrested under these provisions as of October, of whom 19 were indicted.

Amnesty.—In December in honor of the king's birthday the government released 442 prisoners. In August 2004 in honor of the Queen's birthday, 12 thousand prisoners were released and 30 thousand more were released over the next two months. The freed prisoners were nonviolent offenders with less than a year remaining on their sentences.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, while the judiciary generally was regarded as independent, it was subject to corruption and outside influences. The legal system has made progress in recent years, particularly with regards to civil and commercial disputes, and outside observers increasingly see the judiciary as impartial, fair, and neutral.

In addition to an independent constitutional court, the civilian judicial system has three levels of courts: courts of first instance, courts of appeal, and the Supreme Court. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law. The constitutional court is charged with interpreting the constitution. Islamic (Shari'a) courts hear only civil cases concerning members of the Muslim minority. The law provides for access to courts or administrative bodies to seek redress, and the government generally respected this right.

Trial Procedures.—There is no trial by jury. A single judge decides trials for misdemeanors; two or more judges are required for more serious cases. New court procedures enacted in January 2004 have alleviated delays somewhat. However, a large backlog of cases remained, and trials could still drag on for months or even years. While most trials are public, the court may order a closed trial, particularly in cases involving national security, the royal family, children, or sexual abuse. Justices nominated to the constitutional court or Supreme Administrative Court must be confirmed by the Senate; all other judges are career civil servants whose appointments are not subject to parliamentary review.

The law provides for the presumption of innocence. In ordinary criminal courts, defendants enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program provided free legal advice to the poor, but indigent defendants were not provided with counsel at public expense automatically. The court was required to appoint an attorney in cases where the defendant was a minor

and in cases where possible punishment was imprisonment. Most free legal aid came from private groups, including the Law Society of Thailand and the Thai Women Lawyers Association. There is no discovery process, so lawyers and defendants do not have access to evidence against them prior to the trial.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—With limited exceptions, the law prohibits such actions, and the government generally respected these prohibitions in practice. With a few exceptions, including crimes in progress, police are required to obtain a warrant from a court prior to conducting a search. The law provides standardized procedures for issuing warrants.

Police continued to conduct warrantless searches for narcotics in villages in the northern provinces. Such operations are permitted in cases in which there is reasonable suspicion and an urgent search is deemed necessary. Some academic groups claimed that the searches were arbitrary and violated civil rights.

Security services monitored persons, including foreign visitors, who espoused extremist or highly controversial views.

Members of indigenous hill tribes continued to face forced evictions and relocation. Due to lack of proof of citizenship and land ownership, they were forced to move from areas they had cultivated for decades. Conflicts occurred when the land on which they lived was converted to forest conservation areas. In July 2004 200 armed forestry and border patrol police officers raided Palong Pang Daeng Village in Ching Dao District and arrested at least 48 residents for encroachment on a forest conservation area. The villagers lodged a complaint with the NHRC and the Law Society of Thailand. According to a member of the law society, the village was established more than20 years ago and had a waterworks, electricity, and primary school. The law society bailed out all 48 detainees in September 2004. Court hearings in the case are scheduled to begin in 2007.

According to the Asian Centre for Human Rights, in July and August 2004 the government embarked on a "New Model of Forested Villages" project covering approximately10,866 villages in 70 provinces. Under this project land that tribal villagers had cultivated for more than a hundred years was declared state land, and the indigenous hill tribes became illegal trespassers and faced forcible eviction and other penalties.

Following the December 2004 tsunami, there were numerous attempts by private parties to evict persons from land that they had been occupying for decades. Within days after the tsunami, some returning residents found their land had been occupied by companies or marked with signs declaring it illegal to rebuild or repair damaged homes. Local authorities and companies maintained that the residents had never officially acquired ownership of the land. In December the NHRC released a statement that the residents of three villages in Phang Nga Province should be allowed to return to their homes and that the claims of a private company to the land were invalid.

The government ordered the "Urban Burmese," illegal Burmese migrants working in cities, to relocate to refugee camps on the Thai-Burma border, or face arrest and deportation (see section 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law, with some exceptions, provides for freedom of speech and of the press, and, while individuals could criticize the government publicly and privately without official reprisal, the government continued to pressure those in the media with dissenting views. Threats of libel suits encouraged self-censorship. The government and its allies owned all the major broadcast media, and large shares of the newspaper sector. A prominent community radio station critical of the government had its transmitter confiscated and its staff threatened with arrest. Two political Internet sites were shut down as part of the nation's Internet censorship efforts. The courts continued to issue rulings that helped protect press freedoms.

By law the government may restrict freedom of speech and freedom of the press to preserve national security, maintain public order, preserve the rights of others, protect public morals, and prevent criticism of the royal family and insults to Buddhism.

The government may restrict print or broadcast media by specific legislation in times of crisis, such as the emergency decree imposed in July. The decree empowers the government "to prohibit publication and distribution of news and information that may cause the people to panic or with an intention to distort information." The emergency decree also authorizes the government to censor newspapers and ban publications, although these powers have not been used.

Print media criticism of political parties, public figures, and the government was common and vigorous. Journalists generally were free to comment on government activities without fear of official reprisal. However, beginning on October 3, the prime minister filed a series of six civil and criminal libel suits against the *Manager* newspaper, its founder, Sondhi Limthongkul, an outspoken critic of the government, and his associates. Total damages sought were more than$50 million (two billion baht). The lawsuits were withdrawn on December 6, following disapproving remarks by the king. On November 3, a bomb exploded outside the compound of Manager Media Group, publisher of the *Manager*. Police stated that the attack could have been an attempt to threaten Sondhi Limthongkul. At year's end the identity of the bomber remained unknown. The Shin Corporation, owned by the prime minister's family, had a separate libel suit against media activist Supinya Kangnarong that was still pending at year's end.

The media routinely practiced self-censorship, particularly with regard to the monarchy and issues involving national security. Self-censorship, particularly in the broadcast media, was also evident due to fear of political or economic repercussions, such as reassignment to other duties in a publication, termination of a broadcast program, loss of advertising, politically motivated libel suits, or removal from a role in the production or presentation of a broadcast program. There were credible reports that the political opposition had difficulty getting broadcast time due to fears of offending the government.

There were concerns regarding the independence of the press. In October the executive director of the Southeast Asian Press Alliance said that the prime minister was making the country one where the press was suddenly under a "dark cloud." In November the international NGO Asian Human Rights Commission said that "threats to emerging independent media have increased dramatically." In December Human Rights Watch said that "intimidation, fear, and censorship still permeate the Thai media." According to NGOs, including the Thai Journalists Association, the government used various means to increase control over the media, including direct control through ownership, the threat of withdrawing financial support and advertisements, constraints on the flow of information, and direct pressure on critical journalists and activists.

The government and its allies continued to own large stakes in many prominent newspapers.

State entities controlled and owned almost all radio and television stations. The government owned and controlled 524 officially registered "regular" AM and FM stations while the military and police services retained ownership of 230 radio stations, ostensibly for national security purposes. Other owners of national broadcast media included the government's Public Relations Department (PRD). Almost all of the stations were leased to commercial companies.

Television and radio stations must renew their licenses every year, and radio signals were broadcast via government transmitters. Stations are required by law to broadcast 30-minute government-produced newscasts twice daily. Community radio stations operated under somewhat different regulations. The Shin Corporation, which belonged to Prime Minister Thaksin's family, owned iTV, which continued to be the country's only nonstate-owned television station. On March 9, the Supreme Court ordered iTV to rehire and provide back pay to 21 newsroom staff fired in 2001 for protesting alleged government interference at the station.

The seven-member National Broadcast Commission tasked with reallocating all broadcast frequencies and regulating the broadcast media remained in limbo. On November 23, the Central Administrative Court ruled that conflicts of interest and the lack of qualifications of one of the designated commissioners made the selection process illegal. The government appealed the ruling.

Between two thousand to three thousand community radio stations also operated in Thailand. Because broadcast regulations restrict radio frequencies to government entities, these stations technically operated outside the law. A 2003 state community radio policy allowed the stations to continue "extralegal" operations until laws and regulations were amended. However, in December 2004 the PRD warned that all unregistered community radio operators could be arrested after February. As of May only 1,793 had registered; most however have been allowed to continue broadcasting.

During the year the government closed 17 community radio stations including one that was notably critical of the government. In May the PRD ordered community radio station FM 92.25 to lower its broadcast antenna and reduce its signal to conform to national broadcasting laws. Other community radio stations with similar signals were not so ordered. Anchalee Paireerak, a prominent political commentator and a host at the station, believed the station was targeted because of its criticism of the government. On June 20, the government closed the station's Web site. On

June 23, Anchalee announced she was quitting the station, citing government harassment and threats to her personal safety from unknown individuals. On August 9, 30 officers from 3 government agencies raided the radio station and confiscated its transmitter, asserting that the station continued to violate broadcast regulations. Later that month, the station resumed broadcasting over the Internet, and allied stations rebroadcast the programming over the FM 92.25 frequency.

On February 2, Phruttiphong Marohabut, a cameraman for iTV was killed in Pattani Province. No motive was known. On February 14, Kiat Saetang, the outspoken managing editor of the local *Hat Yai Post* was shot and killed by two unknown gunmen in Pattani Province. His family and the Thai Journalists Association believed he was killed because he had exposed a number of corrupt politicians. On June 1, Manop Ratanajaroongporn, a stringer for *Matichon*, who had reported on corruption, including illegal logging in the region, was shot by unknown gunmen in Phang Nga Province. There have been a number of indictments in connection with the logging scandal; however, no one has been charged with the shooting. On November 2, Santi Lammaneenil, owner of the *Pattaya Post* and freelance reporter, was found dead, blindfolded and bound. He had recently reported on illegal operations in late-night entertainment venues, which police told reporters, may have been a contributing factor in his death. The case was still under investigation at year's end.

The police Special Branch informally requested media outlets to be cautious when reporting sensitive political or social issues, including news that could affect national security negatively. Although these requests had no legal standing, they may have inspired self-censorship. In September television channel 9 received an official letter from the police Special Branch instructing it to cancel a popular politically oriented program ostensibly because the program had mischaracterized the view of the monarchy. The government denied direct involvement in the show's cancellation. The show's host, Sondhi Limthongkul, moved his program to a satellite television station with a limited audience. Opposition members of parliament (MPs) filed a petition with the national ombudsman regarding this incident.

The law permits police closure of newspapers or printing presses in times of war or national emergency, but only with a court order. The law and the emergency decree also allow police to restrict or confiscate publications and other materials for disturbing the peace, interfering with public safety, or offending public morals. No such closures or seizures occurred during the year, nor did the police Special Branch issue any official warnings. Police have the authority to ban the importation of publications but did not exercise it.

In November the Ministry of Culture reportedly ordered bookstores to stop selling a popular travel guide and warned that anyone selling the book could be subject to fine or imprisonment. By year's end some bookstores reportedly had resumed selling the book.

Self-censorship appeared to have increased. Media and NGOs continued to point to a February 2004 case in which the management of the respected English-language *Bangkok Post* removed its editor via promotion. While the *Post* insisted the change was motivated by business concerns, many media insiders believed the move was occasioned by the editor's sometimes critical stance towards the administration.

There were reports that the government attempted to intervene with the editorial departments of other newspapers via pressure on the newspapers' advertisers or allies to end their support if the newspapers continued to be critical of the government. Advertisers reportedly received phone calls from "persons in power" questioning why they would choose to advertise in newspapers critical of the government, and advertising revenue considerations were believed to have compromised editorial independence. One newspaper reported attempted intimidation through frequent and intrusive inspections by revenue officials. In 2004 the Thai Journalists' Association claimed some newspapers reconsidered criticism of government figures who purchased advertising or controlled the advertising placements of large government-owned entities.

The Shin Corporation's libel suit against Supinya Klangnarong, secretary general of the NGO Campaign for Popular Media Reform, for a story Supinya wrote in 2003 that claimed the corporation benefited financially from the policies of the prime minister went to trial in July. In August two foreign defense witnesses were prevented from testifying when the prosecution said it did not trust the interpreter. The trial phase concluded on December 21, and a verdict was expected in 2006. The Shin Corporation also filed a $10 million (400 million baht) civil suit against the *Thai Post* newspaper and its three editors alleging that the newspaper hurt the company's reputation.

In December 2004 a criminal court found Prasong Soonsiri, a former foreign minister and opposition columnist, not guilty of defaming four constitutional court

judges for criticizing their 2001 verdict acquitting Prime Minister Thaksin of asset concealment.

Cultural events were censored, usually for reasons of public decency. Under the 1930 Film Act, theater owners and broadcasters must submit films they plan to show to the film censorship board for review. The board may ban a film if offending portions are not deleted. Reasons for censoring films include violating moral or cultural norms and disturbing the public order or national security. Theater owners and broadcasters frequently censored films themselves before submitting them to the board. According to the board, no films have been banned since 2003, when four films were banned. Officers at the censorship board cited sexual situations and nudity as the main reasons for banning the four films. Some songs with offensive lyrics were banned from radio and television, although not from live performances

On June 21, the government closed the Web sites of anticorruption acivist Ekkayuth Anchanbutr and of community radio station FM 92.25. Both were notably critical of the prime minister and the government. On December 15, Ekkayuth's Web site was briefly shut down a second time after it featured an apparently false rumor regarding the personal life of a political figure.

Government censorship of the Internet began in 2003. Most banned Web sites featured pornography or offered illegal products. The cyber inspector team, which is under the information and communications technology ministry, is responsible for censorship. The government distributed a blacklist of approximately four thousand Web sites, both domestic and foreign, to government and private internet service providers (ISPs) to be blocked. Compliance by the ISPs in blocking routine access to these Web sites was universal.

Following violence in the south, the government enhanced efforts to block Web sites viewed as threatening to national security. In August 2004 a press report said authorities blocked access to the Pattani United Liberation Organization Web site, which advocated Muslim separatist ideas and violence. Internet providers enforced the ban, informing their customers that they had blocked access to the Web site.

The government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The emergency decree allows the government to limit freedom of assembly, but this provision was not used during the year.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, it restricted the activities of some groups. The constitution requires that the monarch be a Buddhist. The state religion in effect is Therevada Buddhism; however, it is not designated as such.

The government played an active role in religious affairs. The religious affairs department, which is located in the Ministry of Culture, registered religious organizations. Under the Religious Organizations Act, a new religion can be registered if a national census shows that it has at least five thousand adherents, represents a recognizably unique theology, and is not politically active. To register, a religious organization also is required to be accepted into one of the five officially recognized ecclesiastical groups: Buddhist, Muslim, Catholic (which includes four Protestant subgroups), Brahmin-Hindu, and Sikh. Since 1984 the government has not recognized any new religious groups. Government registration conferred some benefits, including access to state subsidies, tax-exempt status, and preferential allocation of resident visas for organization officials. Unregistered religious organizations did not receive these benefits but operated freely in practice.

The constitution requires the government "to patronize and protect Buddhism and other religions." The government subsidized the five officially recognized religious communities by allocating approximately $42.2 million (1.7 billion baht) during the fiscal year. These funds supported Buddhist and Muslim institutes of higher education, religious education programs in public and private schools, daily allowances for monks and Muslim clerics who held administrative and senior ecclesiastical posts, travel and healthcare for monks and Muslim clerics, renovation and repair of Buddhist temples and Muslim mosques, maintenance of historic Buddhist sites, and the daily upkeep of the Central Mosque in Pattani. The government provided nominal funding to the other three faiths to support social welfare projects. Catholic and Protestant groups could request government support for renovation and repair work but did not receive a regular budget to maintain church buildings, nor did they receive government assistance to support their clergy. Private donations to registered religious organizations are tax deductible.

Religious instruction is required in public schools at both the primary and secondary education levels. Students in each grade took a course called "Social, Religion, and Culture Studies." The course contained information on all five of the rec-

ognized religions in the country. Students who wished to pursue in-depth studies of any religion could study at a religious school and transfer credits to a public school.

In the past, traditional Islamic *pondok* schools were not required to register with the government and had no government oversight or funding. Following the outbreak of violence in the southern provinces, registration with the government was made mandatory. By July the government had registered 309 *pondok* schools in the provinces of Yala, Pattani, and Narathiwat. It is believed there could be as many as one thousand *pondok* schools operating in the South.

Muslims, who represented between 5 and 10 percent of the population nationwide and constituted the majority in four of the five southernmost provinces, experienced some economic discrimination. The government attempted to address the problem by maintaining longstanding policies designed to integrate Muslim communities into society through developmental efforts and expanded educational opportunities. However, these efforts were often resisted amid charges of forced assimilation. Muslims outside of the southern provinces were much better integrated into society.

Under the 1935 Civil Servant Uniform Act, Muslim female civil servants were not permitted to wear headscarves when in uniforms. In practice most female civil servants were permitted to wear headscarves if they wished to do so, particularly in the southernmost provinces.

The 1962 Sangha Act specifically prohibits the defamation or insult of Buddhism and the Buddhist clergy. The penal code prohibits the insult or disturbance of religious places or services of all of the recognized religions in the country. Followers of the Santi Asoke sect of Buddhism were unable to legally refer to themselves as Buddhists because of theological disagreements with the *sangha* council, but they were able to practice their faith without restriction.

The government stationed troops to protect religious practitioners and structures in communities where the potential for violence existed and provided armed escort for Buddhist monks where necessary. The government promised compensation to the families of 106 Islamic militants killed in April 2004 while attacking security forces and allocated funds for the restoration of the Krue Se Mosque, which soldiers damaged during the fighting (see section 1.a.). The mosque has been restored, and 27 victims have received government compensation.

Government officials reportedly continued to monitor Falun Gong members. The Falun Gong's long-pending application for official registration was denied in October. The Falun Gong group's application to the police to print and distribute a weekly magazine apparently was still pending at year's end. Although members were briefly detained on several occasions for distributing materials, the group was generally able to print and distribute religious materials both in Thai and Chinese on an informal basis. On December 15, eight Falun Gong practitioners were arrested following a week of peaceful protests outside the Chinese embassy. Of the eight, the five adults remained in detention at year's end. There were no reports of any restrictions on Falun Gong members meeting privately.

Societal Abuses and Discrimination.—Violence committed by suspected Islamic militants in the southern provinces of Narathiwat, Pattani, Songkhla, and Yala affected the ability of some Buddhists in this predominantly Muslim region to undertake the full range of their traditional religious practices. In October unknown assailants hacked to death a monk and shot two of his acolytes in and around their Buddhist temple in Pattani Province. Four other monks were injured in two separate incidents in March and June. In 2004 unknown assailants killed at least four Buddhist monks and attacked several Buddhist temples and one Chinese shrine. During the year nine Buddhist laypersons were beheaded compared with three in 2004. Several of the bodies were found with notes warning that other Buddhists might share the same fate. A number of monks reported that they no longer were able to travel freely through southern communities. Monks also claimed that, due to fear of being targeted by militants, laypersons sometimes declined to assist them in their daily activities.

During the year militants targeted and killed government officials, such as teachers and railway employees, in the southern part of the country. Many persons presumed that the killing of Buddhist monks and laypersons was intended to increase interfaith tensions, which varied greatly from district to district, and, in some locales, even from village to village. The violence contributed to an atmosphere of fear and suspicion in the southern provinces; however, it did not result in open communal conflict (see section 5).

The indigenous Jewish community is small, and there were no reports of anti-Semitic incidents.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for the right of citizens to change their residence or workplace, and the authorities generally respected this right in practice; however, there were some exceptions. Longstanding written restrictions remained in effect on the travel and domicile of certain Vietnamese resident aliens who immigrated to the country in 1945 and 1946 and on Chinese who immigrated between 1953 and 1961. A large number of these Chinese and Vietnamese and their descendants received full citizenship in recent years (see section 5).

Other longtime noncitizen residents, including hundreds of thousands of ethnic Shan and tens of thousands of members of other tribes, were required to seek permission from local authorities or the army for foreign and domestic travel. Registered resident aliens moved freely within the country.

Members of hill tribes who have not been granted citizenship were issued color coded identity cards which reflect restrictions on their freedom of movement as well as other restrictions. The cards often prohibit travel outside their province or district without permission from the district head. Offenders are subject to heavy fines and jail terms. Persons with no card may not travel at all (see section 5).

Migrant workers may only work in certain provinces. The government continued to offer illegal migrants the opportunity to be legally registered. Approximately 700 thousand migrants, three-fourths from Burma, registered through August. Approximately 1.2 million migrants registered in 2004.

The law prohibits forced exile, and the government did not practice it.

On August 30, 131 ethnic Malay Muslims from Narathiwat Province entered Malaysia and told authorities there they were seeking asylum. One member of the group was extradited to Thailand for insurgency-related crimes committed in 2004. The remaining 130 remained in immigration detention in Malaysia.

Protection of Refugees.—The law does not provide for granting asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol; however, the government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

During the year, asylum seekers of many nationalities, including many Burmese, received temporary protection. The government continued to allow the UNHCR to monitor the conditions of the approximately 135 thousand Burmese refugees living in nine camps along the Burmese border but prohibited the UNHCR from maintaining a permanent presence in the border camps. During the year the UNHCR conducted a registration including photographs, fingerprints, and family trees of refugees in the camps, including those who had not yet received formal government approval to reside in the camps. NGOs provided basic needs assistance in the camps.

On October 17, provincial admission boards (PAB) were established. These boards, with UNHCR participation, were intended to carry out a refugee status determination process. At year's end the PABs were functional and formally admitted refugees into camps where they previously had been living without permission. The government agreed to permit third-country resettlement of camp refugees, and there was some resettlement from the camps during the year.

The government allowed NGOs to provide food, medical services, housing, and other services to Burmese refugees who may have valid refugee claims but who reside outside the camps. Government officials periodically arrested Burmese outside designated camps as illegal aliens, including some recognized as "persons of concern" by the UNHCR. Those arrested generally were taken to the border and released without being turned over to Burmese authorities.

In March the authorities ordered the so-called urban Burmese to relocate to refugee camps near the border by March 31 or face arrest and deportation for being in the country illegally and loss of their chance for third-country resettlement. NGOs protested that conditions in the camp were difficult and would be exacerbated by the influx of new refugees. Others protested that Burmese journalists and activists who were working in urban areas would be unable to continue their work. Many in this group later departed for resettlement in third countries.

The government indicated it would be willing to permit additional educational and vocational training for camp refugees, and the possibility of their working in the country legally. Many details remained unclear.

The government decided not to seek the expulsion of approximately 6,500 Hmong who congregated in Phetchabun Province, some of whom appeared to have valid refugee claims. The government reserved the right to repatriate the group to Laos and did not grant the UNHCR permission to interview them to determine their refugee status. In November, 29 Hmong from this group, including 27 minors, were picked up by local Thai authorities and deported to Laos. Lao authorities denied the group was deported and at year's end the whereabouts of the group remained unknown.

In June the government repatriated to Burma approximately 450 Shan refugees who had originally left Burma in 1992, fleeing the effects of forced relocation by the Burmese government, grave human rights violations, and sporadic fighting. The government declared that fighting in the region was no longer a problem and ordered the Shan to cross into Burma. The government said they would allow them to return if fighting resumed. The government continued to allow the refugees access to a temple and an orphanage located on the Thai side of the border.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Since 1992 there have been six national multiparty elections, which transferred power to successive governments through peaceful, democratic processes. As a constitutional monarchy, the king exerts strong informal influence but has never used his constitutionally mandated power to veto legislation or dissolve the elected bicameral parliament. Voting is compulsory. Eligible voters who fail to exercise their franchise, except for those excused, are subject to the loss of certain rights, including the right to be a candidate in future elections. The law prohibits Buddhist monks and nuns from seeking public office.

Parliamentary elections were held in February. Local *tambon* elections were held in August, in which voters for the first time were able to vote for members of their local administrative organizations and the heads of their *tambon* administrative organizations. The election process generally was viewed as free and fair; however, it was marred by widespread vote buying, a recurrent problem, especially in the northeast of the country. Due to "election irregularities," the election commission exercised its mandate to prevent election fraud and dismissed the results and held revotes in four parliamentary constituencies. One of the four original winners was barred from running for office for 10 years for slandering his opponents during the election campaign. The other three were allowed to run in the October 30 re-votes. During the February campaign, there were approximately 10 killings of political canvassers, at least some of which were motivated politically (see section 1.a.). Additionally, there were three canvassers killed in the period before the *tambon* elections. The pre-election violence was considerably less than before the 2001 elections. Having won an absolute majority of 377 seats in the 500-seat lower house, the incumbent Prime Minister Thaksin Shinawatra's Thai Rak Thai Party formed a government without entering into a coalition.

There were 52 women in the 500-member House of Representatives and 21 women in the 200-member Senate. There were 2 women in the 35-member cabinet. Although half of civil service employees were women, women held only 15 percent of senior positions.

Few ethnic minorities held positions of authority in national politics. Muslims from the south held significant elected positions, although they continued to be underrepresented in appointed local and provincial government positions. There were 8 Muslim and 2 Christian senators, and 24 Muslim and 6 Christian members of the House of Representatives. One MP was a hill tribesman.

Government Corruption and Transparency.—Corruption in the executive branch was widely acknowledged by the public. The acceptance of bribes by police and local government authorities for routine services was common. In August 2004 the prime minister announced a "war on corruption." However, anticorruption efforts did not appear to have been effective and the campaign was hampered when, in May, the entire membership of the NCCC resigned following a Supreme Court ruling that the commissioners had wrongfully and dishonestly abused their office by intentionally skirting the law and awarding themselves a pay raise.

Anticorruption efforts were also hampered by a court ruling against the procedures used in appointing the auditor-general, Khunying Jaruvan Maintaka. Some senators attempted to remove her from this office. Others claimed that attempts to dismiss her were politically motivated, due to her effective investigations into government corruption. She has effectively been out of office since July 2004, and at year's end efforts to reinstate her or name a successor have been unsuccessful.

There were a number of high-profile allegations of corruption during the year. An attempt to censure Transport Minister Suriya Jungrungreangkit, based on allegations that he was involved in a procurement scandal to buy bomb scanners for the new Suvarnabhumi Airport, failed. There were also allegations of corruption in contracts for catering facilities and the carpark of the new airport.

The NCCC recorded that through June 2004, more than 6 thousand investigations of official corruption were pending, of which 1,122 had been reported in the pre-

ceding 12 months. However, with the May resignation of the NCCC commissioners the work of the commission was effectively moribund at year's end.

There were reports that corruption among local officials and a lack of transparency marred the distribution of aid in areas affected by the December 2004 tsunami.

The law provides access to public information. If a government agency denies a citizen's request for information, a petition may be made to the official information commission. In 2004 approximately 99 percent of the petitions were approved. Requests for public information may be denied for reasons of national security, law enforcement, and public safety.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights organizations generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

However, NGOs that dealt with sensitive political issues, such as the Burmese democracy movement and opposition to government-sponsored development projects, faced periodic harassment. Very few NGOs were accorded tax-exempt status, which sometimes hampered the ability of domestic human rights organizations to secure adequate funding.

On August 18, a grenade was thrown at the parked car of Wiwat Thamee, a human rights advocate on behalf of hill tribe peoples in Chiang Rai Province. No one was held responsible for the attack.

Some members of the domestic NGO Assembly of the Poor reported that the government had filed charges of treason and otherwise intimated them because of their activities. The threat of arrest hindered their work.

On September 1, Mr. Chatopa "Mustafa" Awae, a human rights advocate and former journalist who had worked as a researcher for the National Reconciliation Commission (NRC), was shot and wounded while riding his motorcycle in Pattani Province. Mustafa believes he was targeted because of his human rights activities.

Government officials met and cooperated with visitors from the ICRC and the UN Commission on Human Rights throughout the year. In March the government welcomed a delegation from the moderate Indonesian Islamic group Nahdlatul Ulama to observe the living conditions of Muslims in the south. In March the foreign minister met with the secretary-general of the Organization of the Islamic Conference (OIC) to discuss the situation in the South. In June the government cooperated with an OIC fact-finding mission, which visited the Muslim-majority provinces. The OIC released a statement asserting that the violence was not a religious conflict and offered suggestions for the government. In October in response to a more strongly worded statement from the OIC expressing deep concern about violence against Muslims, the foreign minister emphasized that the government was willing to continue working with the OIC.

In July the government responded to questions regarding its human rights record from the Human Rights Committee, as part of its obligations under the International Covenant on Civil and Political Rights. The committee welcomed the establishment of the NHRC and the NRC, although it expressed concern about "persistent allegations" of serious human rights violations including widespread instances of extrajudicial killings and ill-treatment by police and armed forces, the emergency decree, the excessive use of force by law enforcement officials, intimidation and harassment against journalists, human trafficking, child labor, as well as concern about the rights of hill tribe peoples, Burmese migrant workers, and other problems.

In November 2004 the UNCHR special rapporteur on extrajudicial, summary or arbitrary killings requested permission to visit the country following the incident in Tak Bai in October (see section 1.a.). Although the country provided a detailed response to the inquiry by the special rapporteur, the visit did not take place.

The NHRC was active during the year. As an independent government entity, it submitted an annual evaluation of the human rights situation to the National Assembly, proposed policies and recommendations for amending laws to the National Assembly, promoted measures to educate citizens on human rights, and investigated human rights abuses. Modest staffing and resources, as well as the lack of power to prosecute or to punish violators, hampered the NHRC's ability to carry out its mandate. In May in a report on the Tak Bai incident, the NHRC concluded that officials had violated the human rights of the Tak Bai detainees and called on the government to compensate victims and their families and to review its southern pol-

icy. In July the NHRC publicly appealed to the prime minister to do away with the emergency decree.

In February the prime minister established the 50-member National Reconciliation Commission to build "peace and reconciliation" in the South. In April the NRC released a report on the Tak Bai incident, which assigned fault to both sides and found that while officials had reason to disperse the demonstrations, which had become violent, it was clear that the arrests were handled in a disorganized and chaotic manner. The report named three high-ranking officers who should take responsibility for the violent response. The NRC released an April report on the Krue Se mosque incident. The majority of commission members felt that the military had handled the matter poorly and had not exhausted all possible peaceful solutions before raiding the mosque. Other commissioners felt that it was impossible to tell whether the force had in fact been excessive. The NRC was scheduled to release its final report and recommendations in 2006.

Both houses of Parliament maintained subcommittees on human rights. The Senate subcommittee was active in investigating allegations of human rights abuses in the South.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for equal treatment without respect to race, gender, religion, disability, language, or social status; however, in practice, some discrimination existed, and government enforcement of equal protection statutes was uneven.

Women.—Domestic violence against women was a significant problem, and there were no specific laws addressing the problem. A few domestic violence crimes were prosecuted under provisions for assault or violence against a person. Domestic violence often went unreported, and the police often were reluctant to pursue reports of domestic violence. Reliable statistics on rates of domestic violence were difficult to obtain but there were 60 thousand reported cases in 2004, double that of 2003. On November 28, the public health minister noted that the number of reported cases of abuse had increased from 5 per day in 2002 to 28 per day in during the year. Approximately half of these cases involved sexual abuse. It was unclear whether the increase reflected an increase in violence or an increased public awareness of the problem and an increased willingness on the part of battered women to report it to authorities. A 2003 study by the Institute for Population and Social Research at Mahidol University found that up to 41 percent of the women surveyed in Bangkok had experienced some type of physical or sexual violence. In April a survey by a Bangkok psychiatrist reported that more than 25 percent of the sampled Bangkok households had experienced domestic violence. NGO-supported programs included emergency hot lines, temporary shelters, counseling services, and a television program to increase awareness of domestic violence, HIV/AIDS, and other issues involving women. The government's "one-stop" crisis centers, located in state-run hospitals, continued to care for abused women and children but faced budget difficulties.

Rape is illegal. Through November the police reported 4,693 rape cases nationwide, including 5 cases where the victim was killed. Suspects were arrested in 1,897 of these cases. There were 5,041 reported rapes in 2004. There are no provisions for prosecuting spousal rape. According to academics and women's rights activists, rapes and domestic assaults were underreported, in part because law enforcement agencies were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of female police officers in metropolitan Bangkok and in three other provinces. The law specifies a range of penalties for rape or forcible sexual assault, depending on the age of the victim, the degree of assault, and the physical and mental condition of the victim after the assault. The minimum penalty is from 4 to 20 years' imprisonment and a fine of $200 to $1 thousand (8 thousand to 40 thousand baht). If firearms or explosive are used, or if it is a gang rape, the penalty increases to 15 to 20 years' imprisonment and a fine of $750 to $1 thousand (30 thousand to 40 thousand baht). Life imprisonment or execution is possible for cases in which the victim is injured or killed. A sentence of 4 to 20 years' imprisonment and a fine ranging from $200 to $1 thousand (8 thousand to 40 thousand baht) is imposed for statutory rape of a child less than 15 years of age. If the victim is less than 13, the jail term ranges from 7 years' to life imprisonment. The law also provides that any individual convicted for a second time for the same criminal offense within two years is liable to increased penalties for recidivism. Police officials increasingly used these powers, and the government reported 211 persons arrested (in 103 cases) in 2003; 86 cases were referred for prosecution. There were 11 convictions, mostly from arrest cases dating to 2002 and 2003. Victims of sexual abuse were eligible to receive state financial aid of up to $750 (30 thousand baht).

Prostitution is illegal, although it is practiced fairly openly throughout the country. Local officials with commercial interest often protected prostitution (see sections 1.d. and 5, Trafficking). Trafficking in women and children for prostitution was a serious problem (see section 5, Trafficking). Government and NGO estimates of the number of women and children engaged in prostitution varied widely. Government figures claimed there were an estimated 62 thousand prostitutes working in the country. However, NGOs reported between 200 thousand and 300 thousand prostitutes. Some groups claimed the real number was significantly higher. The illegal nature of the work and the high incidence of part-time prostitutes made precise numbers difficult to assess. In 2000 the Commission on Women's Affairs estimated that approximately 20 percent of prostitutes were children. There were reports that women were forced into prostitution in border areas, but the number of such cases was difficult to determine. Most prostitutes were not kept under physical constraint, but a large number worked under debt bondage (see section 5, Trafficking). The law makes child prostitution illegal and subjects customers who patronize child prostitutes to criminal sanctions (see section 5, Children). NGOs and government agencies provided shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry.

Sex tourism was a problem (see section 5, Trafficking).

The law makes sexual harassment illegal but covers only persons working in the formal sector. NGOs claimed that the legal definition of harassment was vague and made the prosecution of harassment claims difficult. During the year, the Civil Service Commission's sexual harassment and bullying hot line received 448 complaints during a 4-month period. All complaints were investigated, but none were brought to court during the year. Some complaints may have been settled out of court. Initiation rites and hazing of incoming college students, including instances of possible sexual harassment, became a major national issue during the year. A nationwide, government-sponsored poll of high school students found that 5 percent of boys and 3 percent of girls had encountered sexual harassment.

The law provides for the equality of all citizens; however, some inequalities in the law remained. For example, a man may sue for divorce on the grounds that his wife committed adultery, but a woman faces the additional legal burden of proving that her husband publicly has acknowledged another woman as his wife.

Women had equal access to higher education, and more than half of university graduates were women. However, police and military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at the military academies were women. Women constituted 48 percent of the labor force and held an increasing share of professional positions. Women composed 52 percent of professional and technical workers but only 26 percent of administrators and managers. Women also were able to own and manage businesses freely. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, discrimination in hiring was common, and women were concentrated in lower-paying jobs. In practice women received lower pay for equal work in virtually all sectors of the economy.

The National Human Rights Commission Act specifies that at least one-third of the members of the NHRC be women; during the year, 5 of the 11 commissioners were women. The Women and Constitution Network, a league of more than 50 women's organizations, advocated legal reforms to address inequities in the treatment of women. The organization actively campaigned for gender-equality clauses in legislation and for the implementation of a new law on domestic violence.

Children.—The constitution provides children equal protection under the law. Education is compulsory for 9 years, and school tuition is free for 12 years. In general girls and boys attended primary and secondary schools in equal numbers. An estimated 96 percent of children completed grade 6, 80 percent completed grade 9, and 79 percent completed grade 12. There has been a sharp increase in graduation rates from junior and senior high school in the past two years. Girls are prohibited by religious practice from enrolling in religious schools restricted to Buddhist monks or novices.

Children were tried in the same courts as adults and detained with adults in some regions of the country. There were 82 Juvenile Observation and Protection Centers for underage offenders located in 64 of the country's 76 provinces. An additional 12 centers were scheduled to be opened in 2006.

The law provides for the protection of children from abuse, and laws on rape and abandonment carry harsher penalties if the victim is a child. During the year police were reluctant to investigate abuse cases, and rules of evidence made prosecution of child abuse difficult. The law is designed to protect witnesses, victims, and offenders under the age of 18, and procedures allow children to testify on videotape in private surroundings in the presence of a psychologist, psychiatrist, or other social

worker with a judge's consent. However, many judges declined to use videotaped testimony, citing technical problems and the inability to question accusers and defendants directly in court. Persons charged with pedophilia are charged under appropriate age of consent and prostitution laws. Victims' testimony is handled under the provisions of the Child Friendly Procedure Act.

Trafficking in children, including for commercial sexual exploitation, remained a serious problem (see section 5, Trafficking). Pedophilia continued, both by citizens and by foreign sex tourists. The government, university researchers, and NGOs estimated that there were as many as 30 thousand to 40 thousand prostitutes under 18 years of age, not including foreign migrants. The Prostitution Prevention and Suppression Act makes child prostitution illegal and provides for criminal punishment for those who use prostitutes under 18. Parents who allow a child to enter into prostitution also are punishable. During the year there were a few arrests and no prosecutions of parents who allowed a child to enter into prostitution. Custom and tradition made it rare for children to accuse their parents in court proceedings.

Child labor remained a problem (see section 6.d.).

There were believed to be approximately 20 thousand street children in major urban centers. The government implemented new guidelines to improve the processing of child trafficking victims from Cambodia and Burma, including child beggars. The children were referred to government-provided shelters, but many reportedly avoided the shelters due to fear of being detained and expelled from the country. Street children were repatriated to Cambodia during the year. According to the government, citizen children were sent to their home provinces and placed in occupational training centers.

Street children were often left out of national reports on child labor issues and national statistics on street children often included only citizens, although the majority were noncitizens.

Street children were often exploited by organized gangs as beggars or to sell flowers or other items. Many of these children were forced to turn over their daily earnings to the gang and were paid less than a dollar a day. There were reports of street children who were bought, rented, or forcibly "borrowed" from their parents or guardians in order to beg alongside women on sidewalks and overpasses. This was particularly true in areas of the capital frequented by tourists. Working conditions for these children were poor, leaving them exposed to the elements for long periods of time and open to further exploitation.

There were many local NGOs that worked to promote children's rights. Employers' organizations, such as the Employers' Confederation of Thailand, also were involved in child labor issues. These organizations received good working support from the government.

Trafficking in Persons.—The law prohibits trafficking in persons; however, the country was a source, transit, and destination for trafficking in women and children for a variety of purposes, including indentured servitude, forced labor, and prostitution. Some local officials, immigration officers, and police reportedly either were involved in trafficking directly or took bribes to ignore it. Penalties vary according to the age of the victim and the method of trafficking. In general the law provides for imprisonment of a year to life and fines of $50 to $1 thousand (2 thousand to 40 thousand baht). For offenses against children between 15 and 18 years of age, the potential punishment is 3 to 15 years of imprisonment and a fine of $150 to $1 thousand (6 thousand to 40 thousand baht). For offenses against children under 15 years of age, the penalty ranges from 5 to 20 years' imprisonment and a fine of $250 to $1 thousand (10 thousand to 40 thousand baht). If the offense is committed with deceit, threat, physical assault, immoral influence, or other mental coercion, the sentences and fines may be increased by one-third.

In general the government cooperated with governments of other countries in the investigation of transnational crimes, including trafficking. The country has signed bilateral antitrafficking memorandums of understanding (MOUs) with Cambodia and Laos. Receiving countries generally initiated trafficking case investigations. The government continued to investigate rings associated with smuggling female citizens abroad. During the year a low-ranking policeman was sentenced to 10 years in prison for his role in trafficking a 14-year-old girl to Malaysia for sexual exploitation. In another case a Cambodian woman was sentenced to 85 years in prison for her part in trafficking eight women to a prostitution venue in Malaysia.

The law allows for extradition of citizens; however, no citizens were extradited for trafficking-related offenses. Requesting-country nationals charged with trafficking-related crimes, including pedophilia, were extradited to Japan, Australia, Germany, and the United States.

Some portion (thought by the UN, NGOs, and the government to be a minority) of the estimated 200 thousand to 300 thousand sex industry workers in the country

were either underage or in involuntary servitude or debt bondage. Women and children (particularly girls) tended to be the most frequent trafficking victims. Anecdotal evidence suggested that the trafficking of men, women, and children into such fields as commercial fisheries or sweatshop work was significant. Young migrant women and girls, particularly from Laos, were found employed in indentured servitude and under physical constraint in sweatshops that restricted their freedom. NGOs assisted some victims to obtain back wages from abusive employers.

Within the country women were trafficked from the impoverished Northeast and the North to Bangkok for sexual exploitation. However, internal trafficking of women appeared to be on the decline, due to prevention programs and better economic opportunities. Women also were trafficked to Japan, Malaysia, Bahrain, Australia, South Africa, Europe, and the United States chiefly for sexual exploitation but also for sweatshop labor. Men were trafficked into the country for commercial fisheries and farm, industrial, and construction labor. Prosecution of traffickers of men was complicated by the lack of coverage in the law.

Women and men were trafficked from Burma, Cambodia, the People's Republic of China (PRC), and Laos for labor and sexual exploitation. Boys and girls were trafficked chiefly from Burma and Cambodia primarily for sexual exploitation and to work in begging gangs. The government improved the screening of trafficking victims from Cambodia and Burma through cooperation between the Royal Thai Police and the International Organization for Migration. Law enforcement officials identified victims of trafficking and referred them to one of six regional government shelters.

Entire families occasionally were trafficked for labor in sweatshops. Underage boys reportedly were brought into the country for specialized work in which small size was an advantage. According to domestic NGOs, girls between the ages of 12 and 18 continued to be trafficked from Burma, southern PRC, and Laos to work in the commercial sex industry. Social workers noted that young girls were prized because clients believed that they were free of sexually transmitted diseases. Persons trafficked from the PRC often were in transit to other countries, although women and girls from Yunnan Province generally were destined for brothels in the North. Victims of trafficking were often lured into the country or for transit to other countries, with promises of restaurant or household work and then were pressured or physically forced into prostitution.

The UN Economic and Social Council and NGOs believed that the lack of citizenship status for some hill tribe women and children was a strong risk factor for becoming victims of trafficking. Although members of this group were not a large percentage of trafficking victims, they were found in disproportionately large numbers in situations entailing severe forms of trafficking. At least 10 hill tribe women lacking citizenship were found among a group of more than 90 women and girls trafficked to Malaysia for prostitution, including several who were coerced. In June the government agreed in principle to repatriate the women if they could prove their prior residency in the country. Although the government reportedly received such proof, it has not initiated repatriation procedures and the women remained incarcerated in Malaysia.

Trafficking within the country and from neighboring countries into the country tended to be carried out by loosely organized small groups that often had close ties in the source communities. Burmese, Laotian, Cambodian, and Thai individuals were involved in labor trafficking along the border. Informal chains of acquaintance often were used to recruit victims. In some cases, the traffickers themselves were former victims, particularly where the sex industry was the destination. There were credible reports that low-ranking police and immigration officials transported women destined for brothels from the border to Bangkok and other areas of the country.

The trafficking of Thai prostitutes abroad, and that of Chinese nationals using the country as a transit point, was done by sophisticated and well-financed international criminal syndicates that sometimes cooperated with each other.

The majority of prostitutes were not kept under physical constraint, but a large number worked in debt bondage. Brothel procurers reportedly advanced parents a substantial sum against their child's future earnings. The child was then obligated to work in a brothel to repay the loan.

Female citizens were trafficked to Japan for sexual exploitation. Traffickers promised victims lucrative legitimate employment or made false promises regarding wages, working conditions, or the nature of the work. According to Human Rights Watch, upon the victims' arrival in Japan, the traffickers confiscated their passports, demanded repayment for their "purchase," charged the victims for living expenses and care, and fined them for misbehavior. Traffickers often restricted the

women's movements, threatened them and their families, isolated them, and used violence to punish them for disobedience.

Because foreign women frequently were unable to speak the language and were considered illegal immigrants, they were particularly vulnerable to physical abuse and exploitation. Some women were lured into the country with promises of jobs as waitresses or domestic helpers but ended up working as prostitutes. Reports of labor trafficking were also received from Burmese migrant workers who were ostensibly offered jobs in the food processing industry, but were later induced or forcibly transported to work on fishing vessels.

Illegal immigrants had no rights to legal counsel or health care if arrested. The amnesty provisions available under UNHCR auspices did not apply to such women. In May 2004 a series of MOUs between government agencies and between the government and domestic NGOs provided some detailed police procedures to assist with the problem of trafficked persons being detained by the authorities. The agreements stated that the training of police officers would include instructions to treat such persons as victims of human trafficking rather than as illegal immigrant workers. Instead of being deported, they become the responsibility of the public welfare department. However, implementation of the MOUs has been erratic, due to insufficient training of law enforcement officials and their unfamiliarity with the law.

Official corruption facilitating the most severe forms of trafficking in persons was generally at the low- and mid-levels. Police personnel were poorly paid and were accustomed to taking bribes to supplement their income. There was no evidence that high-level officials benefited from or protected the practice. Compromised local police protected brothels and other sex venues from surprise raids. Corrupt immigration officials assisted (both indirectly and directly) the movement of Burmese, Lao, and Chinese women and girls into the country. Officials found complicit in any part of the illegal economy rarely were prosecuted but instead were moved to positions thought to limit opportunities for future corruption.

Several NGOs, both local and international, and government agencies worked with trafficking victims. The government worked with the International Labor Organization's International Program on the Elimination of Child Labor (ILO–IPEC) to implement antitrafficking projects to reduce the incidence of trafficking of children for labor and sexual exploitation. However, funds for fighting trafficking or aiding its victims were limited.

In general victims awaiting repatriation were brought to government-run shelters or, in the case of noncitizens, to NGO-run shelters. The repatriation process took up to six months. Through September the main government shelter in Bangkok received 298 women and children from neighboring countries and 193 citizens, including women found in voluntary prostitution and domestic abuse cases. There were no reliable statistics on how many of these persons were victims of trafficking. The government provided food, medical care, and limited psychological counseling.

Trafficking victims received some legal assistance from NGOs and Department of Welfare officials, and they generally were informed of the option of pursuing legal action against the trafficking perpetrators. Relatively few opted to do so; language barriers, illiteracy, distrust of government officials, the lengthy legal processes, and fear of the traffickers played a role. Trafficking victims illegally in the country were not allowed to obtain employment while awaiting repatriation, even if they were involved in legal proceedings against the trafficker.

The government continued cooperative arrangements with local industries, especially the hotel industry, to encourage youths (particularly girls) to find employment outside of the sex industry and other exploitative work. Vocational training programs aimed at high school students also received funding. Although the vocational training was not intended explicitly for trafficking prevention, the practical effect was to increase the range of choices for recent school graduates.

Persons with Disabilities.—The constitution mandates access to public buildings for persons with disabilities, but laws implementing the provisions have not been fully enacted. The regulation that makes compliance mandatory was not enforced during the year. During the year a law was enacted providing that newly constructed building have facilities for persons with disabilities. Activists continued to work to amend laws that allow employment discrimination against persons with disabilities. Persons with disabilities were legally precluded from working as police officers and as persons providing medicinal massages, although the ministry of health has stated that it welcomes the registration of persons with disabilities as medical masseurs. On February 14, a court upheld the right of Sirimit Boonmul, a physically disabled lawyer, to take the test to apply for a job as a state attorney. The state attorney commission had rejected Sirimit's job application in 2001, arguing he was physically incapable of doing the job, and the courts upheld the commission's decision in 2002 and 2003.

There were an estimated 500 thousand persons with physical disabilities, approximately 800 thousand sight-impaired persons, and an estimated 500 thousand hearing-impaired persons in the country. Estimates for the number of persons with mental disabilities in Thailand ranged from 600 thousand to 1.4 million.

Persons with disabilities who register with the government are entitled to free medical examinations, wheelchairs, and crutches. As of August 31, 403,719 persons had registered as disabled. The government provided five-year interest-free small business loans for persons with disabilities. In 2004 4,820 persons with disabilities were granted loans totaling $2.4 million (96 million baht).

During 2004 an estimated 163 thousand children with disabilities attended school. The government reported that 12,500 students were enrolled in the 43 special schools for students with disabilities; the remaining students were enrolled in regular public schools. Nationwide, there were 9 government-operated and 15 NGO-operated training centers for persons with disabilities. In April the minister of education received a petition requesting that the government guarantee educational opportunities for persons with disabilities. There were reports of schools turning away students with disabilities. A 2002 report by the National Statistics Office said that 23 percent of registered persons with disabilities had graduated from junior high school.

Many persons with disabilities who found employment were subjected to wage discrimination. The law requires private firms to hire one person with a disability for every 200 other workers or contribute to a fund that benefits persons with disabilities, but this provision has never been enforced. Government officials estimated that between 20 and 30 percent of firms disregarded the law. Some state enterprises had discriminatory hiring policies.

National/Racial/Ethnic Minorities.—Former belligerents in the Chinese civil war and their descendants, who have sheltered in Thailand since the end of the civil war, and children of Vietnamese immigrants, who resided in five northeastern provinces, lived under laws and regulations that could restrict their movement, residence, education, and occupation (see section 2.d.). During the year approximately 2,500 of the Vietnamese and their descendants and an unknown number of Chinese and some of their descendants were granted full citizenship.

Violence in the South exacerbated social prejudices against Muslims; however, there have been no outbreaks of communal violence between the two communities. Many Muslims complained of societal discrimination both by Buddhist citizens and by the central government. Many Muslims complained that Thai-language newspapers present a negative image of Muslims and of their communities, associating them with terrorists. There were also complaints that the media identified Muslim citizens as "Muslims" rather than as "Thai Muslims" and thereby insinuated that Thai Muslims were not really Thai.

Insurgent groups in the South spread propaganda against Buddhists in the form of threatening pamphlets and flyers. There were also reports that some religious schools in the South preached hatred for non-Muslims, as well as Muslims who cooperated with the government and security forces (see section 2.c.).

Indigenous People.—Members of hill tribes without proper documentation continued to face restrictions on their movement, could not own land, and were not protected by labor laws, including minimum wage requirements. Freedom of movement was often dependent on their residency status, which was identifiable by the color of their identity cards (see section 2. d.). Citizenship is not automatically granted to children born to persons living illegally or without status in the country. Lack of citizenship makes hill tribe persons vulnerable to abuses and exploitation, such as trafficking (see section 5, Trafficking). They sometimes were denied adequate education and health care. Those residing in national parks or wildlife sanctuaries were subject to eviction (see section 1.f.). As noncitizen residents, they also were barred from participating in the political process (see section 3).

In recent years regulations eased the requirements to establish citizenship by allowing a wider range of evidence, including testimony from references and empowering local officials to decide cases. Approximately one-half of potentially eligible candidates have received citizenship under the regulations. Although the government was supportive of efforts to register citizens and to educate eligible hill tribe persons about their rights, activists reported that widespread corruption and inefficiency at all levels, including among highland village headmen and government officials, contributed to a backlog of pending citizenship applications.

During the year there were major demonstrations in Bangkok against the proposed Community Forest Bill, which limits settlement on land designated "community forest," and which could displace thousands of persons, including large numbers of hill tribes people.

In July 2004 41 persons were arrested for illegally trespassing on national forest land. Those arrested were members of the Palaung hill tribe minority group and did not have citizenship. They reportedly have been released on bail (see section 1.f).

On September 8, a court in Chiang Mai Province affirmed the citizenship claims of 1,243 persons after a 3-year court case. In 2002 the Mae Ai district office had revoked Thai citizenship, stating that irregularities in the issuance of their identification documents invalidated their claims. The group, mostly of Burmese or hill tribe origin, were unable to access state services during this time. Of the 1,243, 105 had had their citizenship reinstated in 2004, after genetic testing.

Hill tribe members continued to face societal discrimination arising from the belief that they were involved in drug trafficking and environmental degradation. Hill tribes occasionally were subjected to indiscriminate searches of villages for illegal drugs (see section 1.f.).

Other Societal Abuses and Discrimination.—HIV/AIDS was estimated to have infected approximately 1.5 percent of the population. During the year the government took measures to improve its support of persons with HIV/AIDS. For the first time the government began providing anti-retroviral drugs as part of the country's universal health care plan. The plan was projected to benefit 100 thousand HIV/AIDS sufferers. In September the government also approved a $83 million (3.41 billion baht) program for increased public education concerning HIV/AIDS, including funds targeted at high-risk groups such as sex workers, young persons and gay males. The government provided funds to HIV/AIDS support groups and continued public debate at the highest levels of political leadership. Societal discrimination against persons with AIDS most often was found in the form of a psychological stigma associated with rejection by family, friends, and community. In previous years local AIDS hot lines received reports that some employers refused to hire persons who tested positive following employer-mandated blood screening.

Section 6. Worker Rights

a. The Right of Association.—The law allows all private sector workers to form and join trade unions of their choosing without prior authorization; however, the law provides inadequate protection to workers who participate in union activities. The law prohibits antiunion actions by employers; however, it also requires that union committee members be full-time employees of the company, which makes them vulnerable to employers seeking to discipline workers who serve as union officials or who attempt to form unions. Union leaders and academic observers reported that employers often discriminated against workers seeking to organize unions. The law does not protect workers from employer reprisal for union activities prior to the registration of the union, and employers could exploit this loophole to defeat efforts at union organization. During the year employers used loopholes in the Labor Relations Act to fire union leaders prior to government certification of unions. Trade union leaders can be dismissed for any reason, provided severance payment is made. In such circumstances the law does not provide for reinstatement. The labor court reinstated employees in some cases where dismissal was found to result from union activity and was illegal. However, because the reinstatement process was lengthy and cost prohibitive for the employee, most cases were settled out of court through severance payments to the employee. There were no punitive sanctions for employers.

Union officials must be full-time employees of the company or state enterprise. This prohibition against permanent union staff limited the ability of unions to organize and be politically active. The Labor Relations Act also allows only two outside government-licensed advisors to a union, and the Ministry of Labor often blocked the registration of labor advisors whom it deemed too activist. Union leaders and outside observers complained this interfered with the ability to train union members and develop expertise in collective bargaining, and led to rapid turnover in union leaders.

Less than 4 percent of the total work force but nearly 11 percent of industrial workers and more than50 percent of state enterprise workers were unionized. Cultural traditions, unfamiliarity with the concept of industrial relations, efforts by the government and the private sector to diminish union cohesiveness, and the sizeable agricultural and informal sectors (where unions are not permitted) were cited as reasons for low rates of labor organization.

State enterprise employees can join organizations of workers in the private sector, but only at the level of confederations. This restriction effectively divided the trade union movement along state enterprise and private sector lines. However, unofficial contacts at the union level between public and private sector workers continued, and the government did not interfere with these relationships. Unions in state-owned enterprises generally operated independently of the government and other organiza-

tions. Internal conflicts, corruption, and a lack of leadership weakened the labor movement.

Civil servants including public schoolteachers are prohibited from forming or registering a union. They are allowed to form and register only as associations, which have no right to bargain collectively.

Noncitizen migrant workers, whether registered or illegally present, did not have the right to form unions or serve as union officials; however, registered migrants may be members of unions organized and led by citizens. In 2004 the Ministry of Labor implemented a registration program which gave temporary work status to approximately 1.28 million foreign workers, most of whom were from Burma and were residing illegally in the country. Few, if any, of the registered migrants joined unions. During the year a substantial number of migrant workers worked in factories near border crossing points, where labor laws were routinely violated and few inspections were attempted to verify compliance with the law.

b. The Right to Organize and Bargain Collectively.—The law provides for the right of citizen private-sector workers to organize and bargain collectively; however, the government's efforts to protect this right were weak. The law defines the mechanisms for collective bargaining and for government-assisted conciliation and arbitration in cases under dispute. In practice genuine collective bargaining occurred only in a small fraction of workplaces, and in most instances, it continued to be characterized by a lack of sophistication on the part of worker groups and autocratic attitudes on the part of employers. Wage increases for most workers came as a result of increases in the minimum wage rather than as a result of collective bargaining. The process of setting minimum wages locally through provincial tripartite wage committees may further limit union influence; many of these provincial committees excluded labor representatives and placed factory managers on the wage committees to represent worker interests. The minimum wage increase in the year did not keep pace with inflation. The government sets wages for state enterprise employees under the State Enterprise Labor Relations Act (SELRA) (see section 6.e.). Wages for civil servants are determined by the Ministry of Finance.

The government has the authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large; however, it seldom invoked this provision and did not do so during the year. Labor law also forbids strikes in "essential services," which is defined much more broadly than in the International Labor Organization (ILO) criteria, and includes sectors such as telecommunications, electricity, water supply, and public transportation as essential services. The law also prohibits termination of employment of legal strikers; however, some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. Employers are legally permitted to hire workers to replace strikers. SELRA provides public sector employees in state enterprises the same rights to organize as exist in the private sector. SELRA prohibits lockouts by employers and strikes by state enterprise workers. Strike action in the private sector was constrained by the legal requirement to call a general meeting of trade union members and to have a strike approved by 50 percent of unionists. During the year there was one legal strike involving 93 workers, and there was one lockout involving 100 workers.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector; however, there is documented abuse in the system including evidence that awards to workers are ignored or not paid in full. Issues of collective labor relations are adjudicated through the Tripartite Labor Relations Committee, and are subject to review by the labor courts. Workers may also seek redress through the NHRC and the Parliamentary Committee on Labor and Social Welfare. The law authorizes the Ministry of Labor to refer any private sector labor dispute for voluntary arbitration by a government-appointed group other than the Labor Relations Committee. Although the legal authority seldom was used, the ILO viewed this provision as acceptable only in defined essential services. Redress of grievances for state enterprise workers is handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders unjustly dismissed were awarded only back wages with no punitive sanctions against the employer. This limited any disincentive for employers to fire union organizers and activists.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs), in which wages and working conditions often were better than national norms. However, union leaders alleged that employers' associations were organized to cooperate in discouraging union organization. Unions existed in the automobile and petroleum production facilities located in EPZs.

In recent years labor brokerage firms have used a "contract labor system" under which workers sign an annual contract which entitles them to no fringe benefits. According to an expert from the Ministry of Labor, there were 381 such firms deploying more than110 thousand workers. These workers lack the ability to bargain collectively over wage and benefit issues. Although they may perform the same work as direct-hire workers they were paid less and received fewer, or no, benefits.

Attempts by registered migrant workers to carry out work stoppages to demand minimum and back wages, along with better working conditions, often led to deportations, resulting from apparent collusion between factory owners and local government immigration officials. There continued to be credible reports of NGO personnel being assaulted while trying to assist migrant workers.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, except in the case of national emergency, war, or martial law; however, the government was unable to enforce these provisions effectively in the large informal sector. During the year there continued to be reports of sweatshops in which employers prevented workers, primarily foreign migrants, from leaving the premises. There were no estimates of the number of such sweatshops, but the growing number of migrants from Burma, Cambodia, and Laos increased the opportunities for such abuse. NGOs and the ILO reported that thousands of underage boys and girls were brought into the country for labor on farms or in sweatshops, and very young children were used to work in street begging gangs.

Forced and compulsory labor by children occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—In general sufficient legal protections exist for children in the formal economic sector. The Labor Protection Act is the primary law regulating employment of children under the age of 18. Employment of children under 15 is prohibited. However, the law does not cover the agricultural and informal sectors, including domestic work, which employ the majority of persons in the workforce, including many child workers. The law allows for issuance of ministerial regulations to address sectors not covered in the law, and in late 2004 and during the year the minister of labor increased protections for child workers in domestic and agricultural sector work. The minimum working age is coordinated with the mandatory national educational requirement. The government drafted a national strategy on eliminating the worst forms of child labor during public hearings in 2003. Appointment of a national-level implementing subcommittee was still pending as of year's end. The strategy commits the government to strengthening child labor laws and enforcement procedures. Child labor remained a problem, particularly in small-scale industry and agricultural sectors. Contradictory statistical surveys by various government agencies, which largely ignored foreign children and those in illegal industries, made an estimate of the scope of the phenomenon difficult.

The law permits the employment of children between the ages of 15 and 18 only in "light work," where the lifting of heavy loads and exposure to toxic materials or dangerous equipment or situations is limited. The law prohibits employment of children at night (from 10 p.m. to 6 a.m.) or in places in which alcohol is served. It was estimated that approximately one million children worked on family farms. NGOs reported that 2 to 4 percent of children between the ages of 6 and 14 worked illegally in urban areas; such children were at risk of becoming victims of other abuses of labor laws. Most underage workers in urban areas worked in the service sector, primarily in gasoline stations, small-scale industry, and restaurants. Child labor was less evident in larger export-oriented factories. A police raid in February discovered 12 migrant workers between the ages of 13 and 17 working in a small Bangkok garment factory. NGOs also reported extensive child labor in garment factories along the Burmese border, in Mae Sot Province. However, there was no comprehensive survey of child labor throughout the country, since NGOs often did not have access to shop-house factories. A 2002 survey by the national statistics office reported 10,728 children were employed in domestic work. NGOs reported child domestic workers were predominantly foreign, migrating from Burma, Cambodia, and Laos. Most were in the country illegally, increasing their vulnerability to exploitation. Minimum wage and age provisions of the Labor Protection Act do not apply to domestic workers, some of whom were believed to be less than 15 years of age; however, recently issued regulations extended protections to children in the domestic and agricultural sectors.

The worst forms of child labor occurred in the country. Children (usually foreign) were exploited in street selling, begging, and prostitution in urban areas, sometimes in a system of debt bondage. Some were sold or otherwise trafficked by parents or other relatives. In November 2004 the government implemented guidelines to im-

prove the screening of trafficking victims among child beggars and street vendors from Cambodia or Burma (see section 5). A 2004 ILO study noted that drug merchants in Bangkok used male children as delivery boys. Narcotics sellers preferred children because they were undemanding and were not charged as adults if arrested. Instead they were sent to police-run correctional homes.

The Ministry of Labor is the primary agency charged with enforcing child labor laws and policies. During the year there were 2,354 labor inspection officers, including labor ministry officials and policemen who registered as labor inspection officers. Enforcement of child labor laws was not rigorous, and inspectors usually responded only to specific public complaints, reports of absences by teachers, or reports in newspapers. Their inclination when dealing with violators was to negotiate promises of better future behavior rather than seek prosecution and punishment. Inspection of private homes to monitor the welfare of child domestic workers was hampered by the legal requirement to obtain a warrant. In 2004 1,241 child labor inspections and investigations were performed; 21 of the workplaces inspected revealed serious violations, such as employing underage workers or exceeding legal work hour limits.

In July 2004 the government registered 79,200 migrant children 15 years of age and younger, the first time minors had been given temporary residence permits under migrant labor policy. Government officials stated the new measure would permit foreign children access to the public school system. NGOs reported that this new provision was implemented only if the employer of the migrant parent provided evidence regarding the parent's status to school authorities. In most cases the employer did not do so.

e. Acceptable Conditions of Work.—The minimum wage ranged from $3.47 to $4.52 (139 baht to 181 baht) per day, depending on the cost of living in various provinces. The minimum wage was set by provincial wage committees that sometimes included only employer representatives. This wage was not adequate to provide a decent standard of living for a worker and family. With extended family members' financial contributions the minimum wage provided the basis for a marginally adequate overall standard of living. The official poverty rate was 77 cents (31 baht) per day, which permitted survival only in areas where subsistence agriculture was possible. The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, nationwide, academics estimated one-third of formal sector workers received less than the minimum wage, especially those in rural provinces. Despite encouragement of employees to report violations to labor inspectors, the enforcement of minimum wage laws was mixed. Many labor laws, including the minimum wage law, do not apply to undocumented workers, primarily hill tribe members and illegal aliens. An estimated one to two million unskilled and semiskilled migrant workers worked for wages that were approximately one-half the minimum wage.

The government mandated a uniform workweek of 48 hours, with a limit on overtime of 35 hours per week. Employees engaged in "dangerous" work, such as in the chemical, mining, or other industries involving heavy machinery, legally may work a maximum of 35 hours per week and are not permitted overtime. The petrochemical industry is excluded from these regulations. There were reported incidents of employees being forced to work overtime, with punishments and dismissals for workers who refuse.

Working conditions varied widely. The official rate of injury from industrial accidents remained relatively constant over the last 10 years at 4.5 percent of the total work force. The Ministry of Labor stated that the average annual rate of work-related deaths was 15 per 100 thousand workers. However, these rates applied only to industrial sector workers; the rate of incidents occurring in the larger informal and agricultural sectors, and among migrant workers, was thought to be higher. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. Stress-related disorders and complications resulting from botched abortions were reported by medical workers treating the 50 thousand young migrant women employed in textile factories along the Burma border. In medium-sized and large factories, government health and safety standards often were applied, but enforcement of safety standards was lax. In the large informal sector, health and safety protections were substandard.

Provisions of the Labor Protection Act include expanded protection for pregnant workers by prohibiting them from working on night shifts, overtime, holidays, or working with dangerous machinery or on boats. Employers of migrant women often fired workers who became pregnant.

The Ministry of Labor promulgates health and safety regulations regarding conditions of work; however, the inspection department enforced these standards ineffectively, due to a lack of human and financial resources. There is no law affording job protection to employees who remove themselves from dangerous work situations.

Redress for workers injured in industrial accidents was rarely timely or sufficient. Few court decisions were handed down against management or owners involved in workplace disasters.

Despite the new registration process, migrant workers, especially from Burma, remained especially vulnerable to poor working conditions due to a lack of labor rights. According to Amnesty International, they were routinely paid well below the minimum wage, worked long hours in unhealthy conditions, and were at risk of arbitrary arrest and deportation. According to Human Rights Watch, as many as 10 thousand Burmese migrants were "informally deported" every month.

Enforcement of workplace laws and regulations is the responsibility of the Ministry of Labor's Department of Labor Protection and Welfare. The department has fewer than 700 fulltime inspectors to monitor more than 340 thousand workplaces. Although the department has undertaken initiatives to hire additional inspectors and to deputize local government officials, the shortage of human and other resources significantly impeded effective enforcement of labor laws.

TONGA

The Kingdom of Tonga is a constitutional monarchy stretching over 170 islands in the southern Pacific Ocean, and its population is approximately 110 thousand. Political life is dominated by the king, the nobility, and a few prominent commoners. The most recent election was held in March and was deemed generally free and fair. There is one registered political party. The civilian authorities generally maintained effective control of the security forces.

Although the government made some strides in protecting human rights during the year, its human rights record remained deficient. The following human rights problems were reported:

- inability of citizens to change their government
- lack of government response to petitions and requests for a popularly elected parliament
- restrictions on freedom of speech
- unfair benefits for businesses associated with royal family members
- domestic violence and discrimination against women
- inability of women to own or inherit land
- lack of regulations concerning the right of workers to form unions or to strike

Participation in government by popularly elected representatives increased. Two of the nine popularly elected people's representatives were given cabinet posts. In July the country's first official political party was allowed to register as an incorporated society. A New Zealand journalist who had been banned for nine years was allowed to enter the country. The government generally respected the rights of strikers during a six-week civil servant strike, the first of its kind in the country.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. There were reports that prisoners were collectively punished after the misbehavior or escape of any individual inmate. No nongovernmental organizations (NGOs) attempted to monitor prison conditions, and the permissibility of such visits did not arise. Church representatives and family members were permitted to visit prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The security apparatus consists of the Tonga Defense Services (TDS) and a police force. The minister of defense controls the TDS force. The minister of police and prisons directs the police force of approximately 400 persons. Incidents of bribe-taking and other forms of corruption in the

police force reportedly occurred. Reports of corruption and other public complaints were referred to a specific police office that conducts internal investigations and, if necessary, convenes a police tribunal. Entry-level police training included training on corruption and transparency.

Arrest and Detention.—The law provides for the right to judicial determination of the legality of arrest, and this was observed in practice. Police have the right to arrest detainees without a warrant, but detainees must be brought before a local magistrate within 24 hours. This law was observed in practice. There are no statutory limits on the length of time a suspect may be held prior to being charged. In most cases magistrates set bail. There were no reports of preventive detention or other lengthy pretrial detention. The law permits unlimited access by counsel and family members to detained persons.

There were no reports of political detainees.

Amnesty.—The king granted partial amnesty to a number of prisoners. At least six prisoners were released on probation during the year, and more than 30 had their terms reduced by approximately 25 percent.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected this provision in practice. The judiciary tended to provide citizens with a fair and efficient judicial process. The judiciary, whose highest-ranking judges historically have been foreign nationals, was generally independent. Judges hold office "during good behavior" and otherwise cannot be dismissed during their terms.

The court system consists of a Court of Appeal, a supreme court (which has original jurisdiction over all major cases), the police magistrates' court, a general court, a TDS court-martial, a court tribunal for the police force, and a court of review for the Inland Revenue Department. The Court of Appeal is the highest court. The king's Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law applied to all citizens without exception. A court may not summon anyone without providing a written indictment stating the charges. Trials are public, and defendants have an option to request a seven-member jury. Defendants are presumed innocent, may question witnesses against them, and have access to government-held evidence. Lawyers have free access to defendants. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner. Public defenders are not provided, but local lawyers occasionally take pro bono cases. Defendants have the right of appeal.

The defense services and the police force both have tribunals. These tribunals cannot be used to try civilians.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

Individuals generally were free to criticize the government without reprisal. However, in August the owners of a private television station alleged that the monopoly power company partially owned by the crown prince disrupted the electricity supply to the station prior to a planned broadcast on a nationwide civil servants strike and threatened to "bulldoze" the station if it did not stop broadcasting antigovernment views.

In March a former employee of the same power company made public allegations of high salaries and problems within the company. In late June he was arrested for having illegally retrieved information from the company's computers, and at year's end he was free on bail awaiting trial.

The independent media were active and expressed a wide variety of views, generally without restriction.

On May 13, the government lifted a nine-year ban on a New Zealand journalist entering the country.

Government-controlled media outlets were criticized for exercising self-censorship. While there was little editorializing in the government-owned media, opposition opinion in the form of letters to the editor, along with government statements and letters, appeared regularly. From time to time the national media carried comments, including some by prominent citizens, critical of government practices and policies.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

From July 21 until September 3, supporters of a civil servant strike gathered in a public meeting place. The government made one effort to displace them, which was halted two days later when the supreme court issued a temporary injunction against moving the gathered civil servants. Security forces handled the protesters in a peaceful and respectful manner.

In July the government allowed the first official political party in the country's history to register (see section 3).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. However, the constitution states that Sunday, the Sabbath, is to be "kept holy" and that no business can be conducted "except according to law." Although an exception was made for bakeries, hotels, resorts, and restaurants that are part of the tourism industry, the Sabbath day prohibition was otherwise enforced strictly for all businesses, regardless of the business owner's religion.

Tonga Broadcasting Commission (TBC) guidelines require that religious programming on Radio Tonga be confined "within the limits of the mainstream Christian tradition." The TBC did not allow members of the Baha'i Faith to discuss the tenets of their religion or refer to the founder, Baha'ullah, by name. Similarly, the TBC did not allow the Church of Jesus Christ of Latter-day Saints (Mormons) to discuss its founder, Joseph Smith, or the Book of Mormon by name. However, members of the Baha'i Faith used a privately owned radio station for program activities and the announcement of functions, and Mormons and members of some other faiths were permitted to use Radio Tonga for the announcement of church activities. A government-owned newspaper occasionally carried news articles about Baha'i activities or events, as well as those of other faiths.

Societal Abuses and Discrimination.—The relationships among religions generally were amicable. There was no known resident Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law does not prohibit forced exile, but the government did not employ it in practice.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. No person was known to have applied for refugee status. There were no reports of requests for temporary protection.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have the ability to change their leaders or the system of government. The king and 33 hereditary nobles dominated political life. They asserted authority largely through control of substantial landholdings and their dominant numbers in parliament. While the constitution allows the monarch broad powers, many of which do not require parliament's endorsement, at times the king permitted parliament to operate without his guidance. The king appoints the prime minister, and he appoints and presides over the Privy Council (called the cabinet when the king or regent is not presiding), which makes major policy decisions. The cabinet is composed of as many as 13 ministers and two governors; it included both nobles and commoners, all serving at the king's pleasure. In March two cabinet ministers were appointed from the nine elected "people's representatives," marking the first time that elected representatives served as cabinet ministers. Two members of parliament elected by nobles also joined the cabinet. The king's son, Prince 'Ulukalala Lavaka Ata, served as prime minister.

The unicameral parliament consists of the cabinet members, nine nobles elected by their peers, and nine representatives elected by the general population. The king appoints the speaker from among the representatives of the nobles. Cabinet members and nobles often voted as a bloc.

Elections and Political Participation.—Only citizens 21 years or older and resident in the country may vote. Parliamentary elections in March, deemed to be free and

fair, resulted in a strong showing for prodemocracy candidates. Subsequent by-elections also resulted in the election of prodemocracy candidates.

In July the country's first official political party, the People's Democratic Party (PDP), was allowed to register as an incorporated society. The PDP was founded in April by a group of prodemocracy activists. Previously, most prodemocracy activists operated from within NGOs, such as the Tonga Human Rights and Democracy Movement.

Prodemocracy groups staged a large demonstration in September and presented a petition to the king's representative that called for constitutional changes, including a popularly elected parliament. The king did not specifically respond to these calls for constitutional changes. However, on October 24, parliament commissioned a committee to ask citizens around the nation and abroad for recommendations to parliament about necessary political changes.

There was one woman in parliament. No woman has ever served as a government minister. A woman may become queen, but the constitution forbids a woman to inherit other noble titles or become a chief.

There was no minority participation in government.

Government Corruption and Transparency.—There were reports of government corruption during the year. Officials working in the main port reportedly took bribes in exchange for not charging the full amount of port and duty tax. In addition the Privy Council promulgated certain policies that appeared to benefit unfairly businesses associated with members of the royal family.

The law does not specifically allow for public access to government information, and such access was a problem, especially when the government deemed the information sensitive.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no legal barriers to the formation of domestic human rights NGOs. Some domestic NGOs dealt with human rights issues, but none undertook investigations of alleged violations. There were no restrictions on operations by international human rights groups and no known requests for investigations.

Government offices include a commission on public relations that investigates and seeks to resolve complaints about the government.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law confirms the special status of members of the royal family and the nobility. While social, cultural, and economic facilities were available to all citizens regardless of race and religion, members of the hereditary nobility had substantial advantages, including control over most land, and a generally privileged status.

Women.—Domestic violence against women seldom was publicized; however, according to local women's groups, it was very common. Domestic violence can be prosecuted under laws against physical assault, but in practice prosecutions were very rare. When abuse was reported to the police, victims were often encouraged to return to their homes. There were shelters for abused and troubled women, and the Free Wesleyan Church operated a hotline for women in trouble.

Rape is punishable by imprisonment for a term of up to 15 years. The law does not recognize spousal rape. Rape appeared to be rare, although there were no reliable statistics. There was one prosecution during the year, which was ongoing at year's end.

By law a woman is not permitted to undergo a tubal ligation without the consent of her husband or, in his absence, her male next of kin.

Prostitution is not illegal, but activities such as soliciting in a public place, procuring, operating a brothel, and trading in women are criminal offenses. There was an increase in prostitution for men from foreign fishing vessels, especially among women under the age of 18. Sexual harassment is not a crime, but physical sexual assault could be prosecuted as indecent assault.

Inheritance laws, especially those concerned with land, discriminate against women. Women can lease land but not own it. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock takes precedence over the claim of the deceased's widow or daughter. If there are no male relatives, a widow is entitled to remain on her husband's land as long as she does not remarry or engage in sexual intercourse.

The Office of Women, within the Prime Minister's Office, is not an active participant in pressing for women's rights.

Women held several significant government posts, including that of ambassador and permanent representative to the UN. For a woman to rise to a position of lead-

ership, she usually needed the support of the nobility. Some female commoners held senior leadership positions in business.

The nongovernmental Center for Women and Children focused on domestic abuse and improving the economic and social conditions of women and also offered counseling to women in crisis. Several religiously affiliated women's groups also advocated for women's legal rights.

Children.—The government is committed to children's human rights and welfare, and it provides some funding for children's welfare. Education is compulsory from ages 6 to 14. Education was available for all children through high school, and almost all children attended school.

The government provided free basic medical care to children.

There were some reports of child abuse.

Trafficking in Persons.—While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There are no mandated provisions for services for persons with disabilities. The Tonga Red Cross Society operated a school for children with disabilities and conducted occasional home visits. There were complaints of discrimination in employment, education, or provision of other government services. The education of children with special needs has been a longstanding priority of the queen. There were no programs to ensure access to buildings for persons with disabilities.

National/Racial/Ethnic Minorities.—According to the Ministry of Labor, ownership and operation of food retail stores in the country has been legally restricted to citizens since the early 1980s. However, the retail sector in many towns has become increasingly dominated by foreigners, particularly Chinese nationals. The Immigration Department of the Ministry of Foreign Affairs attempted to enforce the restrictions in an effort to curb growing illegal immigration. Although some foreigners left as a result of the policy, others moved to nonrestricted sectors of the economy. There were reports of crime and discrimination targeted at members of the Chinese minority by members of the public.

Other Societal Abuses and Discrimination.—Openly homosexual behavior faced societal discrimination.

Section 6. Worker Rights

a. The Right of Association.—Workers gained the right to form unions under the 1963 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no official unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act; however, they had no formal bargaining rights under the act. The Public Servants Association acted as a de facto union representing all government employees during the six-week, nationwide civil servant strike for a wage increase.

b. The Right to Organize and Bargain Collectively.—Collective bargaining is permitted by law, but there were no implementing regulations. During the year the government and public sector employees engaged in collective bargaining to resolve a strike by civil servants for higher wages. The government ultimately accepted the pay increase demands of the Public Servants Association and paid the increases beginning in September.

The 1963 act provides workers with the right to strike, but implementing regulations were never formulated. From July 22 to September 3, there was a nationwide strike of government employees. Marches and meetings were peaceful, and the government made no move to prevent citizens from organizing. On several occasions members of the government threatened that workers would lose their jobs if they did not return to work, but this did not occur.

Labor laws apply in all sectors of the economy, including the two small export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although there is no legislation prohibiting child labor, the practice did not exist in the wage economy.

e. Acceptable Conditions of Work.—There is no minimum wage law, although there are government guidelines for wage levels. According to the Asian Development Bank, 23 percent of 16 communities surveyed earned less than $15 (T$29) per person per week, which did not provide a decent standard of living for a worker and

family. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The ministry enforced laws and regulations in the wage sector of the economy, particularly on the main island of Tongatapu, but enforcement in the agricultural sector and on the outer islands was less consistent.

Few industries exposed workers to significant danger, and industrial accidents were rare. The government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.

TUVALU

Tuvalu is a parliamentary democracy and British Commonwealth member with a population of approximately 11 thousand. The head of state, Queen Elizabeth II, is represented by the governor general, who must be a citizen of the country. There are no formal political parties. In 2002 citizens elected a 15-member unicameral parliament in free and fair elections. Parliament selects the prime minister. In October 2004 Parliament selected Maatia Toafa as prime minister to replace Saufatu Sopoanga, who lost a parliamentary vote of confidence. The civilian authorities generally maintained effective control of the police, the country's only security force.

The government generally respected the human rights of its citizens, and the law and judiciary generally provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- allegations of government corruption
- social and religious discrimination stemming from traditional customs and social patterns
- discrimination against women

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Local hereditary elders exercise discretionary traditional punishment and disciplinary authority. This includes the right to inflict corporal punishment for infringing customary rules, which can be at odds with the national law. However, during the year there were no reports of such corporal punishment.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted regular visits by local church representatives. There were no visits by independent international human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The Office of the Prime Minister oversees the country's only security force, the 73-member national police service. Most police were stationed on Funafuti Island, with one regular and one auxiliary officer serving on each of the other islands. The police generally were regarded as professional and effective, although women's rights advocates criticized them as failing to take the issue of domestic violence seriously enough.

Senior officers investigate allegations of police abuse on a case-by-case basis, and the police commissioner reviews any proposed punishment. Corruption and impunity were not significant problems.

Arrest and Detention.—The law permits arrests without warrants when an unlawful act is committed in the presence of a police officer; police estimated that approximately 80 percent of arrests were of this type. The police may hold a person arrested without a warrant for no more than 24 hours without a hearing before a magistrate. When a court issues an arrest warrant, the maximum permissible detention time before a hearing must be held is stated on the warrant and normally is one to two weeks.

There was a functioning system of bail. Arrested persons generally were promptly informed of the charges against them, although bureaucratic delays sometimes oc-

curred (see section 1.e.). Detainees had prompt access to family members and to the people's lawyer (public defender); the country had no attorneys in private practice.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

There is a two-tier judicial system. Higher courts include the High Court, the Court of Appeal, and the Sovereign in Council (Privy Council) in the United Kingdom. Lower courts consist of senior and resident magistrates, the island courts, and the Land Court. An expatriate chief justice appointed by the governor general presides over the High Court, which generally sits twice a year.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Judges conduct trials and render verdicts; there are no juries. The accused must be informed of the nature of the offenses with which they are charged and provided the time and facilities required to prepare a defense. The people's lawyer (public defender) expressed concern that bureaucratic delays sometimes resulted in several months passing before an accused was informed of the charges. The law provides for a presumption of innocence and the right to confront witnesses, present evidence, and appeal convictions. Procedural safeguards are based on British common law. The services of the independent people's lawyer are available to all citizens without charge.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, but the government occasionally limited these rights in practice.

There were no private, independent media. The Tuvalu Media Corporation (TMC), a public corporation, controlled the country's sole radio station and a monthly newsletter. The secretary to government serves as the chairman of the TMC board, and the prime minister's duties include nominal oversight of the TMC. In practice only 10 minutes of local news and information was broadcast daily; the remaining radio programming consisted of rebroadcasts of BBC programs. There was no television. Following previous criticism of government influence and self-censorship at the TMC, human rights activists reported that TMC coverage of political and human rights issues that was critical of the government, although still limited, increased during the year. Videotapes circulated freely and were widely available; however, pornography in all forms is illegal.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, under an October High Court ruling, traditional village authorities may restrict this right in certain circumstances.

The constitution also states that the laws are to be based on Christian principles. Despite official tolerance, religious homogeneity (more than 90 percent of citizens are members of the Church of Tuvalu, a Congregationalist denomination) and traditional structures of communal life posed practical barriers to the introduction and spread of other religious beliefs. The law requires churches to register and they must have a minimum of 50 members to do so.

In 2003 the traditional island council of Nanumanga banned the introduction of additional religions to that island. The Tuvalu Brethren Church subsequently filed a complaint against the council after the council ordered church members to stop further proselytizing and some islanders attacked and injured church members and damaged church property. In October the High Court ruled against the church, stating that the constitution permits local traditional authorities to restrict the constitutional right to religious freedom in defense of traditional mores. The church's appeal of the High Court ruling was pending at year's end.

Societal Abuses and Discrimination.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not practice it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. The government maintained its general cooperation with the Office of the UN High Commissioner for Refugees and other humanitarian organizations, but the issue of assisting refugees and asylum seekers did not arise during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Citizens freely and directly elect a 15-member unicameral parliament with a normal term of 4 years. Each of the country's eight main islands is administered by a six-person council, also elected by universal suffrage to four-year terms. The minimum voting age is 18 years.

The most recent general elections, held in 2002, were free and fair. The newly elected Parliament elected Saufatu Sopoanga, a former civil servant, as prime minister. In August 2004 Sopoanga lost a parliamentary vote of confidence. Then-deputy prime minister Maatia Toafa acted as prime minister in a "caretaker" capacity until October 2004, when Parliament formally elected him prime minister.

There were no formal political parties; however, Parliament informally was divided between a faction that supported the Toafa government and a faction that did not.

Participation by women in government and politics was limited, largely due to traditional perceptions of women's role in society. There were no female members of Parliament or cabinet ministers, but the number of female senior civil servants increased during the year.

Government Corruption and Transparency.—Laws against corruption are weak. There was a widespread public perception that the government lacked transparency and accountability, that public funds sometimes were mismanaged, and that government officials benefited unfairly from their positions.

The law provides for annual, public ministerial reports, but publication was spotty and often nonexistent. The Auditor General's Office, responsible for providing government oversight, was underfunded, lacked serious parliamentary support, and consequently continued to lack adequate staff and resources. During the year Parliament's Public Accounts Committee, chaired by the opposition, conducted its first interviews of all government department heads and permanent secretaries. Human rights advocates viewed that as a positive step toward transparency.

There is no law providing for public access to government information. In practice the government was somewhat cooperative in responding to individual requests for such information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no local nongovernmental organizations concerned entirely with human rights, although there were no known barriers to their establishment. Some human rights advocates such as the National Council of Women operated under the aegis of the Tuvalu Association of Nongovernmental Organizations, which was composed primarily of religious organizations. The people's lawyer, who served as a public defender, also monitored sentencing, equality before the law, and human rights issues in general. This institution, which at times has been critical of the government, nonetheless was supported by the government, which frequently sought its advice. The few other local organizations involved in human rights issues generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, color, place of origin, religion, or political belief, and the government generally enforced these prohibitions. The National Council of Women urged the government to amend the law to specifi-

cally prohibit discrimination on the basis of gender, but no action was taken on this proposal during the year.

Women.—Reports of violence against women were rare. Women's rights observers reported that it was not possible accurately to estimate the incidence of domestic violence, due to a lack of data. They also criticized the police for seeking to address violence against women using traditional and customary methods of reconciliation rather than criminal prosecution. Assault is a crime, but the law does not address domestic violence specifically, and it was not a source of broad societal debate. Rape is a crime punishable by a minimum sentence of five years' imprisonment; however, spousal rape is not included in the legal definition of this offense.

Prostitution and sex tourism are illegal and were not problems. The law does not prohibit sexual harassment specifically, but prohibits indecent behavior, which includes lewd touching. Sexual harassment was not a significant problem.

Although the constitution provides that its bill of rights provisions apply to all regardless of "race, place of origin, political opinions, color, religious beliefs or lack of religious beliefs, or sex," its provision on freedom from discrimination omits a specific reference to discrimination based on gender. Women's rights advocates cited this contradiction as denying women full constitutional rights and freedoms. The issue has not been tested in the courts.

The law generally treats men and women equally, but there remained some areas in which the law contributed to an unequal status for women. For example, the land inheritance rights of the Lands Code are based in part on customary practices. If survivors cannot agree on the settlement of an estate, the law specifically provides for sons to inherit a greater share of property than daughters. However, the law allows appeal of such property distributions.

In practice women held a subordinate societal position, constrained both by law in some areas and by traditional customary practices. Nonetheless, women increasingly held positions in the health and education sectors and were more active politically. In the wage economy, men held most higher-paying positions, while women held the clear majority of lower-paying clerical and retail positions.

Children.—Government funding for children's welfare was reasonable within the context of its total available resources. Education was free, compulsory, and universal for children through age 13. Primary school enrollment rates were 87 percent for boys and 88 percent for girls, according to the Asian Development Bank. However, only about one-third of secondary-school-age children (ages 15–19) attended school. The attendance rate for girls at the secondary school level was approximately 10 percent higher than that for boys overall, and approximately 40 percent higher in the last 2 years of secondary school. Students competed for academic scholarships to attend universities overseas or participated in vocational training focusing on subsistence farming and maritime training for men and computer or other business training for women. The government provided free medical care for children through age 18.

There were no reports of child abuse.

Trafficking in Persons.—The law prohibits procurement of persons within and across borders for purposes of prostitution, but it does not mention or prohibit trafficking specifically. However, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There were no known reports of discrimination against persons with disabilities in employment, education, or the provision of other state services. However, supplementary state services to address the special needs of persons with disabilities were limited. There are no mandated accessibility provisions for persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the population lacked permanent employment and was engaged in subsistence activity.

Public sector employees such as civil servants, teachers, and nurses were members of professional associations that did not have union status. The only registered trade union, the Tuvalu Seamen's Union, had approximately 1,090 members, who worked on foreign merchant vessels.

b. The Right to Organize and Bargain Collectively.—The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice the few individual private sector employers set their own wage scales. Both the private and public sectors generally used nonconfrontational deliberations to resolve labor disputes.

The law provides for the right to strike, but no strike has ever taken place.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children under age 14 from working in the formal labor market. The law also prohibits children under age 15 from industrial employment or work on any ship and stipulates that children under age 18 are not allowed to enter into formal contracts, including work contracts. Children rarely were employed outside the traditional economy of subsistence farming and fishing.

e. Acceptable Conditions of Work.—The minimum wage, set by the government, was barely sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public sector was $98 (A$130), regardless of sex and age. In most cases the private sector adopted the same minimum wage rate.

The Ministry of Labor may specify the days and hours of work for workers in various industries. The law sets the workday at eight hours. The majority of workers were outside the wage economy, which was primarily on the main island.

The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Labor is responsible for the enforcement of these regulations, but in practice it provided only minimum enforcement.

Workers can remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.

VANUATU

Vanuatu is a multiparty parliamentary democracy with a population of approximately 206 thousand. The constitution provides for parliamentary elections based on universal suffrage every four years. The 52-member Parliament elects the prime minister as the head of government. An electoral college composed of the members of Parliament (MPs) and the chairmen of the country's six provincial government councils elects the president as the head of state for a five-year term. The latter's powers are largely ceremonial. The Council of Chiefs provides recommendations on matters relating to custom and traditional practices. The most recent elections, held in July 2004, were considered generally free and fair. A coalition government was formed, but in December 2004 Parliament ousted Prime Minister Serge Vohor of the Union of Moderate Parties and elected Ham Lini of the National United Party to replace him. Lini's government, an eight-party coalition, enjoyed a rare period of political stability during the year. The civilian authorities generally maintained effective control of the security forces; however, police officials on occasion have acted peremptorily or at the direction of senior politicians.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- poor prison conditions
- arrests without warrants
- an extremely slow judicial process
- government corruption
- violence and discrimination against women

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions were poor at both the small, dilapidated central prison in Port Vila and the prison in Luganville, where

conditions generally were regarded as worse than in Port Vila. Security at both facilities also was poor, and there were frequent prisoner escapes. The secretary of the Public Service Commission reported a sizable increase in the prison population compared with the previous year, resulting in serious overcrowding. In December the government released 52 prisoners, citing poor prison sanitation and overcrowding as the reasons for the release. Pretrial detainees usually were held in the police lockup rather than the prison. Persons deemed mentally unfit to stand trial were housed with the general prison population. During the year foreign governments pledged financial assistance for prison improvements, but little progress was made by year's end.

The government permits prison visits by independent human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these provisions.

Role of the Police and Security Apparatus.—The commissioner of police heads the police force of approximately 600 officers, including approximately 200 members of the Vanuatu Mobile Force (VMF), a paramilitary unit with responsibility for responding to both internal and external security threats or other situations requiring the use of force. The Police Services Commission administers the employment of all police officers and selects the commissioner. The police generally were considered effective but were hampered by a lack of resources and by internal rivalries. Corruption and impunity were not major problems; however, there were some instances of corruption, and there have been some instances in which police have acted without proper authorization at the behest of politicians.

In September 2004 the chairman of the Police Services Commission was removed and the police commissioner and VMF commander were suspended after the police reportedly attempted to arrest the prime minister in connection with a contempt of court charge. During the year a court overturned the VMF commander's suspension; he was reinstated but reassigned to a different position.

Arrest and Detention.—A warrant issued by a court is required for an arrest; however, police made a small number of arrests without warrants during the year. The constitutional provision that suspects must be informed of the charges against them generally was observed in practice.

A system of bail operated effectively; however, some persons not granted bail spent lengthy periods in pretrial detention due to judicial inefficiency. Judges, prosecutors, and police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. Years can pass before a case is brought to trial. Detainees were allowed prompt access to counsel and family members. There is a public defender's office that provides counsel to indigent defendants.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. Relations between the executive and the judiciary improved during the year.

Magistrates' courts deal with most routine legal matters. There also are island courts at the local level, with limited jurisdiction in civil and criminal matters. The Supreme Court, an intermediate-level court, has unlimited jurisdiction over criminal and civil matters and considers appeals from the magistrates' courts. The president appoints the chief justice of the Supreme Court after consultation with the prime minister and the leader of the opposition; the three other justices are appointed by the president on the advice of the Judicial Services Commission. The Appeals Court is the highest appellate court. It comprises at least three judges, including at least two judges from the Supreme Court, and often includes senior judges from other common-law countries in the region. Judges cannot be removed without cause.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judiciary was relatively weak and inefficient, and some defendants spent extended periods in pretrial detention as a result (see section 1.d.). The judicial system is derived from British common law. Judges conduct trials and render verdicts; there are no juries. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right to judicial determination of the validity of arrest or detention, a right to question witnesses, and a right of appeal to a higher court.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Unlike the previous government in the prior year, the Lini government did not restrict appearances by opposition parliamentarians on government-owned radio and television stations.

The government controlled the country's one AM and one FM radio station and a limited-service television station that broadcast only to the capital of Port Vila and the second-largest city, Luganville. Access to international news and information also was available through private subscription satellite television service. There was one independent daily newspaper and two privately owned semiweekly newspapers. During the year most international correspondents, government-owned media, and the independent press reported criticisms of political leaders freely and apparently without hindrance. However, at times some individual politicians and their supporters have attempted to intimidate the media, although with no apparent effect.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. However, in September the government denied a request by the National Workers Union for a permit to demonstrate against the firing of 26 Air Vanuatu employees (see section 6.b.). The government reportedly cited concern that the demonstration would disturb the peace in advance of local elections scheduled for October; the union criticized the government's decision.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The government provided some financial assistance for the construction of churches affiliated with member denominations of the Vanuatu Christian Council, provided grants to church-operated schools, and paid teachers' salaries at church-operated schools in existence since the country's independence in 1980. These benefits were not available to non-Christian religious organizations. Government schools also scheduled weekly religious education classes conducted by representatives of Council churches. Students whose parents did not wish them to attend the classes were excused. Non-Christian religions were not permitted to give religious instruction in public schools.

Societal Abuses and Discrimination.—The country's Jewish community was limited to a few expatriates, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law does not address forced exile, but the government did not employ it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. There were no refugee or asylum cases reported during the year. The government had no association with the Office of the UN High Commissioner for Refugees.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—National parliamentary elections were last held in July 2004 and were considered generally free and fair. During the year no further action was taken against alleged participants in the burning of several ballot boxes on the island of Tanna during the elections. Parliamentary majorities have been unstable, with frequent motions for votes of no confidence in the government. In October 2004 Parliament passed proposed amendments to the constitution that, among other things, would bar no-confidence motions in the first and last years of a parliament's four-year term. As of year's end the government had not held the required national referendum on ratification and had not indicated an intention to do so.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There were 2 women in the 52-member Parliament. There was one woman in the cabinet.

There were at least two members of minorities (non-Melanesians) in Parliament, one of whom was in the cabinet.

Government Corruption and Transparency.—Government corruption was a problem. Prime Minister Lini appointed as his minister of agriculture a former prime minister who was convicted of forgery in 2002 and sentenced to 3 years' imprisonment; he was released several months later, after the then president pardoned him on medical grounds, and was reelected to Parliament. The law provides for the appointment of public servants on the basis of merit; however, in practice political interference at times has hampered the effective operation of the civil service. At year's end several officials from the Vanuatu Maritime Authority were awaiting trial on charges of criminal conspiracy for alleged mishandling of the awarding of licenses and contracts.

No law provides for public access to government information. In practice governmental response to requests for information from the media has been mixed.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials tolerated their views.

The president appoints a government ombudsman to a five-year term in consultation with other political leaders. The law requires that the Public Service Commission, not the ombudsman, appoint members of the ombudsman's staff and authorizes the presence of legal counsel during interviews with the ombudsman. Since its establishment, the ombudsman's office has issued a number of reports critical of government institutions and officials. During the year the president appointed a widely respected lawyer as the new ombudsman.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, place of origin, religious or traditional beliefs, political opinion, language, or sex; however, women remained victims of discrimination in the tradition-based society.

Women.—Violence against women, particularly domestic violence, was common, although no accurate statistics exist. There are no specific laws against domestic violence; courts occasionally prosecuted offenders using common law assault as a basis for prosecution. Under a 2002 revision of the civil procedure rules, magistrates have the authority to issue domestic violence protection orders. However, most cases of violence against women, including rape, went unreported because women, particularly in rural areas, were ignorant of their rights or feared further abuse. Although rape is a crime, with a maximum penalty of life imprisonment, spousal rape is not cited specifically in the law, and police frequently were reluctant to intervene in what were considered domestic matters. There were no government programs to address domestic violence, and media attention to the abuse was limited. Churches and other NGOs ran facilities for abused women. NGOs such as the National Council of Women and the Vanuatu Women's Center also played an important role in educating the public about domestic violence.

Prostitution is illegal and was not regarded as a serious problem. Although there is no law against sex tourism, none was reported. Sexual harassment is not illegal and was a problem. During the year a high-ranking chief made widely publicized statements against sexual harassment.

While women have equal rights under the law, they are only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. The majority of women entered into marriage through "bride-price payment," a practice that encouraged men to view women as property. Women also were barred by tradition from land ownership. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women. Women interested in running for public office received encouragement and help from the NGO Vanuatu Women in Politics.

Children.—Access to education was limited, and school attendance was not compulsory. Less than 35 percent of all children advanced beyond elementary school due to a shortage of schools and teachers beyond grade six. Boys tended to receive more education than girls. Although attendance rates were similar in the early primary grades (approximately 79 percent for boys and 78 percent for girls), fewer girls advanced to the higher grades. A significant portion of the population, perhaps as high

as 50 percent, was functionally illiterate. Medical services were free, and there was an immunization program; however, the government had few resources for medical care, particularly in outlying provinces where there were no hospitals.

Child abuse was not believed to be extensive; however, the government did little to combat the problem. NGOs and law enforcement agencies reported increased complaints of incest and rape of children in recent years, but no statistics were available. Children generally were protected within the traditional extended family system. Members of the extended family played an active role in a child's development. Virtually no children were homeless or abandoned.

The legal age for marriage is 21, although boys between 18 and 21 and girls between 16 and 21 may marry with parental permission. In practice, in rural areas and some outer islands, some children married at younger ages.

Trafficking in Persons.—The law does not prohibit specifically trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There was no governmental or national policy on persons with disabilities and no legislation mandating access to buildings for them. There were no special programs to assist persons with disabilities. Their protection and care was left to the traditional extended family and to voluntary NGOs. Due to high rates of unemployment, there were few jobs available for persons with disabilities. Persons with mental illness generally did not receive specialized care; they usually were attended by members of their extended families.

National/Racial/Ethnic Minorities.—Most of the population is Melanesian. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally were concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes and cannot be sold, although it sometimes was leased to others. Within the limits of this system of land tenure, there generally were no reports of discrimination against ethnic minorities; however, only indigenous farmers can legally grow kava, a native herb, for export.

Section 6. Worker Rights

a. The Right of Association.—The law provides all workers with the right to organize and join unions, and workers exercised this right in practice. Approximately 25 thousand persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately one thousand. The five existing trade unions are independent of the government. They are grouped under an umbrella organization, the Vanuatu Council of Trade Unions. The high percentage of the population still engaged in subsistence agriculture and fishing precluded extensive union activity. Unions require government permission to affiliate with international labor federations. The government has not denied any union such permission.

b. The Right to Organize and Bargain Collectively.—Unions exercise the right to organize and bargain collectively. They negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three-member arbitration board appointed by the minister of home affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the Magistrate's Court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without arbitration.

In August employees of Air Vanuatu held a one-day strike to protest proposed layoffs. Police refused to issue a demonstration permit to the National Workers Union, which sought to march in support of the Air Vanuatu workers. In September the airline dismissed 26 employees. In November the National Workers Union alleged that on November 28, police and VMF members threatened union members who were picketing outside the Port Vila airport to protest lack of progress in resolving the dispute between Air Vanuatu employees and the carrier. According to the union, the picketers were warned that they would lose their jobs if they did not stop their protest and return to work. Air Vanuatu denied the union's allegations and asserted that the authorities were brought in only to ensure normal operations at the airport. At year's end the unresolved labor dispute was under review by an arbitration panel.

Complaints of antiunion discrimination are referred to the Department of Labor; however, none were reported during the year.

While the law does not require union recognition, it prohibits antiunion discrimination once a union is recognized. The law prohibits retaliation for legal strikes. In the case of private-sector employees, complaints of violations would be referred to the Department of Labor for conciliation and arbitration. In the public sector, the

Public Service Commission would handle complaints of violations. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children under age 12 from working outside of family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age was restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. The Department of Labor effectively enforced these laws.

e. Acceptable Conditions of Work.—The Department of Labor effectively enforced a legislated minimum wage. In September Parliament set the minimum wage at $179 (20 thousand vatu) per month, a substantial increase from the $143 (16 thousand vatu) rate in place since 1995. The minimum wage did not provide a decent standard of living for an urban worker and family. However, most families were not dependent solely on wages for their livelihood, supplementing incomes through subsistence farming. Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, such as a 44-hour maximum workweek that included at least one 24-hour rest period. The Employment Act, enforced by the Department of Labor, includes provisions for safety standards. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Department of Labor could not enforce the law fully. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

VIETNAM

The Socialist Republic of Vietnam is an authoritarian state, ruled and controlled by the Communist Party of Vietnam (CPV). Its population is approximately 83.5 million. The CPV's constitutionally mandated primacy and the continued occupancy of all senior government positions by party members allowed it to set the broad parameters of national policy. However, the CPV continued to reduce its formal involvement in government operations and allowed the government to exercise significant discretion in implementing policy. The most recent elections to choose members of the National Assembly, held in 2002, were neither free nor fair, since all candidates were chosen and vetted by the CPV's Vietnam Fatherland Front (VFF), an umbrella group that monitors the country's popular organizations. The National Assembly remained subject to CPV direction; however, the government continued to strengthen the assembly's capacity. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained unsatisfactory. Government officials, particularly at the local level, continued to commit serious abuses, despite improvement during the year. Economic developments remained a major influence on the human rights situation as the country carried on with its rapid transition from a centrally planned economy to a "socialist-oriented market economy." Economic reforms and the rising standard of living continued to reduce CPV and government control over, and intrusion into, daily life. However, many persons in isolated rural areas—including members of ethnic minority groups in the Northwest Highlands, Central Highlands, and the central coastal regions—continued to live in extreme poverty. The government continued to seek greater (primarily economic) links with the outside world, with some parallel change in attitude toward human rights. Thus the more urban areas of the country continued to show improvement in this respect, while the Central and Northwest Highlands remained areas of international concern. The following human rights problems were reported:

- inability of citizens to change their government
- police abuse of suspects during arrest, detention, and interrogation
- harsh prison conditions
- arbitrary detention or restriction of the movement of persons for peaceful expression of political and religious views

- denial of the right to fair and expeditious trials
- imprisonment of persons for political and religious activities
- limited privacy rights
- restrictions on freedoms of speech, press, assembly, and association
- restrictions on religious freedom
- restrictions on freedom of movement
- prohibition of the establishment and operation of human rights organizations
- violence and discrimination against women
- child prostitution
- trafficking in women and children
- societal discrimination against some ethnic minorities
- limitations on worker rights
- child labor

During the year the government took steps to improve respect for human rights, including worker rights. Unlike in previous years, there were no credible reports of killings or disappearances by security forces. The government amnestied more than 26 thousand prisoners, including several high-profile prisoners-of-conscience. The government implemented an agreement with Cambodia and the Office of the UN High Commissioner for Refugees (UNHCR) to facilitate the return of nearly 200 ethnic minority citizens to the Central Highlands from Cambodia, and it provided access and facilitated travel to the Central Highlands for UNHCR and foreign mission staffs to monitor the progress and treatment of returnees. The government created a new and relatively more open legal framework for religious freedom, which, for example, resulted in improved conditions for Protestant house churches in the southern and central areas of the country, eased restrictions on the training of Catholic and Buddhist clergy, and accepted applications for some previously unrecognized ethnic minority Protestant congregations in the Northwest Highlands to register for worship, although by year's end none had received permission to do so.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; in addition, unlike in previous years, there were no credible reports of extrajudicial killings by security forces.

In April 2004 ethnic minorities protested in numerous locations in the central highlands provinces of Dak Nong, Dak Lak, and Gia Lai. In a number of cases, police reportedly responded by beating and firing upon demonstrators. The government reported the deaths of three protesters, allegedly all at the hands of other demonstrators. Credible estimates put the number of protesters killed by police at 10 to 12; some international organizations alleged that the figures were much higher (see section 2.b.). Following the protests, the government increased efforts to provide development assistance to ethnic minority areas in the Central Highlands. In some jurisdictions it also eased restrictions on Protestant groups.

No action was taken against officials involved in the 2003 killings of Protestant devotee Vang Seo Giao or Tran Minh Duc. There also were no developments in the 2002 killings of Nguyen Ngoc Chau, Khong Van Thoi, and Pham Van Dung.

b. Disappearance.—Unlike in previous years, there were no credible reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits physical abuse; however, police sometimes physically mistreated suspects while arresting them or holding them in custody. In mid-September local officials in the central highland province of Gia Lai reportedly beat two ethnic Dao Protestants, who were subsequently hospitalized for five days. Provincial government authorities reportedly were investigating the incident, but at year's end no official had been reprimanded. As in previous years, a small number of allegations were made that police, particularly in the Northwest Highlands, beat suspects, mainly ethnic minority Protestants, to the point of unconsciousness while also forcing them to perform acts against their religious beliefs such as consuming alcohol. However, other sources were not able to verify or confirm these allegations.

In October 2004 Dong Nai provincial police and prosecutors ordered the involuntary commitment of Protestant Than Van Truong to a mental institution. Officials stated that Truong demonstrated delusional behavior in his religious beliefs, although officials acknowledged that Truong did not pose a violent threat. The offense

that called the attention of law enforcement authorities was Truong's letters to senior CPV and government officials urging them to abandon Marxism-Leninism and follow the Christian faith. Truong was released in September, apparently on the condition that he sign a document certifying his mental illness, making him subject to readmission to a mental institution should he "relapse."

There were no developments in the 2003 incident in which militia soldiers and local officials in the village of Nam Nga, Lai Chau Province, reportedly raped two girls, destroyed several houses, killed livestock, and destroyed fences, allowing animals to enter fields and trample crops, in an attempt to punish individuals in the village for practicing Protestantism.

Prison and Detention Center Conditions.—Prison conditions reportedly often were harsh but generally did not threaten the lives of prisoners. Overcrowding, insufficient diet, and poor sanitation remained serious problems in many prisons. Most prisoners had access to basic health care. Prisoners generally were required to work but received no wages (see section 6.c.). In 2004 diplomatic observers reported Spartan but generally acceptable conditions in two prisons. Prisoners, including those held for political reasons, reportedly were sometimes moved to solitary confinement, where they were deprived of reading and writing materials, for periods of up to several months.

Although political and religious prisoners often were confined under harsh conditions, there was no evidence to suggest their conditions were significantly different than those for the regular prison population. In some instances they received better treatment, including better rations and access to care packages from home, than those in the general prison population.

During the year the government did not permit the International Committee of the Red Cross, nongovernmental organizations (NGOs), or diplomatic observers to visit prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government continued to arrest and detain citizens for the peaceful expression of their views.

Role of the Police and Security Apparatus.—Internal security primarily is the responsibility of the Ministry of Public Security (MPS); however, in some remote areas the military is the primary government agency and provides public safety functions, including maintaining public order in the event of civil unrest. The MPS controls the police, a special national security investigative agency, and other internal security units. It also maintained a system of household registration and block wardens to monitor the population, concentrating on those suspected of engaging, or being likely to engage in, unauthorized political activities; however, this system has become less pervasive in its intrusion into most citizens' daily lives.

Police organizations exist at the provincial, district, and local levels and are subject to the authority of the people's committees at each level. The police were generally effective at maintaining political stability and public order, but police capacities, especially investigative, were very low. Police training and resources were inadequate. Corruption was a significant problem among the police force at all levels. Internal police oversight structures existed but were subject to political influence.

Arrest and Detention.—The Supreme People's Procuracy (the public prosecutor) issues arrest warrants, generally at the request of police; however, police may make an arrest without a warrant on the basis of a complaint filed by any person. In such cases the public prosecutor must issue retroactive arrest warrants.

After police detain a suspect, a judge must issue a decision to initiate a formal criminal investigation within nine days, or police must release the suspect. Under the criminal code, this investigative period may last from 3 months for "less serious" offenses (those that may result in less than 3 years' imprisonment) to 16 months for "exceptionally serious" offenses (those that may result in more than 15 years' imprisonment, life imprisonment, or capital punishment), and an additional 4 months for national security cases. The code further permits the public prosecutor an additional two months at the end of the investigation to consider whether to prosecute the detained person or return the case to the police for additional investigation. There is no legal limit on the time within which a judge's panel (a body consisting of at least one judge and two lay assessors) must rule on a case (see section 1.e.). Time spent in pretrial detention counts toward time served upon conviction and sentencing. Although the criminal code allows for the operation of a bail system, in practice no such system existed.

The criminal procedure code allows pretrial detainees access to their lawyers from the point of detention; however, bureaucratic delays frequently limited initial contact between detainees and their lawyers, and some detainees, particularly political activists, were not permitted regular access by lawyers until shortly before their

trials. The code also provides that during the investigative period, defense lawyers be informed of interrogations and also be able to attend them, be given access to case files, and be permitted to make copies of documents in the files. Legal experts reported that defense attorneys were able to exercise these rights. However, a defendant first must request the presence of a lawyer, and it was not clear whether authorities always advised defendants of their new rights. In national security cases, defense lawyers were granted access to clients only after an investigation had ended.

Although the constitution provides for legal counsel for all persons accused of criminal offenses, a scarcity of trained lawyers made this provision difficult to implement. Counsel generally was provided only to those charged with crimes that could lead to life imprisonment or the death penalty. Prior to being formally charged, a detainee has a statutory right to notify family members, and police generally informed the family of the detainee's whereabouts. However, family members may visit a detainee only with the permission of the investigator.

Courts may sentence persons to administrative detention of up to five years after completion of a sentence. In addition police or mass organizations can propose that five "administrative measures" be imposed by people's committee chairpersons at district and provincial levels without a trial. The measures include terms ranging from six months to two years in either juvenile reformatories or adult detention centers and generally were applied to repeat offenders with a record of minor offenses such as committing petty theft or "humiliating other persons." Chairpersons may also impose terms of "administrative probation," which generally has been some form of restriction on movement and travel.

Following his February release from prison under the amnesty program, Catholic priest Nguyen Van Ly reported that he remained under administrative probation. However, he was able to travel within the country with the prior approval of Thua Thien Hue provincial officials. Senior leaders of the Unified Buddhist Church of Vietnam (UBCV) reported that they remained under effective "pagoda arrest," although government officials denied that such orders existed. In 2004 UBCV leaders and at least one Hoa Hao follower remained under formal administrative detention. A number of Buddhist, Catholic, and Protestant clerics, as well as some writers and political activists, were subject to varying degrees of informal detention in their residences (see sections 2.c. and 2.d.). In 2003 the people's committee chairman of Ho Chi Minh City reportedly sentenced four UBCV monks to two years' house arrest.

Authorities in the Central Highlands continued to prosecute ethnic minority members whom the government alleged were involved in separatist activities or in helping other individuals illegally cross into Cambodia. Government press reports indicated that at least 15 ethnic minority persons were convicted and sentenced to prison terms of 2 to 13 years. There were credible reports that in at least two instances during the year, one in Dak Lak and one in Gia Lai, some of these persons were held for lengthy periods without trial. One of the individuals reportedly was held and tried in secret.

Citizens seeking to exercise freedom of religion, assembly, and expression were at times detained by security forces for several days. In particular there were numerous reports that government officials in the Central and Northwest Highlands temporarily detained ethnic minority Protestant believers. During July and August 2004 in Sapa District, Lao Cai Province, authorities detained without charge numerous ethnic minority Hmong Protestants in at least eight different communes (see section 2.c.).

On occasion foreign citizens were detained and interrogated. In May two foreign citizens were detained by local authorities in Gia Lai Province, questioned for two days before being fined for having been in a restricted area, and released. In July 2004 foreign citizen Larry Linh Nguyen was held for seven days and interrogated about his alleged affiliation with Vietnamese-American political groups opposed to the CPV. Foreign citizen Hoang The Lan was detained by public security officers in August 2004 in Soc Trang and interrogated for four days about his involvement with groups that advocate democracy in Vietnam before being released.

The government held at least eight political detainees at year's end, according to international NGOs and diplomatic observers. In general the government refused to allow access to political detainees for international humanitarian organizations.

Amnesty.—During the year the government amnestied 26,688 prisoners, in 3 groups, a significant increase from previous years' holiday amnesties. Several high-profile prisoners benefited from these amnesties, including political and religious activists such as Dr. Nguyen Dan Que, Father Ly, and the UBCV's Thich Thien Minh (see section 1.e.).

e. Denial of Fair Public Trial.—The law provides for the independence of judges and lay assessors; however, in practice the CPV controls the courts at all levels by selecting judges at least in part for their political reliability. The CPV also influenced high-profile cases and others in which a person was charged with challenging or harming the CPV or the state. During the year CPV and government officials likely exerted control over court decisions by influencing lay assessors and judges.

The system of appointing judges and lay assessors contributed to executive control over the judiciary. The president presents a nomination for the presiding judge of the Supreme People's Court (SPC) to the National Assembly for approval. The president directly appoints the other members of the SPC upon the recommendation of a committee including the presiding judge of the SPC, members of the Ministries of the Interior and Defense, the VFF, and the Vietnam Lawyers Association. At the provincial and district levels the recommending panel is headed by the chairman of the provincial people's council (the provincial legislature) and includes members of the provincial people's court, provincial department of personnel, the VFF, and the provincial lawyers' association. Judges are appointed for five-year terms. Provincial and district governments disburse judges' salaries at their respective levels.

The judiciary consists of the SPC; the district and provincial people's courts; military tribunals; administrative, economic, and labor courts; and other tribunals established by law. Each district has a district people's court, which serves as the court of first instance for most domestic, civil, and criminal cases. Each province has a provincial people's court, which serves as the appellate forum for district court cases as well as court of first instance for other cases. The SPC is the highest court of appeal and review. It reports to the National Assembly. Administrative courts deal with complaints by citizens about official abuse and corruption.

There was a shortage of trained lawyers and judges, and there was no independent bar association. Low judicial salaries hindered efforts to develop a trained judiciary. The few judges who had formal legal training often had studied abroad in countries with communist legal traditions. In 2004 a newspaper affiliated with the Ministry of Justice reported that in some courts as many as 30 to 40 percent of verdicts were incorrect and as many as 50 persons had been wrongly imprisoned in the first quarter of the year. The newspaper also noted that, according to 2001 statistics, 31.2 percent of judgments in criminal cases made by local courts had to be reexamined and 46 percent of the verdicts in civil cases were wrong.

Government training programs to address the problem of inadequately trained judges and other court officials were underway. Foreign governments and the United Nations Development Program (UNDP) provided assistance; however, the lack of openness in the criminal judicial process and the continuing lack of independence of the judiciary hampered progress.

Courts of first instance at district and provincial levels include judges and lay assessors, but provincial appeals courts and the SPC are composed of judges only. People's councils appoint lay assessors from a pool of candidates suggested by the VFF. Lay assessors are required to have "high moral standards," but legal training is not necessary. Some international observers suggested that the short terms of appointment for judges and lay assessors and the strong representation of provincial officials on their nominating boards frequently made judges and lay assessors subject to political pressures.

The CPV and the government have established special committees to help resolve local disputes.

Corruption remained endemic within the judicial system. Phan Trung Ly, vice chairman of the National Assembly's law committee, noted in the MPS-affiliated *An Ninh The Gioi* (World Security) newspaper on August 28 that "giving of bribes to judicial workers, including judges, court clerks, procurators, and settlers of court decisions has increased and has become more complex as rings coordinating such acts have formed." On August 13, Phan Dang Dung, a court clerk of the Ho Chi Minh City People's Court, was caught taking a bribe of approximately $7 thousand (VND 110 million). On June 16, Le Bao Quoc, a lawyer from the Ha Tinh Province Bar Association, was caught receiving $126 thousand (VND 2 billion) and $30 thousand (VND 465 million) from Tran Thi Ngoc, the winner of a civil law suit. Quoc reportedly asked for this money to "coordinate" the settlement of a court decision that declared Ngoc to be the legitimate owner of a $392 thousand (VND 6.2 billion) orchard in Phu Giao District of Binh Duong Province (see section 3).

Trial Procedures.—Trials generally were open to the public; however, judicial authorities closed trials or strictly limited attendance in sensitive cases. Defendants have the right to be present at their trials and to have a lawyer, although not necessarily the lawyer of their choice, and this right was generally upheld in practice. Defendants unable to afford a lawyer were generally provided one only in cases involving life imprisonment or capital punishment. The defendant or the defense law-

yer has the right to cross-examine witnesses; however, there were credible reports that defendants were not allowed to access government evidence in advance of the trial, to cross-examine witnesses, or to challenge statements. Lawyers reported that they often had little time before trials to examine evidence to be presented against their clients. There also were credible reports that defense lawyers were pressured not to take as clients religious or democracy activists facing trial. Convicted persons have the right to appeal. Courts did not publish their proceedings.

The public prosecutor brings charges against an accused and serves as prosecutor during trials. Under the July 2004 revisions to the criminal procedures code, courtroom procedures were to change from an "investigative" system, in which the judge leads the questioning, to an "adversarial" system, in which prosecutors and defense lawyers advocate for their respective sides. This was intended to provide more protections for defendants and prevent judges from coercing defendants into confessing guilt; however, the extent to which this change was implemented in practice remained unclear. Although the constitution provides that citizens are innocent until proven guilty, some lawyers complained that judges generally presumed guilt.

Military tribunals, although funded by the Ministry of National Defense (MND), operate under the same rules as other courts. The MND is represented on the judicial selection panels, and the head of the military tribunal system is the deputy head of the SPC. Military tribunal judges and assessors are military personnel, chosen jointly by the SPC and the MND but supervised by the SPC. The law gives military courts jurisdiction over all criminal cases involving military entities, including military-owned enterprises. The military has the option of using the administrative, economic, or labor courts for civil cases.

Political Prisoners.—The government continued to pressure, harass, and imprison persons for the peaceful expression of dissenting religious and political views. In February democracy activist Dr. Nguyen Dan Que was amnestied after being convicted in July 2004 of "abusing democratic freedoms to infringe upon the interests of the state" and sentenced to 30 months' imprisonment. Journalists Nguyen Vu Binh and Dr. Pham Hong Son remained in prison for their 2003 conviction of "espionage" (see section 2.a.).

In June Hoa Hao activists conducted an anniversary ceremony marking the death of Hoa Haoism's founder that featured protests against government control over the Hoa Hao faith. In August police arrested 10 Hoa Hao activists at several locations on various obstruction of justice and inciting violence charges stemming from the June incident. Two Hoa Hao committed self-immolation, and one of them died (see section 2.c.).

The government claimed that it did not hold any political or religious prisoners; such persons were usually convicted of violating national security laws or general criminal laws. As with the general prison population, the government did not allow access by humanitarian organizations to political prisoners.

There were no reliable estimates of the number of political prisoners, because the government usually did not publicize such arrests and sometimes conducted closed trials and sentencing sessions. There were at least eight prisoners known to be held for political reasons and one prisoner reportedly held for religious reasons; however, some sources had much higher estimates. Among those imprisoned were political activists Pham Hong Son, Nguyen Vu Binh, Nguyen Khac Toan, scientist and writer Tran Van Luong, and religious persons Tran Van Hoang and Ma Van Bay.

As part of the government's amnesty program, the following prisoners were released during the year: Dr. Nguyen Dan Que; Nguyen Dinh Huy; human rights activist Tran Van Luong; Father Nguyen Van Ly; Brother Nguyen Thien Phung; Hmong Protestants Vang Chin Sang, Vang Mi Ly, Ly Xin Quang, and Ly Chin Seng; and Buddhist monk Thich Thien Minh. Nguyen Thi Minh Hoan was released after completing her eight-month sentence. Mennonite pastor Nguyen Hong Quang was amnestied in September, although co-defendant Pham Ngoc Thach remained imprisoned.

Property Restitution.—By law citizens are to be compensated when they are resettled to make way for infrastructure projects, but there were widespread complaints, including from the National Assembly, that compensation was not fair or was delayed. There were several reports that officials forced ethnic minority Protestants to leave their homes without providing them with adequate compensation, particularly in the Sapa District of the northwest highlands area. Some ethnic minority individuals in the Central Highlands continued to complain that they had not received proper compensation for past seizures of their land, which was given to government-owned coffee and rubber plantations (see section 1.f.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for the right to privacy of home and correspondence; however, the govern-

ment restricted this right significantly. Household registration and block warden systems existed for the surveillance of all citizens but usually did not intrude on most citizens. Authorities focused on persons whom they regarded as having dissenting views or whom they suspected of involvement in unauthorized political or religious activities.

Forced entry into homes is not permitted without orders from the public prosecutor; however, in practice security forces seldom followed these procedures but instead asked permission to enter homes, with an implied threat for failure to cooperate. Some individuals refused to cooperate with such "requests." In urban areas police generally left when faced with noncompliance.

Government authorities opened and censored targeted persons' mail, confiscated packages and letters, and monitored telephone conversations, e-mail, and facsimile transmissions. The government cut the telephone lines and interrupted the cellular telephone service of a number of religious and political activists and their family members.

The government sought to tighten control of the Internet with a regulation that requires Internet agents, such as cybercafes, to register the personal information of their customers and store records of Internet sites visited by customers. The government also monitored e-mail, searched for sensitive key words, and regulated Internet content (see section 2.a.).

The government did not have a policy of forced resettlement. However, the government resettled some citizens to make way for infrastructure projects, and there were widespread reports that compensation was either not fair or was not paid in a timely manner (see section 1.e.).

Membership in the CPV remained a prerequisite to career advancement for all government and government-linked organizations and businesses. However, economic diversification made membership in CPV-controlled mass organizations and the CPV less essential to financial and social advancement.

The government continued to implement a family planning policy that urged families to have no more than two children; the policy emphasized exhortation rather than coercion. The government can deny promotions and salary increases to government employees with more than two children, but it was unclear if this policy was enforced. Government officials expressed growing concern that family planning efforts were failing. In June Deputy Prime Minister Pham Gia Khiem instructed population authorities to take "more drastic measures" to control the growing population and prevent families from having more than two children. However, this directive apparently was not enforced.

Local officials harassed some family members of political or religious activists. Authorities in Ho Chi Minh City reportedly cut the telephone lines at the home of Dr. Nguyen Dan Que and other political activists on a number of occasions throughout the year. The home of a lay Protestant preacher in a remote area of Quang Nam Province reportedly was burned down after he refused to renounce his religion in August. On March 30, police in the village of Plei Tao Ro in Chu Se District, Gia Lai Province, reportedly destroyed the home of a woman married to an ethnic minority man who had been resettled to a third country. In the same incident police also allegedly beat the family of a man who had been hiding from authorities since April 2004.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government significantly restricted these freedoms in practice, particularly with respect to political and religious speech. Both the constitution and the criminal code include broad national security and antidefamation provisions that the government used to restrict such freedoms. The criminal code defines the crimes of "sabotaging the infrastructure of Socialism," "sowing divisions between religious and nonreligious people," and "conducting propaganda against the Socialist Republic of Vietnam" as serious offenses against national security. The code also expressly forbids "taking advantage of democratic freedoms and rights to violate the interests of the state and social organizations."

In 2003 the NGO Reporters Without Borders claimed that the government severely restricted freedom of the press. In late 2004 reporter Lan Anh of *Tuoi Tre* newspaper reported on internal ministry of health deliberations of price fixing of pharmaceuticals. In January she was charged for revealing "state secrets" and placed under house arrest. The threat of Anh's prosecution triggered unprecedented criticism from *Tuoi Tre* and other leading daily newspapers, including *Thanh Nien* and *Nguoi Lao Dong*. The Hanoi public prosecutor eventually announced Lan Anh would not be prosecuted, and in April charges against her were dropped.

A press law requires journalists to pay monetary damages to individuals or organizations harmed as a result of their reporting, even if the reports are true. Independent observers noted that this law limits investigative reporting. Several media outlets continued to test the limits of government press restrictions by publishing articles that criticized actions by CPV and government officials. During the year there were press reports about topics that generally were considered sensitive, such as the prosecution on corruption charges of high-ranking CPV and government officials. Nonetheless, the freedom to criticize the CPV and its senior leadership remained restricted. Occasional criticism of officials and official associations appeared in the local press. On August 20, *Civilization Magazine* expressed disapproval of a meeting of the Vietnam Journalists Congress and called the group a rubber stamp organization. At the meeting more than 300 media delegates were urged to implement state and party policies and not to publish articles that could adversely affect the party.

The government exercised oversight through the Ministry of Culture and Information, supplemented by pervasive party guidance and national security legislation sufficiently broad to ensure effective self-censorship by the domestic media. In August, when a religious activist tried to self-immolate in front of a diplomatic mission because of religious freedom concerns, several foreign media outlets reported on the occurrence, but no domestic press carried the story.

The law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. In general citizens freely exercised this right, but the government considered any overt political criticism stemming from such commentary a crime. Senior government and party leaders traveled to many provinces reportedly to try to resolve citizen complaints. In October 2004 the editor of the online news service *VNExpress* reportedly was dismissed because he published complaints from readers about the government's purchase of automobiles for an international conference in Hanoi. Corruption related to land use was a particular concern widely publicized in the press. In 2003 the Hanoi People's Court sentenced 4 persons to jail terms ranging from 24 to 44 months after they disseminated letters denouncing local land clearance policies. Also in 2003 a court in Dong Nai Province sentenced 4 persons to prison terms of 30 to 42 months for inciting fellow farmers to voice complaints over provincial land use policies.

The government continued to prohibit speech that questioned the role of the CPV, criticized individual government leaders, promoted pluralism or multiparty democracy, or questioned policies on sensitive matters such as human rights or the border agreement with China. The line between what constituted private speech and public speech in those areas continued to be arbitrary. In early January the head of the Haiphong Publishing House reportedly was dismissed from his position because of his role in writing the introduction of a book that criticized former Party General Secretary Do Muoi. In December 2004 scientists Tran Van Luong and Nguyen Thi Minh Hoan were sentenced to 21 and 8 months in prison respectively for having written essays critical of government economic policies. On October 19, police reportedly arrested Truong Quoc Huy, Truong Quoc Tuan, Truong Quoc Nghia, and a foreigner for participating in a Web-chat forum called "the voice of people in Vietnam and abroad." In July 2004 democracy activist Dr. Nguyen Dan Que was sentenced to 30 months' imprisonment for posting an essay on the Internet that called for less government censorship. Dr. Que was released in February but remained subject to government surveillance and low-level harassment. Also in July 2004 activists Tran Khue and Pham Que Duong were each sentenced to 19 months' imprisonment including time served (see section 2.b.).

In 2003 democracy activist and former revolutionary Tran Dung Tien was sentenced to 10 months' imprisonment including time served after signing a letter that criticized the arrest of Duong and Khue. Tran Khue, Pham Que Duong, and Tran Dung Tien completed their prison sentences and were released. Also in 2003 journalist Nguyen Vu Binh was convicted of "espionage" after he had criticized the border agreement with China and sent testimony on human rights issues in the country to a foreign government. Binh was sentenced to seven years' imprisonment and three years' house arrest. The sentence was upheld on appeal. Dr. Pham Hong Son also was convicted of "espionage" in 2003 and sentenced to 13 years' imprisonment and 3 years' house arrest, later reduced on appeal to 5 years' imprisonment, after translating an Internet article titled "What Is Democracy."

In June 2004 the government reduced by five years the prison sentence imposed on Catholic priest Thaddeus Nguyen Van Ly but kept in force a five-year administrative detention order to be served after his release in February. Father Ly originally was sentenced in 2001 to 15 years' imprisonment for "damaging national unity," but the sentence stood at 5 years after the June 2004 reduction and a similar reduction in 2003. In 2001 Father Ly had submitted written testimony critical

of the government to a foreign agency and frequently spoke out for political pluralism and complete religious freedom. In 2003 the Ho Chi Minh City People's Court sentenced Father Ly's niece, Nguyen Thi Hoa, and two nephews, Nguyen Truc Cuong and Nguyen Vu Viet, to sentences ranging from three to five years' imprisonment for communicating information on his activities to foreign journalists. In 2003 the Ho Chi Minh Court of Appeals reduced the sentences of the three to time served.

Some persons who expressed alternative opinions on religious or political issues were not allowed to travel abroad (see section 2.d.).

The CPV, the government, and the party-controlled mass organizations controlled all print, broadcast, and electronic media.

Published reports on high-level government corruption and mismanagement have become more frequent and prominent in recent years. For example, in 2004 domestic papers reported extensively on the corruption trial of former Ministry of Agriculture official La Thi Kim Oanh and the subsequent dismissal of Minister of Agriculture Le Huy Ngo. Also in 2004 Vice Minister of Trade Mai Van Dau and his son, Mai Thanh Hai, were arrested for allegedly taking tens of thousands of dollars in bribes in exchange for arranging quotas for companies exporting textile products. Prosecutors announced their indictment on charges of accepting bribes. All major newspapers carried detailed reports about their crimes and luxurious lifestyles.

Foreign journalists must be approved by the Foreign Ministry's press center and must be based in Hanoi. The number of foreign staff allowed was limited, and local staff who worked for foreign media were required to be registered with the Foreign Ministry. It also was difficult for foreign media outlets to hire local photographers and receive approval for their accreditation. The government can withhold or withdraw registration. The press center monitored journalists' activities and decided on a case-by-case basis whether to approve interview, photograph, film, or travel requests, all of which must be submitted five days in advance. In September the press center rejected foreign journalists' requests to travel to Cuc Phong National Park to report on avian influenza and also a request by the World Health Organization to visit the park to collect blood samples. In 2004 the press center refused requests by foreign journalists to travel to the Central Highlands in the immediate aftermath of the April 10 protests in the region. By law foreign journalists are required to address all questions to government agencies through the Foreign Ministry, although it appeared that this procedure often was ignored in practice. Foreign journalists generally received visas valid for six months. In 2004 at least two foreign journalists were threatened with nonrenewal of their visas as a result of their reporting.

The government generally required religious publishing to be done through one government-owned religious publishing house; however, some religious groups were able to print their own materials or import them, subject to government approval (see section 2.c.). In other cases unauthorized religious materials were confiscated and the owners either fined or arrested.

Foreign-language editions of some banned books, such as Duong Thu Huong's *Memories of a Pure Spring*, were sold openly by street peddlers, and Bao Ninh's previously banned book, *Sorrow of War*, was available in bookstores in Vietnamese-language editions.

Foreign-language periodicals were widely available in cities; however, the government occasionally censored articles about the country. The government sometimes delayed availability of a foreign periodical because of sensitive articles. The government generally did not limit access to international radio, except to Radio Free Asia (RFA) and the Far East Broadcasting Corporation, which it continued to jam periodically.

The law limits access to satellite television to top officials, foreigners, luxury hotels, and the press; however, it was not enforced uniformly, and an increasing number of persons in urban and some rural areas had access to uncensored television programs via home satellite equipment or cable. Cable television, including foreign-origin channels, was available to subscribers living in urban areas, although the government periodically blocked many subscribers from receiving certain news channels, including CNN and the BBC. Satellite dishes picking up pirated satellite signals from Thailand and the Philippines were increasingly common. During the prime minister's June trip to the United States, CNN subscribers were unable to watch some CNN reports on the visit that featured antigovernment protests. In addition authorities blacked out with ink portions of articles reporting on the visit that were published in the *International Herald Tribune* edition delivered to foreigners.

The government controlled art exhibits, music, and other cultural activities; however, it generally allowed artists broader latitude than in past years to choose the themes for their works. Many artists received permission to exhibit their works abroad and received passports to attend the exhibits and export permits to send

their works out of the country. Additionally, a number of foreign embassies and consulates were able to conduct a wider variety of cultural activities than in the past.

The government allowed access to the Internet through a limited number of Internet Service Providers (ISPs), all of which were state-owned joint stock companies. In January 2004 the MPS issued a decision forbidding direct access to the Internet through foreign ISPs, requiring domestic ISPs to store information transmitted on the Internet for at least 15 days, and further requiring ISPs to provide technical assistance and workspace to public security agents to allow them to monitor Internet activities. The decision also requires Internet agents, such as cybercafes, to register the personal information of their customers, store records of Internet sites visited by customers for 30 days, and cooperate with public security officials. It was not clear how fully these provisions were being followed in practice, although many cybercafes did not register the personal details of their clients.

The government used firewalls to block Web sites that it deemed politically or culturally inappropriate, including sites operated by exile groups abroad. The government restricted access to the RFA and Voice of America Web sites during the year, but local press occasionally wrote stories based on RFA broadcasts.

The government required all owners of domestic Web sites, including those operated by foreign entities, to register their sites with the government and submit their Web site content to the government for approval. In July a senior foreign diplomat held a live and uncensored Web chat with local citizens on bilateral and domestic issues, including international concerns on human rights and religious freedom.

The government restricted academic freedom, and foreign field researchers often were questioned and monitored. However, the government permitted a more open flow of information, including in the university system, than in previous years. Local librarians increasingly were being trained in professional skills and international standards that supported wider international library and information exchanges and research. Foreign academic professionals temporarily working at universities in the country were allowed to discuss nonpolitical issues widely and freely in classes; however, government observers regularly attended classes taught by both foreigners and citizens. Security officials occasionally questioned persons who attended programs on diplomatic premises or used diplomatic research facilities. Nevertheless, requests for materials from foreign research facilities increased. Academic publications usually reflected the views of the CPV and the government.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The right of assembly is restricted in law, and the government restricted and monitored all forms of public protest or gathering. Persons wishing to gather in a group are required to apply for a permit, which local authorities can issue or deny arbitrarily. In general the government did not permit demonstrations that could be seen as having a political purpose. Persons routinely gathered in informal groups without government interference; however, the government restricted the right of some unregistered religious groups to gather in worship.

As in previous years, there were reports from the Northwest Highlands and Central Highlands that officials prevented meetings of some Protestant believers or dispersed those meetings when they occurred (see section 2.c.). In mid-September a Protestant group's petition to gather for worship in the Chu Prong District of Gia Lai Province was refused. In June a Protestant congregation in Quang Ninh Province also was denied permission to register their group so that they could legally gather for worship.

Unlike in 2004, no ethnic minority protests were reported in the Central Highlands. In April 2004 ethnic minorities conducted unannounced demonstrations in numerous locations in the central highlands provinces of Dak Nong, Dak Lak, and Gia Lai to protest against lack of economic opportunity, loss of traditional lands, and restrictions on religion. Some protesters also reportedly called for the establishment of an independent, ethnic minority "Dega" state in the Central Highlands. In a number of cases, police reportedly responded to the demonstrations by beating and firing upon protesters (see sections 1.a. and 1.c.). The government claimed two persons died during the riots, although credible sources say at least one dozen were killed and many more were injured. In August 2004 a court in Buon Ma Thuot, Dak Lak Province, sentenced 9 persons to between 5 and 12 years' imprisonment for having taken part in the protests. In November 2004 a court in Dak Nong Province sentenced 17 ethnic Ede to between 3 and 10 years in prison for having taken part in the protests. Human rights groups counted at least 76 ethnic minority individuals sentenced to prison for participating in protests in 2001 and 2004, and some observers estimated the figure might have been considerably higher.

During the year peaceful small protests of farmers demanding redress for land rights issues frequently took place in front of government buildings in Hanoi. Police

monitored these protests but did not disrupt them. Protesters in Ho Chi Minh City sought to block the demolition of a number of homes over which the state had exercised eminent domain. Additionally, Ho Chi Minh City authorities ordered the demolition of a portion of the home of Mennonite pastor Nguyen Hong Quang that was being used as a house church (see section 2.c.).

Freedom of Association.—The government restricted freedom of association. Opposition political parties were not permitted. The government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the VFF. However, some entities, particularly unregistered religious groups, were able to operate outside of this framework with little or no government interference (see section 2.c.).

In May 2004 a court in Ho Chi Minh City sentenced Nguyen The Hanh to two years in prison for having been involved with Vietnamese-American political activist groups during the two years he spent outside the country.

Also in May 2004 a group of lawyers and journalists held a public ceremony in Hanoi to mark the establishment of "Lawyers for Justice," an advocacy group to aid victims of the police or legal injustice. The head of the Hanoi Bar Association declared their organization illegal and ordered them to disband or be disbarred. Subsequently, the group formally disbanded, although members maintained contact with each other and met as a group with foreign diplomats and others.

c. Freedom of Religion.—The constitution and government decrees provide for freedom of worship; however, the government continued to restrict to a significant degree the organized activities of religious groups that it declared to be at variance with state laws and policies.

The government generally allowed persons to practice individual worship in the religion of their choice, but the legal framework governing religion requires that the government officially sanction the organization and activities of all religious denominations. In March an implementation decree for the 2004 ordinance on belief and religion established guidelines for religious denominations to register their activities and seek official recognition. This new legal framework, which supersedes the more restrictive 1999 decree on religion, relaxed controls on the promotion and transfer of clerics, the scheduling of religious activities, and the abilities of religious groups to carry out charitable functions. It also provided a clear mechanism for unregistered house churches to normalize their activities, which reinforced an earlier, special "Instruction on Protestantism" issued in February by the prime minister that directed officials to assist unrecognized religious denominations in registering their activities so that they could practice openly.

Despite restrictions on organized activity, participation in religious activities continued to grow significantly. Two house church organizations successfully registered in Ho Chi Minh City under the new framework. They and at least one other house church organization had applications pending in other provinces. Some congregations belonging to previously recognized faiths were able to legally register their activities and places of worship.

Nonetheless, the new framework maintained overall government control of religious organizations and kept in place significant limitations on education, medical, and charitable work by religious groups. The government continued to use the registration and recognition process to control and monitor church organizations. The government officially recognized Buddhist, Roman Catholic, Protestant, Hoa Hao, Cao Dai, and Muslim religious organizations. To obtain official recognition, a group must obtain government approval of its charter, its leadership, and the overall scope of its activities. Official approval is required for the opening of new places of worship, ordination of clerics, establishment of religious teaching institutions, and entry of students into those institutions.

The government's approval process was slow and nontransparent, although the law mandates that the government act in a time-bound and transparent fashion. Annual activities by congregations must be registered with authorities, and activities not on this annual calendar require explicit government approval. Officially recognized religious organizations were able to operate with varying degrees of freedom throughout the country, and followers of these religious bodies were usually able to worship without government harassment.

In addition to officially recognized religious denominations, numerous unrecognized denominations operated in the country, including independent Buddhists, Baptists, Mennonites, Jehovah's Witnesses, Mormons, the Baha'i Faith, independent Cao Dai and Hoa Hao groups, and ethnic Cham Hindus. Some unrecognized Protestant, Buddhist, and Hoa Hao religious bodies have unsuccessfully requested official recognition of their organizations in past years. Two Protestant denominations, one

Baptist and the other Seventh-day Adventist, registered their activities in Ho Chi Minh City under the new legal framework. Their applications were pending in other provinces. Other groups such as the Mennonites and Jehovah's Witnesses attempted to register and normalize their activities under the new legal framework governing religion, but at year's end they had not received government approval.

Official oversight of recognized religions and problems of harassment or repression of followers of unrecognized religions varied from locality to locality, often as a result of ignorance of national policy or varying local interpretations of it. Activities of unregistered religious groups were technically considered illegal by the authorities, and these groups sometimes experienced harassment, although the level of harassment declined, particularly of Protestant house churches, in the central and southern regions. Many unregistered churches and temples, especially those in urban areas or belonging to traditional Hindu and Muslim groups, were allowed to operate without interference. The government actively discouraged contacts between the illegal UBCV and its foreign supporters, and between unofficial Protestant organizations and their foreign supporters, although such contacts continued. Police routinely questioned some persons who held alternative religious or political views, such as UBCV monks and Catholic priests. For example, throughout the year UBCV monks from Hue and Ho Chi Minh City were prevented from visiting their patriarch in Binh Dinh Province. According to credible reports, police also detained persons in the Central Highlands based upon a suspicion that the form of Protestant religion they were practicing encouraged ethnic minority separatism.

Police and local officials in some areas strove to prevent Protestants who belonged to unregistered or unrecognized groups from assembling to worship. This situation was particularly acute in some areas of the Central Highlands. The international NGO Human Rights Watch reported that security forces in Kon Tum Province demolished the chapel of Mennonite pastor Nguyen Cong Chinh twice during 2004. Authorities reportedly based their actions on the fact that Chinh had purchased under a false name the land on which the chapel was built. At least one other unregistered Protestant church operated a short distance away from Chinh's but suffered no harassment.

In Ho Chi Minh City, the house church of Mennonite pastor Nguyen Hong Quang was a target of particularly severe harassment. In June 2004, following a scuffle with police officers, Quang was detained and sentenced to three years' imprisonment, while five of his followers were sentenced to between nine months and two years in prison. Some observers connected Quang's arrest to his broader social activism. During Quang's detention his wife continued to operate their unauthorized church but repeatedly was harassed by police. Allegations that police tortured a number of Quang's followers in prison could not be corroborated. Quang was released in September in an amnesty. Since his release, harassment against his church has ebbed.

In October 2004 police in Ho Chi Minh City disrupted an unregistered private Bible study seminar and detained 2 unofficial Protestant pastors and 17 ethnic Hmong house church leaders from the Northwest Highlands. The 17 Hmong were held overnight and then returned to the Northwest Highlands. There were credible reports that Protestants in the Northwest Highlands were beaten for reasons connected to their faith (see section 1.a.). In March Thao A Long from the village of Ca Ngay in Sapa District, Lao Cai Province, reportedly was arrested and seriously beaten by police because of his membership in the Evangelical Church of Vietnam. In April in the same area, Vang A Lo from Lu Khau village, reportedly a CPV member since 1997, was forced to flee arrest to neighboring Lai Chau Province because he refused to renounce Protestantism. Local authorities subsequently seized his land illegally. Despite these sporadically reported problems, the overall number of reports of harassment of Protestant groups declined during the year (see section 2.b.). In 2003 officials reportedly raped two girls in Nam Nga village, Lai Chau Province, to punish their families for following Protestantism (see section 1.c.).

Government officials denied allegations that Protestant house churches were destroyed or closed because they were unregistered and therefore illegal. Ho Chi Minh City authorities instead claimed they ordered the demolition of a portion of the home of Mennonite pastor Nguyen Hong Quang apparently because it was built without the required permits. Although local authorities maintained that other constructions in the area had been destroyed because they were illegal, none of the houses in the immediate vicinity of Quang's home appeared to be affected by government action.

With the exception of Dak Lak Province, many of the Protestant house churches in the Central Highlands affiliated with the government-recognized Southern Evangelical Church of Vietnam (SECV) that had been ordered to shut down in 2001 were able to resume operations, and a small but growing number were officially reg-

istered. A number of unregistered Protestant congregations among ethnic minority groups in the Northwest Highlands, the Hmong in particular, began to approach local authorities to begin registration proceedings. In several northwest highlands provinces, officials denied the existence of any Protestant religious believers, despite recognition by the central government that thousands of unregistered Protestants resided there. By year's end several hundred congregations in the northwest had applied for registration, but only one received any kind of response from local authorities despite a national mandate for prompt replies to such applications. Many congregations also reported that official harassment increased significantly after making their efforts to register legally.

In March the SECV held its second national convention. According to credible sources, the Church was able to elect a new leadership slate free from government interference. In December 2004 the officially recognized Evangelical Church of Vietnam: North (ECVN) held a national convention for the first time in 20 years. The convention initially had been delayed by government refusal to grant permission and also by the reluctance of ECVN leaders to hold the meeting until they could ensure it would be free from government interference. The convention allowed the ECVN to vote on a new leadership board, appoint new pastors, and begin a renovation and expansion program.

There were significantly fewer allegations of forced renunciations during the year. In August there were credible reports that local officials attempted to force an SECV lay preacher to renounce his faith and stop his ministry in the ethnic minority Hre village in Quang Ngai Province. His house reportedly was burned down in retaliation.

Pastors of a house church Ninh Thuan province reported that following the baptism of 7 new ethnic minority villagers in June, local police summoned all 33 members of the group to the village police station. Only five or six members of the group went to the village police station, where they were questioned for half a day and then sent home; the other members did not go but suffered no negative consequences for declining the police summons. Simultaneously police questioned the house church's two evangelists for three days; they were allowed to return home in the evenings. In October the chairman of the commune people's committee summoned the members of the Protestant community to the village chief's house. Five Protestants attended. In a public gathering, local officials threatened the five with the loss of government benefits and government-provided housing if they did not renounce Protestantism. Four renounced and one did not, but none suffered any negative consequences afterwards, nor did any other members of the house church community.

In July and August 2004 authorities reportedly detained without charge more than 100 Hmong Protestants, choosing a member from each Protestant family in at least 5 different communes in Sapa District, Lao Cai Province. The authorities attempted to force the detainees to renounce Protestantism, releasing them only when they promised to do so. In March 2004 police in Kon Tum Province reportedly harassed Protestant believers at a house church, seized Bibles, and fined the church organizer. Also in March 2004 in Kon Tum, police reportedly detained an unregistered ethnic Gia Rai Protestant pastor three different times, beat him, and attempted to force him to renounce his faith on each occasion.

In past years, under threat of physical abuse or confiscation of property, some ethnic minority Protestants allegedly were made to sign a formal, written renunciation or to undergo a symbolic ritual. However, only one credible report of such a case was reported during the year. In late November an ethnic minority pastor in Ha Giang Province was forced to sign a written renunciation of his faith after his congregation attempted to register with the local authorities per the national policy on religion.

Unlike in previous years, there were no reports that officials fabricated evidence. In some past cases, particularly involving Hmong Protestants, when authorities prosecuted persons who had organized unauthorized religious services, they used provisions of the penal code that allow for jail terms of up to three years for "abusing freedom of speech, press or religion," and terms of up to two years for "causing public disorder." The penal code establishes penalties ranging from 2 to 15 years' imprisonment for "attempting to undermine national unity" by promoting "division between religious believers and nonbelievers."

Buddhists practicing their religion under the Vietnam Buddhist Sangha Executive Council, the officially sanctioned Buddhist governing council, were generally free to practice their religion. While these constituted the majority of Buddhists, the government continued to harass members of the banned UBCV and prevented them from conducting independent religious activities outside their pagodas. In 2003 UBCV leaders met in Binh Dinh in what church members characterized as a de

facto reestablishment of the UBCV structure and leadership. Security authorities intercepted several UBCV leaders leaving the meeting and returned them to their respective pagodas. From that point until year's end, senior UBCV leaders, including Patriarch Thich Huyen Quang and Thich Quang Do, remained confined to their pagodas and had restrictions on their ability to travel and meet with followers. In November 2004 Thich Quang Do attempted to travel to Quy Nhon Province to visit Thich Huyen Quang, who was hospitalized at that time. Thich Quang Do was blocked from doing so and was returned to his pagoda in Ho Chi Minh City under police escort. Other UBCV monks also were prevented from visiting Thich Huyen Quang during the year. However, foreign ambassadors were able to meet with Patriarch Thich Huyen Quang in April and November 2004, and visiting foreign officials met with Thich Quang Do and other UBCV leaders on several occasions in 2004 and during the year. The government also declared illegal the UBCV's formation of provincial representative boards in at least nine provinces in central and southern regions of the country in mid-year.

The government eased restrictions over the Roman Catholic Church, although it maintained veto power over Vatican appointments of Catholic bishops. The Vatican and the government reached agreement on mutually acceptable candidates, and all bishoprics were filled. The government agreed to create a new bishopric by splitting the Xuan Loc diocese into two. The government restricted the number of Catholic seminaries and the size and frequency of entering classes, although in 2004 it allowed an 80 percent increase in the number of new students in at least 1 seminary. The Catholic Church reported the number of priests was insufficient to meet the needs of believers and was seeking to increase further the size and frequency of classes. In November, during the visit of a Vatican cardinal, 57 priests were ordained in Hanoi. According to church officials, the government was considering granting permission to open a new seminary in Dong Nai Province. Under the new framework on religion, the Church is free to appoint candidates to enter seminary and may then ordain them as priests. A number of Catholic clergy reported a continued easing of government control over activities in certain dioceses during the year. In many places local government officials allowed Catholic Church officials to conduct religious education classes (outside regular school hours) and some charitable activities; however, in other areas, particularly in some parts of the Central Highlands, local officials were more restrictive. The government continued discussions to normalize diplomatic relations with the Vatican and in November hosted the visit of the cardinal in charge of the Vatican's missionary works.

The government amnestied 3 Hoa Hao leaders in 2004; however, at least 10 Hoa Hao church followers remained in prison. Hoa Hao monks and believers following the government-approved Hoa Hao Administrative Council (HHAC) were allowed freedom to practice their faith. Between 100 and 200 visitors worshipped at the central Hoa Hao Pagoda in An Giang Province on a daily basis. Monks and followers who belonged to dissident groups or declined to recognize the authority of the HHAC suffered restrictions. In June Hoa Hao activists organized a ceremony to commemorate the 2004 death of founder Nguyen Hai Ha. Some activists reportedly clashed with police when they displayed banners protesting government control over the Hoa Hao faith. In August police arrested eight persons involved in the June event. Two other Hoa Hao activists committed self-immolation during the arrests, one of whom died. At year's end the other person remained in police custody.

In January Hong Thien Hanh, leader of the small To Dinh Tan Chieu Minh group in Tien Giang Province, was sentenced to eight years' imprisonment for engaging in illegal religious activities and defrauding his followers.

Muslim Association members were able to practice their faith, including daily prayer and fasting during the month of Ramadan.

Many persons, although not adherents of a particular faith, practiced a native form of ancestor worship.

Open adherence to a religious faith generally did not disadvantage persons in civil, economic, or secular life, although it would prevent advancement to the highest government and military ranks. However, there were some reports that ethnic minority boarding schools discriminated against children from religious, especially Protestant, families. Religious practice does not preclude membership in the CPV. Some government and CPV officials admitted that they followed traditional and Buddhist religious practices.

The government restricted and monitored all forms of public assembly, including assembly for religious activities. Large regularly scheduled religious gatherings were allowed, such as the Catholic celebrations at La Vang Pilgrimage Center in Quang Tri Province and the Cao Dai celebrations in Tay Ninh Province. The Hoa Hao were allowed to hold large public gatherings to commemorate some traditional anniversaries.

Foreign missionaries may not operate openly as religious workers in the country, although many undertook humanitarian or development activities with government approval.

A government publishing house oversees the publishing of all religious materials. Many Buddhist sacred scriptures, Christian Bibles, and other religious texts and publications, including some in ethnic minority languages, were printed by government-approved organizations.

The government allowed religious travel for some religious persons. Muslims were not prohibited from taking the Hajj, and more Buddhist, Catholic, and Protestant officials were able to travel and study abroad. The government allowed many bishops and priests to travel freely within their dioceses and allowed greater, but still restricted, freedom for travel outside these areas, particularly in ethnic areas. Many Protestant house church leaders traveled overseas and within the country during the year. In the past government officials discouraged officially recognized clergy from entering Son La Province, Lai Chau Province, and some other "sensitive" ethnic-minority highlands border provinces; however, some Protestant leaders reported that this policy eased significantly during the year.

Persons who were religious practitioners in an unrecognized group sometimes were not approved for foreign travel.

Societal Abuses and Discrimination.—In general relations among the various religious communities continued to be amicable, and there were no known instances of societal discrimination or violence based on religion. There was budding cooperation between the Catholic Church and the government-recognized Vietnam Buddhist Sangha on charitable activities such as the fight against HIV/AIDS. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides that citizens "shall enjoy freedom of movement and of residence within the country . . . (and) freely travel abroad and return home . . . in accordance with the provisions of the law"; however, the government imposed some limits on freedom of movement. Some local authorities required some members of ethnic minority groups to obtain permission to travel outside certain highland areas, including in some cases travel outside their own villages.

In September 2004 the Prime Minister's Office released a decision requiring citizens and resident foreigners to obtain a permit to visit border areas, defense facilities, industrial zones involved in national defense, areas of "national strategic storage," and "works of extreme importance for political, economic, cultural and social purposes."

Local officials reportedly informally discouraged some clergy from traveling domestically, even within their own provinces, especially when travel to ethnic minority areas was involved (see section 2.c.).

By law citizens had to obtain permission to change their residence. However, in practice many persons continued to move without approval, especially migrant or itinerant laborers moving from rural areas to cities in search of work. Moving without permission hampered persons in obtaining legal residence permits. Foreign passport holders must register to stay in private homes, and local authorities at times refused to allow foreign visitors to stay with friends and family. Citizens are also required to register with local police when they stay overnight in any location outside of their own homes; the government appeared to have enforced these requirements more strictly in some districts of the Central and Northwest Highlands. In May two foreign citizens were detained by local authorities in Gia Lai Province for two days before being fined for being in a restricted area and released. Police in Hanoi and Ho Chi Minh City used the requirement described above on two occasions in 2004 to detain groups of ethnic Hmong house church leaders participating in private Bible-study seminars and return them to their home provinces (see section 2.c.).

Unlike in past years, the government allowed fact-finding visits by UNHCR and foreign mission staff to the Central Highlands. In general these trips were closely monitored but not hindered by local government authorities. The government granted UNHCR and foreign mission staff access to local citizens of interest.

Although the government no longer required citizens traveling abroad to obtain exit or reentry visas, the government sometimes refused to issue passports. In the past the government did not allow some persons who publicly or privately expressed critical opinions on religious or political issues to travel abroad; however, during the year dissident Hoang Minh Chinh traveled overseas for medical care, and dissident author Duong Thu Huong also traveled abroad. After Chinh returned to Hanoi in

December, he was harassed and his property damaged by groups angry about his antigovernment comments while abroad. Authorities reportedly prevented political activist Tran Khue from traveling to Europe and the United States.

Citizens' access to passports sometimes was constrained by factors such as bribery and corruption. Refugee and immigrant visa applicants sometimes encountered local officials who arbitrarily delayed or denied passport issuance based on personal animosities, on the officials' perception that an applicant did not meet program criteria, or to extort a bribe. Some family members of ethnic minorities granted refugee status abroad were reissued household registration papers with the missing member removed, a step that allows the remaining family members to obtain passports. In other cases family members of refugees were unable to obtain passports to reunite abroad. Provinces in the Central Highlands other than Dak Lak generally made progress in resolving outstanding family reunification cases involving ethnic minorities.

The law does not provide for forced internal or external exile; however, cases amounting to de facto exile continued to occur. In 2003 several UBCV leaders were forcibly returned to their home pagodas and placed under official or unofficial administrative detention there (see section 2.c.). Protestant pastor Nguyen Lap Ma has been forced to reside in an isolated village in Can Tho Province since 1982, but authorities have allowed him to travel to Ho Chi Minh City for monthly medical examinations since he suffered a stroke in 1998. Another Protestant pastor, Nguyen Nhat Thong, has been forced to reside in a remote village in Binh Thuan Province since 1979. He has been allowed to travel outside the village since 1986, but he must ask for the permission of local authorities each time. In January 2004 Protestant pastor Tran Dinh Ai, a citizen and frequent critic of the government now living abroad, was refused entry into the country. When he attempted to return in December, he was denied entry and returned to Singapore, his point of embarkation.

The United States continued to process immigrants and refugee applicants for admission and resettlement, including Amerasians, former reeducation camp detainees, former US government employees, family reunification cases, and returnees from camps of first asylum elsewhere in the region (under the Resettlement Opportunity for Vietnamese Returnees program). Most of these programs were closed to new applicants nearly a decade ago, and the number of cases in some categories is now in the low double digits. (An exception was the Amerasian program, which remained open to new applicants; however, this program remained on hold pending new adjudication guidelines.)

The government generally permitted citizens who had emigrated abroad to return to visit. By law the government considers anyone born in the country to be a citizen, even if the person has acquired another country's citizenship, unless a formal renunciation of citizenship has been approved by the president. However, in practice the government usually treated overseas Vietnamese as citizens of their adopted country. Emigrants were not permitted to use Vietnamese passports after they acquired other citizenship. The government generally encouraged visitation by such persons but sometimes monitored them carefully.

Following April 2004 protests in the Central Highlands, a number of ethnic minorities hid in forests and rubber plantations, and some attempted to flee across the border into Cambodia. Vietnamese police attempted to block these potential refugees and reportedly crossed the border into Cambodia. The UNHCR received approximately 775 ethnic minority refugees in its camps in Cambodia. Thirteen potential refugees who received UNHCR protection in Phnom Penh independently returned to Vietnam in October 2004. According to authorities, the 13 persons returned safely to their homes; however, newspaper accounts made it clear that they were interviewed extensively by authorities upon their return.

On January 25, the government signed a tripartite Memorandum of Understanding on the Settlement of Issues Relating to the Vietnamese Central Highlands Ethnic Minority People in Cambodia with the government of Cambodia and the UNHCR to facilitate the return of all ethnic minority individuals in Cambodia who did not qualify for third-country resettlement. Subsequent to this agreement, more than 140 ethnic minorities returned to Vietnam. On July 20, 94 individuals who did not have refugee status were deported to Vietnam, which resulted in increased calls from the international community to allow monitoring access in the Central Highlands. The UNHCR and various foreign diplomats were permitted to visit returnees after their arrival in the Central Highlands. In September the UNHCR was permitted to accompany several individuals on their return trip from the border to the Central Highlands and conduct additional follow-up monitoring. Central government and provincial officials were emphatic that they were attempting to reintegrate the returnees peacefully. However, some provinces did not allow some international observers private access to the returnees to examine scattered reports of abuse or dis-

crimination of returnees. An additional 400 ethnic minorities in Cambodia received third-country resettlement status.

Protection of Refugees.—The country is not a signatory to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. In July 2004 the government allowed more than 450 North Koreans illegally present in the country to travel to South Korea. Unconfirmed reports from international NGOs in August 2004 stated that as many as 100 North Korean refugees had been returned to China. In incidents in December 2004 and July, a handful of North Korean asylum seekers entered foreign diplomatic missions in Hanoi. The government permitted the respective missions to facilitate the North Koreans' travel to a third country. Subsequent to the July incident, however, the government issued a circular to diplomatic missions and international organizations calling on them to hand over to local authorities any third-country intruders, whom the government considers to be immigration law violators. There were no reports at year's end that the government had invoked this new policy.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution does not provide for the right of citizens to change their government peacefully, and citizens could not freely choose and change the laws and officials that govern them. All authority and political power is vested in the CPV, and the constitution delineates the leadership of the CPV. Political opposition movements and other political parties are illegal. The CPV Politburo, led by a triumvirate consisting of CPV Chairman Nong Duc Manh, President Tran Duc Luong, and Prime Minister Phan Van Khai, is the supreme decision-making body in the country, although it technically reports to the CPV Central Committee.

The government continued to restrict public debate and criticism to certain aspects of individual, state, or party performance determined by the CPV itself. No public challenge to the legitimacy of the one-party state was permitted; however, there were instances of unsanctioned letters critical of the government from private citizens, including some former senior party members, which circulated publicly.

Elections and Political Participation.—The most recent elections to select members of the National Assembly were held in 2002. These elections were neither free nor fair, since all candidates were chosen and vetted by the CPV's VFF, an umbrella group that monitors all of the country's popular organizations. Consequently, 90 percent of the delegates were CPV members. Those that were not CPV members were only nominally independent.

Revisions to the Law on Election of Deputies to People's Councils, issued by the National Assembly in 2003, provided for higher numbers of female and minority candidates, more candidates per position, and fewer party members standing for seats in people's council elections at all levels. Nonetheless, for the 2004 people's councils elections, the party-controlled VFF approved all candidates, as it did for national and provincial assembly elections. Although voting is not compulsory, election officials applied many means to persuade citizens to vote, including using public address systems to ask late-voting citizens by name to come to the polls. The government claimed a 99.7 percent voter turnout at the district level for the April 2004 people's councils election. Proxy voting in that election, while illegal, appeared widespread. In addition, most voting was finished by 10 a.m., although polls were required to stay open until 7 p.m.

The National Assembly, although subject to the control of the CPV (all of its senior leaders and 90 percent of its members were party members), increasingly served as a forum for the expression of local and provincial concerns, as a critic of corruption and inefficiency, and as an arena for debating progress in improved transparency for the legal and regulatory systems. In the past it did not initiate legislation and did not pass legislation that the CPV opposed; however, for the first time, the National Assembly reportedly drafted independent legislation during the year. CPV officials occupied most senior government and national assembly positions and continued to have the final decision on key issues. Legislators continued to question and criticize ministers, including for the first time the prime minister, in biannual national assembly sessions that were broadcast live on television.

The law provides the opportunity for equal participation in politics by women and minority groups. Women held a number of important government positions, including the vice presidency. There were 136 women in the 498-seat National Assembly. There were three women at the ministerial level but no female members of the Politburo. There were only a few women in provincial-level leadership positions.

There were 87 ethnic minority members in the National Assembly and 2 ethnic minority members serving in cabinet-level positions. The CPV general secretary is a member of the Tay ethnic minority group; however, the number of minorities in

the executive branch of government or within the party at a national-level did not accurately reflect their proportion (15 percent) of the population.

Government Corruption and Transparency.—Corruption continued to be a major problem. The government showcased its efforts to fight corruption, including publicizing budgets at different levels of government and streamlining government inspection measures. Cases of government officials accused of corruption were publicized widely. For example, in July the media carried extensive accounts of the public prosecutor's decision to conduct a formal investigation against Deputy Trade Minister Mai Van Dau, arrested in November 2004 for allegedly receiving bribes to grant quotas to some garment companies. In October the MPS instructed the public prosecutor to publicly charge Nguyen Quang Thuong and five other former senior staff members of Petro Vietnam and Vietsopro with corruption, "deliberately acting against the state's regulations on economic management, causing serious consequences," and "lacking a spirit of responsibility, causing serious consequences" (see section 1.e.). Thuong, deputy director general of Vietnam Oil and Gas Corporation, was arrested in June 2004 for allegedly receiving a bribe of 400 thousand dollars to endorse a false 17-million-dollar equipment contract for an offshore oil well belonging to Vietsopetro, the country's leading Vietnamese-Russian joint venture on oil and gas.

In accordance with the amended Law on Promulgation of Legal Normative Documents, the *Official Gazette* published most legal documents in its daily publication. Party documents such as politburo decrees were not published in the *Gazette*.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government does not permit private, local human rights organizations to form or operate. The government generally did not tolerate attempts by organizations or individuals to comment publicly on government human rights practices, and it used a wide variety of methods to suppress domestic criticism of its human rights policies, including surveillance, limits on freedom of assembly, interference with personal communications, and detention.

The government generally prohibited private citizens from contacting international human rights organizations, although some activists did so. The government generally did not permit visits by international NGO human rights monitors; however, it allowed representatives from the press, UNHCR, foreign governments, and international development and relief NGOs to visit the Central Highlands in August, September, and November. The government criticized almost all public statements on human rights issues by international NGOs and foreign governments. However, on August 18, for the first time the government responded publicly to international criticism of its human rights record by publishing a white paper that outlined efforts to improve the overall human rights situation.

The government generally was willing to discuss human rights problems bilaterally with some foreign governments, and during the year several foreign governments continued official talks with the government concerning human rights.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on gender, ethnicity, religion, or social class; however, enforcement of these prohibitions was uneven. While many persons formerly interned in reeducation camps on the basis of association with the pre-1975 government were well integrated into society, some continued to report varying levels of discrimination as they and their families sought access to housing, education, and employment. Some military veterans of the pre-1975 government still faced economic hardship as a result of past employment restrictions and discrimination, but none were known still to be incarcerated for their activities before 1975. These veterans and their families generally were unable to obtain employment with the government. This prohibition was less restrictive than in previous years because of the growth of job opportunities in the private sector.

Women.—The penal code prescribes punishment ranging from warnings to up to two years' imprisonment for "those who cruelly treat persons dependent on them"; however, the police and legal system were generally not equipped to deal with cases of domestic violence. Officials increasingly acknowledged domestic violence, which also was discussed more openly in the media. Domestic violence against women reportedly was common, although there are no firm statistics measuring the extent of the problem. Hot lines for victims of domestic violence run by domestic NGOs existed in some major cities. There were no reports of police or judicial reluctance to act on domestic abuse cases. The government did not take any special actions to combat rape during the year. Approximately two-thirds of divorces reportedly were due in part to domestic violence. The divorce rate has risen in the past few years,

but many women remained in abusive marriages rather than confront the social and family stigma as well as the economic uncertainty of divorce.

It is a crime to use violence, threaten violence, take advantage of a person who is unable to act in self-defense, or resort to trickery to have sexual intercourse with a person against that person's will. This appears to criminalize rape, spousal rape, and, in some instances, sexual harassment; however, there were no known instances of prosecution for spousal rape or sexual harassment.

Prostitution is officially illegal but enforcement was uneven. Estimates varied widely, but some NGOs estimated that there were 300 thousand prostitutes in the country, including those who engaged in prostitution part-time or seasonally. As in past years, some women reportedly were coerced to work as prostitutes, often victimized by false promises of lucrative work (see section 5, Trafficking). Many more women felt compelled to work as prostitutes because of poverty and a lack of other employment opportunities. There were reports in 2003 that some persons in Ho Chi Minh City addicted young women to heroin and forced them to work as prostitutes to earn money for drugs (see section 5, Children). There were continued reports that some parents coerced daughters into prostitution or made extreme financial demands that compelled them to engage in prostitution, since parents often expected an eldest daughter to assume responsibility for a significant part of a family's finances. The Vietnam Women's Union as well as international NGOs engaged actively in education and rehabilitation programs to combat these abuses.

While there is no legal discrimination, women faced societal discrimination. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage as well as in the workplace and labor code provisions that call for preferential treatment of women, women did not always receive equal treatment. Nevertheless, women played an important role in the economy and were engaged widely in business and in social and educational institutions. Opportunities for young professional women have increased markedly in the past few years, with greater numbers of women entering and staying in the civil service, universities, and the private sector.

The VFF-controlled Women's Union has a broad agenda to promote women's rights, including political, economic, and legal equality, and protection from spousal abuse. The Women's Union operated micro-credit consumer finance programs and other programs to promote the advancement of women. International NGOs and other international organizations regarded the Women's Union as effective, but they and union representatives believed that more time is required to overcome societal attitudes that relegated women to lower status than men. The government also has a committee for the advancement of women, which coordinated interministerial programs that affected women.

Children.—International organizations and government agencies reported that despite the government's promotion of child protection and welfare, children continued to be at risk of economic exploitation. While education is compulsory through the age of 14, the authorities did not enforce the requirement, especially in rural areas where government and family budgets for education were strained and where children were needed for agricultural labor. Most schools operated two sessions, and children attended either morning or afternoon classes. Some street children in Ho Chi Minh City and Hanoi participated in night education courses. The culture's strong emphasis on education led parents who could send children to school to do so rather than allow them to work. The public school system includes 12 grades. More than 90 percent of children attended primary grades; however, the percentage that attended lower and upper secondary school was much lower. While secondary school enrollments have increased sharply, they were still at less than 75 percent of eligible students for lower secondary and less than 50 percent for upper secondary. Enrollments were lower at all educational levels in remote mountainous areas, although the government ran a system of subsidized boarding schools through the high school level for high-aptitude ethnic minority students. The government also had a program of preferential placement for ethnic minority individuals seeking university entry. Religious groups operated some orphanages, despite the government's prohibition on such activities, and sent the children to public schools during the day.

The government continued a nationwide immunization campaign, and the government-controlled press regularly stressed the importance of health and education for all children. While reports from domestic sources indicated that responsible officials generally took these goals seriously, concrete actions were constrained by limited budgets. According to the United Nations Children's Fund (UNICEF), despite growth in incomes over the past decade, severe malnutrition remained a problem; approximately 39 percent of children under 5 years of age were underweight during the 1995–2000 period.

There was no information on occurrences of child abuse.

Widespread poverty contributed to continued child prostitution, particularly of girls but also of some boys, in major cities. Many prostitutes in Ho Chi Minh City were under 18 years of age. Some child prostitutes, such as those from abusive homes, were forced into prostitution for economic reasons.

Some children were trafficked domestically, and others were trafficked to foreign destinations for the purpose of sexual exploitation (see section 5, Trafficking).

According to the Ministry of Labor, Invalids, and Social Affairs (MOLISA), there were 21,869 street children in the country as of February 2003. Street children were vulnerable to abuse and sometimes were abused or harassed by police. International NGOs documented numerous cases of Cambodian children trafficked to Ho Chi Minh City for short-term work in begging rings.

Trafficking in Persons.—The penal code prohibits trafficking in women and children; however, trafficking in women and children for the purpose of sexual exploitation remained a serious problem. There were no known cases of trafficking in adult persons for labor during the year. While reliable statistics on the number of citizens who were victims of sex-related trafficking were not available, there was evidence that the number has grown in recent years. The Social Evils Department of MOLISA and the Criminal Police Department of the MPS were the main government agencies involved in combating trafficking, in cooperation with the Ministry of Justice, the Women's Union, and the border guards. Police took an increasingly active role in investigating trafficking during the year, including training a dedicated antitrafficking force and building a conviction record.

Throughout the year the government increased efforts to prosecute traffickers. The law provides for prison sentences of 2 to 20 years for each offense for persons found guilty of trafficking women, and for between 3 years and life in prison for each offense for persons found guilty of trafficking children. Hundreds of traffickers have been convicted and imprisoned. The government worked with international NGOs to supplement law enforcement measures and cooperated with other national governments to prevent trafficking. It also cooperated closely with other countries within the framework of INTERPOL and its Asian counterpart.

The country was a source for trafficking in persons. Women were trafficked primarily to Cambodia and China for sexual exploitation and arranged marriages. According to one report, between 1990 and 2000 approximately 20 thousand young women and girls were sent to China to become brides, domestic workers, or prostitutes; however, it was not clear how many were victims of trafficking. Chinese police stated they had rescued more than 1,800 trafficking victims on the China-Vietnam border since 2001. Between 1995 and 2000, approximately five thousand women and children were trafficked to and escaped from Cambodia. Some women also were trafficked to Singapore, Hong Kong, Macau, Thailand, Taiwan, the United Kingdom, and the United States. There also were reports that some women going to Taiwan, Hong Kong, Macau, and China for arranged marriages were victims of trafficking. The government estimated that approximately 10 percent of women in arranged marriages with Chinese men may have become trafficking victims. Some women and children also were trafficked within the country, usually from rural to urban areas. There were no reported incidents of trafficking of adult males during the year.

Some children were trafficked domestically, and others were trafficked to foreign destinations for the purpose of prostitution. An NGO advocate has estimated that the average age of trafficked girls was between 15 and 17 years of age. Some reports indicated that the ages of girls trafficked to Cambodia typically were even lower.

Individuals also were convicted in cases in which parents received payments in exchange for giving up their infant children for adoption. In addition, there was anecdotal evidence that small children and infants were sometimes kidnapped and sold to traffickers in China. Children also were trafficked to other countries; in September the press reported that Vietnamese children arriving illegally in the United Kingdom had become the victims of crime and abuse, including being forced to work in brothels, as beggars, in crime rings, or as drug traffickers (see section 5, Children). Mass organizations and NGOs continued to operate limited programs to reintegrate trafficked children into society. During the year programs designed to provide protection and reintegration assistance for trafficking victims through psychosocial support and vocational training, as well as to supplement regional and national prevention efforts by targeting at-risk populations for similar services, continued operation in the north of the country.

There were reports that some women from Ho Chi Minh City and the Mekong Delta who married men from Taiwan were forced into prostitution after their arrival in Taiwan. There was reported trafficking in women to the Macau Special Administrative Region of China with the assistance of organizations in China that were os-

tensibly marriage service bureaus, international labor organizations, and travel agencies. After arrival, women were forced into conditions similar to indentured servitude; some were forced into prostitution. In 2002 the government suspended the licenses of marriage mediation services and transferred their function to the Women's Union. The services had helped to arrange marriages between women and foreigners, primarily Taiwanese men. Government officials noted that it continued to be difficult to obtain information from Taiwanese officials on cases of alleged trafficking in Taiwan.

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. MPS and UNICEF research indicated that trafficking victims can come from any part of the country but were concentrated in certain northern and southern border provinces as well as the central province of Thanh Hoa. Some were sold by their families as domestic workers or for sexual exploitation. In some cases traffickers paid families several hundred dollars in exchange for allowing their daughter to go to Cambodia for an "employment offer." Many victims faced strong pressure to make significant contributions to the family income. Others were offered lucrative jobs by acquaintances. False advertising, debt bondage, confiscation of documents, and threats of deportation were other methods commonly used by the traffickers, spouses, and employers.

Individual opportunists and informal networks, as well as some organized groups, lured poor, often rural, women with promises of jobs or marriage and forced them to work as prostitutes (see section 5, Women). The government stated that organized criminal groups were involved in recruitment, transit, and other trafficking-related activities.

There were no cases indicating that governmental authorities or security forces facilitated or condoned trafficking in persons. However, the government continued to have a persistent problem with corruption, which is particularly severe among street-level police and border agents.

Official institutions, including MOLISA, the Women's Union, the Youth Union, and the Committee for Population, Family, and Children, had active programs aimed at prevention and victims' protection. These programs included warning women and girls of these dangers, repatriation programs, and vocational training for teenage girls in communities considered vulnerable to trafficking. Government agencies worked closely with the International Organization for Migration and other international NGOs to provide temporary shelter, medical services, education, credit, counseling, and rehabilitation to returned trafficking victims. Throughout the year security agencies with border control responsibility received training in investigative techniques to prevent trafficking.

Persons with Disabilities.—The law requires the state to protect the rights and encourage the employment of persons with disabilities; however, the provision of services to such persons was limited. Government agencies worked with domestic and foreign organizations to provide protection, support, physical access, education, and employment. The government operated a small network of rehabilitation centers to provide long-term, inpatient physical therapy.

Educational opportunities for children with disabilities were poor but improving. Slightly more than 10 percent of children with disabilities were enrolled in school. During the year the government worked with donor countries and international NGOs to train additional teachers for students with disabilities.

The law provides for preferential treatment for firms that recruit persons with disabilities and for fines on firms that do not meet minimum quotas that reserve 2 to 3 percent of their workforce for workers with disabilities; however, the government enforced these provisions unevenly. Firms with 51 percent employees with disabilities can qualify for special government-subsidized loans. During the year the government provided $750 thousand (12 billion VND) for vocational training for persons with disabilities. In 2002 the Ministry of Construction enacted the "Barrier-Free Design and Construction Code" and "Standards for Access for People with Disabilities," which requires that the construction or major renovation of new government and large public buildings include access for persons with disabilities. The Ministry of Construction trained architects and engineers in the new requirements. During the year the government established two provincial enforcement units to work on an enforcement and compliant process to support the new codes.

International groups also assisted the government in implementing programs to increase access by persons with disabilities to education and employment.

National/Racial/Ethnic Minorities.—Although the government officially was opposed to discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities remained a widespread problem. The government continued to implement policies to narrow the gap in the standard of living by granting

preferential treatment to domestic and foreign companies that invested in highland areas. The government also had infrastructure development programs that targeted poor, largely ethnic minority areas and established agricultural extension programs for remote rural areas. The government ran special schools for ethnic minorities in many provinces, including subsidized boarding schools at the high-school and middle-school levels, and it offered special admission and preparatory programs as well as scholarships and preferential admissions at the university level.

The government resettled some ethnic minorities from inaccessible areas to locations where basic services were easier to provide; however, the resettlement sometimes diluted political and social solidarity of these groups. The government acknowledged that one of the goals of resettlement was to persuade the minorities to change from traditional slash-and-burn agricultural methods to sedentary agriculture. This also had the effect of making more land available to ethnic majority Kinh migrants and state-owned plantations the mountainous areas. In August 2004 the government announced a suspension of state-sponsored migration programs to bring settlers to the Central Highlands and vowed to discourage spontaneous migration into the area. Large-scale migration of ethnic Kinh to the Central Highlands in past years led to numerous land disputes between ethnic minority households and ethnic Kinh migrants. The loss (often through sales) of traditional ethnic minority lands to Kinh migrants was an important factor behind the ethnic unrest in the Central Highlands in 2001 and again in 2004.

Some members of ethnic minority groups continued to flee to Cambodia, reportedly to seek greater economic opportunity as well as to escape ethnic and religious pressures in the Central Highlands. Government officials continued to monitor some highland minorities closely, particularly several ethnic groups in the Central Highlands, because of concern that the form of Protestant religion they were practicing encouraged ethnic minority separatism. Hmong Protestants in the northwest provinces were also subject to special attention and occasional harassment for practicing their religion without official approval (see section 2.c.).

The government continued to impose extra security measures in the Central Highlands, especially after the April 2004 demonstrations. There were numerous reports that ethnic minorities seeking to cross into Cambodia were returned to the country by Vietnamese police operating on both sides of the border, sometimes followed by beatings and detentions; however, the government also continued to implement measures to address the causes of ethnic minority discontent and initiate new measures as well. These included special programs to improve education and health facilities and expand road access and electrification of rural communities and villages. The government allocated land to ethnic minorities in the Central Highlands through a special program; however, there were complaints that implementation of these special programs was uneven.

The government continued a program to begin conducting classes in some local ethnic minority languages up to the fifth grade. The government worked with local officials to develop a local language curriculum. The government appeared to implement this program more comprehensively in the Central Highlands than in the mountainous northern and northwestern provinces. The government broadcast radio and television programming in ethnic minority languages in some areas. The government also instructed ethnic Kinh officials to learn the language of the locality in which they worked; however, implementation was not widespread. Provincial governments continued initiatives designed to increase employment, reduce the income gap between ethnic minorities and ethnic Kinh, and make officials sensitive and receptive to ethnic minority culture and traditions.

Other Societal Abuses and Discrimination.—There was no evidence of official discrimination against persons with HIV/AIDS, but there was substantial widespread societal discrimination against persons with HIV/AIDS. There were multiple credible reports that persons with HIV/AIDS lost jobs or suffered from discrimination in the workplace or in finding housing. In a few cases children of persons with HIV/AIDS were barred from schools.

Section 6. Worker Rights

a. The Right of Association.—Workers are not free to join or form unions of their choosing. Trade unions are controlled by the CPV. All unions must be approved by and affiliated with the party-controlled Vietnam General Confederation of Labor (VGCL). In June VGCL claimed a total of approximately 5.2 million members, with 71.9 percent working in the public sector, 34.9 percent working for state-owned enterprises, and 28.1 percent working in the private sector. The VGCL claimed that its membership represented 95 percent of public sector workers and 90 percent of workers in state-owned enterprises. Approximately 1.5 million union members worked in the private sector, including enterprises with foreign investment (more

than 600 thousand persons). The vast majority of the workforce lived in rural areas, engaged in small-scale farming, and was not unionized. The overall level of unionization of the workforce was 12 percent.

Union leaders influenced key decisions, such as amending labor legislation, developing social safety nets, and setting health, safety, and minimum wage standards. However, the VGCL asserted that authorities did not prosecute some violations of the labor law. For example, on March 14, United Motor Vietnam Company Ltd. (UMV) in Hanoi fired 80 workers who took part in a strike. MOLISA and the Hanoi people's committee instructed the Hanoi Department of Labor, Invalids, and Social Affairs (DOLISA) to pay an inspection visit to the UMV. The inspector concluded that the company had violated many provisions of the labor law, such as labor contract signing, social insurance, working regulations, labor safety, illegal salary reductions, and firing the 80 workers. In addition UMV had hired 103 foreign workers, approximately 8 percent of total employees, which is 5 percent higher than the legal limit. None of the foreign workers had work permits. Because of these labor violations, the Hanoi DOLISA recommended imposing an administrative fine on UMV and withdrawing its investment license. However, the Hanoi people's committee vice chairman imposed only an administrative penalty of $1,930 (30 million VND), ignoring the illegal recruitment of the foreign workers and the illegal layoffs.

While the labor law states that all enterprise-level and professional trade unions are affiliated with the VGCL, in practice hundreds of unaffiliated "labor associations" were organized at many individual enterprises and in occupations such as cooks, market porters, and taxi, motorcycle, and cyclo drivers. The International Labor Organization (ILO) and the UNDP continued to cooperate on a large multiyear technical assistance program to strengthen labor law implementation. This involved projects that encouraged job promotion for young women and improvements in occupational safety and health, among other objectives. The ILO also continued to implement two projects to eliminate child labor and improving industrial relations, including collective bargaining and dispute settlement. In September MOLISA, VGCL, and the Vietnam Chamber of Commerce and Industry (VCCI) held their first tripartite industrial relations dialogue. At year's end the VCCI issued its first report on industrial relations in the country. The report was widely shared with its members and the government. Parts of the report were to be used as materials for educating employers in industrial relations and making proposals to policymaking agencies. VCCI announced plans to make the report on an annual basis in the future.

Individual unions legally are not free to affiliate with, join, or participate in international labor bodies; however, the VGCL had relations with 140 labor organizations in 91 countries and 20 international and regional occupational trade unions.

The labor law prohibits antiunion discrimination on the part of employers against employees who seek to organize. Enterprises are required to facilitate employee efforts to join a trade union.

b. The Right to Organize and Bargain Collectively.—By law the provincial or metropolitan branch of the VGCL is responsible for organizing a union within six months of the establishment of any new enterprise, and management is required to cooperate with the union. The labor law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers.

The labor law provides for the right to strike if workers follow the stipulated process of conciliation and arbitration. The law requires that management and labor first attempt to resolve labor disputes through the enterprise's own labor conciliation council. However, many enterprises did not have labor conciliation councils. In the absence of such a council or if a council fails to resolve a labor dispute, the dispute is referred to labor arbitration successively at the district and provincial levels. Individual workers may take cases directly to the people's court system, but in most cases they may do so only after conciliation has been attempted and failed. Unions have the right to appeal decisions of provincial labor arbitration councils to provincial people's courts or to strike. Because this process was lengthy and the necessary dispute resolution bodies in many provinces and localities have never been established, nearly every strike was de jure illegal. According to MOLISA, between early 1995 and December, nearly one thousand strikes took place in the country. Most of the strikes were considered illegal by the government under the industrial action law.

According to the Ministry of Labor, 147 strikes occurred, an increase of 22 compared with 2004. Of these, 100 were against foreign-invested enterprises, 39 involved domestic private enterprises, and 8 affected state-owned firms. In May nearly 10 thousand workers staged a 2-day strike at Keyhing Toys Company to protest 12-hour days without overtime. They also complained that they had no water to drink, they were given only 45 minutes for lunch, and their pay was reduced if they visited

the restroom more than twice a day or spent more than 2 hours in a health clinic. In November 2004 hundreds of workers of King Ken Garment Factory in Ho Chi Minh City went on strike because the foreign employer changed its method of salary payment. According to VGCL's 2004 year-end report, as many as 95 percent of that year's strikes were due to employers' labor regulation violations.

Strikes typically did not follow the authorized conciliation and arbitration process and thus were of questionable legality; however, the government tolerated them and took no action against the strikers. Although the VGCL or its affiliate unions did not sanction these strikes officially, the local and provincial levels of the VGCL unofficially supported many of them. The labor law prohibits retribution against strikers, and there were no reports of retribution. In some cases the government disciplined employers for the illegal practices that led to strikes. For example, on May 3 local authorities in Binh Duong Province imposed an administrative punishment on a foreign-owned business of $4,400 (70 million VND) because it owed $63 thousand (1 billion VND) in social insurance contributions for the firms' workers and also was late in paying them.

The labor law prohibits strikes in 54 occupational sectors and businesses that serve the public or are considered by the government to be important to the national economy and defense. A subsequent decree defined these enterprises to be those involved in electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the prime minister the right to suspend a strike considered detrimental to the national economy or public safety.

The same labor laws in effect for the rest of the country govern the growing number of export processing zones and industrial zones. There was anecdotal evidence that the government enforced labor laws more actively in the zones than outside them.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children; however, there were reports that thousands of children worked in exploitative situations (see section 6.d.). Some women were coerced into prostitution (see section 5).

Prisoners routinely were required to work for little or no pay. They produced food and other goods used directly in prisons or sold on local markets reportedly to purchase items for their personal use.

A government ordinance requires all male citizens between 18 and 45 years of age and women between 18 and 35 years of age to perform 10 days of annual public labor; however, this ordinance was rarely enforced. The ordinance also allows citizens to find a substitute or pay a marginal fee instead of working.

In December a government taskforce finished a year-long survey of forced labor and was reviewing all legal regulations related to forced labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor was a problem. The labor law prohibits most child labor but allows exceptions for certain types of work. The law sets the minimum age for employment at 18, but enterprises may hire children between the ages of 15 and 18 if the firm obtains permission from parents and MOLISA. The government reported in March that approximately 23 thousand children between the ages of 8 and 14 worked part-time or full-time in violation of the labor law. That estimate may be low, since many more children worked in the informal sector, usually on family farms or in family businesses not within the scope of the labor law. According to a 2002–03 living standard survey, approximately 18 percent of children participated in economic activities, and of these, 63 percent did not go to school. This same study found that 20.4 percent of rural children worked versus 7.3 percent of those living in urban areas.

By law an employer must ensure that workers under 18 years of age do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in the labor law. The law permits children to register at trade training centers, a form of vocational training, from 13 years of age. Children may work a maximum of 7 hours per day and 42 hours per week and must receive special health care.

In rural areas children worked primarily on family farms and in other agricultural activities. In some cases they began work as young as 6 years of age and were expected to do the work of adults by the time they were 15. In urban areas children also work in family-owned small businesses. According to the 2002–03 living standard survey, the percentage of children working in household businesses and family-owned small businesses was 88.5, while the rate of children in wage-earning work was 11.5 percent. Migration from rural to urban settings exacerbated the child labor problem, because unauthorized migrants were unable to register their households

in urban areas. This meant that their children could not attend public schools and families had less access to credit. Officials stated that juveniles in education and nourishment centers, which functioned much as reform schools or juvenile detention centers do elsewhere, were commonly assigned work for "educational purposes."

A 2004 study of child labor in Ho Chi Minh City found cases in which parents in poor families entered into "verbal agreements" with employers, who then put their children to work. An ILO- and Ministry of Labor-sponsored study of four groups of child workers conducted by Hanoi National University of Vietnam's Center for Woman Studies found that the salaries of children in domestic labor were sent directly to the parents. Most children in the study rarely used the wages for themselves, although some of them were able to pay their school fees with part of their salary. The study also noted that the working hours and income of children engaged in coal sorting and fishing were to some degree managed by their families.

Government officials have the power to fine and, in cases of criminal code violations, prosecute employers who violate child labor laws. While the government committed insufficient resources to enforce effectively laws providing for children's safety, especially for children working in mines and as domestic servants, it detected some cases of child exploitation, removed the children from the exploitative situations, and fined the employers. International donor assistance targeted the problem of child labor. The government also continued programs to eliminate persistent child labor, with a particular focus on needy families and orphans.

e. Acceptable Conditions of Work.—The labor law requires the government to set a minimum wage, which is adjusted for inflation and other economic changes. Since 1999 the official monthly minimum wage for foreign-investment joint ventures has been $40 (626 thousand VND) in urban districts of Hanoi and Ho Chi Minh City; $35.90 (556 thousand VND) in rural districts of Hanoi, Ho Chi Minh City, and districts of Hai Phong, Bien Hoa City, and Vung Tau City; and $31.40 (487 thousand VND) elsewhere. The government may temporarily exempt certain joint ventures from paying the minimum wage during the first months of an enterprise's operations or if the enterprise is located in a very remote area, but the minimum wage in these cases can be no lower than $29.90 (417 thousand VND). On October 1, the official monthly minimum wage of the state sector was increased to $22.15 (350 thousand VND). This amount remained inadequate to provide a worker and family a decent standard of living. The new salary policy benefited more than 6 million persons, including more than 300 thousand public servants working in administrative organizations, CPV bodies, and unions. However, state-owned enterprises consistently paid more than the state sector minimum wage. The number of workers who received government-subsidized housing decreased. Many workers received bonuses and supplemented their incomes by engaging in entrepreneurial activities. Households frequently included more than one wage earner.

The government set the workweek for government employees and employees of companies in the state sector at 40 hours, and it encouraged the private business sector and foreign and international organizations that employed local workers to reduce the number of hours in the workweek to 40 hours but did not make compliance mandatory.

The labor law sets normal working hours at 8 hours per day, with a mandatory 24-hour break each week. Additional hours require overtime pay at one and one-half times the regular wage, two times the regular wage on weekdays off, and three times the regular wage on holidays and paid leave days. The law limits compulsory overtime to 4 hours per week and 200 hours per year. Amendments to the labor law in 2002 provide for an exception in special cases where this maximum can be up to 300 overtime hours worked annually, subject to stipulation by the government after consulting with the VGCL and employer representatives. The law also prescribes annual leave with full pay for various types of work. It was unclear how well the government enforced these provisions.

According to the law, a female employee who is engaged, pregnant, on maternity leave, or is raising a child under one year of age cannot be dismissed unless the enterprise closes. Female employees who are at least seven months' pregnant or are raising a child under one year of age cannot work overtime, at night, or in distant locations.

The labor law requires the government to promulgate rules and regulations that ensure worker safety. MOLISA, in coordination with local people's committees and labor unions, is charged with enforcing the regulations. In practice enforcement was inadequate because of low funding and a shortage of trained enforcement personnel. The VGCL reported that there were 300 labor inspectors in the country but that at least 600 were needed. On-the-job injuries due to poor health and safety conditions in the workplace were a problem. The greatest number of occupational injuries was caused by machinery, such as rolling mills and presses. In addition 10 percent

of occupational injuries were caused by mining accidents. According to MOLISA statistics, in the first half of the year there were 2,670 injuries and 252 fatalities resulting from 2,596 work-related accidents. In 2004 there were 6,186 injuries and 575 fatalities resulting from 6,026 work-related accidents (some involving multiple workers), approximately 55 percent more than in 2003; however, there was evidence that workers, through labor unions, were effective in improving working conditions. Some foreign companies with operations in the country have established independent monitoring of problems at their factories. Companies reported that MOLISA or provincial labor agencies performed labor and occupational safety and health inspections at enterprises when they learned of serious accidents or when there were reports of hazardous conditions.

The labor law provides that workers may remove themselves from hazardous conditions without risking loss of employment; however, it was unclear how well this stipulation was enforced in practice. MOLISA stated that there have been no worker complaints of employers failing to abide by it.

EUROPE AND EURASIA

ALBANIA

Albania is a parliamentary democracy with a population of approximately 3.2 million. Legislative authority is vested in the unicameral People's Assembly (parliament), which elects both the prime minister and the president. The prime minister heads the government, while the presidency is a largely ceremonial position with limited executive power. Parliamentary elections held in July did not fully comply with international standards and were marked by protracted tabulation of results, but were generally considered a step forward in the country's democratic development. Civilian authorities generally maintained effective control over the security forces.

The government generally respected the human rights of its citizens; however, there were serious problems in several areas. The following human rights problems were reported:

- police beating and abuse of suspects, detainees, and prisoners
- poor prison conditions
- arbitrary arrest and detention
- lengthy pretrial detention
- police corruption and impunity
- infringement on citizens' privacy rights
- politicization of the media
- occasional police use of force against protestors
- societal killings and an atmosphere of fear in some areas due to traditional blood feuds
- societal violence and discrimination against women and children
- trafficking in persons
- societal discrimination against Roma, Egyptians, and homosexuals
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings.

By year's end, there were no developments in the appeals by two police guards convicted in connection with the July 2004 beating death of Erigert Ceka while in detention. In 2004 a court sentenced one guard to six months in prison for committing arbitrary actions while escorting detainees and the second guard to eight months in prison for violating guard service rules under the military code and misuse of duty. The court did not hold anyone directly accountable for Ceka's death.

The country continued to experience high levels of violent crime. Many killings occurred as the result of individual or clan vigilante actions connected to traditional "blood feuds" or to criminal gang conflicts. According to the interior ministry, at least nine persons were killed during the year in blood feuds based on the medieval Code of Lek Dukagjini (the *kanun*), which was practiced particularly in the northern part of the country. Under the *kanun*, only adult males are acceptable targets in blood feuds; however, women and children often were killed or injured in attacks. According to the National Reconciliation Committee, approximately 738 families were effectively self-imprisoned during the year due to blood feuds. Fear of revenge in a blood feud also led approximately 50 families to live under protection outside of the country and prevented approximately 200 children—75 of whom were consid-

ered to be in serious danger—from attending school. Disputes over land and trafficking in persons remained the main grounds for blood feuds.

During the year police failed to identify a perpetrator in the August 2004 killing of Emin Spahija and suspended their investigation of the case. Spahija was the head of the nongovernmental organization (NGO) Peace Missionaries League, which worked exclusively on blood feud issues.

While the parliament in May approved a law establishing a coordination council, chaired by the president, to develop a national strategy against blood feuds and coordinate activities of government agencies, the government had not implemented the law by year's end.

The court of serious crimes tried blood feud cases. The law provides for 20 years to life imprisonment for killing in a blood feud.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such actions; however, the police at times beat and abused suspects. The Albanian Helsinki Committee and the Albanian Human Rights Group (AHRG) continued to report that police nationwide used excessive force or inhumane treatment. According to the AHRG, most mistreatment took place at the time of arrest or initial detention. Roma and members of the Egyptian community were particularly vulnerable to police abuse (see section 5).

According to the prosecutor's office, prisoners in Prison 302 sent an anonymous letter to the Ministry of Justice in April alleging that they were regularly abused in their cells by guards. The general directorate of prisons investigated the claims and determined that prison police had physically and psychologically abused 24 individuals multiple times. The general directorate dismissed the prison director and the chief of the prison's police; however, authorities had not filed criminal charges against the officers by year's end.

In February Edison Steno, a judicial police officer at the police commissariat, reportedly detained and physically and psychologically mistreated 25-year-old Mitrush Cipi from Korca. The police denied that the mistreatment occurred despite eye witness testimony to the contrary.

During the year there were reports that police in various parts of the country beat and mistreated persons at the time of their arrest or while holding them in pretrial detention.

For example, police reportedly beat seven boarding school students in April at the Berat police commissariat after detaining them for disorderly conduct. The AHRG collected evidence on the case, and the school director admitted the students were beaten and stated that the police unofficially apologized for their behavior. At year's end authorities had not taken disciplinary action against the officers.

In May Besnik Kosturi filed charges against a Korca criminal police officer, Oltion Agolli, for mistreatment. The officer reportedly beat Kosturi because he refused to provide information on a pending case. Medical experts verified the abuse and the officer was suspended. An investigation into the case was pending at year's end.

In June Shpetim Brahilka filed charges against a Tirana police officer, Altin Bega, for physical abuse. The prosecutor's investigation verified that the officer had beaten him. The case was under investigation at the year's end.

In July Arben Belaj filed charges against a member of the Vlora police special forces, Dritan Veizaj, for allegedly beating him. The prosecutor's office was investigating the case at year's end.

In July Frendi Ndoci filed charges against Pjerin Lazri and other Shkodra police officers for alleged beating him at the police commissariat. A preliminary investigation confirmed that police stopped Ndoci for driving a car without a driver's license or license plates and the medical examiner verified that Ndoci was beaten and unable to work for nine days. The local prosecutor was investigating the case at year's end.

Despite evidence from the ombudsman and the prosecutor's office, a court dismissed the May 2004 complaint by Beqir Kaba that two officers of the Dibra police commissariat had illegally arrested and mistreated him. The two officers had been temporarily suspended after the ombudsman office intervened.

There were no developments in the police mistreatment cases reported in 2003 and 2004 involving Stathi Lako, Behar Dedolli, and Romeno Nexhipi.

At times police abused juvenile detainees. According to the Children's Rights Center of Albania (CRCA), police sometimes used threats, violence, and torture to extract confessions from minors. According to the AHRG, the prosecutor in Korca continued to use, and the court admitted, evidence during the year that police extracted from three minors through physical violence in 2003 in a trafficking case against Gjergji Dabulla. No action was taken against the police officers involved.

Some NGOs reported that police targeted the country's homosexual community for abuse (see section 5).

There were reports that police beat protesters during the year (see section 2.b.).

Prison and Detention Center Conditions.—Conditions inside the prisons and detention centers remained poor and were marked by food shortages and a lack of medicine. During the year prisoners and detainees rioted in Tirana and Shkodra and held hunger and other strikes at prisons in Kruja, Lushnje, Tirana, Peqin, and Burrel to protest poor living conditions, the slow transfer of prisoners from pretrial facilities to prisons, and other shortcomings. In September a clash between two gangs in Peqin prison resulted in injury to six convicts. Overcrowding remained a serious problem in pretrial detention centers. The director of prisons reported that, as of December, there were 2,615 persons held in prisons designed for 2,668 and 870 persons (820 detainees and 50 convicted criminals) in detention facilities designed for 672.

In September the ombudsman's office inspected the Commissariat Four detention facility in Tirana and other district detention facilities and determined that eight Chinese nationals (six men and two women detained for possessing illegal documents) and other detainees were not being fed. The ombudsman requested the prime minister's office and ministries of interior and justice to take immediate measures to assist the detainees. At year's end the government had not acted on the ombudsman's request.

According to the general directorate of prisons, there were 68 women serving in Prison 325 for women in Tirana and 36 women in pretrial detention. NGOs monitoring prison conditions noted that Prison 325 lacked facilities for infants born to prisoners who were pregnant at the time of incarceration.

Pretrial detainees were not always separated from convicted prisoners, and juvenile detainees were not always separated from adults. Twenty of the thirty-one minors serving prison sentences in the country were held at pretrial detention centers, which did not provide for their education and did not always separate them from adults. While the Vaqarr prison had a wing for minors, the CRCA noted that juveniles were mixed with adult prisoners for showers and leisure activities. Unlike in previous years, there were no reports of sexual abuse of juveniles.

The government permitted international human rights observers to visit both pretrial detention centers and prisons; there were no reports of refusals to permit access for inspections by domestic independent human rights monitors. In May and June, the Council of Europe Anti-Torture Committee conducted an extensive visit of the country's prisons and detention centers; the committee's report on the visit had not been released by year's end. The OSCE also visited prisons during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the police occasionally arbitrarily arrested and detained persons.

Role of the Police and Security Apparatus.—In September the Ministry of Public Order was transferred to the authority of a new Ministry of the Interior. Local police units report to the Ministry of the Interior and are the main force responsible for internal security. The military has a special 90-person commando unit, which operates in an antiterrorist role under the minister of defense. The law allows the minister of interior to request authority over this unit during a domestic crisis. The State Intelligence Service (SHISh) is responsible for both internal and external intelligence gathering and counterintelligence. The Albanian State Police (ASP) employed approximately 12 thousand officers.

The overall performance of law enforcement remained weak. Unprofessional behavior and corruption remained major impediments to the development of an effective civilian police force. According to the interior ministry, only 40 percent of police officers received training beyond basic, despite assistance from foreign governments. The ASP Office of Internal Control engaged in the prevention, discovery, and documentation of criminal activity committed by police. Through November the office conducted 172 investigations that led to the arrest of 47 police officials and the dismissal of 68 others for misconduct.

Corruption remained a problem among police forces, and low salaries and widespread corruption throughout society made the problem difficult to combat. The ASP Office of Internal Control reported at least 81 cases of corruption to the prosecutor's office through November that involved 118 police officers, 16 of whom were arrested.

From January through September the general prosecutor's office investigated 20 cases involving 26 police officers for performing arbitrary acts or abusing duty. The office terminated its investigation in 11 cases, dismissing 9 cases and suspending 2 because of failure to identify the perpetrator. The other 9 cases were under investigation at year's end.

Impunity remained a problem, but increasingly less so. The government ombudsman received 14 complaints against police officers for use of excessive force or mistreatment through September. The ombudsman determined that 2 complaints were valid and dismissed the others as groundless. There was no information available at year's end on whether any action had been taken on the valid complaints.

Arrest and Detention.—By law a police officer or prosecutor may order a suspect into custody. Detained persons must be informed immediately of the charges against them and of their rights, and a prosecutor must be notified immediately after police detain a suspect, and police generally did so in practice. Within 48 hours of the arrest or detention, a suspect must appear before a judge. The judge has an additional 48 hours to determine whether the suspect should remain in detention. In some cases, detained persons were kept in pretrial detention beyond 48 hours without a court decision on whether the prosecutor had sufficient evidence.

A court may order detention in especially serious cases that could pose a danger to society. Alternatively, a suspect may be placed under house arrest. Bail may be required if the judge believes that the accused may not appear for trial.

Legal counsel must be provided free of charge if the defendant cannot afford a private attorney; however, this right was not widely known, and police often failed to inform suspects of it. Access to legal information remained difficult for citizens. There were numerous cases in which persons were illegally detained and unable to contact a private attorney. In some cases, detainees were interrogated without their attorneys present. Legal services offered by the state bar association were considered inadequate, corrupt, and at times lacking in professionalism.

During the year the ombudsman received two complaints of arbitrary arrests and illegal detention by the police but considered neither to have merit. While there were no other reports of arbitrary arrest and detention by police, some NGOs believed it was still a problem.

There were no reports of political detainees.

The law requires completion of pretrial investigations within three months; however, a prosecutor may extend this period by additional three-month increments in particularly difficult cases. While the law provides that the maximum length of pretrial detention should not exceed two years, lengthy pretrial detention remained a serious problem as a result of delayed investigations. In July the AHRG reported that Elton Gerdhuqi had been detained in the Vlora police commissariat since 2000 and that the Vlora court had yet to issue a decision on the case. Forty-nine prisoners were held in pretrial detention even after their trial.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, political pressure, intimidation, widespread corruption, and limited resources prevented the judiciary from functioning independently and efficiently.

Tension continued between the police, prosecutors, and the judiciary, particularly outside Tirana. Each side blamed the failures of the other as the reason criminals avoided imprisonment. For example, the courts accused the prosecutors and police of failing to carry out solid investigations and gather evidence necessary to prosecute criminals successfully, and the police alleged that corruption and bribery tainted the courts. The judicial police were responsible, under the direction of prosecutors, for developing investigations initially conducted by the police.

The judicial system is composed of district courts, six courts of appeal, the serious crimes court, the serious crimes court of appeal, military courts, military courts of appeal, a high court, and a separate and independent constitutional court. The high court hears appeals from both the district courts and the courts of appeal, while the constitutional court primarily reviews those cases involving constitutional interpretation and conflicts between branches of government and cases of individuals alleging denial of due process. The serious crimes court and serious crimes court of appeal focused on the fight against organized crime and serious crimes and on improving the quality of adjudication.

The president heads the High Council of Justice, which has authority to appoint, discipline, and dismiss district and appeals court judges. Judges who are dismissed have the right to appeal to the high court. The council includes the minister of justice, the head of the high court, nine judges of all levels selected by the National Judicial Conference, and three members selected by parliament.

Trial Procedures.—The law provides for the right to a speedy trial; however, limited material resources, lack of space, and case overload in many instances prevented the court system from adjudicating cases in a timely fashion. Long case backlogs were typical, and resulted in suspects being detained for longer than legal limits (see section 1.d.). Defendants, witnesses, and others who do not speak Albanian are entitled to the services of a translator. Defendants are entitled to a lawyer, and, under the law, the government provides lawyers for indigent defendants, although

the quality of representation varied. Defendants have the right to appeal decisions within 10 days to the court of appeal. Defendants are legally presumed innocent until convicted.

During the year a number of trials, including some of the country's highest profile cases, were conducted in absentia. Prominent examples were the trial of Altin Arapi, the alleged killer of the driver of the prosecutor general; the trial of 13 members—7 of them in absentia—of an organized trafficking group connected with the death of 29 persons in January 2004; and the "Gaxhai" trial of 5 gang members, 4 of whom were tried in absentia. During the year there were 98 in absentia trials involving 171 defendants.

The trial system does not provide for jury trials. Prosecutors and the defense lawyers present cases to a panel of three judges, and defendants have the right to all evidence that is presented to the judges.

The bailiff's office ensures that civil judgments are enforced. Despite some improvements, the office performed poorly and many civil judgments were not implemented.

The country has no juvenile justice system, and children's cases frequently were presented to judges who were not trained in juvenile justice. According to the Children's Rights Center of Albania, lengthy sentences given to juveniles were due to lack of such training.

While separate from civilian courts, military courts are under the district court. They employ judges and prosecutors from civilian courts for military cases but do not try civilians.

Political Prisoners.—There were no reports of political prisoners.

Property Restitution.—In July 2004 parliament approved a law on restitution and compensation for property confiscated during the Communist regime. Some former landowners, including religious communities, questioned the law's limit on property restitution to a total of 60 hectares. While the government established a $2 million fund (200 million lek) to provide compensation to claimants, the state committee and 12 local commissions responsible for implementing the law lacked adequate funding. The ombudsman received 55 complaints related to property compensation during the year; there were no reports that any of the complaints had been resolved by year's end. However, in December, 28 individuals were compensated up to $100,000 (10 million lek) each for properties confiscated during the Communist regime.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, at times, the government infringed on these rights.

In January 18 Romani families were forced to abandon their homes because they blocked a local municipality's territory regulation plan (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. While the media was active and largely unrestrained, there were serious, fundamental problems with the use of the media for political purposes.

During this election year, politicization of the media increased over previous years. Publishers and newspaper owners continued to dictate news stories to serve their political and economic interests and sometimes blocked stories that ran counter to those interests. Journalists continued to practice self-censorship, and there was little transparency in the financing of the media. Four domestic NGOs (Albanian Coalition Against Corruption, Institute for Surveys and Opinions, Institute for Development Research and Alternatives, and Center for Transparency and Free Information) monitored the media extensively before, during, and after the general elections. They found that most print and broadcast media showed a political bias, but that the degree of bias appeared to decrease after monitoring results were published.

Individuals could freely criticize the government and its actions in print and broadcasts. There were no reports that officials used or threatened to use libel suits to limit free political discussion.

In 2004 former minister of youth, culture, and sport Arta Dade and Minister of Local Government Ben Blushi sued Democratic Party Chairman Sali Berisha for libel for having verbally accused Dade of corruption. During the year, the case was resolved out of court.

The independent print media were active, but were constrained by limited professionalism, lack of finances, and political pressure. Political parties, trade unions, and various societies and groups published their own newspapers or magazines independent of government influence. An estimated two hundred publications were

available, including daily and weekly newspapers, magazines, newsletters, and pamphlets.

According to official data, there were 66 private television stations and 45 private radio stations, but the actual number was reportedly larger. While stations generally operated free of direct government influence, most owners believed that the content of their broadcasts could influence government action toward their other businesses.

The public Albanian Radio and Television (RTSh) operated a national television channel and a national radio channel. RTSh devoted most of its coverage to the government and the ruling party. By law, the government provides 50 percent of the station's budget.

Political affiliation had a pervasive influence on television programming, and the majority of stations were one-sided in their political coverage.

The National Council of Radio and Television (NCRT)—a seven-member bipartisan body selected by the parliament with one presidential appointee—regulated broadcasting. Media owners believed that the council failed to carry out its regulatory duties as a result of lack of experience, incomplete regulatory legislation, and scarce resources.

In March the Tirana district court reversed the NCRT's December 2004 suspension of TV Shijak's license for copyright violations and failure to pay fees on the grounds that the council should have taken preliminary measures before suspending the license.

In May the opposition Democratic Party restored the accreditation of private NEWS 24 television after canceling it and denying the station access to the party's headquarters in July 2004 for allegedly biased reporting.

There were a number of reports that police and other officials physically abused journalists.

In March a correspondent for Top Channel TV, Juliana Dhimitri, filmed police in Korca closing a store. The police chief, Adrian Shehu, complained and used offensive language to make her stop. When the reporter left the store and resumed filming, Shehu approached and shoved the camera several times. The mayor of Korca subsequently defended the police chief's actions. Dhimitri did not file charges. In June Dhimitri was filming a debate between the area's candidates for parliament, when a hostile dispute broke out between one candidate and supporters of the mayor of Korca. During the incident, the mayor reportedly grabbed Dhimitri by the shoulders, pushed her against a desk, and confiscated her camera for 30 minutes. She filed charges against the mayor; however, district prosecutors concluded there was insufficient evidence to support a criminal charge and closed the case.

In August Gjolek Malaj, a relative of a senior socialist party official, allegedly beat journalists Mero Baze and Astrit Patozi during the election rerun in the southern city of Gjirokaster; police arrested Malaj. The Ministry of Public Order dismissed four police officers for failing to intervene to prevent the attack. The investigation of the case against Malaj was transferred from the district prosecutor's office to the prosecutor general's office. In October, the Gjirokaster district court found Malaj guilty and sentenced him to four months in prison. Authorities released Malaj in mid-November, taking into consideration time served in detention since August.

In December the editorial office of the top-circulation daily *Shekulli* was damaged when an explosive was thrown onto its balcony. While nobody was harmed, there was damage to the office. An investigation was ongoing at year's end.

Unlike 2004, there were no reports of police detaining or confiscating the materials of journalists who videotaped high public officials.

There was political intimidation of the media. Journalists continued to complain that publishers and editors censored their work either directly or indirectly in response to political and commercial pressures. Many journalists complained that the absence of employment contracts also frequently hindered their ability to report objectively. Unlike in previous years, there were no reports that the government used the threat of tax audits against media outlets to retaliate for critical reporting of government policies.

Libel is a crime that may be punished with a prison sentence of up to two years and a fine. In October the government issued an order by the prime minister directing officials to refrain from using civil or criminal reports against reporters.

In September the Fier district court fined a correspondent of the daily *Korrieri* one thousand dollars (100 thousand lek) for libel. The correspondent reported in October 2004 that a Fier police inspector used fuel belonging to the city's police station for his private vehicle. The correspondent appealed the decision and, on December 21, the Vlore court of appeals reversed the original ruling.

In January a Tirana appeals court overturned the libel conviction of member of parliament Nikolle Lesi for reporting in his newspaper, *Koha Jone*, that former

prime minister Nano inappropriately awarded himself and his advisors five months' extra salary. A district court had ruled in Nano's favor and fined Lesi $20 thousand (2 million lek) for the January 2004 report.

During the year the Tirana district court rejected a libel suit brought by the publishing company that owns the magazine *Spekter* against columnist Fatos Lubonja; Lubonja previously wrote for *Spekter*. The court of appeals upheld the decision.

The government did not restrict access to the Internet; however, Internet access remained limited, particularly outside major urban centers.

The government at times restricted academic freedom. During the year a district court rejected the suit brought by the chief of the University of Tirana's geography department, Professor Doka, in connection with his dismissal in 2004 for having an "antinationalistic approach" to work. The dismissal was prompted by Doka's publication of an atlas that expanded geographic minority zones in the country. The government subsequently prohibited publication of the atlas. The case was pending in the court of appeal at year's end.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

The law requires organizers of gatherings in public places to notify police three days in advance; there were no reports that police denied such gatherings arbitrarily. In April authorities suspended the case against Mjaft, a civic youth movement, in connection with protests held in 2004.

There were reports that police occasionally mistreated protesters.

In March approximately five hundred persons in the southern village of Kokome exchanged angry words and were pushed by police during a protest over the government's decision to sell their land to a French company. Seven persons were taken into custody and one police officer was injured.

Freedom of Association.—The law provides for the right of association, and the government generally respected this right; however, the law prohibits the formation of any political party or organization that is nontransparent or secretive. There were no reports that this provision was used against any group during the year.

c. Freedom of Religion.—The law provides for freedom of religion and the government generally respected this right in practice.

The predominant religious communities—Sunni Muslim, Bektashi Muslim, Orthodox, and Roman Catholic—enjoyed a greater degree of official recognition (for example, national holidays) and social status.

The government does not require registration or licensing of religious groups.

The Albanian Evangelical Alliance, an association of approximately 98 Protestant churches, continued to complain during the year that it had encountered administrative obstacles to accessing the media. However, alliance representatives stated that it was not clear whether the limited access was due to the organization's small size or its religious affiliations.

In response to media reports alleging that Jehovah's Witnesses had influenced a series of juvenile suicides, the general director of police announced May 4 that all "suspicious sects" would be investigated; however, what constituted a suspicious sect was never defined and the police had not taken any action by year's end. The government also announced a prohibition on the dissemination of religious literature in "public places," although in practice this prohibition applied only to government facilities.

The government failed to return all of the religious properties and objects that were confiscated under the Communist regime. In cases where religious buildings were returned, the government often did not return the land surrounding the buildings or provide compensation. In addition, the government did not compensate churches adequately for the extensive damage to religious properties during the Communist period.

The Orthodox Autocephalous Church of Albania had problems recovering property as well as difficulty retrieving religious icons from the government for restoration and safekeeping. The church reported some isolated incidents of vandalism to its churches and crosses.

Societal Abuses and Discrimination.—Early in the year the media carried a number of reports alleging that the Jehovah's Witnesses community had influenced a series of juvenile suicides. The reports led to incidents of societal intimidation and threats of violence against members of the community. Other religious communities reported similar problems involving threats and negative portrayals by the media.

At year's end the investigation into the 2003 killing of former general secretary of the Islamic community Sali Tivari was still ongoing.

There are believed to be fewer than one hundred Jews in the country; there were no reports of synagogues or community centers functioning in the country or of any anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

Due to significant internal migration, many citizens no longer had local registration and status, leading to a loss of access to services such as education and medical care, particularly by Roma. The government made no progress toward creating a standardized national identity document during the year.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. During the year the government granted refugee status or asylum to one family. There were 15 cases pending at year's end. There is an appeals procedure, but it did not function during the year.

The government also provided temporary protection to individuals who may not qualify as refugees or asylees under the 1951 convention and the 1967 protocol, and provided it to approximately 36 individuals during the year.

The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR, through the government-run national reception center for asylum seekers, provided social and legal services, health care coverage, insurance, and limited training support for the small refugee community and coordinated further assistance through a network of NGOs.

Together with international organizations, the government, through the European Union's Community Assistance for Reconstruction, Development, and Stabilization program, prescreened illegal immigrants stopped at all border crossing points. Under the program, an NGO and government team assisted border police in identifying potential victims of trafficking, asylum seekers, and economic migrants.

The government excluded refugees that arrived through countries it deemed to be safe countries of transit or from countries it deemed to be safe countries of origin.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

Elections and Political Participation.—In July parliamentary elections were held throughout the country. The preliminary report of the Organization for Security and Cooperation in Europe (OSCE) election observation mission concluded that, through the pre-election period, voting, and vote counting up to July 4, the elections complied only partially with international standards. Official election results were delayed for weeks due to complex complaint and appeal procedures, and the need to rerun elections in several zones. OSCE election observers reported several instances where election officials obstructed the process and placed party interests before their duty to count and report votes in an impartial and honest manner. Family voting occurred and was particularly common in rural areas.

Individuals and parties could freely declare their candidacy and stand for election. A political party must register with the Tirana District Court and declare an aim or purpose that is not anticonstitutional or otherwise contrary to law, describe its organizational structure, and account for all public and private funds it receives. The court registered parties routinely.

There were 10 women in the 140-seat parliament, including the speaker of parliament, and 1 woman in the cabinet; however, overall, women were poorly represented at the national and local levels of government, despite commitments by the major political parties to increase female representation.

Several members of the Greek minority served in both the 140-seat parliament and the executive branch in ministerial and subministerial positions. No other ethnic minorities were thought to be represented in parliament or the cabinet.

Government Corruption and Transparency.—Corruption remained a major obstacle to meaningful reform. An August 2004 survey by Management Systems Inter-

national found that 94 percent of the general public and 90 percent of business managers believed that corruption among public officials was widespread. During the year the prosecutor's office dealt with 266 cases involving 158 government officials accused of abuse of authority and other types of corruption. In May the chairman of the Durres property restitution commission was sentenced to 20 years in prison for abuse of duty and corruption.

Authorities took no legal or disciplinary actions based on financial declarations filed during the year; however, 19 officials were fined in May for late submissions. Audits of 4,000 public officials' financial declaration forms by the high inspectorate for the declaration and audit of assets in March 2004 led to the dismissal of five officials and the referral of two others to the prosecutor's office for criminal investigation. The dismissed officials included a high-level transport ministry official who owned the country's largest asphalt company and an education ministry official responsible for licensing private schools who owned a private school himself.

In May a new conflict of interest law designed to help eliminate government corruption entered into force. The law provides that government ministers may not own a company that is directly tied to their official responsibilities. During the year the special ministerial position created in 2004 to combat corruption was moved to the interior ministry.

Citizens and noncitizens, including foreign media, have the right to obtain information about the activities of government bodies and persons who exercise official state functions. Public officials are legally obligated to release all information and official documents with the exception of classified documents and state secrets. However, this law has not been fully implemented, and limited access to public information for citizens and noncitizens remained a problem. A lack of government information offices and limited understanding of the law by government officials contributed to the problem. A study by the Center for Parliamentary Studies and the Soros Foundation found that only the Office of President published decisions and official documents on the Internet. A local NGO filed charges against the education ministry because it denied access to requested information. The trial continued at year's end.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views; however, in some areas—such as violence against women, including domestic violence, and children's issues—little progress was made.

Independent human rights organizations included the Albanian Helsinki Committee (problems related to minorities, security forces, the judiciary, and elections), the Albanian Human Rights Group (legal assistance and police training), the Children's Rights Center of Albania (children's rights), and the Citizen's Advocacy Office (official corruption).

The government cooperated with international organizations, such as the UNHCR and the International Organization for Migration (IOM), and did not restrict their access to the country.

A human rights ombudsman investigated inappropriate, inadequate, or illegal government actions. Although it lacked the power to enforce decisions, the ombudsman acted as a watchdog for human rights violations. The most common cases included citizen complaints of police and military abuse of power, lack of enforcement of court judgments in civil cases, wrongful dismissal, and land disputes (see sections 1.c. and 1.e.). In many cases, the government took concrete steps to correct problems in response to the findings of the ombudsman; however, disputes between the ombudsman and the prosecutor general hampered cooperation.

In May parliament passed a law strengthening the ombudsman's authority that gives the ombudsman more access to judicial authority, permits the ombudsman to inspect and monitor detention facilities and prisons, and facilitates cooperation from state employees. The law provides the ombudsman authority to initiate cases when victims do not come forward or in cases that involve the interest of the community.

In May and June, the Council of Europe's Anti-Torture Committee visited the country to examine the treatment of persons detained by law enforcement agencies, conditions in pretrial detention facilities and prisons, and legal remedies in cases involving allegations of police mistreatment. The committee had not released its report on the visit by year's end.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, ethnicity, disability, language, or social status; however, discrimination against women and Roma persisted.

Women.—Domestic violence against women, including spousal abuse, remained a serious problem. In traditionally male-dominated Albanian society, social norms and lax police response resulted in much abuse going unreported, and it was difficult to quantify the number of women who were victims of rape, domestic violence, or sexual harassment. According to the Center for Civil Legal Initiative's 2002–2003 media monitoring project, 56 women and girls throughout the country lost their lives as a result of domestic violence and 74 others were seriously injured. Through September the center received 180 complaints of domestic violence. The Women to Women Center, an NGO that operated mainly in the northern part of the country, reported receiving approximately 20 calls per day from women reporting some form of violence.

Many communities, particularly those from the northeastern part of the country, still followed the traditional code—the *kanun*—under which, according to some interpretations, women are considered to be, and were treated as, chattel. Some interpretations of the *kanun* dictate that a woman's duty is to serve her husband and to be subordinate to him in all matters.

The law does not specifically address violence against women, although it contains provisions aimed at protecting spouses from domestic violence. In practice the courts have not used this legal tool due to lack of understanding in how to apply the law.

The weakness of legal protections against domestic violence was illustrated by the February 2004 killing of a 21-year-old woman by her father for alleged tardiness and the father's subsequent sentencing to less than two years in prison. The case received much attention from the media and the NGO community, but was not appealed by the prosecutor.

The government did not have programs to combat domestic violence or assist victims. An NGO maintained a shelter in Tirana for abused women, although the facility had the capacity to house only a few victims at a time. The same NGO also operated a hotline that provided advice and counseling to women and girls.

The law criminalizes rape, including spousal rape; however, spousal rape was not reported or prosecuted in practice. The concept of spousal rape was not well established, and often neither authorities nor the public considered it to be a crime.

The law prohibits prostitution; however, it was a problem. Trafficking in women and children remained a problem (see section 5, Trafficking).

The law prohibits sexual harassment; however, it was rarely employed in practice. In April, a senior government official was dismissed for sexual harassment.

Women were not excluded, by law or in practice, from any occupation; however, they were not well represented at the highest levels of their fields. The law mandates equal pay for equal work; however, this provision was not fully implemented, although women continued gradually to gain economic power. Women enjoyed equal access to higher education, but they were not accorded full and equal opportunity in their careers, and well-educated women were often underemployed or worked outside their field of training.

The law provides equal rights for men and women under family law, property law, and in the judicial system. In practice, cultural traditions resulted in men often being favored over women. The State Committee on Equal Opportunity is responsible drafting, promoting and monitoring governmental gender equality programs. However, the committee was underfunded and lacked political influence. The interministerial committee on gender equality, an advisory body established by law, did not meet during the year.

Children.—The government's commitment to children's rights and welfare is codified in domestic law; however, in practice, there was limited commitment.

The law provides for the right to nine years of free education and also authorizes private schools. School attendance is mandatory through the ninth grade (or until age 16, whichever comes first); however, in practice, many children left school earlier than allowed by law to work with their families, particularly in rural areas (see Section 6.d.). Parents had to purchase supplies, books, school materials, and space heaters for some classrooms, which was prohibitively expensive for many families. The lack of proper documents—many of which were lost due to internal migration—prevented many students from attending school (see section 2.d.). According to recent World Bank statistics, high school enrollment for both boys and girls was only 38.7 percent, while the Albanian Institute of Statistics estimated enrollment at 53 percent. According to the UN Children's Fund (UNICEF), the primary school attendance rate for children aged 7 to 14 years was 90 percent.

Equal access to medical care was available in principle for both boys and girls; however, a high level of bribery in the medical care system sometimes limited access.

After a decade of significant internal migration, high civil registration fees have prevented many citizens from registering with authorities in their actual places of residence. As a result, children born to these individuals have no birth certificates or other legal documentation. The law requires parents who do not register their children within 30 days of the child's birth to register their children in court, where fines for not being properly registered are likely to be incurred. Thus, the country has a large—and growing—population of vulnerable, unregistered children, who were at risk of trafficking or exploitation, particularly children from the Romani community.

Child abuse, including sexual abuse, was prevalent but rarely reported. According to the interior ministry, 20 cases of sex crimes against children were reported during the year.

According to the National Reconciliation Committee, as many as 200 children remained endangered by blood feuds involving their families; 75 of these were in particularly dangerous circumstances (see section 1.a.).

Child marriage was a problem. While statistics were not available, child marriage was reportedly common among the Romani population and there were still some communities in the north and northeast of the country where there is traditional arranged "marriage from the cradle" based upon parental agreement.

Trafficking in children, although not widespread, was a problem (see section 5, Trafficking).

Child labor remained a major problem (see section 6.d.).

Homeless, displaced or street children remained a problem, particularly Romani children, who lived in extreme poverty throughout the country. Street children begged or did petty work; many migrated to neighboring countries, particularly during the summer.

Trafficking in Persons.—The law prohibits trafficking in persons and provides penalties for traffickers; however, persons, particularly women and children, were trafficked to, from, and within the country. Police corruption and involvement in trafficking were also problems.

The law provides for penalties of 5 to 15 years' imprisonment for trafficking in persons; 7 to 15 years' imprisonment for trafficking women for prostitution; and 15 to 20 years' imprisonment for trafficking in minors. Aggravating circumstances, such as the kidnapping or death of a victim, can raise the severity of the punishment to a maximum of life in prison. Prison sentences may be supplemented by fines of $4,000 to $6,000 (400,000 to 600,000 lek) for sexual exploitation of a minor and $3,000 to $6,000 (300,000 to 600,000 lek) for sexual exploitation of a woman. The law provides that a government official convicted of exploitation for prostitution receive 125 percent of the standard penalty. The law also mandates the sequestration and confiscation of assets derived from organized crime and trafficking. In June the council of ministers established a government agency to administer sequestered and confiscated assets.

In February the government approved a child trafficking strategy and national action plan for 2005–2007 based on UNICEF guidelines and the principle of assisted voluntary return of child victims. However, at year's end the government had not established an institutional structure to implement the strategy and action plan.

Prosecution of traffickers remained a problem. Authorities often released arrested traffickers because of insufficient evidence or, if they were prosecuted, charged them with lesser crimes or gave them less than the minimum sentence for trafficking. According to the prosecutor's office, there were 341 ongoing trafficking in persons cases with 343 defendants during the year. Through November, 179 individuals were sentenced and, in four of the cases, courts convicted 10 defendants of trafficking in persons and gave each at least the minimum sentence. The police detained 53 individuals in connection with trafficking of women for sexual exploitation.

In November 2004 sixteen individuals were convicted and sentenced to prison for 1 to 10 years each for sexual violence against a 16-year-old girl at the Bishiti i Palles naval base. In 2003 the girl was smuggled onto the base to have sex with conscripted sailors and held in a semiabandoned building for two months and repeatedly raped before she was trafficked to Kosovo.

The 2003 case against operators of a child trafficking ring in Durres, involving a port customs officer and the head of the local SHISh office, never went to trial. However, four other individuals connected with the case were convicted and sentenced to prison for 3 to 6 years each.

The country did not participate in any regional antitrafficking operations during the year; however, authorities extradited 35 persons for trafficking and other of-

fenses. In August 2004 authorities participated in a regional antitrafficking sweep organized through the Southeast European Cooperative Initiative Center resulted in 125 arrests regionwide for various forms of trafficking, prostitution, and smuggling.

In 2003 the serious crimes court upheld the conviction of seven persons to 10 to 20 years in prison for trafficking newborn babies to Greece.

During the year the government began implementing the April 2004 witness protection law, establishing a witness protection unit in the ASP's newly expanded directorate of organized crime and witness protection and naming a commission to evaluate applications for admission to the witness protection program. In June the government adopted its first regulations implementing the law. By year's end, three individuals had been admitted to the program, although none had been relocated. Despite these efforts, witness protection remained a serious problem, and witnesses' fear of retaliation was a strong deterrent to the effective prosecution of organized crime and trafficking cases.

The country remained a source country for trafficking of women and children for the purposes of sexual exploitation and forced labor, but was deemed by international observers to no longer be a significant country of transit. The relatively few foreign women and girls in transit originated primarily in Serbia and Montenegro (Kosovo), and, to a lesser extent, Moldova, Romania, Ukraine, Russia, Bulgaria, Sri Lanka, and China. Most trafficked women and girls were transported to Italy, Greece, and other European countries, such as Belgium, France, the United Kingdom, the Netherlands, and Norway. There was a significant increase in the trafficking of children to Kosovo for begging or sexual exploitation. Traffickers largely used overland routes through Greece (via Macedonia) or Montenegro or falsified documents to transport their victims by plane or ferry.

According to NGOs, approximately 1,000 unaccompanied Albanian children were living in Italy, although not all were victims of trafficking. A 2002 study conducted by the NGO International Social Service reported that 1,800 unaccompanied Albanian children—many of whom were trafficking victims—lived in Greece. According to Terre des Hommes (TdH), a Swiss child-welfare NGO operating in the country, the number of children trafficked to Greece has declined in recent years.

Internal trafficking increased during the year. TdH identified and assisted 126 trafficked children, approximately 53 of whom were internally trafficked. Children were generally trafficked for forced begging or sexual exploitation. Roma and Egyptian communities were particularly vulnerable due to poverty and illiteracy. In a few cases children were bought from families or kidnapped, reportedly for begging or working abroad. According to TdH, children, mostly from Romani and Egyptian communities, were increasingly trafficked for begging by their parents without the involvement of a third party.

The main forms of recruitment involved marriage under false pretenses or false promises of marriage to lure victims abroad for sexual exploitation. Due to the poor economic situation, men and women from organized criminal groups also lured many women and girls from all over the country by promising them jobs in Italy and Greece. Traffickers typically confiscated victims' documents, physically and sexually abused them, and sometimes forced them to work as prostitutes before they left the country. Both citizens and foreign women trafficked by domestic organized crime networks were abused, tortured, and raped. Traffickers also threatened many of the victims' family members. To a lesser extent, family members of neighbors sold victims—particularly Romani children—to traffickers or traffickers kidnapped children, including from orphanages.

The police were often involved directly or indirectly in trafficking. During the year, authorities arrested one police officer for trafficking, who was tried but not convicted; authorities did not prosecute any other government officials for trafficking offenses. Traffickers also manipulated lawyers and judges and bribed their way out of punishment. During the year the interior ministry's internal control office investigated only five cases of police involvement in all forms of trafficking.

The government provided very limited services to trafficking victims. For example, the government operated one shelter in Tirana, but only with NGO assistance. Several NGOs were active in addressing victims' needs. The IOM operated a reintegration center in Tirana that provided counseling and medical services, job training, and some legal assistance. The Vatra Hearth Shelter, an NGO in Vlora, provided similar services. Both shelters reported that a large percentage of their cases during the year involved victims deported from other European countries.

Police treatment of trafficked women continued to improve during the year; however, foreign women who were detained by police at times lacked translation services or were not given a choice of lawyers.

Victims of trafficking often faced significant stigmatization from their families and society. According to the Vatra Hearth Shelter, there have been many cases where

families have threatened victims of trafficking, minors included, with death because of their past. Retrafficking was a significant problem, with 131 out of 228 victims sheltered at the Vatra Hearth Shelter during the year reporting that they had been trafficked at least twice previously and 7 of the victims were under continuous threats from the perpetrators. Of the 228 victims at the shelter, 28 were internally trafficked and the remainder were from other countries.

The Vlora antitrafficking center, which opened in 2001, was not fully operational but was used for regional training. Domestic and international NGOs carried out most of the country's trafficking awareness programs.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities; however, there was some discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services. Widespread poverty, unregulated working conditions, and poor medical care posed significant problems for many persons with disabilities. While the law mandates that new public buildings be made accessible for persons with disabilities, the government did not undertake to provide such accessibility.

National/Racial/Ethnic Minorities.—There were reports of government violence and discrimination and of societal discrimination against members of minority groups, particularly the Romani and Egyptian communities.

The law permits official minority status for national groups and for ethnolinguistic groups. Greeks are the largest national minority, followed by small groups of Macedonians and Montenegrins; Aromanians (Vlachs) and Roma are defined as ethnolinguistic minority groups. The government has not provided minority status to the Egyptian community, thereby denying it constitutional protections against discrimination available to other minority groups. To qualify for minority status under the law, a group of individuals must share the same language (other than Albanian), have documentation to prove its distinct ethnic origin or national identity, and have distinct customs and traditions or a link to a kinship state outside of the country. The government maintained that the Egyptians did not meet some criteria, such as a distinct language and traditions, and instead considered them a community.

According to the European Roma Rights Center, in early January Tirana municipality construction police reportedly beat and killed Dritan Hasimi, a 22-year-old Rom, when he resisted the destruction of his home during the demolition of an illegal Romani settlement. The official autopsy report concluded that Hasimi died of alcohol poisoning.

During the year there were reports that police beat Roma and Egyptians.

There were reports that police displaced Roma and Egyptian families from their temporary housing. On January 6, the Tirana municipality demolished the homes of 18 Romani families comprising 150 persons, reportedly without warning, leaving them homeless in the middle of winter. The municipality demolished the homes, located in a settlement close to the Lana river, because they blocked its territory regulation plan and were illegal. A similar case resulted in the eviction of 51 Romani families in June 2004.

The Romani and Egyptian communities were among the most politically, economically, and socially neglected groups in the country. Members of the Egyptian community tended to settle in urban areas and generally were more integrated into the economy than the Roma. In addition to widespread societal discrimination, these groups generally suffered from high illiteracy, particularly among children, poor health conditions, lack of education, and marked economic disadvantages. At year's end the government had not implemented its national strategy for the improvement of living conditions of the Romani minority.

The ethnic Greek minority pursued grievances with the government regarding electoral zones, Greek-language education, property rights, and government documents. Minority leaders complained of the government's unwillingness to recognize the possible existence of ethnic Greek towns outside communist-era "minority zones"; to utilize Greek on official documents and on public signs in ethnic Greek areas; to ascertain the size of the ethnic Greek population; and to include a higher number of ethnic Greeks in public administration.

While Greek-language public elementary schools were common in the southern part of the country where most ethnic Greeks live, the Greek cultural association Omonia complained that the community needed more classes both within and outside the minority zones. Every village in the Greek zones had its own elementary-middle (nine-year) school in the Greek language, regardless of the number of students, and Gjirokaster had two Greek language high schools.

Other Societal Abuses and Discrimination.—NGOs claimed that police targeted the country's homosexual community for abuse. According to the general secretary

of Gay Albania, the police often arbitrarily arrested homosexuals and then physically and verbally abused them while they were in detention. According to the ombudsman's office, in June police at the Tirana police commissariat detained, insulted, and physically mistreated a member of the Gay Albania association. Medical experts verified the mistreatment, and the ombudsman's office started an investigation. No action had been taken against the police by year's end.

Section 6. Worker Rights

a. The Right of Association.—Workers had the right to form independent unions, and exercised this right in practice; however, civilian government employees and members of the military are prohibited from joining unions. Approximately 20 percent of the workforce was unionized, but union membership was declining.

The law does not prohibit antiunion discrimination; however, there were no reports of such discrimination in practice.

b. The Right to Organize and Bargain Collectively.—Citizens in all fields of employment, except uniformed members of the armed forces, and some court employees, have the constitutional right to organize and bargain collectively, and the law establishes procedures for the protection of workers' rights through collective bargaining agreements; however, labor unions operated from a weak position. In practice, unions representing public sector employees negotiated directly with the government. Effective collective bargaining remained difficult, and agreements were difficult to enforce.

The law provides that all workers, except civil servants, uniformed military, police, and some court officials, have the right to strike and exercised this right in practice. The law prohibits strikes that are declared openly to be political or that are judged by the courts to be political.

By year's end the urban transport park in Tirana had not reinstated 10 employees who held a 5-day hunger strike in April 2004 to protest illegal dismissal. The park's director claimed that the strike violated the workers' employment contract. However, the Albanian Human Rights Group and ombudsman stated that the hunger strike was legal and that the park director had not abided by the law in the firing of the employees.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum age of employment at 14 and regulates the amount and type of labor that can be performed by children under the age of 18. Children between the ages of 14 and 16 may work legally in part time jobs during summer vacation; children between the ages of 16 and 18 can work throughout the year in certain specified jobs. The Ministry of Labor enforces minimum age requirements through the courts; however, there were no reports that enforcement took place. Labor inspections of factories in the first half of 2004 found only 1 percent of the employees were underage. However, labor inspectors only investigated the formal labor sector, whereas most child labor occurred in the informal sector. The majority of factories inspected were shoe and textile companies. More than 70 percent of the underage workers were girls. NGOs reported that labor inspectors charged with investigating child labor complaints did not give out fines or penalties or initiate legal actions against those who violated child labor laws.

The Children's Rights Center of Albania (CRCA) estimated that approximately 50,000 children under the age of 18 worked either full or part time. UNICEF estimated that 23 percent of children aged 5 to 14 years in the country were working between 1999 and 2003; children considered to be working included those who performed any paid or unpaid work for someone who was not a member of the household, who performed more than four hours of housekeeping chores in the household, or who performed other family work.

According to the CRCA, the majority of child laborers worked as street or shop vendors, beggars, farmers or shepherds, drug runners, vehicle washers, textile factory workers, and shoeshine boys, some as many as 16 hours a day. In Tirana and other cities, children—mostly Roma—worked as beggars or sold cigarettes and other items on the street; the police generally ignored this practice. The CRCA also noted that there were approximately one thousand street children in Tirana. Increasing numbers of children in Tirana fell victim to prostitution and other forms of exploitation. Children were trafficked for sexual exploitation and forced labor (see section 5).

e. Acceptable Conditions of Work.—There was no minimum wage for workers in the private sector. The legal minimum wage for government workers over the age of 18 was approximately $118 (11,800 lek) per month, which was not sufficient to provide a decent standard of living for a worker and family. The average wage for government workers was approximately $213 (21,325 lek) per month. According to the Albanian Institute of Statistics, approximately 25 percent of the population lived under the official poverty line.

The law establishes a 40-hour workweek; however, the actual workweek typically was set by individual or collective agreements. Many persons worked six days a week. The law requires payment of overtime and rest periods; however, these provisions were not always observed in practice. The government had not established standards for a minimum number of rest periods per week, limits on the maximum number of hours worked per week, or the amount of premium pay for overtime and did not prohibit excessive compulsory overtime.

The Ministry of Labor and Equal Opportunities is responsible for enforcing government occupational health and safety standards and regulations; however, these regulations were generally not enforced in practice. Actual workplace conditions were frequently very poor and in some cases dangerous. During the year a number of job-related deaths were reported by the media, particularly in the construction and mining industries. The law does not provide workers the right to remove themselves from hazardous situations without jeopardy to their employment.

ANDORRA

Andorra is a constitutional parliamentary democracy with a population of approximately 77 thousand. Two Princes—the President of France and the Catholic Bishop of Seu d'Urgell Spain—serve with joint authority as heads of state, and a delegate represents each in the country. Elections in April chose 28 members of the "Consell General" (parliament) that selects the head of government and were free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and the judiciary provided effective means of dealing with individual instances of abuse. The following human rights problems were reported:

- prolonged pretrial detention
- violence against women and children

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The country has no defense force and depends on Spain and France for external defense. The national police, which have sole responsibility for internal security, are organized into four areas: public security, technical support, borders and traffic, and crime. Corruption was not a problem; however, if corruption or serious irregularities were discovered, then disciplinary proceedings were initiated. Police received training in and outside Europe. Some police members received training in Europe during the year.

Arrest and Detention.—Police may legally detain persons for 48 hours without charging them with a crime. Warrants are required for arrest. The law does not provide individuals under arrest immediate access to an attorney. Legislation provides for legal assistance beginning 25 hours after the time of arrest. There was a system of bail.

There were no reports of political detainees.

Lengthy pretrial detention occurred, and the ombudsman has criticized it. Lengthy pretrial detention was due to staff shortages and a large number of detainees. Pretrial detainees made up approximately 30 percent of the prison population.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary includes the magistrate's court and the court of courts. Once sentencing is announced there is a 10-day period to present an appeal to the magistrate's court. Upon acceptance of appeal the report is sent to the court of courts where the two parties are requested to return within a 15-day period. If the appellant or a legal representative makes no physical appearance before the court within the 15-day period then the appeal is declared void. The highest judicial body is the five-member superior council of justice. Each member is appointed by one of the following: the two princes; the head of government; the president of the parliament; and collectively, members of the lower courts.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public and defendants can request a jury. Defendants have the right to present evidence and consult with an attorney. Defendants enjoy a presumption of innocence, and they have the right to appeal.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for the freedoms of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. Under the law, the Roman Catholic Church and the State have a special relationship; however, the Catholic Church received no direct subsidies from the government.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts against the approximately 300-person Jewish community.

For a more detailed discussion see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum.

The government cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Parliamentary elections in April were considered free and fair and allowed the conservative Andorran Liberal Party to remain in power. The party won 14 out of 28 seats in parliament. The Social Democratic Party won 12 seats and the Andorran Democrat Center Party along with the Segle 21 "Century 21" won 2 seats.

There were 8 women in the 28-seat parliament, and 3 women in the 11-seat cabinet.

There were no members of minorities in the 28-seat parliament, and there were no minorities in the 11-seat cabinet.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The law provides for public access to government information, and the government permitted access in practice for citizens and noncitizens, including foreign media.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

An ombudsman received and addressed complaints, some of which were against the government's policies. The ombudsman was free of government control, and the government was generally responsive to the ombudsman's recommendations.

Section 5. Discrimination, Societal Abuse, and Trafficking in Persons

The law declares that all persons are equal before the law and prohibits discrimination on grounds of birth, race, gender, origin, opinions, or any other personal or social condition; however, the law grants many rights and privileges exclusively to citizens.

Women.—Violence against women was a problem, and, according to the ministry of health, welfare, and family, violence against women increased slightly during the year; there were more than 100 reports of physical abuse at year's end. There is no specific legislation prohibiting domestic violence, although other laws may be applied in such cases. Women, who suffered from domestic violence, requested help from the Andorran International Women's Association (AIWA) and the Andorran Women's Association (AAW), but rarely filed a complaint with the police for fear of reprisal. Approximately 50 persons were prosecuted for violence against women during the year. The government had a hot line and provided medical and psychological services to victims of domestic violence but did not have any shelters.

The law prohibits rape, including spousal rape, which is punishable by up to 15 years' imprisonment. The law was effectively enforced in practice. The government had a hot line and provided medical and psychological services to rape victims but did not have any shelters.

Prostitution is illegal and was not a problem.

Sexual harassment is not prohibited; however, it was not a problem.

The law prohibits discrimination against women privately or professionally; however, the AAW reported that there were many cases of women dismissed from employment due to pregnancy. Women did not earn equal pay for equal work; observers estimated that women earned 35 percent less than men for comparable work although this gap continued to decrease slowly.

Children.—The government was committed to children's welfare. Free, universal public education began at age 4 and was compulsory until age 16. The government provided free nursery schools, although their number continued to be insufficient. Reportedly 100 percent of school age children attended school. Secondary school was the highest level achieved by most students. Secondary school also was the maximum level of public school offered, since no university existed in the country.

Healthcare was free, and boys and girls had equal access.

Although violence against children was a problem, according to the secretariat of state for the family, the number of cases was low, and the incidence of child abuse decreased slightly during the year.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government enforced it effectively; however, societal discrimination against persons with disabilities existed on a small scale, in the form of social and cultural barriers. The law mandates access to public buildings for persons with disabilities, and the government generally enforced this provision in practice.

National/Racial/Ethnic Minorities.—Some immigrant workers complained that they did not have the same labor rights as citizens (see section 6.e.).

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Antiunion discrimination is not prohibited under the law, and workers were sometimes reluctant to admit to union membership, fearing employer retaliation.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law does not specifically provide for collective bargaining. Wages are determined by the annual cost of living. The law does not provide for the right to strike, and there were no strikes during the year. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law does not prohibit forced and compulsory labor, including by children; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—Children under the age of 18 generally were prohibited from working, except in very limited circumstances. The labor inspection office in the Ministry of Social Welfare, Public Health, and Labor effectively enforced child labor regulations.

e. Acceptable Conditions of Work.—The national minimum wage of $7.20 (6 euros) per hour, and $984 (820 euros) per month did not provide a decent standard of living for a worker and family. The labor inspection office enforced the minimum wage effectively.

The law limits the workweek to 40 hours, although employers may require up to 66 hours per month and 426 hours per year overtime from workers. The law provides for premium pay for overtime. There was a required rest period every day. Employees work a regular 8 hours plus they are allowed to work 3 extra hours a day or 15 per week.

The labor inspection service set occupational health and safety standards and effectively enforced them. During the year the labor inspection service filed approximately 195 complaints against companies for violating labor regulations, and it had the authority to levy sanctions and fines against such companies. Although the law authorizes employees to refuse certain tasks if their employers do not provide the necessary level of protection, no legislation grants workers the right to remove themselves from dangerous work situations without jeopardizing their continued employment.

ARMENIA

Armenia, with a population of approximately 3.2 million, is a republic. The constitution provides for the separation of powers, but the directly elected president has broad executive powers that are relatively unchecked by the parliament (national assembly) or the judiciary; the president appoints the prime minister, most senior government officials, and judges at all levels. The 2003 presidential and parliamentary elections were seriously flawed and did not meet international standards. While the civilian authorities generally maintained effective control of the security forces, some members of the security forces committed a number of human rights abuses.

Although there were some improvements in some areas, the government's human rights record remained poor and serious problems remained. The following human rights problems were reported:

- abridged rights of citizens to change their government
- hazing-related deaths in the military
- security force beatings of pretrial detainees
- national security service and national police force impunity
- arbitrary arrest and detention
- poor and unhealthy prison conditions
- limited right of citizens' privacy
- limited press freedom
- self-censorship by journalists
- restrictions on religious freedom
- violence against women and spousal abuse
- trafficking in persons

- discrimination against persons with disabilities
- societal harassment of homosexuals
- reported forced and compulsory labor

On November 27, a series of constitutional amendments were approved by a national referendum, and although the process was seriously flawed, the amendments represented a step toward establishing a system of democratic institutions with checks on the power of the president and a more independent judiciary. By year's end courts were more actively pursuing charges and convictions against individuals under the country's antitrafficking statutes.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government and its agents did not commit any politically motivated killings, although there were some deaths in the military as a result of mistreatment.

The military prosecutor's office investigated six deaths, three of which were hazing related. The remaining cases were investigated, but the prosecutor did not announce final results. While human rights observers asserted there were considerably more unreported deaths that were also hazing-related, the prosecutor general denied these assertions.

The Ministry of Defense reported there were 273 cases of cease-fire violations along the border with Azerbaijan, resulting in 5 deaths and 6 injuries, roughly matching the number reported by the press during the year.

In contrast to previous years, there were no civilian deaths due to landmines; however, the government reported six soldiers died from injuries sustained from landmines. All parties involved in the Nagorno-Karabakh conflict had laid landmines along the 540-mile border with Azerbaijan and the line of contact.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, although government security forces employed them. Witnesses continued to report numerous cases of police beating citizens during arrest and interrogation while in detention. Most cases of police brutality went unreported because of fear of retribution. Human rights nongovernmental organizations (NGOs) also reported claims that police beat detainees during pretrial detention.

Although there was no current, reliable reporting on the full extent of military hazing, soldiers reported to human rights NGOs that the practice continued. During the year one local NGO estimated there were seven hazing incidents; other local and international NGOs insisted the number was significantly higher. Homosexuals, Yezidis (a non-Muslim, Kurdish, religious-ethnic group), and Jehovah's Witnesses also reported that they were singled out for hazing by officers and other conscripts (see sections 2.c. and 5). Authorities did not take any significant measures to limit or stop the hazing.

The law allows detainees to file complaints prior to trial to address alleged abuses committed by authorities during criminal investigations. Detainees must obtain permission from the police or the prosecutor's office to obtain a forensic medical examination to substantiate a report of torture. According to Human Rights NGOs, however, authorities rarely granted permission for forensic medical examinations and, by years end, there were no convictions for torture.

The government reported that 49 police officers received administrative fines and two others faced criminal charges for their roles in 35 cases involving police brutality.

In November police reportedly beat opposition supporters detained briefly following the marred constitutional referendum (see section 1.d.).

There were no developments, and none were expected, in the 2004 attacks against Mikael Danielyan (see section 4) and Ashot Manucharian.

Prison and Detention Center Conditions.—Prison conditions remained poor and posed a threat to health. Cells were overcrowded, most did not have adequate facilities, and prison authorities did not provide most inmates with basic hygiene supplies. According to a June Civil Society Monitoring Board (CSMB) report, prisoners remained at high risk of contracting tuberculosis, and adolescents held in juvenile facilities rarely were provided with the schooling required by law. The CSMB reported chronic problems including denial of visitor privileges, medical neglect, and in the most extreme cases, physical abuse. In certain jails, prisoners paid bribes to move into single occupancy cells and to obtain additional comforts. There were also

unverified reports that authorities charged unofficial fees to family members and friends delivering meals to inmates. In some prisons, monitors noted that prisoners had difficulty mailing letters and that some prison officials did not adequately facilitate family visits.

CSMB monitors reported that female prisoners had more freedom of movement, and that their facilities were cleaner and better equipped and maintained than prisons for men.

The government permitted independent monitoring of prison conditions by local NGOs and international human rights groups, including the International Committee of the Red Cross (ICRC). In June 2004 the Ministry of Justice (MOJ) authorized the CSMB to visit prisons without giving advance notice and, in practice authorities permitted monitors to do so. Technically the ICRC and CSMB had access to all detention facilities, including holding cells, prisons, and local police stations to conduct independent monitoring and to meet with detainees and prisoners. In practice the national police ministry did not allow any local groups to monitor pretrial detention facilities (suspects may be held up to three days without charge), where most abuse was believed to occur. Police also denied CSMB monitors access to pretrial detention facilities.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; in practice, the authorities continued to arrest and detain criminal suspects without warrants.

Role of the Police and Security Apparatus.—The national police and the national security service (NSS) are responsible for domestic security, intelligence activities, and border control, and report directly to the prime minister. Both services lacked the training, resources, and established procedures to implement reforms or to prevent incidents of abuse. Prisoners reported that police and NSS authorities did little to investigate allegations of abuse. As a result, impunity was a serious problem. NGOs and international human rights groups reported detainee abuse was widespread, and there were no efforts underway to modernize or reform police or security forces. Corruption also remained a significant problem in the police force and security service. National police officers routinely stopped motorists at roadside checkpoints to extort unofficial fees. Motorists reported that traffic police generally "charged" approximately $2 (1000 AMD) for passage beyond checkpoints. Motorists who refused to pay were threatened with hefty official fines, license and registration revocation, and additional police harassment. Investigative journalists alleged that police inspectors and superiors received a portion of the proceeds from each traffic stop. As a result, there were no incentives and no efforts underway to curb the practice.

Arrest and Detention.—To make an arrest, prosecutors and police must first obtain a warrant from a judge, except in cases of imminent flight risk or when a crime is caught in progress. Judges rarely denied police requests for arrest warrants, although police sometimes made arrests without a warrant on the pretext that detainees were material witnesses rather than suspects. According to the law, a detainee must be indicted or released within three days of arrest, and this procedure was usually followed in practice, although in some cases police skirted this requirement by alleging suspects were material witnesses. Material witnesses do not have the right to prompt judicial determination or legal counsel. The law provides a bail system; however, most courts denied requests for bail in favor of detention.

The law also requires police to inform detainees of their right to remain silent, to make a phone call, and to be represented by an attorney from the moment of arrest and before indictment (including state-provided lawyers for indigent detainees). In practice, police did not always abide by the law. Police often questioned and pressured detainees to confess prior to indictment when they did not have an attorney present. The law does not guarantee witnesses the right to legal counsel or prompt judicial determination and police exploited this loophole to interrogate suspects in the absence of counsel or detain them beyond the three-day limit for indicting suspects. Police sometimes restricted family members' access to detainees.

Unlike in the previous year, there was only nominal attendance at, and little public attention to, rallies and demonstrations, and arbitrary detention of protestors was not a serious problem. In the week following the marred November constitutional referendum the government detained, for several hours at a time, approximately 50 opposition supporters participating in modest opposition rallies. Several detainees alleged police beat them while they in custody.

There were no reports of politically motivated arrests resulting in continued detention at year's end.

Lengthy pretrial detention remained a problem. According to the law, a suspect may not be detained for more than 12 months awaiting trial, but in practice this

provision was not always enforced. Both prosecutors and defense attorneys frequently requested and received trial postponements on the grounds that they required more time to prepare for trial. In some cases postponements were used as an excuse to prolong interrogations. The government reported that, at year's end there were 317 pretrial detainees accounting for approximately 11 percent of the 2879-person prison population.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary. In practice, courts were subject to political pressure from the executive and legislative branches, and corruption was a problem.

The law provides for a three-tier court system, including the highest court, the Court of Cassation, the court of appeals, and courts of first instance. Most cases originate in courts of first instance; appeals are lodged with the court of appeals and the Court of Cassation. The constitutional court rules on the constitutionality of legislation, approves international agreements, and rules on election-related questions. The constitutional court can only accept cases proposed by the president and approved by a two-thirds majority of parliament, and cases on election-related issues brought by parliamentary or presidential candidates. These limitations and the general lack of judicial independence combined to prevent the constitutional court from ensuring compliance with constitutional human rights safeguards.

The president exercises dominant influence in appointing and dismissing judges at all levels.

Trial Procedures.—The law requires that all trials be public except when government secrets are at issue. Juries are not used in trials. A single judge issues verdicts in courts of first instance, and a panel of judges presides over the other courts. Defendants have the right and are required to attend their trials unless they have been accused of a minor crime not punishable by imprisonment (a civil versus criminal misdemeanor). They also have access to a lawyer of their own choosing, and the government provided a lawyer at public expense to defendants upon request. More than half of all defendants chose to argue their own case in court due to the perception that public defenders colluded with prosecutors. Defendants may confront witnesses and present evidence and they and their attorneys may examine the government's case in advance of trial. Judges generally granted requests by defendants for additional time to prepare cases. The law provides for the presumption of innocence; in practice this right was not always observed. Prosecutors often did not begin a trial if they believed they would not obtain a guilty verdict-resulting in extended pretrial investigations and lengthy pretrial detention (see section 1.d.). Both defendants and prosecutors have the right to appeal. Prosecutors used confessions obtained under pressure, which some NGOs asserted amounted to torture, as a central part of their case. Defense lawyers may present evidence of torture to overturn improperly obtained confessions, although defendants stated that judges and prosecutors refused to admit such evidence of torture into court proceedings even when the perpetrator could be identified.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits unauthorized searches and provides for the right to privacy and confidentiality of communications; however, the government did not always respect these rights in practice.

Under the law, authorities must present compelling evidence to obtain permission from a judge to wiretap a telephone or intercept correspondence. Nonetheless, in practice the law was not strictly enforced and some judges arbitrarily granted permission.

At times police maintained surveillance of draft age men to prevent them from fleeing the country.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—While the law provides for freedom of speech and of the press, the government partially limited freedom of speech. There were incidents of violence, intimidation, and self-censorship in the press.

The Union of Armenian Aryans' leader was found guilty of inciting public hostility and given a three-year suspended sentence (see section 2.c.).

Most newspapers were privately owned with the exception of government-sponsored *Hayastani Hanrapetutyun* and its Russian-language version *Respublika Armenii*. The independent media were active and expressed a wide variety of views without restriction, but no newspaper was completely independent of patronage from economic or political interest groups or individuals. Because of low newspaper circulation, most people relied on television and radio for news and information. Nationwide, there were fewer than 20 radio stations and more than 45 television

broadcasters, most privately operated. In the capital and regional cities, private television stations offered generally independent news coverage of good technical quality; however, the substantive quality of news reporting on television and radio varied due to self-censorship by journalists and the stations' dependence on patronage. Major broadcast media outlets generally kept to progovernment lines. Economic pressure on broadcast media was more common than outright political pressure, including authorities requesting bribes, and advertising revenues used to influence programming. Senior officials within President Robert Kocharian's office continued to provide policy guidance to Public Television of Armenia (H1). While its coverage was mostly factual, H1 avoided editorial commentary or criticism of the government.

In 2003 Kentron TV, a progovernment national television channel was awarded a broadcast frequency that belonged to A1-Plus, one of the country's last independent television stations. Observers alleged the decision was politically motivated, due to A1-Plus' previous criticism of the Kocharian administration. A1-Plus unsuccessfully sought to resume broadcasting after losing its license in 2002.

International media outlets generally operated freely in the country. However, RFE/RL broadcasts were periodically inaudible for three days beginning on the day of the constitutional referendum. State-run Armenian Public Radio claimed in a statement that the disruptions were due to technical problems, but some observers alleged the disruptions were politically motivated. RFE/RL did not lodge an official complaint.

Harassment of journalists remained a problem. There were unconfirmed reports of incidents of harassment and intimidation of journalists outside the capital.

In contrast with the previous year, there were no reports of police beating journalists. The Ministry of Foreign Affairs noted in a public document that one case involving possible violence against a reporter was under investigation, although at year's end the circumstances surrounding the case were unclear.

A man sentenced to six months' incarceration in October 2004 for assaulting a journalist seeking to photograph property owned by a member of parliament was immediately released from court custody and, by years end, had not served his sentence.

There was no official censorship; however, there were continued reports of intimidation of journalists, and some print journalists continued to practice self-censorship to avoid problems with the government and because of pressure from official sources.

During the year there were no charges brought against journalists for libel of a public official.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, but there were some limits on this right. On October 31, the government issued amendments to the April 2004 law on meetings, assemblies, rallies, and demonstrations, in response to criticism levied by opposition parties, journalists, and human rights activists. The amendments clarified technical restrictions and removed several sites from the list of venues, outlined by the 2004 law, where protests are prohibited. Per the law and amendments, organizers are no longer required to obtain a government permit to stage a rally or demonstration, but are still required to notify authorities in advance of their plans for such events. However, there are limits on the locations where demonstrations can be held without permission, for example military installations and sensitive power generation facilities. The law also empowers police to break up illegal rallies and demonstrations, particularly those that encourage violence and the overthrow of the government. In practice during the year police did not break up demonstrations. In addition the amendments simplify notification procedures, allow spontaneous mass gatherings, and remove television and radio stations and the central bank from the list of facilities around which groups are prohibited from gathering. The law also removes specific timeframes within which security officials must suggest alternative arrangements for unapproved organized gatherings.

Prior to the amendments, authorities often denied requests from opposition parties for permits to organize rallies and demonstrations in the capital and other cities. The government did not interfere when small rallies took place without permission.

An April 20 rally organized by the New Times Party in Sevan was disrupted when a scuffle between progovernment and opposition supporters ended in a nonfatal shooting. New Times Party leader Aram Karapetyan accused government authorities of initiating the violence and called for an investigation. Other observers, including the police, opposition members and pro-government parties blamed

Karapetyan for staging an unauthorized event that endangered the public. By year's end there were no developments in the investigation.

There were reports that government authorities hindered political party meetings and pressured property owners to evict opposition parties from meeting facilities. On May 10, Aram Karapetyan announced his party had been evicted from its headquarters in Yerevan after government officials pressured the landlord to evict him.

Freedom of Association.—The law provides for freedom of association, and the government generally respected it in practice. Registration requirements for all political parties, associations, and secular and religious organizations remained cumbersome, exacting, and time-consuming. The law stipulates the right to form associations, including political parties and trade unions, except for persons serving in the armed services and law enforcement agencies. As in previous years, no human rights groups or political organizations reported problems with registration.

c. Freedom of Religion.—Although the law provides for freedom of religion, there were some restrictions in practice. The Armenian Apostolic Church has formal legal status as the national church, and consequently enjoys privileges not afforded to other faiths. The law grants specific rights to minority religious groups that register with the government, such as the right to publish newspapers or magazines, rent meeting places on government property, broadcast television or radio programs, and sponsor official visitors. Unregistered religious organizations may only import small quantities of religious literature for private use. The law also requires all religious organizations, except the Armenian Apostolic Church, to obtain prior permission to engage in public religious activities, travel abroad, or to invite foreign guests to the country. Religious groups did not have problems with registration.

The law prohibits proselytizing—which is left undefined in the law—by minority religions, and bans foreign funding for foreign-based churches; neither ban was enforced. On July 13, officials of the Church of Latter-day Saints reported that police officers briefly detained, harassed, and threatened two foreign missionaries. The missionaries said that one of the officers, after warning them to leave the country, placed the barrel of his gun against the missionary's head and pulled the trigger. Church officials filed a police report, and the government opened an investigation. According to the Department of Religious Affairs and Minorities, Armenian Apostolic Church officials filed a counter-complaint against the Church of Latter-day Saints within a week of the incident, alleging the missionaries were illegally proselytizing on church grounds. Police officials claimed the officers questioned the missionaries and asked them to stay away from the church. On October 4, a police inspector sent representatives of the Church of Jesus Christ of Latter-day Saints a letter informing members that the National Police intended to drop the investigation and leave the incident unresolved.

Societal Abuses and Discrimination.—Societal attitudes toward most minority religions were ambivalent. Yezidi leaders reported that police and local authorities subjected their religious community to discrimination.

According to observers, the general population viewed "nontraditional" religious groups with suspicion and expressed negative attitudes about Jehovah's Witnesses, because they misunderstood their proselytizing practices and the Jehovah's Witnesses refused to serve in the military. Jehovah's Witnesses continued to experience occasional societal discrimination.

The government does not provide official figures for religious adherents, but Jewish community leaders estimated the community's number at between 500 and 1 thousand. The Jewish community reported several incidents of verbal harassment during the year, but that such incidents had decreased from previous years.

The director of ALM TV frequently made anti-Semitic remarks on the air, and the Union of Armenian Aryans, a small, ultranationalist group, called for the country to be "purified" of Jews and Yezidis (see section 5). Union of Armenian Aryans leader Armen Avetisyan told a newspaper in January that Jewish communities endangered the future of the nation. On March 18, a Yerevan court found him guilty of inciting public hostility and issued a three-year suspended sentence.

In contrast with the previous year, there were no reports of individuals or groups distributing anti-Semitic literature.

The few Muslims who remained in the country after the Nagorno-Karabakh conflict kept a low profile. Approximately one thousand Muslims resided in the capital. There was no formally operating mosque, although one surviving 18th century mosque in the capital remained open for Friday prayers without government interference, although it was not officially registered.

Jehovah's Witness representatives reported that conscripted adherents continued to be targeted by fellow conscripts and military officers for ridicule, physical abuse and demeaning work assignments (see section 1.c.).

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within The Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, but there were some restrictions in practice.

The government generally did not restrict internal movement. Corruption and an inefficient bureaucracy hindered citizens' efforts to register changes (such as adoptions, births, deaths, marriages, voter registration) with the Office of Civil Registration.

To leave the country on a temporary or permanent basis, citizens must obtain an exit visa. Exit visas may be routinely purchased at a cost of approximately $2.00 (1,000 AMD) for each year of validity, and may be purchased when a passport is issued for the entire term of validity of the passport. Citizens who opted not to purchase the appropriate visa, but attempted to depart the country, were not permitted to leave. According to some citizens, authorities used the exit permit process to exact unofficial fees which, by some accounts, totaled hundreds of dollars.

Permission to depart the country may be denied to persons who possess state secrets, are subject to military service, are involved in pending court cases, or whose relatives have lodged financial claims against them. Men of military age who have not completed service requirements must overcome substantial bureaucratic obstacles to travel abroad, including excessive delays in processing and officials soliciting unofficial fees for exit stamps.

The law does not prohibit forced exile, but there were no reports that the government employed it.

Internally Displaced Persons (IDPs).—In September the Norwegian Refugee Council reported that 8,399 internally displaced persons (IDPs) lived in the country. During the country's war with Azerbaijan, the government evacuated approximately 65 thousand households from the border region, but most returned or settled elsewhere. Of the 8,399 remaining IDPs, almost two-thirds could not return to their villages, which are surrounded by Azeri territory, and others chose not to return due to socio-economic vulnerability and a fear of landmines. IDPs enjoyed full rights as citizens, but the government did not provide special programs to help them adjust to their new surroundings. IDPs had access to international assistance programs and there were no reports of abuse of IDPs.

Protection of Refugees.—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to most refugees. In practice the government generally provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum during the year.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 protocol and provided it to 50 persons during the year. Most of these individuals were ethnic Armenians fleeing war in Iraq.

The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

There was an established procedure for granting asylum, but a combination of frequent rotations of inexperienced border officials—which included Russian border guards (who guard borders with non-former Soviet countries, based on a bilateral agreement)—and little training on asylum issues at times caused delays at airports and land borders. International organizations asserted that Russian border guards likely come into first contact with would-be asylum-seekers, unknown to either the government or UNHCR, at the borders shared with Turkey and Iran, as well as at the main international airport in Yerevan, and refuse entry.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Although the law provides citizens with the right to change their government peacefully, the right was restricted in practice due to repeated flaws in the conduct of elections.

Elections and Political Participation.—International observers found the 2003 presidential and parliamentary elections to be well below international standards. There were serious irregularities, including ballot box stuffing, discrepancies in vote counts, partisan election commissions, and wide use of public resources to support the incumbent president. Domestic observers noted similar irregularities in local elections in September and October.

On November 27, a series of constitutional amendments were approved by a national referendum. The amendments included such changes as provisions that the president no longer may dismiss the prime minister without a parliamentary no-confidence vote, and the president's candidate for prime minister must now be supported by a parliamentary majority, and provided for increases in judicial council independence to lessen presidential influence on judicial appointments and dismissals. While these amendments represent a step toward establishing a system of democratic institutions with checks on the power of the president and a more independent judiciary, international and domestic observers noted election abuses marred the referendum. Domestic observers also criticized the "insufficient" level of public inclusion in developing the amendments. While the balloting was conducted mostly without incident, Council of Europe observers reported discrepancies between the reported results and the apparent lack of turnout. Domestic observers reported ballot stuffing, unauthorized individuals accompanying voters to the voting booths and ballot boxes to instruct them on how to vote, and intimidation of opposition observers. Further, the government declined to invite the Organization for Security and Cooperation in Europe (OSCE) to observe the voting process.

Of the 131 seats in the parliament, 96 were occupied by pro-government parties or deputies that make up the governing coalition. Opposition parliamentarians suspended an 18-month boycott of parliament to participate in floor debates on constitutional amendments, but refused to participate in subsequent parliamentary votes. In February 2004 opposition deputies had initiated their boycott of parliamentary sessions, after the governing coalition refused to consider a motion to adopt a national referendum on the presidential administration.

On May 19, the parliament passed legislation amending the electoral code to increase the number of parliamentary seats apportioned on the party list basis, to nominally curtail the president's authority to appoint members of electoral commissions, and to reform the way the government compiles voter lists.

Authorities harassed opposition supporters, including by using politically motivated arrests. On June 30, NSS officers closed an international NGO training session for members of the local branch of an opposition party in Armavir. Authorities confiscated training materials and reportedly harassed event organizers. In the week following the marred November constitutional referendum the government detained, for several hours at a time, approximately 50 opposition supporters participating in modest opposition rallies.

There were 7 women in the 131-seat parliament but none in the cabinet.

There were no members of ethnic minorities in the parliament or cabinet.

Government Corruption and Transparency.—Corruption was perceived to be widespread. According to a September 2004 opinion survey by a local research institute, a large majority of citizens believed that corruption exists "in all spheres and at all levels" in the country. A similar survey in 2003 indicated that citizens believed that corrupt authorities were not truly committed to fighting corruption.

During the year the special anticorruption commission primarily focused on establishing its internal organizational procedures. Anticorruption NGOs noted the council rarely met and, by year's end, made no appreciable progress toward implementing the government's 2003 anticorruption strategy.

According to the government, during the year the courts prosecuted 165 suspects, including 64 government officials, under anticorruption laws, issuing 58 convictions; other cases were ongoing at year's end.

The law provides for access to and transparency of information as well as its dissemination, but in practice the government rarely provided access. Most journalists and officials remained unaware of the law's provisions.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

During the year more than 20 independent, local religious and human rights organizations operated in the country, including: the Armenian Helsinki Committee, the Civil Society Institute, Helsinki Foundation, Hope and Help, International Red Cross, Junior Achievement, Mission Armenia, Open Society Institute, and Transparency International. The government, while not proactively seeking meetings, did not deny requests to meet with domestic NGO monitors.

At year's end there was no significant progress, and none expected, in the investigation into the March 2004 incident in which Mikael Danielyan, the director of a

human rights organization, was beaten by four unidentified people. Danielyan had given a controversial interview to an Azerbaijani newspaper.

The government was generally cooperative with international NGOs. There were no reports of government harassment of international human rights NGOs.

The human rights ombudsman office suggested remedies to responsible government agencies in response to reported human rights violations and published a report on the country's human rights record. The country's first human rights ombudswoman complained that government interference, including a constitutional court ruling to limit her powers, limited her ability to implement recommendations. During the year the ombudswoman unveiled the government's first human rights website and released a series of reports of human rights complaints received by the ombudsman's office—around 1,500—the majority of which involved the police, labor and social affairs ministry, and municipalities. The ombudswoman said staffing and budgetary constraints hampered her ability to respond to the complaints. In 2004 the OSCE criticized the ombudsman's office as suffering from internal disorganization and a perceived lack of independence from the government during its first year of operation. The ombudswoman acknowledged the report's recommendation to improve the office's operations. The ombudswoman complained that a May constitutional court ruling—which found that the office did not have constitutional authority to interfere in ongoing court cases, request information about ongoing court cases, or make recommendations to the court—considerably restricted her powers.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, but there was societal discrimination against women, ethnic minorities, persons with disabilities, and homosexuals.

Women.—There is no law against domestic violence. Few cases of spousal abuse or other violence against women were reported during the year, although such violence was believed to be widespread. While there is no recent information on the extent of the problem, a 2001 survey found that 45 percent of the (female) respondents acknowledged that they were subjected to psychological abuse, and 25 percent considered themselves victims of physical abuse. Most cases of domestic violence were not reported to police because victims were either afraid of physical harm, fearing police would return them to their husbands or were embarrassed to make family problems public. Several NGOs in the Yerevan and Gyumri areas and in Martuni provided shelter and assistance to battered women; however, it was rare for battered women to have psychological or legal counseling.

Rape, including spousal rape, is illegal and carries a maximum 15 years' imprisonment. By year's end authorities registered approximately 50 cases of rape and attempted rape. According to the prosecutor general's office, authorities identified and prosecuted 21 suspects in rape cases.

Prostitution and sex tourism are not illegal, but operating brothels is prohibited. Operating a brothel and other forms of pimping are punishable by one to ten years' imprisonment. According to the NGO Hope and Help, there were between 5 and 6 thousand prostitutes, approximately 1,500 of them in the capital. Police and other security forces participated in or tolerated prostitution.

Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

The law does not specifically prohibit sexual harassment, although it addresses lewd acts and indecent behavior. Societal norms did not consider cases of sexual harassment worthy of legal action. Although there were no official statistics, sexual harassment appeared to be widespread.

Men and women enjoy equal legal status, although gender discrimination existed and was a continuing problem in the public and private sector. According to a survey conducted during the year in Yerevan, on average, women earned 40 percent of what men earned. Women generally were not afforded the same professional opportunities as men and often were relegated to more menial or low-skill jobs.

Children.—The government was committed to protecting children's rights and welfare, but a lack of economic means prevented it from fulfilling this commitment.

Education is free, universal, and compulsory through age 14; a secondary education is provided through age 16(this represents a complete secondary education). According to the UN Development Program, in 2003 84 percent of students completed schooling through age 14, and 36 percent studied through age 16. Many facilities were impoverished and in poor condition. Access to education in rural areas remained poor, and work in fields during harvest season took precedence over school for many children. Lack of funding to provide for heat prompted school officials in many areas to extend winter school breaks by as long as an additional month. Many

teachers were known to demand bribes from parents in return for good or passing grades.

In the Yezidi community, a high percentage of children did not attend school, partly for economic reasons and partly because schools lacked Yezidi teachers and books in their native language. In September the government published and distributed Kurdish- and Assyrian-language primary school textbooks.

Free basic health care was available to boys and girls through age eight, but often was of poor quality, and officials often demanded overt or concealed payment for service.

Child abuse was not believed to be a serious problem and the prosecutor general's office did not report any cases during the year. However, international and domestic NGOs reported that in July, the director of a state-run education facility in Nubarashen was fired after numerous complaints that he physically abused and sexually exploited children under his supervision.

Experts believed child marriage was a problem in small Yezidi and Kurdish ethnic minority groups, but there were no reported incidents.

Trafficking in girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Child labor was not believed to be a serious problem (see section 6.d.).

During the year a local NGO reported that nationally there were approximately one thousand homeless children and that the number continued to grow. Abuse of street children did not appear to be a serious problem.

Trafficking in Persons.—The law prohibits trafficking in persons; however, women and girls were trafficked from, through, and to the country.

Trafficking in persons violations are punishable by fines of up to $1,000 (500 thousand AMD), correctional labor for up to 2 years, or imprisonment for up to 8 years, if the crime was committed under aggravated circumstances, such as instances when the act of trafficking results in the death of a victim or victims or involves a minor. Despite prior convictions under the 2003 antitrafficking statutes, some courts continued to prosecute traffickers under pimping charges and therefore issued lighter sentences. Trafficking charges increased, however, over the latter part of the year.

On September 22, a local-level court in Yerevan sentenced Uzbek citizen Natella Saghatelyan to five years imprisonment, the country's toughest sentence to date in a human trafficking case. The NSS arrested Sahatelyan in March for trafficking Uzbek women and a girl through the country to Dubai and Bahrain. Despite the conviction, Judge Iskuhi Vardanyan made inappropriate statements about the victims, denied their legal requests for counsel, and brutally harangued them from the bench about their "willing participation."

In November the prosecutor general's office launched a criminal case on charges of trafficking against Ashot Hovsepyan, who was accused of recruiting victims from Ukraine, and Sos Meliksetyan, a local nightclub owner. Both were accused in connection with four trafficking victims discovered in a nightclub on November 16, the first clear case that the country was a destination for trafficking. Hope and Help took the victims into its shelter.

All defendants charged in October 2004 in connection with trafficking 11 women were convicted. On July 8 a judge found Lusine Hakobyan guilty of recruiting women to be trafficked to the United Arab Emirates and issued a reduced, two-year suspended sentence for pimping. Reporters and international observers asserted the judge, prosecutor, and police investigator colluded with Hakobyan to arrange a guaranteed reduced sentence and clean criminal record in return for Hakobyan's bribes.

During the year 20 defendants were charged and 10 were convicted under the trafficking statute, according to the prosecutor general's office. The remaining cases were ongoing at year's end.

A governmental interagency commission, the national police, the procuracy, and the NSS are responsible for coordinating and implementing antitrafficking policy and for combating trafficking. The government actively sought bilateral cooperation with several trafficking destination countries and regularly shared information with these partners.

Authorities reported the country is a source and transit point for women and girls trafficked primarily for sexual exploitation to the United Arab Emirates, Turkey, Russia, Uzbekistan, Greece, and other European countries. However, international and domestic NGOs reported the country was also a destination point for women trafficked for sexual exploitation, particularly from Uzbekistan.

According to the general prosecutor's office, at least 80 women were victims of trafficking in 2004. Trafficking organizations typically recruited victims with the promise of high paying work in another country. Once in the country of destination, victims were deprived of their travel documents, locked in hotel rooms, and told that

they must "repay" their expenses. There were reports of women encouraged to become recruiters for trafficking rings with a promise of keeping a percentage of their "earnings." Prostitutes, orphans, the homeless, and those in difficult financial situations were at particular risk of being trafficked. Trafficking victims were at greatly increased risk of sexually transmitted diseases, and some reported incidents of physical violence.

Victims reported that Russian and Armenian border guards were easily bribed or commonly worked with traffickers. Some prosecutors were also reportedly complicit in trafficking. There were persistent allegations that senior members of the prosecutor general's office were susceptible to outside influence. Some observers asserted agreements between corrupt court officials and traffickers were also common. There were persistent reports that police employees and employees of the country's international airport assisted traffickers with transportation of victims to and through the country. Unlike in previous years, there were no arrests in these types of cases.

Upon their return many victims feared societal stigma and discrimination. Government officials did not require victims to aid in finding and prosecuting traffickers, but they worked with victims who were willing to report their cases. Judges rarely prosecuted victims for violating laws in trafficking cases, but often denied them counsel and subjected them to humiliating treatment during trials.

The NGOs International Organization for Migration (IOM) and Hope and Help operated an assistance program for trafficking victims with funding from foreign governments. The government did not offer financial assistance, but increasingly referred victims to these organizations. Authorities also established a hot line to connect victims with police; however, it only worked in certain parts of the country.

NGOs, international organizations, and the government maintained trafficking prevention activities, primarily education and mass media programs to raise public awareness. International organizations trained the government's consular corps to identify signs of trafficking.

Persons with Disabilities.—Whereas the law prohibits discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services, discrimination was a problem. The law and a special government decree mandate accessibility to buildings for persons with disabilities, but in practice very few buildings and other facilities were accessible to them.

Institutionalized patients often lacked medication, and care was substandard. Hospitals, residential care, and other facilities for persons with serious disabilities were also substandard.

The Ministry of Labor and Social Affairs was responsible for protecting the rights of persons with disabilities but lacked the resources to fulfill this responsibility.

National/Racial/Ethnic Minorities.—The Yezidi community, whose number was estimated at between 30 and 40 thousand by its leaders, speak a Kurdish dialect and practice a religion derived from Zoroastrianism, Islam, and animism. Yezidi leaders continued to complain that police and local authorities subjected their community to discrimination, including: incidents of unfair adjudication of land, water, and grazing disputes; hazing of Yezidi conscripts in the army; and poor police response to serious crimes committed against Yezidis (see sections 1.c. and 2.c.). According to Yezidi community leaders, appeals on their behalf were raised at all levels of the government with no response and none expected.

Other Societal Abuses and Discrimination.—Military officers targeted homosexuals for hazing. The Helsinki Association reported cases of police harassment of homosexuals through blackmail, extortion, and, on occasion, violence. In 2004 Armen Avetisyan of the Union of Armenian Aryans launched a campaign to expose homosexuals within the government.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers, except for those serving in the armed services and law enforcement agencies (see section 2.b.), with the right to form and to join unions of their choice without previous authorization or excessive requirements, but most workers did not exercise this right in practice. Labor organizations remained weak because of high unemployment and poor economic conditions in the country. The Confederation of Labor Unions (CLU) estimated there were 290 thousand members of 25 labor unions, about the same number as reported the previous year. There were also other labor unions which did not belong to the CLU.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right. Although the law provides for collective bargaining, in practice there was no collective bargaining. Factory directors generally set pay scales without consulting employees. Labor disputes were arbitrated in regular or economic courts.

The law provides for the right to strike, except for members of the armed services and law enforcement, but workers rarely went on strike. The law also prohibits retaliation against strikers. On June 3, however, Ararat Gold Recovery Company (ARGC) fired 24 employees at ARGC's gold mining facility near Zod, allegedly for organizing a May 11 strike over wage and workplace safety issues. ARGC initially dismissed 463 employees and required them to reapply for their positions; it did not rehire 11 employees who were members of the Lernagorts Labor Union and 13 unaffiliated employees. Four sued ARGC for reinstatement; their cases were pending at year's end. ARGC maintains it fired the employees on legitimate grounds.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace. The minimum age for employment is 16; children may work from age 14 with parental and labor union permission. The law was unevenly enforced by local community councils, unemployment offices, and, as a final board of appeal, the courts. Children under the age of 18 are prohibited from working overtime or in harmful and dangerous conditions, at night, and on holidays.

According to the Ministry of Labor and Social Affairs, many children were involved in family businesses, as well as in other activities, such as agriculture, which is not prohibited by law. Children were also observed in Yerevan selling newspapers and flowers, and working in local markets.

e. Acceptable Conditions of Work.—The government sets the minimum wage by decree. The monthly minimum wage of approximately $26 (13 thousand AMD) did not provide a decent standard of living for a worker and family. Approximately 43 percent of the population lived below the poverty line of about $60 (30 thousand AMD) or less per month. An estimated 15 percent of the population was considered extremely poor, with a monthly income of less than $30 (15 thousand AMD). The government did not effectively enforce the minimum wage law.

The law sets the workweek at 40 hours and provides for mandatory rest periods and overtime compensation. On April 19, the State Labor Inspectorate officially replaced the Ministry of Labor and Social Affairs as the government's chief enforcement agency for workers' rights, occupational health, and safety standards. By years end the inspectorate had made little progress toward implementing an inspection regime or the requirements of the new labor code.

Workers had the right to remove themselves from work situations that endangered health and safety, although in practice, doing so likely jeopardized their future employment, especially for those persons who worked in the shadow economy. The law requires the government to set occupational and health standards, but by year's end the government had not adopted standards.

AUSTRIA

Austria is a parliamentary democracy with constitutional power shared between the popularly elected president and the bicameral Federal Assembly (parliament). The country's eight million citizens choose their government representatives in periodic, free, and fair multiparty elections. In April 2004 voters elected President Heinz Fischer of the Social Democratic Party of Austria (SPO) to a six-year term. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- police abuse and use of unjustified force against prisoners
- anti-Semitic incidents, including physical attacks, name-calling, property damage, and threatening letters, telephone calls, and internet postings
- governmental and societal discrimination against Muslims and members of unrecognized religious groups, particularly those considered "sects"
- incidents of neo-National Socialist, rightwing extremism, and xenophobia
- trafficking of women and children for prostitution and labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

In November a Vienna court found a doctor and policeman guilty of negligence in the death of Cheibani Wague of Mauritania while in police custody in 2003. The Council of Europe's Committee for the Prevention of Torture (CPT) reported that police officers apparently stood on the man with both feet as he was being restrained, cuffed, and injected with a sedative. The International Helsinki Federation for Human Rights (IHF) faulted the Ministry of Interior for refusing to include the Human Rights Advisory Council, which monitors police observance of human rights, in the investigation of the case. The two men received suspended seven-month prison sentences. The court acquitted five policemen and three ambulance crewmembers in the case, because it could not determine without a doubt that their actions caused Wague's death. The court also found two other police officers not guilty because of their insufficient experience and training at the time of the incident.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that police beat and abused persons.

On July 15, the CPT reported receiving a "considerable number" of allegations that police mistreated criminal detainees, primarily in Linz and the surrounding area, during its April 2004 fact-finding mission. The CPT expressed particular concern over allegations by juvenile detainees, as young as fourteen, of physical abuse and threats by police in order to obtain confessions. The reported abuse included slaps, punches, kicks, blows to the head, prolonged and tight handcuffing, and combined use of hand and ankle cuffs linked together for lengthy periods. In several cases, members of the CPT delegation found marks consistent with allegations that handcuffs had been applied tightly. The Interior Ministry investigated these cases but concluded that none of the accusations could be verified.

At year's end the government continued to deny an extradition request from Kosovo authorities in the case of a police officer convicted in absentia for torture while serving in Kosovo's civilian international police in 2003. The officer was recalled from Kosovo and allowed to remain on duty during the investigation.

There were no reports during the year that army officials mistreated conscripts. In 2004 there were 22 disciplinary charges filed with the Ministry of Defense against army officers for alleged mistreatment of conscripts during drill exercises in December 2004. Of these, 21 were dropped, and one army officer was suspended from duty. The head of the *ad hoc* parliamentary complaints commission claimed that there was a lack of support by the Defense Ministry for his commission's work.

Prison and Detention Center Conditions.—Prison conditions generally met international standards in many areas, and the government permitted visits by independent human rights observers. However, the CPT noted that juveniles were not always separated from adults at the Linz prison. Some human rights observers criticized the incarceration of nonviolent offenders, such as persons awaiting deportation, for long periods in single cells or inadequate facilities designed for temporary detention.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, the strict application of slander laws tended to discourage reports of police abuse.

Role of the Police and Security Apparatus.—On July 1, the police and gendarmerie were merged into a single police force that is responsible for maintaining internal security. The restructuring reduced the country's 43 police command structures to 9, corresponding to the 9 federal states. The Ministry of Interior controls the police, while the Ministry of Defense controls the army, which is responsible for external security. The police were generally well trained and disciplined.

There were no reports of police corruption. Government statistics for 2004 showed 1,167 complaints against federal police officials; of those, 1,094 were dropped. In 16 court cases, 2 officers were convicted of using unjustified force; 11 cases were pending at the end of the year. Some police violence appeared to be racially motivated (see section 5). Nongovernmental organizations (NGOs) and other groups continued to criticize the police for targeting minorities. During the year the Interior Ministry conducted racial sensitivity training programs for over 2,000 police and other officials with NGO assistance.

The Human Rights Advisory Council monitors police respect for human rights and makes recommendations to the minister of the interior. During the year the council

issued three specific recommendations that police must have valid reasons for investigating human rights defenders, that facilities housing individuals prior to deportation must meet all minimum standards, and that the government establish a committee to advise the Interior Ministry on standards regarding human rights defenders.

Arrest and Detention.—In criminal cases the law provides for investigative or pretrial detention for up to 48 hours; an investigative judge may decide within that period to grant a prosecution request for detention of up to two years pending completion of an investigation. The law specifies grounds required for such investigative detention and conditions for bail. The investigative judge is required to evaluate such detention periodically. There is a system of bail. The police and judicial authorities respected these laws in practice. Detainees also had prompt access to a lawyer; however, the CPT noted in April 2004 that criminal suspects who lack the means to pay for legal services may be appointed an ex officio lawyer only after the court's decision to detain them, i.e. 96 hours after their apprehension.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The court system consists of local, regional, and higher regional courts, as well as the Supreme Court. The Supreme Court is the highest judicial body, while the Administrative Court acts as the supervisory body over administrative acts of the executive branch. The Constitutional Court presides over constitutional issues.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The system of judicial review provides for extensive possibilities for appeal. Trials must be public and conducted orally. Persons charged with criminal offenses are considered innocent until proven guilty. Defendants have the right to be present during trials. While pro-bono attorneys are supposed to be provided to indigent defendants, the CPT in its April 2004 report found that in general there were not enough lawyers in criminal matters, financial arrangements were inadequate, and lawyers were not available around the clock. The report concluded that, as there is no effective system of free legal aid for indigent persons in police custody, any right of access to a lawyer at that stage remains, in most cases, purely theoretical.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, the strict application of slander laws tended to discourage reports of police abuse. Foreign observers criticized the use of libel procedures to protect politicians, which they argued hampered freedom of speech and the press. Persons convicted of libel cannot appeal to the Supreme Court.

In November authorities arrested British historian David Irving on the basis of a 1989 Vienna regional court arrest warrant. The public prosecutor charged Irving with violating the law banning neo-Nazi activities. In 1989 Irving reportedly denied the existence of gas chambers at Auschwitz and claimed that unknown individuals dressed in *Sturmabteilung* uniforms committed the *Reichskristallnacht* crimes in November 1934. In November a judge denied bail to Irving, who remained in protective custody at year's end. The court scheduled a second hearing on Irving's preventative detention for January 29, 2006 and set a trial to begin on February 20, 2006. Under the law Irving could be sentenced to up to 10 years in prison if convicted.

In December Justice Minister Gastinger approved the Vienna public prosecutor's request to move forward on an indictment against John Gudenus, a former Freedom Party member of the upper house of parliament, for violating the law banning neo-Nazi activity. In April Gudenus publicly questioned the existence of gas chambers and belittled the suffering of concentration camp inmates during the Holocaust. Gudenus could be sentenced to up to 10 years in prison if convicted.

In December a court in the province of Tirol sentenced a 20-year-old man to two months in prison for using an oath of loyalty to Adolf Hitler as a greeting on his cell phone.

The independent media were active and expressed a wide variety of views without restriction.

There were no government restrictions on the Internet or on academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The law divides religious organizations into three legal categories: officially recognized religious societies, religious confessional communities, and associations. Numerous unrecognized religious groups have complained that the law obstructs legitimate claims for recognition and relegates them second-class status. At year's end the European Court of Human Rights had not ruled on a 2003 complaint by Jehovah's Witnesses challenging the legality of the requirement that a group must exist for 10 years in the country before it can be recognized by the government.

The conservative Austrian People's Party (OVP) denied party membership to members of unrecognized religious groups, which it considered "sects," if the sect holds a view of mankind fundamentally different from the party's, advocates opinions irreconcilable with the OVP's ethical principles, or rejects basic rights granted by progressively minded constitutional states and in an open society. The OVP denied membership to members of the Church of Scientology.

The Ministry for Social Security and Generations and the city of Vienna funded a counseling center of a controversial NGO, the Society Against Sect and Cult Dangers (GSK), which actively worked against sects and cults. GSK distributed information to schools and the general public and offered counseling to persons who believe that sects and cults had hurt their lives.

The federal office of sect issues functioned as a counseling center for those who had questions about sects and cults. While the office is legally independent of the government, the minister for social security and generations appointed and supervised its director. Some members of the public believed the office of sect issues and similar government offices fostered societal discrimination against unrecognized religious groups.

Societal Abuses and Discrimination.—There was some societal discrimination against members of unrecognized religious groups, particularly those considered to be "cults" or "sects." The majority of these groups have less than 100 members. The Church of Scientology and the Unification Church were among the larger unrecognized groups.

Muslims complained about incidents of societal discrimination and verbal harassment, including occasional incidences of discrimination against Muslim women wearing headscarves in public.

The Jewish community has approximately 7,700 members. From January through mid-December, the NGO Forum Against Anti-Semitism reported 134 anti-Semitic incidents, including physical attacks, name-calling, graffiti or defacement, threatening letters, anti-Semitic Internet postings, property damage, and vilifying letters and telephone calls. The European Union Monitoring Center on Racism and Xenophobia declared that anti-Semitism in the country was characterized by diffuse and traditional anti-Semitic stereotypes rather than by acts of physical aggression.

The law prohibits any form of neo-Nazism or anti-Semitism or any activity in the spirit of Nazism. It also prohibits public denial, belittlement, approval, or justification of Nazi crimes, including the Holocaust. The law prohibits public incitement to hostile acts, insult, contempt against a church or religious society, or public incitement against a group based on race, nationality, or ethnicity, if that incitement poses a danger to public order. The government strictly enforced the law against neo-Nazi activity. The Vienna Jewish community's offices and other Jewish community institutions in the country, such as schools and museums, were under increased police protection.

During the year authorities indicted and arrested British historian David Irving and indicted a former member of the upper house of parliament for alleged statements concerning events during the Holocaust (see section 2.a.).

Secondary school history and civics courses discussed the Holocaust. Religious education classes taught the tenets of different religions and fostered overall tolerance. The education ministry offered special teacher training seminars on the subject of Holocaust education. An education ministry program allowed Holocaust survivors to speak to classes about Nazism and the Holocaust.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. The law prohibits forced exile, and the government did not use it in practice.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum and subscribed to a "safe country of transit" policy, which required asylum seekers who transited a country determined to be "safe" to return to that country to seek refugee status. While the government has in the past also provided temporary protection to individuals who did not qualify as refugees under the 1951 convention or 1967 protocol under a mechanism whereby victims of armed conflict may be admitted to the country, it did not do so during the year. The government cooperated with the Office of the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

In May 2004 a new law entered into force that expedited the asylum claim process by requiring a first determination to be made within 72 hours of the filing of a claim; this is part of the initial 20-day screening set up to determine whether a claim is justified. The government may deport applicants whose claims are found to be unjustified, including in cases where an applicant has asked for asylum in a third country or filed follow-up applications. All other applications are to be forwarded to the federal asylum office for review. In October 2004 the Supreme Court struck down certain provisions of the new law as unconstitutional. The Federal Assembly amended the law in July to address these concerns, but the Human Rights Advisory Council has criticized provisions in the new law that facilitate the removal of applicants who do not qualify for asylum.

In April a 22-year-old Armenian asylum seeker was badly injured in a brawl outside the Traiskirchen refugee camp; the incident reportedly took place in connection with a family feud. In February a jury acquitted a male guard accused of raping an asylum seeker at the Traiskirchen refugee camp in January 2004.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In April 2004 voters elected President Heinz Fischer of the SPO to a six-year term in national elections in which individuals could freely declare their candidacy and stand for election. In 2002 the OVP received a plurality in parliamentary elections and renewed its right-center coalition with the Freedom Party (FPO). In April the Future Alliance Austria broke away from the FPO, but remained a junior partner with the OVP in the coalition government.

The Federal Assembly consists of the National Council and the Federal Council. There were 59 women in the 183-seat National Council and 18 women in the 62-member Federal Council. There were 6 women in the 12-member Council of Ministers (cabinet).

Although there appeared to be relatively little minority representation at the national level, no precise information on the number of minorities in the Federal Assembly was available.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The law provides for full public access to government information, and the government generally respected these provisions in practice. Authorities can only deny access if it would violate substantial data protection rights or would involve information that is of national security interest. Petitioners could challenge denials before the Administrative Court.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views, but some groups were dissatisfied with the information supplied by authorities in response to specific complaints.

The Human Rights Advisory Council, composed of representatives from the justice and interior ministries and NGOs, operated to ensure that police respected human rights while carrying out their duties. However, the IHF characterized the council as ineffective and unable to obtain the cooperation of the security services, citing

the Interior Ministry's refusal to include the council in the investigation of the 2003 death of Cheibani Wague and the Federal Criminal Office's 2004 opening of an investigation of two human rights lawyers affiliated with the council for their activities on behalf of Chechen refugees. The IHF charged that the prosecution of the two lawyers was initiated both to intimidate them and to exert pressure on the council. The opposition political parties criticized the council for being too dependent on the Interior Ministry for funding and personnel appointments. The chairman of the council suggested that the council instead report to the federal chancellery or parliament.

The July 2004 equal treatment law expanded the responsibility of the ombudsman to ensure equal opportunity in the workplace and access to social benefits and public services regardless of ethnic origin, religion, age, or sexual orientation. The law went into effect in 2004, and the ombudsman began its work addressing the new grounds on March 1. According to preliminary government figures, during the year more than 500 complaints on the new grounds were filed.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for protection against discrimination based on race, gender, disability, language, or social status, and the government generally enforced these provisions effectively; however, violence against women, child abuse, trafficking in persons, and racial discrimination were problems.

Women.—Violence against women, including spousal abuse, was a problem. The Association of Houses for Battered Women estimated that one-fifth of the country's 1.5 million adult women have suffered from violence in a relationship. However, media reports estimated that fewer than 10 percent of abused women filed complaints. The law provides that police can expel abusive family members from family homes for up to three months. In 2004 an injunction to prevent abusive family members from returning home was applied in 4,764 cases. Authorities prosecuted 5,612 cases of domestic violence in 2004.

The government funded privately operated intervention centers and help lines for victims of domestic abuse. The centers provided for the victims' safety, assessed the threat posed by perpetrators, helped victims develop plans to stop the abuse, and provided legal counseling and other social services.

Under the law, rape, including spousal rape, is punishable with up to 15 years in prison.

Although there were no reported cases of female genital mutilation (FGM), the city of Vienna set up a counseling office in June to assist female immigrants from African countries who were victims of FGM.

Prostitution is legal; however, illegal trafficking, including for the purposes of prostitution, was a problem (see section 5, Trafficking). Laws regulating prostitution require prostitutes to register, undergo periodic health examinations, and pay taxes.

The law prohibits sexual harassment, and the government effectively enforced those laws. Of the 4,558 cases brought to the ombudsmen for equal opportunity in 2004, 541 involved sexual harassment. According to preliminary government figures, 4,300 sexual discrimination cases were brought to the ombudsman during the year. The labor court can order employers to compensate victims of sexual harassment on the basis of the Federal Equality Commission's finding on the case; the law provides that a victim is entitled to a minimum of $840 (700 euros) in financial compensation.

There are no legal restrictions on women's rights and the Federal Equality Commission and a federal commissioner for equal treatment oversee laws prescribing equal treatment of men and women. However, on average, women earned 82 percent of what men earn for the same work. Women were more likely than men to hold temporary positions and part-time jobs and also were disproportionately represented among those unemployed for extended periods.

Although labor laws provide for equal treatment of women in the civil service, women remained underrepresented. The law requires the government to hire women of equivalent qualifications ahead of men in all civil service areas in which less than 40 percent of the employees are women, including police. There are no penalties, however, for agencies that fail to attain the 40 percent target.

Female employees in the private sector may invoke equality laws prohibiting discrimination of women. The Federal Equality Commission may award compensation of up to four months' salary to women who experienced discrimination in promotion because of their gender. The commission may also order compensation for women who were denied a post despite having equal qualifications.

Children.—The law provides for the protection of children's rights, and the government was committed to children's rights and welfare. Each state government and the federal Ministry for Social Welfare, Generations, and Consumer Protection has

an ombudsman for children and adolescents whose main function is to resolve complaints about violations of children's rights. The ombudsman provides free legal counseling to children, adolescents, and parents on a wide range of problems, including child abuse, child custody, and domestic violence.

Nine years of education is mandatory for all children beginning at age six. The government also provided free education through secondary school and subsidized technical, vocational, or university education. According to the Ministry of Education, 99.8 percent children between the ages of 6 and 15 attended school. The government provided comprehensive medical care for children.

Child abuse was a problem, and the government continued its efforts to monitor abuse and prosecute offenders. The Ministry for Social Welfare, Generations, and Consumer Protection estimated that 90 percent of child abuse cases occurred within families or was committed by close family members or family friends. Law enforcement officials noted a growing readiness to report abuse cases. According to authorities, approximately 20,000 abuse incidents are reported annually in the country.

There were occasional cases of suspected child marriage, primarily in the Muslim and Romani communities. However, such cases were undocumented. Some male immigrants entered into a marriage with a teenage girl in their home country, and then returned to Austria with her.

The law provides that adults having sexual intercourse with a child under 14 may be punished with a prison sentence of up to 10 years. If the victim is impregnated, the sentence may be extended to 15 years. In 2004 the Interior Ministry reported 1,504 cases of child abuse, most involving intercourse with a minor, while the Justice Ministry reported 332 convictions. The law provides for criminal punishment for the possession, trading, and private viewing of child pornography. Exchanging pornographic videos of children is illegal.

Trafficking of children remained a problem (see section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. Women were trafficked for sexual exploitation and domestic service, and children were trafficked for begging and possibly for sexual exploitation.

The law provides for the prosecution of traffickers and addresses trafficking for prostitution through deception, coercion, or the use of force; for the purposes of slavery; for the exploitation of labor; and the exploitation of aliens.

Trafficking is illegal and punishable by imprisonment for up to 10 years. In 2004 there were 402 trafficking cases involving 348 suspects and 44 convictions for human trafficking. Trafficking for purposes of slavery is punishable by imprisonment for 10–20 years. The perpetrators of human trafficking included both citizens, who were generally connected with licensed brothels, and foreign nationals, who are involved primarily with unlicensed brothels. Authorities estimated that organized crime groups from Eastern Europe controlled a large portion of human trafficking in the country. The police were also aware of cooperation between Austrian and foreign citizens in organizing the transfer of foreign prostitutes through the country.

The Interior Ministry's Federal Bureau for Criminal Affairs has a division dedicated to combating human trafficking. Law enforcement officials maintained contact with authorities in countries of origin to facilitate the prosecution of suspected traffickers. During the year there were no reports that the government extradited any persons wanted for trafficking crimes in other countries.

The country was a transit and destination point for women trafficked from Romania, Ukraine, Moldova, the Balkans, and, to a lesser extent, the Czech Republic, the Slovak Republic, and Hungary. Women were trafficked into the country primarily for the purpose of sexual exploitation. Women also were trafficked from Asia and Latin America for domestic labor. In 2004, police noted an increase in the trafficking of Bulgarian children for the purposes of begging and stealing. They also reported that some children were trafficked for sexual exploitation.

While there were no accurate statistics on the number of trafficking victims, the NGO LEFOE reported assisting 167 trafficking victims in 2004, up from 142 victims in 2003. The majority of traffickers arrested by police were citizens; however, the number of foreigners engaged in trafficking increased between 2003 and 2004. Police estimated that a large portion of trafficking was controlled by organized crime, primarily from Eastern Europe. The country was attractive to traffickers because of its geographic location and because it does not require entry visas for citizens of the Czech Republic, the Slovak Republic, Hungary, Romania, and Bulgaria.

Most trafficked women were brought to the country with promises of unskilled jobs, such as nannies or waitresses. Upon arrival they were often coerced into prostitution. According to police, there also were cases of women who knowingly entered the country to work as prostitutes, but were forced into dependency akin to slavery. Most victims were in the country illegally and feared being turned into authorities

and deported. Traffickers usually retained victims' official documents, including passports, to maintain control over them. Trafficking victims reported being subjected to threats and physical violence. A major deterrent to victim cooperation was widespread fear of retribution, both in the country and in the victims' countries of origin.

The government provided temporary residence, limited to the duration of the trial, to trafficking victims who were prepared to testify or who intended to file civil law suits. However, victims rarely agreed to testify due to fear of retribution. There were no provisions to allow trafficking victims to remain in the country following their testimony; virtually all victims were repatriated.

LEFOE provided secure housing and other support for trafficking victims. The International Organization for Migration also sought to put victims in contact with NGOs in their countries of origin upon their return. With financial assistance from the Interior Ministry, LEFOE continued to operate a center in Vienna that provided psychological, legal, and health-related assistance, emergency housing, and German language courses to trafficked women. Federal and local governments funded NGOs that provided assistance in other cities.

The government worked with international organizations to carry out prevention programs throughout the region. The government funded research on trafficking and NGOs produced antitrafficking brochures, law enforcement workshops, and international conferences funded with the help of private donors.

Persons with Disabilities.—The law protects persons with physical and mental disabilities from discrimination in housing, education, employment, and access to health care and other government services, and the government generally enforced these provisions effectively. There were no reports of societal discrimination against persons with disabilities.

Federal law mandates access to public buildings for persons with physical disabilities; however, many public buildings were inaccessible to persons with disabilities due to insufficient enforcement of the law and low penalties for noncompliance.

The law provides for involuntary sterilization of adults with mental disabilities in cases where a pregnancy would be considered life-threatening. However, no involuntary sterilizations have been performed in recent years. The law prohibits the sterilization of minors.

The government funded a wide range of programs for persons with disabilities, including provision of transportation, assistance integrating school children with disabilities into regular classes, and assistance integrating employees with disabilities into the workplace.

National/Racial/Ethnic Minorities.—From January through July, the Interior Ministry recorded 113 incidents of neo-Nazi, rightwing extremist, and xenophobic incidents against members of minority groups. The Interior Ministry recorded 140 incidents for the first 6 months of 2004 and 229 such incidents overall in 2004. The government continued to express concern over the activities of extreme right-wing skinhead and neo-Nazi groups, many with links to organizations in other countries.

In March the domestic NGO ZARA, in conjunction with other groups, released a report which found that persons from diverse ethnic and racial backgrounds faced increasing discrimination from government officials, particularly the police, as well as in the workplace and in housing. The report cited 907 cases of alleged racial discrimination in 2004. Between January and November, ZARA recorded 950 racist incidents. The government continued training programs to combat racism and educate the police in cultural sensitivity.

Human rights groups reported that Roma faced discrimination in employment and housing. The situation of the Romani community, estimated at over 6,200 autochthonous (indigenous) and 15,000 to 20,000 non-autochthonous Roma, has significantly improved in recent years, according to the head of the Austrian Roma Cultural Association. Government programs, including providing financing for tutors, have helped school age Romani children move out of "special needs" and into mainstream classes. The government also initiated programs in recent years to compensate Romani Holocaust victims and to document the suffering of the Roma during the Holocaust.

NGOs complained that Africans living in the country experienced verbal harassment in public. In June 2004 the Council of Europe's European Commission against Racism and Intolerance noted that it had received numerous reports that black Africans were stigmatized as being involved in the drug trade and other illegal activities, and that this stigmatization had an extremely negative effect on the daily life of black persons living in the country.

The law recognizes Croats, Czechs, Hungarians, Roma, Slovaks, and Slovenes as national minority groups and requires any community, where at least 25 percent of

the population belongs to one of these groups, to provide bilingual town signs, education, media, and access to federal funds earmarked for such minorities. The law affects 148 communities. At year's end the government had not reached a decision on implementation of a 2001 Constitutional Court ruling on lowering the 25 percent threshold. The law does not provide these rights to other minority groups, such as Turks, which the government does not recognize as indigenous minorities. However, the government provided a wide range of language and job promotion courses. In December the Constitutional Court ruled that the state of Carinthia must install bilingual town signs in German and Slovene.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers the right to form and join unions without prior authorization or excessive requirements, and workers exercised this right in practice. No workers were prohibited from joining unions. An estimated 47 percent of the work force was organized into 13 national unions belonging to the Austrian Trade Union Federation (ÖGB).

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. Collective bargaining is protected in law and was freely practiced. Approximately 80 percent of the workforce was under a collective bargaining agreement; the ÖGB was exclusively responsible for collective bargaining. The law does not explicitly provide for the right to strike; however, the government recognized the right in practice. The law prohibits retaliation against strikers, and the government effectively enforced the law.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace, and the government generally enforced these laws and policies effectively. The minimum legal working age is 15 years. The Labor Inspectorate of the Ministry of Social Affairs effectively enforced this law.

There were reports of trafficking of children for begging and sexual exploitation (see Section 5).

e. Acceptable Conditions of Work.—There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements set minimum wages by job classification for each industry. The accepted unofficial annual minimum wage is $14,880 to $17,360 (12,000 to 14,000 euros), and it provided a decent standard of living for a worker and family. An estimated 10,000 to 20,000 workers had salaries below this level.

The law limits standard working hours to 8 hours per day and up to 40 hours per week. The standard workday may be extended to 10 hours as long as the weekly maximum is not exceeded. The law requires compulsory time off on weekends and official holidays. An employee must have at least 11 hours off between workdays. Authorities effectively enforce these provisions.

The law limits overtime to 5 hours per week plus up to 60 hours per year; however, authorities did not enforce these laws and regulations effectively, and some employers exceeded legal limits on compulsory overtime. Collective bargaining agreements may provide for higher limits.

The Labor Inspectorate regularly enforces laws that provide for mandatory occupational health and safety standards. Workers may file complaints anonymously with the Labor Inspectorate, which may bring suit against the employer on behalf of the employee. However, workers rarely exercised this option and normally relied instead on the chambers of labor, which filed suits on their behalf. The law provides that workers have the right to remove themselves from a job if they fear serious, immediate danger to life and health without incurring any prejudice to their job or career, and the government effectively enforced this law.

AZERBAIJAN

Azerbaijan is a republic of approximately 7.9 million persons with a presidential form of government. The president dominated the executive, legislative, and judicial branches of government. Ilham Aliyev, the son of former president Heydar Aliyev, was elected president in October 2003 in a ballot that did not meet international

standards for a democratic election due to numerous, serious irregularities. The November parliamentary elections showed an improvement in some areas but still did not meet a number of international standards. Armenian forces continued to occupy an estimated 16 percent of the country's territory, including Nagorno-Karabakh. The government did not exercise any control over developments in territories occupied by Armenian forces. The civilian authorities generally maintained effective control of the security forces. Members of the security forces committed numerous human rights abuses.

The government's human rights record remained poor, and it continued to commit numerous abuses. The November 6 parliamentary elections strongly influenced the government's human rights performance. The following human rights problems were reported:

- restricted right of citizens to peacefully change their government
- torture and beating of persons in custody, leading to four deaths
- arbitrary arrest and detention, particularly of political opponents
- harsh and life-threatening prison conditions
- police impunity
- lengthy pretrial detention
- pervasive corruption in the judiciary
- some restrictions of privacy rights
- periodic interference with media freedom
- excessive use of force to disperse demonstrations
- limited instances of violence and societal discrimination against women
- trafficking in persons
- limited workers' rights

There were some improvements in the period leading up to the November 6 parliamentary elections compared with previous elections. The president issued two decrees instructing national and local government officials to comply with international election standards. The government pardoned most remaining political prisoners identified by the Council of Europe (COE) who had been convicted in the aftermath of the flawed 2003 presidential election; the government also vacated the sentences of seven opposition leaders, allowing them to run in the election. Although the government registered the majority of candidates for 125 seats in parliament, some candidates withdrew, citing government pressures to do so.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, human rights monitors reported four prisoners died in police custody due to alleged abuse and mistreatment.

On April 21, Nikolay Nikolashvili died at prison colony 16. Domestic human rights activists reported that police beat him during questioning. On August 7, Elchin Shahmaliyev died in Gobustan prison; human rights activists reported that police beat and tortured him at the Sumgayit police station prior to his transfer to Gobustan prison. On August 15, Elhman Ibrahimov died at Gobustan prison; human rights activists reported that police beat and tortured Ibrahimov, a friend of Shahmaliyev. On September 2, Mahir Suleymanov died in prison colony 8; human rights activists reported that Suleyman was beaten to death. The government attributed each of these deaths to suicide.

The authorities did not prosecute law enforcement officials implicated in the 2004 deaths of Etibar Najafov, Akif Mirzayev, Azer Safarov, or Badel Babayev.

On March 7, the Ministry of National Security (MNS) arrested a senior Ministry of Internal Affairs (MIA) official, Haji Mammadov, for ordering the kidnapping of 11 persons and killing of 3 persons since 1995 as the head of a criminal kidnapping, murder, and extortion ring within the MIA (see section 1.b.).

During the year unknown actors killed journalist Elmar Huseynov (see section 2.a.).

In contrast to the previous year, there were no press or other reports of deaths of army conscripts attributed to military hazing.

Despite a cease-fire in effect since 1994, minor outbreaks of fighting with Armenia over Nagorno-Karabakh occurred with increasing frequency, resulting in deaths of 24 civilians and combatants during the year.

According to the National Agency for Mine Actions, landmines killed 2 persons and injured 19 others during the year.

b. Disappearance.—There was at least one disappearance during the year. In March the wife of the chairman of the International Bank of Azerbaijan was kidnapped. On March 10, a MNS investigation uncovered a kidnapping and extortion ring responsible for the woman's kidnapping, as well as multiple killings over a 10-year period directed from within the MIA. An MNS Special Forces unit raid rescued the women (see section 1.a.).

The Ministry of Justice (MOJ) prosecuted one senior MIA officer, Lieutenant Colonel Haji Mammadov, chief of the MIA criminal investigation division, who confessed to the March kidnapping and also to the abduction of 11 persons since 1995. The MNS arrested 12 persons for their involvement in the ring, including 2 Chechen citizens. Mammadov remained in pretrial detention at year's end.

The minister of internal affairs, who remained in office, dismissed three other senior MIA officials including the deputy minister for law enforcement, Zahid Dunyamaliyev. The MOJ did not prosecute these officials. The media widely reported on the March abduction, the rescue operation, and investigation.

The International Committee of the Red Cross (ICRC) continued to urge the government and Armenia to provide information on the fate of persons missing in action since the beginning of the Nagorno-Karabakh conflict; during the year the number of those confirmed missing increased from 3,100 to 3,400. The government estimated that approximately 4,850 citizens remained missing, allegedly held by Armenia. During the year the ICRC assisted in the return of six citizens from Armenia.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices and provides for penalties of up to 10 years in jail; however, there were credible reports that security forces beat detainees to extract confessions while in custody. Despite defendants' claims that testimony was obtained through torture or abuse, no cases involving such claims were dismissed. A domestic human rights monitor reported that security forces tortured between 40 and 50 persons while in custody. For example, a human rights monitor reported that police tied a detainee to a chair in a police station and beat the person with a metal pipe.

In early November the media reported that officers of the MIA Organized Crime Unit (OCU) repeatedly gave electric shocks to opposition Azerbaijan Democratic Party (ADP) deputy chairman and former political prisoner Natik Efendiyev while in detention (see section 1.d.). Following widespread press, local NGO, and international observer attention, the MIA transferred Efendiyev from the OCU to a local prison where he received medical treatment.

On December 4, Koroglu Gasimov, the Ganja city chief police inspector, allegedly sexually assaulted a woman and sodomized her adult son during an investigation into allegations that the son burglarized a local business. MIA inspectors suspended Gasimov and opened a criminal investigation into his conduct; on December 7, the ministry dismissed Koroglu.

The government dismissed police officer Javanshir Mammadov for beating a *Zerkalo* newspaper journalist, Farid Teymurxanli, at an unsanctioned opposition rally on May 21.

According to the MIA, authorities criminally charged six police officers for violations of human rights and civil liberties. Human rights monitors reported that the government dismissed four other law enforcement officers for misconduct during the year.

During the year the government did not punish MIA officials for the beating, torture, and verbal abuse of persons detained in the aftermath of the 2003 presidential election, nor was any action expected. The government promoted one of the senior officers allegedly involved in the 2003 abuses, Viliyat Eyvazov, to deputy minister of internal affairs. The government also did not hold accountable any officials responsible for the excessive use of force at the November 26 peaceful demonstration (see section 2.b.).

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening despite prison infrastructure improvements in recent years.

Overcrowding, inadequate nutrition, and poor medical care combined to make the spread of infectious diseases a serious problem. Despite recent improvements to prison infrastructure, prisons, generally Soviet-era facilities, did not meet international standards. In maximum-security facilities, authorities limited physical exercise for prisoners as well as visits by attorneys and family members. Some pretrial detainees were reportedly held in "separation cells," often located in basements, to conceal evidence of physical abuse and where food and sleep reportedly were denied to elicit confessions.

Harsh prison conditions resulted in 107 deaths during the year. Credible reports indicated that at least four of these deaths were the result of torture or abuse (see section 1.a.). Tuberculosis (TB) remained the primary cause of death in prisons; the government reported that 66 inmates died of it during the year. The ICRC reported the government treated 515 prisoners for TB during the year; due to the absence of systematic medical screening, such treatment often started after prisoners were seriously ill. Many relied on families for medicine and food, who often paid bribes to prison officials to gain access to imprisoned relatives.

In July the government dismissed the head of the medical unit of prison colony 2 after a prisoner complained about his conduct.

On February 1, the government dismissed the deputy minister of justice for prisons on allegations of accepting bribes for awarding prison renovation contracts. After the deputy minister's dismissal, the MOJ disbanded the joint government-human rights community prison-monitoring group. A reconstituted monitoring group was established in August; however, it did not meet before year's end.

The government permitted prison visits by international and local humanitarian and human rights groups. The ICRC also had unobstructed access to prisoners of war and to civilians held in connection with the conflict over Nagorno-Karabakh. Foreign observers were allowed to enter maximum-security prisons and to meet with alleged political prisoners. On August 16, the government authorized a select group of local human rights activists to visit MIA-run police stations and MIA pretrial detention facilities in addition to prisons.

d. Arbitrary Arrest or Detention.—Although the law prohibits arbitrary arrest and detention, the government generally did not observe these prohibitions in practice, and impunity remained a problem.

Role of the Police and Security Apparatus.—The MIA and MNS are responsible for internal security and report directly to the president. The MIA oversees local police forces and maintains internal civil defense troops. The MNS has a separate internal security force.

Law enforcement corruption was a problem. Police often levied spurious, informal fines for traffic and other minor violations and extracted protection money from local residents. In 2004 and again during the year, traffic police officers received a substantial pay raise to counter corruption; nevertheless, the low wages of other law enforcement officials continued to contribute to police corruption. The MIA reported that during the year it opened 189 investigations into internal police corruption and prosecuted 142 of these.

Police officers acted with impunity, and in most cases the government took little or no action. During the year, however, the government reported that it took disciplinary action against 84 police officers for wrongful arrest or misconduct in connection with police detentions. Of these, the government reported that it dismissed 12 officers from government employment, dismissed an additional 10 officers from the MIA police forces, demoted 1 officer, and criminally charged 6 officers for violating human rights and civil liberties.

An international foundation continued its training program in human rights theory, standards, and practices for 160 security officers attached to the Special State Protective Service (SSPS), a government agency responsible for protecting the Baku-Tbilisi-Ceyhan pipeline. The officers who participated in the training were recruited from the SSPS, the state border guard, the army, and police.

In May the MOJ granted approval for foreign governments to train law enforcement officials to meet international standards. The first training program took place in May. In June an international organization conducted community policing and crowd control training for 250 MIA police officers.

Arrest and Detention.—The law states that persons who are detained, arrested, or accused of a crime should be advised immediately of their rights and reason for arrest and accorded due process of law; however, the government did not respect these provisions in practice. Arbitrary arrest, often on spurious charges of resisting the police, remained a common problem throughout the year.

The law allows police to detain and question individuals for 24 hours without a warrant; in practice police detained individuals for several days, sometimes weeks, without a warrant. In other instances, the prosecutor general issued ex post facto warrants. Judges, acting at the instruction of the prosecutor general's office or of other executive branch officials, sentenced detainees to jail within hours of their arrest without access to a lawyer or a fair trial (see section 1.c.).

The law provides for access to a lawyer from the time of detention; in reality, access to lawyers was poor, particularly outside of Baku. Although guaranteed by law, in practice indigent detainees did not have access to lawyers. Authorities often restricted family member visits and withheld information about detainees; frequently,

days passed before families could obtain any information about detained relatives. Individuals were sometimes permitted to "vouch" for detainees, enabling their conditional release during pretrial investigation; however, there was no formal, functioning bail system. At times politically sensitive suspects were held incommunicado for several hours and sometimes days while in police custody.

On several occasions MIA police officers preemptively detained members of the political opposition to prevent their participation in planned but unsanctioned political rallies, on grounds that the individuals were suspected of planning to incite civil unrest. Within hours of the detentions, judges sentenced the individuals to jail for periods of 10 to 12 days on those grounds. On June 4, the government first granted permission for political rallies to be held in the capital at locations removed from the city center. Between then and November 6, election day, the government detained and sentenced 50 persons for attempting to participate in rallies in the city center for which it had denied authorization.

In July police detained several opposition party members who planned to hold rallies in Tovuz, Sabirabad, and Lenkoran. On September 29, police arrested 14 opposition party members prior to an unsanctioned rally; authorities convicted and sentenced the individuals from 7 to 10 days' imprisonment.

In April police arrested prominent opposition figure and former internal affairs minister Iskender Hamidov, beating him on the street while taking him into custody. Authorities released Hamidov the same day.

On June 13, the MNS and prosecutor general announced the arrest of Musavat party member Pirali Orujev for allegedly conspiring to kill two progovernment figures. The opposition Azadliq bloc denounced the arrest, commenting that it was part of a government campaign to harass and slander the opposition. Orujev remained in pretrial detention at year's end.

On August 1, the government arrested Yeni Fikir opposition youth leader Ruslan Bashirli on charges of treason. In a widely broadcast videotape, Bashirli was shown taking money from and conspiring with Armenian and Georgian citizens to foment revolution in the country. Bashirli remained in special detention awaiting a hearing at year's end. International observers doubted the credibility of the evidence against Bashirli and suspected a case of entrapment to intimidate and embarrass the opposition.

On September 12, police detained Yeni Fikir opposition youth activist Said Nuriyev on charges of conspiring to overthrow the government, in connection with the investigation of Bashirli. Nuriyev's case was suspended because of a pre-existing medical condition, but he remained confined at a city hospital until after the November election. At year's end Nuriyev was no longer detained but continued to face criminal charges in connection with the alleged conspiracy to overthrow the government.

On September 14, the prosecutor general summoned Yeni Fikir opposition youth activist Ramin Tagiyev and arrested him on charges on threatening state security. Within days a judge convicted Tagiyev and sentenced him to prison for three months (until after the November parliamentary election) while his pretrial investigation continued.

On October 17, security forces arrested approximately 300 opposition party activists, including up to 20 parliamentary candidates, in connection with the anticipated return to Baku of exiled opposition leader Rasul Guliyev.

On October 19, the MNS arrested Presidential Aide Akif Muradverdiyev, Minister of Health Ali Insanov, Minister of Economic Development Farhad Aliyev, former finance minister Fikrat Yusifov, and business leaders Fikrat Sadigov and Rafiq Aliyev for allegedly fomenting a *coup d'etat* in connection with the failed October 17 return to the country of exiled opposition ADP leader Rasul Guliyev. On October 31, the prosecutor general charged Natik Efendiyev, an ADP deputy chairman already in MIA custody, with aiding and abetting the coup plot. On November 2, government agents arrested prominent academic and Guliyev friend Eldar Salayev for allegedly planning to carry out the coup.

On November 1, several progovernment television channels aired videotaped footage of MNS detainees Yusifov, Insanov, Muradverdiyev, and Sadigov testifying to their role in the plot to overthrow the government. Yusifov, a former finance minister whose testimony dominated the broadcast, described himself as the financial middleman in exiled opposition leader Rasul Guliyev's network of support within the government and business community. Yusifov confessed that Aliyev, Insanov, Sadigov, and others gave him money, which he turned over to Salayev who was tasked with financing the opposition's activities. On November 16, the MNS released Salayev from detention on account of his age and poor health, although the charges against him stood. The other alleged coup conspirators remained in MNS and MIA custody at year's end. In total 11 persons were arrested in connection with

plotting the coup. In November authorities released Fikrat Sadiqov, former head of a state-owned chemical company, on the condition he notify police before traveling outside of Baku.

The police arrested and detained members of certain religious groups—generally evangelical Christian denominations (see section 2.c.).

There were no reliable estimates of the number of political detainees. However, several hundred opposition party members were detained for short periods of between one day and two weeks during the pre-election campaign period.

Lengthy pretrial detention of between three and six months—and sometimes longer—was a serious problem. The prosecutor general routinely extended the permitted, initial three-month pretrial detention period in successive increments of months until the government completed an investigation.

Amnesty.—During the year President Aliyev pardoned 215 prisoners, including 87 persons local human rights activists considered political prisoners. The pardon included all seven opposition political leaders arrested and imprisoned in the aftermath of the 2003 presidential election. Subsequently, on June 30 and July 5, the courts vacated the convictions of the seven opposition leaders, which enabled them to run for parliament in the November elections.

During the summer, the president pardoned and released Azerbaijan Democratic Party's Secretary Taliyat Aliyev, who was detained in August 2004.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, in practice judges did not function independently of the executive branch. The judiciary was corrupt and inefficient.

The executive branch exerts a strong influence over the judiciary. The president appoints supreme and constitutional court judges (subject to parliamentary confirmation) and lower court judges (without parliamentary confirmation).

Judges' salaries steadily increased over several years; nevertheless, there continued to be credible allegations that judges routinely accepted bribes. There were also credible reports that judges and prosecutors took instruction from the presidential administration and the MOJ, particularly in cases international observers were interested in.

Courts of general jurisdiction may hear criminal, civil, and juvenile cases. District courts try the majority of cases. The supreme court may not act as the court of first instance. One judge presides over district court level trials, while a three-judge panel hears cases at the court of appeals, the court of grave crimes, and the supreme court. The constitution provides all citizens with the right to appeal to the constitutional court. Citizens also have the right to appeal to the European Court of Human Rights, which they exercised frequently.

On October 3, the MOJ for the first time granted approval to an international NGO to train judges on compliance with election law. The first training took place on October 16.

Trial Procedures.—The law provides for public trials except in cases involving state, commercial, or professional secrets or matters involving confidential, personal, or family matters. The law provides for the presumption of innocence in criminal cases, the right to review evidence, a defendant's rights to confront witnesses and present evidence at trial, a court-approved attorney for indigent defendants, and appeal for both defendants and prosecutors—provisions not generally respected in practice. Plans to begin jury trials were not implemented. Foreign and domestic observers usually were allowed to attend trials. Although the constitution prescribes equal status for prosecutors and defense attorneys, in practice prosecutors' privileges and rights outweighed those of the defense.

The law limits representation in criminal cases to members of a state-controlled collegium of lawyers (bar association), thereby restricting the public's access to legal representation of choice. In June the parliament approved an amendment to the law on advocates that was expected to reform the legal profession and establish a more independent bar association by allowing all licensed lawyers to join the collegium automatically. Some provisions in the amended law left open the possibility that the collegium could refuse a fully qualified lawyer for failing to meet other, unspecified requirements. The collegium admitted 9 of 231 licensed lawyers entitled to automatic admission to the association.

The constitution prohibits the use of illegally obtained evidence; however, despite defendants' claims that testimony was obtained through torture or abuse, no cases based on claims of abuse were dismissed, and there was no independent forensic investigator to determine the occurrence of abuse (see section 1.c.). Investigations often focused on obtaining confessions rather than gathering physical evidence against suspects. Serious crimes brought before the courts were likely to end in conviction, as judges generally required only a minimal level of proof and collaborated

closely with prosecutors. In the rare instance when a judge determined the evidence presented was not sufficient to convict a defendant, judges could and did return cases to the prosecutor for additional investigation, in effect giving the prosecution a "second chance" for a conviction.

In the period preceding the November parliamentary elections, judges often sentenced to jail opposition members arrested for participating in unauthorized political rallies within hours of their detention, and without a fair trial.

The country also has a military court system with civilian judges. The military court retains first jurisdiction over any case in which "crimes against the state" are adjudicated.

Political Prisoners.—Local NGOs maintained that the government continued to hold political prisoners, although estimates of the number varied. NGO activists maintained that the government held approximately 45 political prisoners. At year's end three political prisoners arrested in connection with the 2003 presidential election and listed in the COE's Experts Report remained incarcerated: Elchin Amiraslanov, Safa Poladov, and Arif Kazimov.

On March 17, the president pardoned the seven opposition leaders arrested in 2003 postelection violence (see section 1.d.).

The government permitted unrestricted access to political prisoners by international humanitarian organizations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits arbitrary invasions of privacy and monitoring of correspondence and other private communications; in practice the government restricted privacy rights.

The constitution allows for searches of residences only with a court order or in cases specifically provided by law; however, authorities often conducted searches without warrants. It was widely believed that the MNS and MIA monitored telephone and Internet communications, particularly those of foreigners and prominent political and business figures.

Police continued to intimidate and harass family members of suspected criminals and increased harassment of opposition political party members and their families.

On June 3, authorities detained Almaz Guliyeva, relative of exiled opposition leader Rasul Guliyev, at the airport on charges of carrying a gun. Guliyeva, a British citizen, collapsed when airport police showed her the supposed weapon. Authorities took Guliyeva to the hospital and released her after she recovered three weeks later; she departed the country immediately thereafter. International observers doubted the credibility of the evidence in the case.

On October 17, the government arrested Etibar Guliyev, Rasul Guliyev's nephew. A court eventually sentenced Guliyev to three months in prison for assaulting the police with a weapon in connection with Rasul Guliyev's planned return to the country. Authorities did not charge Guliyev with this specific crime at the time of his arrest, and prosecutors obtained a court conviction only after detaining him on unrelated charges for several days.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press and specifically prohibits press censorship; the government often did not respect these rights in practice.

In July the Organization for Security and Cooperation in Europe (OSCE) representative on freedom of the media visited the country and issued a report assessing the high degree of pluralism in the print media and the reduction in the number of libel and defamation suits against journalists positively, while commenting negatively on the continued acts of violence against journalists. On September 1, police officers beat opposition youth activist Vugar Mehdtiyev for distributing political pamphlets in a city park. Following an investigation the MIA alleged that the victim's injuries were self-inflicted, a result of running into a tree. The government did not prosecute or punish any police officers in the case.

A large number of opposition and independent media outlets operated during the year. The print media enjoyed more freedom than the broadcast media and expressed a wide variety of views on government policies. However, most broadcast media adhered to a progovernment line in their news coverage.

There were over 40 active independent newspapers and magazines and 23 television and 12 radio stations. There also were 10 national state newspapers and 80 newspapers funded by city or district level officials. In contrast to progovernment newspapers, the distribution of many opposition newspapers was limited to the capital, and their circulation was low.

During the year many opposition and government-run newspapers reduced circulation, and several, including prominent opposition newspaper *Yeni Musavat*, re-

duced frequency. Moderate independent newspapers *Echo* and *Zerkalo*, however, maintained their circulation.

Some private television channels broadcast the views of both government and opposition officials, but their programs were not available in all parts of the country. Space TV and ANS TV, popular channels regarded as independent, provided balanced news coverage, especially of the parliamentary elections.

On August 29, the government launched independent, public television channel ITV, which broadcast television debates between parliamentary candidates and provided candidates with free airtime consistent with the requirements of the election code. However, the OSCE preliminary election assessment reported that government-funded ITV devoted 79 percent of its prime time news coverage to almost exclusively positive or neutral coverage of the president, the administration, government, and ruling party.

There were no restrictions on satellite broadcasts by foreign stations.

The government intimidated and harassed the media, primarily through defamation suits, prohibitively high court fines for libel, and measures that hampered printing and distribution of independent newspapers and magazines. However, in contrast to 2004, the number of defamation suits threatening the financial viability of the print media declined significantly during the year because of the mediation of local and international NGOs.

Harassment and violence against individual journalists continued. The Media Council, an independent NGO, reported that 40 journalists faced physical attack or harassment during the 6-month period preceding the November parliamentary election.

On February 1, Akrep Hasanov, a journalist from *The Monitor* newsmagazine, was reportedly abducted by military officials, detained for five hours, and forced to sign a statement of apology in response to an article he wrote about abuse and mismanagement of the Goranboy military unit. The case drew wide media coverage.

On February 25, two employees of an opposition party newspaper were allegedly kidnapped, stripped, and photographed naked with prostitutes. Photographs of the incident were broadcast repeatedly on state television channels in an effort to humiliate the newspaper.

On March 2, unknown assailants killed the widely respected founder and editor of *The Monitor*, Elmar Huseynov, in front of his Baku apartment. The government characterized the killing as a terrorist act meant to destabilize the regime and launched an investigation into the case. The investigation revealed that the assailants disabled telephone and electricity lines into the apartment building prior to the killing. Some human rights activists described the killing as a warning to those critical of the regime, a suggestion that government officials vehemently rejected. In July press reports stated that the government's investigation identified two Georgian citizens, Tahir Khubanov and Teymuraz Aliyev, as suspects. At year's end the investigation continued, and no arrests had been made. *The Monitor* ceased publication in April, and in May Huseynov's former colleagues started a new publication, *Realniy Azerbaijan*.

During the year police officers beat three local journalists from independent and opposition newspapers covering unauthorized political rallies in the capital, despite being clearly identifiable as members of the press. On May 21, riot police severely beat journalist Farid Teymurxanli from independent newspaper *Zerkalo*, and in separate incidents on October 9, police beat a local journalist from *Boz Gurd* newspaper and beat unconscious a local journalist from *Ayna* newspaper. Police detained and released 24 journalists in connection with their coverage of unauthorized political rallies. On November 26, police beat 10 journalists at a government-authorized Azadliq bloc political rally, which authorities violently dispersed.

In December 2004 police beat Alim Kazimli, a photojournalist for the opposition *Yeni Musavat* newspaper, because he complained to the authorities about the inefficient processing of passport applications at the passport office. Kazimli recovered from his injuries but died six months later, reportedly from a heart condition. However, opposition newspapers attributed his death to conditions arising from the police beating.

By year's end the government did not announce the arrest of any police officers or the results of an investigation into election-related police clashes with journalists and opposition activists in 2003. No developments were expected.

The government did not charge anyone in the investigation of the July 2004 attack on Eynulla Fatulliyev, a staff writer for *The Monitor*. No developments were expected in the investigation.

In April a leading independent electronic media group, ANS TV and Radio, launched independent, monthly newsmagazine *Hesabat,* which published controversial and politically sensitive articles. While President Aliyev publicly defended the

company's right to publish this information, the firm continued to face harassment from other quarters of the government. In April ruling party members of parliament denounced ANS and publicly threatened the company's president. One member of parliament sued *Hesabat*'s editor in chief for libel after the newsmagazine named the parliamentarian one of the country's richest persons. The court case was ongoing at year's end.

The government periodically used state-run television to denounce and harass political parties and leaders who criticized the government. State-operated AzTV rebroadcast footage of opposition youth activist Ruslan Bashirli allegedly conspiring with Georgian and Armenian citizens to foment revolution in the country. Progovernment news agencies described Bashirli's organization, *Yeni Fikir*, as a part of Ali Kerimli's Popular Front Party (PFP) and attacked Kerimli and his party in daily news broadcasts. The coverage incited several violent protests outside of the PFP's offices. On August 11, in Baku, a group of 30 youths vandalized the PFP's headquarters, throwing stones through the windows. On August 10, a group of youths attacked PFP's headquarters in Lenkoran.

The government's licensing authority harassed independent private channel ANS TV. Based on a restrictive interpretation of the licensing law, the National Television and Radio Council (NTRC) revoked ANS' radio license for its affiliate in the city of Sheki six weeks before the parliamentary election. In the ensuing dispute, the NTRC chairman publicly threatened, but did not revoke, ANS' nationwide television broadcast license.

There was no transparent or independent licensing mechanism for broadcast media—the NTRC was responsible for issuing licenses and monitoring broadcasts, but it was inefficient and did not function independently of the government. In addition the MOJ must register corporations such as a TV network operating company in order for it to have legal existence. During the year the NTRC granted a license only for the establishment of the state's first public television channel. The NTRC interpreted the licensing law in a manner that prevented some independent news organizations from entering local media markets.

In September the MOJ initially rejected the registration application of a regional television network consisting of local stations on the grounds that the network was sponsored by an international media development NGO. The network revised its incorporation documents to remove the international NGO from the title, and the MOJ registered the new entity.

Most newspapers and magazines were printed in government publishing houses or on private printing presses owned by individuals close to the government. The majority of independent and opposition newspapers remained in a precarious financial position; they continued to have problems paying wages, taxes, and periodic court fines.

The government prohibited state libraries from subscribing to opposition newspapers. The government also continued to prohibit state businesses from buying advertising in opposition newspapers and pressured private business to do the same.

As a result of legal provisions favoring candidates from large political parties over independents, candidates from the ruling party and the largest opposition blocs—Azadliq, New Politics (YeS), and the Liberal Party—dominated the free airtime during the parliamentary campaign period, to the exclusion of the majority of candidates who ran as independents. Over the course of the campaign period opposition politicians consistently had free, unrestricted access to state television airtime and paid, unrestricted access to private television time, although news coverage was heavily skewed in favor of the ruling New Azerbaijan Party.

In violation of the free media access requirements of the election code, the government restricted the opposition's access to a state television channel during the 72-hour-period following the attempted October 17 return of exiled opposition leader Rasul Guliyev.

It was widely believed that the government blocked the satellite broadcasts of Azadliq TV, which was reportedly affiliated with the political opposition, shortly after the channel's August launch.

Libel is a criminal offense; the law allows for large fines and up to three years' imprisonment. Although the number of libel suits against journalists continued to decline during the year, some officials continued to use libel suits to prevent the publication of embarrassing or incriminating information. According to the OSCE, the criminal conviction rate for libel was historically low, but civil cases often crippled news organizations financially.

The president spoke out against libel suits briefly following Elmar Huseynov's murder.

In October the Baku city mayor sued the editor in chief of *Realniy Azerbaijan* Eynulla Fatulliyev for libel in a case that was ongoing at year's end. Fatulliyev, a

former staff writer at Elmar Husyenov's *Monitor*, founded *Realniy Azerbaijan* after Huseynov's death.

Baku-based journalists reported that authorities in the exclave of Nakchivan continued to block distribution of opposition newspapers.

As in the previous year, the government tightened enforcement on unregistered, independent newspaper vendors who mainly distributed opposition newspapers, stating that the illegal vendors created traffic hazards on city streets. In March the government lifted a prohibition on the sale of opposition newspapers within the subway system.

Gaya, the country's largest independent newspaper distributor, reopened 11 of its 20 newsstands in Baku that were torn down in 2002 by the Baku mayor's office.

The government did not restrict access to the Internet, but it required Internet service providers to be licensed and have formal agreements with the Ministry of Communications and Information Technologies. There was no evidence to support the widely held belief that the government monitored Internet traffic of foreign businesses and opposition leaders.

The government generally did not restrict academic freedom. However, during the year the government expelled four students from Baku State University, the State Economic University, and the Pedagogical University due to their political activities in support of opposition parties. For example, in separate incidents on November 9, university authorities threatened to expel Elturan Mursalzade and did expel Polad Mehdiyev for their involvement in postelection opposition political activities. Officials cited Mehdiyev's failure to complete final exams as the reason for his dismissal. Classmates reported Mehdiyev was told to denounce the opposition on television in return for permission to return to school. On December 28, the minister of education readmitted Medhiyev after he made a public apology to the rector. On November 25, Baku State University authorities expelled Turan Aliyev for inciting public disorder on campus in support of the opposition's political activities. Within days of his expulsion, Aliyev received military enlistment orders. On December 28, Aliyev began a hunger strike, which drew increasing media attention and continued at year's end. Three opposition youth activists joined the hunger strike in protest of the universities' expulsions.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government restricted this right in practice. On May 11, the president issued a decree ordering the government to hold free and fair parliamentary elections in November consistent with international standards. In compliance with the decree, on June 4, the government partially restored the constitutional right to freedom of assembly, which had not been permitted since the demonstrations following the 2003 presidential election. However, the government restricted implementation of this right in the period before the November elections. The government interpreted the law to require individuals and political parties to obtain permission from the authorities in order to assemble and organize demonstrations.

In the pre-election period, the government authorized political rallies exclusively at predetermined venues approved by local authorities. Most of these locations were removed from city centers. The opposition held authorized rallies at some of these locations and attempted to hold unauthorized rallies in city centers.

Opposition parties often held unauthorized rallies when government permission was not granted. In these instances authorities restricted public transportation to the sites, and in one instance, blockaded Azadliq's local party offices to prevent opposition party members from congregating in the downtown area.

In some cases local authorities also interfered to undermine authorized opposition rallies. For example, on October 15 in Agstafa and Tovuz, credible reports indicated that local authorities prohibited public buses from transporting individuals to the city center where the opposition planned a demonstration.

On May 21, the government deployed riot police throughout Baku's city center in response to an unsanctioned Azadliq bloc rally of approximately one thousand participants. Riot police used truncheons to beat approximately 15 members of the opposition parties Popular Front, Musavat, and the Azerbaijan Democratic Party, as well as a member of the press, when they attempted to gather near the main train terminal. Police detained over 60 persons, sentencing them to 1 to 5 days in jail; an additional 30 persons were detained preemptively, before the event took place (see section 1.d.).

On June 4, the Azadliq bloc held its first authorized rally in Galaba Square. The 15 thousand participants gathered a mile from the square and marched peacefully toward the venue. The police deployed approximately 500 riot troops, who cordoned

off the square; the police acted with restraint, and the event concluded peacefully after several hours of speeches by opposition figures.

At a June 28 rally, a group of 30 demonstrators briefly clashed with an equal number of police when the demonstrators broke through a portion of the police line. The police used minimal force to restore their position. No one was seriously injured or arrested.

In late September Azadliq unsuccessfully sought government authorization to hold political rallies in downtown Baku. On October 1 and 9, the opposition attempted to hold multiple, simultaneous, unauthorized rallies in Baku. The government deployed more than a thousand riot police, closed off several central city squares, and used force to disperse crowds. Police beat with truncheons 40 opposition activists, seriously injuring 27. Police also seriously beat three local journalists covering the rallies. On October 1, authorities detained 14 persons and on October 9, 12 persons, for periods of 7 to 12 days. On October 23, Azadliq held its fourth unauthorized pre-election rally in central Baku. Groups of 200 to 300 Azadliq supporters gathered in pockets around the city center before being dispersed by riot police. Police detained approximately 65 Azadliq supporters in a police station near the city's central square for several hours.

Following the November 6 parliamentary election, Azadliq held four government-authorized political rallies at Baku's Galaba Square to protest the election's conduct.

On November 26, approximately 800 security forces violently dispersed a government-authorized Azadliq bloc rally at Galaba Square in response to an opposition leader's call for a participant "sit down" to protest the results. Diplomatic observers reported that riot police charged through the crowd of seven thousand opposition supporters striking them with truncheons. Riot police, joined by MIA special forces units and plainclothes police officers, charged the platform where opposition leaders were standing, destroying it and the cordon that surrounded it. Two opposition leaders, Ali Kerimli and Lala Shovket Hajiyeva, were struck in the melee. Police seriously beat a third opposition leader, Liberal Party Deputy Chairman Avaz Temirhan, while apprehending him. Police used truncheons and water cannons to remove protesters from the square.

Diplomatic observers witnessed at least one person beaten unconscious and several beaten to the ground. Opposition officials subsequently reported that 90 persons were seriously injured (broken bones), 4 were taken to city emergency rooms in critical condition, and 67 others sustained minor bruises.

Despite the peaceful conduct of participants, the government arrested 57 opposition supporters for "hooliganism" and "public disorder" at the November 26 rally. Within hours of the arrests, courts sentenced 27 opposition supporters to jail for 10 to 15 days. The remaining 30 were released with administrative penalties or fines. No police officials were held accountable for the excessive use of force.

On January 12, a court convicted 10 individuals on charges stemming from their alleged participation in demonstrations following the 2003 presidential election. Two defendants received three-year prison sentences, and the other eight received three-year suspended sentences.

Freedom of Association.—The law provides for freedom of association, although in practice the government continued to restrict this right. A number of provisions allowed the government to regulate the activities of political parties, religious groups, businesses, and NGOs, including a requirement that all organizations register either with the MOJ or the State Committee on Work with Religious Associations (SCWRA). Although a new law requiring the government to act on registration applications within 30 days of receipt was implemented, vague, cumbersome, and nontransparent registration procedures continued to result in long delays that effectively limited citizens' right to associate.

The government used a 2003 requirement for all existing NGOs to reregister with the MOJ to delay or deny registration to some previously registered groups, often citing the failure of applicants to follow proper procedures. During the year the MOJ registered 379 NGOs, which it reported was more than twice the number registered in 2004. However, the MOJ did not provide information on the total number of NGO applications received or the number of NGO applications rejected during the year.

In May the OSCE issued a report on NGO registration, identifying problems and offering recommendations. Its conclusions noted that the government procedurally evaded NGO registration by taking an excessive amount of time to discover shortcomings, which unduly prolonged processing times for NGO registration applications. While the report noted many of the shortcomings in applications cited by authorities were valid, most of them were correctable during the registration process and should not have been grounds for final rejection.

c. Freedom of Religion.—The law provides for freedom of religion; however, there were some abuses and restrictions in practice. Although the law expressly prohibits the government from interfering in the religious activities of any individual or group, there are exceptions, including cases where the activity of a religious group "threatens public order and stability."

A number of legal provisions enable the government to regulate religious groups, including a requirement that religious organizations, including individual congregations of a denomination, be registered by the government (see section 2.b.). Muslim religious groups must receive a letter of approval from the Caucasus Muslim Board (CMB) before they can be registered by the SCWRA. The SCWRA and its chairman have broad powers over registration; control over the publication, import, and distribution of religious literature; and the ability to suspend the activities of religious groups violating the law.

Registered Muslim organizations are subordinate to the CMB, a Soviet-era entity which appoints Muslim clerics to mosques, periodically monitors sermons, and organizes annual hajj pilgrimages. It has been subject to some interference by the SCWRA, which has attempted to share control with the CMB over the appointment and certification of clerics and internal financial control of the country's mosques. Some Muslim religious leaders objected to interference from both the CMB and SCWRA.

The SCWRA continued to delay or deny registration to some Protestant Christian groups, including two Baptist churches. Three of the Baptists' five main churches successfully reregistered. At the end of August, the SCWRA had registered more than three-quarters of the number of religious communities previously registered. Jehovah's Witnesses and other nontraditional faiths continued to have problems registering. Some groups reported that SCWRA employees tried to interfere in the internal workings of their organizations during the registration process.

Although unregistered religious groups continued to function, some, such as Seventh-day Adventists, Jehovah's Witnesses, and Baptists, reported official harassment, including disruption of religious services and police intimidation, fines, and occasional beatings of worshippers by police. Some nontraditional religious groups operated in an atmosphere of fear.

For example on June 12, police conducted televised raids of the Jehovah's Witnesses' place of worship detaining 29 persons overnight, including foreign nationals, and confiscating the group's imported religious literature.

In a mid-March television appearance, the head of the CMB described nontraditional religious groups as subversive sects. In a separate incident the chairman of the SCWRA, speaking on television, stated that Seventh-day Adventists used financial bribes to recruit adherents.

Local law enforcement authorities occasionally monitored religious services, and some observant Christians and Muslims were penalized for their religious affiliations. Christians were often suspected of illegally proselytizing but not political activity. Government authorities took various actions to restrict what they claimed were political and terrorist activities by Iranian and other clerics operating independently of the organized Muslim community. For example the government deported several Iranian and other foreign clerics operating independently of the organized Muslim community for alleged violations of the law. The government outlawed several Islamic humanitarian organizations because of credible reports about connections to terrorist activities. On May 8, the government closed a Saudi Arabian-sponsored Sunni mosque in the city of Sumgayit.

Jehovah's Witnesses reported that authorities regularly interfered with their ability to rent public halls for religious assemblies and on occasion fined or detained and beat individuals for meeting in private homes. On June 12, police raided a gathering of approximately 200 Jehovah's Witnesses in Baku, detaining 29 members of the group and then releasing them after several hours in police custody. Local television stations also aired "raids" of religious meetings for "exposes" of religious groups.

The law expressly prohibits religious proselytizing by foreigners, and this was enforced strictly. On April 24, police authorities seized Jehovah's Witnesses religious literature in Baku on these grounds.

In April 2004 following a flawed trial, a court convicted the imam of the Juma Mosque, Ilgar Ibrahimoglu, of participating in postelection demonstrations in 2003 and sentenced him to a five-year suspended sentence after he had spent four months in pretrial detention. Since his conviction, Ibrahimoglu has not been allowed to travel outside the country, including to several meetings of the UN and the OSCE where he was to be an official NGO participant (suspended sentences carry a restriction on international travel).

On June 30, the first anniversary of the Juma community's eviction from its mosque, police briefly detained and released Ibrahimoglu for leading a group of worshippers into the officially closed mosque to conduct prayers. He and approximately 30 members of the Juma Mosque community also participated in demonstrations earlier in the day in front of the SCWRA. Ibrahimoglu was also briefly detained on September 4 in Baku after leading a group of 30 persons marching in support of women's right to wear the *hijab* (headscarf).

Despite a court ruling in favor of the right to wear headscarves in passport photos, the Center for Protection of Conscience and Religious Persuasion Freedom reported that authorities continued to prohibit Muslim women from wearing headscarves in passport photos. In December 2004 a group of women appealed to the European Court of Human Rights to protest the ban. At year's end there was no resolution to the case, and no developments were expected.

Some local officials also continued to discourage Muslim women from wearing headscarves in schools. In June a court in Sumgayit upheld a school teacher's right to wear a headscarf while teaching and ordered the school to pay her back wages for the two months she was not allowed to teach.

The law permits the production and dissemination of religious literature with the approval of the SCWRA; authorities also appeared selectively to restrict individuals from importing and distributing religious materials. The procedure for obtaining permission to import religious literature remained burdensome, but religious organizations reported that the SCWRA appeared to be handling requests more effectively.

Some religious groups continued to report restrictions and delays in importing religious literature caused by government ministries, although the SCWRA facilitated the import of such literature. The SCWRA limited the number of copies of a Jehovah's Witnesses publication that could be imported. The Baptist Union reported the SCWRA restricted the quantity of religious books allowed after granting initial import permission.

On February 4, the supreme court ruled that, while the country remained in a state of war with Armenia, the military's service requirement superseded an individual's constitutional entitlement to alternative service due to religious beliefs and that, absent implementing regulations, the military was not obligated to provide alternative service. The defendant in this case and his family subsequently left the country.

Societal Abuses and Discrimination.—There were an estimated 30 thousand Jews in the country. There were few cases of prejudice and discrimination against Jews, and in the few instances of anti-Semitic activity the government responded quickly. There was popular prejudice against Muslims who convert to non-Islamic faiths and hostility toward groups that proselytize, particularly evangelical Christian and missionary groups. The government appeared to encourage such social stigmatization through orchestrated exposes and raids of nontraditional groups.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, although at times the government limited freedom of movement, particularly for internally displaced persons (IDPs). The law required men of draft age to register with military officials before traveling abroad; some travel restrictions were placed on military personnel with access to national security information. Citizens charged with criminal offenses were not permitted to travel abroad. Officials regularly extracted bribes from individuals who applied for passports.

The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons (IDPs).—IDPs were required to register their place of residence with authorities and could live only in approved areas. This so-called *propiska* system, a carryover from the Soviet era, was imposed mainly on persons forced from their homes after the Armenian occupation of western parts of the country. The government asserted that registration was needed to keep track of IDPs to provide them with assistance.

While official government policy allowed ethnic Armenians to travel, low-level officials often extracted bribes or harassed Armenians who applied for passports. According to the International Organization for Migration (IOM), some Armenians of mixed descent reported to a local NGO that they had problems with officials in the passport and registration department when applying for identification cards; applicants who applied with Azerbaijani surnames encountered no problems except for having to pay bribes.

There were approximately 575 thousand IDPs in the country. The vast majority of these persons fled their homes between 1988 and 1993 as a result of the Nagorno-Karabakh conflict.

During the year the government received $30 million in assistance from international and domestic humanitarian organizations for refugees and IDPs. According to the government, it also allocated $44 million (202 billion manat) from the country's oil fund to improve living conditions for IDPs and refugees. During the year the government constructed new settlements in Agdam, Agjabedi, and Bilasuvar under a 2004 presidential decree to improve living conditions for refugees and IDPs.

The State IDP and Refugee Committee's estimated expenditures were $82 million (377 billion manat). IDPs received monthly food subsidies of $6 (30 thousand manat) from the government.

According to the IOM, approximately 21 thousand IDPs lived in the Sabirabad, Saatli, Aghjabadi, and Barda camps. Many IDPs lived at below-subsistence levels, without adequate food, shelter, education, sanitation, and medical care. Approximately 28 thousand IDPs lived in settlements provided by the European Union, while another 12 thousand lived in housing provided by the UN High Commissioner for Refugees (UNHCR). Other IDPs were scattered among unfinished buildings (in some cases mud dwellings), hostels, public health facilities, and the homes of friends or relatives.

Protection of Refugees.—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they faced persecution, and granted refugee status or asylum during the year. The largest number of applicants was from Afghanistan; however, the government did not recognize these individuals as refugees.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. According to the UNHCR, over 90 percent of the 3,458 refugees and asylum seekers registered by the UNHCR in the country at the end of the year were Chechens from the Russian Federation. However, the government did not identity Chechens as refugees under the 1951 convention, and it did not accept applications for refugee status from Chechens. Instead, the UNHCR carried out all functions to provide Chechens with required assistance and protection to remain in the country legally. Only Chechens who registered with the UNHCR were protected from forced repatriation to their homeland.

Reports of arbitrary harassment, detention, and arrests of undocumented Chechens continued to be a problem, although UNHCR noted fewer cases than in the previous year. The laws on residence, registration, and the status of refugees and IDPs did not apply to Chechens, who were required to register with the police and not entitled to residence permits. Chechens may enter the country visa-free following the March implementation of a new bilateral external passport system with Russia, which required Chechens to carry Russian passports to enter Azerbaijan. Chechen children were allowed to attend public schools. Access to basic medical services for Chechen refugees was available.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully; in practice the government continued to restrict this right by interfering in elections. The law also provides for an independent legislature; parliament's independence was minimal, and it exercised little legislative initiative independent of the executive branch.

Elections and Political Participation.—The government held national parliamentary elections on November 6. The OSCE's preliminary election assessment concluded that the elections did not meet a number of the country's OSCE commitments and COE standards for democratic elections.

In the pre-election period, President Aliyev repeatedly and publicly affirmed the government's commitment to holding free, fair, and transparent elections and issued a decree instructing national and local government officials to conduct an election process that would meet international standards. In spite of the decree, there were numerous credible reports of local officials' interference with the campaign process to the benefit of progovernment candidates. For example in Sabirabad, domestic and international monitors reported that the executive authorities threatened public school teachers with dismissal for failing to support the progovernment candidate.

During the campaign period, the government did not punish local executive authorities' widespread misuse of state resources. Local executive authorities fre-

quently misused administrative resources to the benefit of progovernment candidates. Local authorities also restricted freedom of assembly for opposition candidates. Police used disproportionate force to disrupt rallies (see section 2.b.). State and private television news coverage of the campaign period disproportionately favored progovernment candidates, although opposition candidates had access to free and paid airtime on a daily basis throughout the campaign period while independent candidates had access to paid airtime and free airtime on a limited number of regional channels and through public interest programming.

On October 25, two weeks before the election, President Aliyev issued a second decree on the election ordering the Central Election Commission (CEC) to use finger inking at polling stations to prevent voter fraud and instructing the public prosecutor to investigate and prosecute election fraud complaints. However, the late issuance of the decree hampered its implementation on election day. According to the OSCE assessment, 11 percent of polling stations visited failed to follow inking procedures, a shortcoming it attributed to inadequate training for election officials.

More than 500 candidates withdrew in the final weeks of the parliamentary election campaign; many cited government pressure to withdraw.

The government generally respected the legal provisions of the election code. Candidates were able to hold numerous town hall meetings with voters, although police disrupted some gatherings. According to the OSCE, June amendments to the election code made limited improvements to the electoral framework, although most recommendations were not implemented or only partially implemented. The CEC approved a number of regulations to enhance the integrity of voting, counting, and the vote tabulation process. The CEC undertook an extensive, pre-election voter education campaign.

The president's October 25 decree also reversed a ban on election observation by NGOs receiving greater than 30 percent of their financial support from international sources. The change had no impact on this election, as all observers were required to have registered in advance; however, domestic election observers were generally able to register as individuals (rather than NGOs as entities). There were an estimated three thousand individual domestic NGO observers for the parliamentary election.

Voting proceeded in a more orderly and transparent manner than in previous national elections, although there were some irregularities. The OSCE-led International Observation Mission assessed 87 percent of the more than 2,500 polling stations it visited during the daytime voting process as positive. However, in some instances international observers reported unauthorized persons, such as policemen, in the polling station during the voting. Observers also witnessed candidates or candidate representatives attempting to influence voter choices and ballot box stuffing in one-third of the polling stations visited as well as family (group) voting in one-fifth of the polling stations visited.

Fraud and major irregularities marred the vote counting and tabulation process. International observers assessed the ballot counting process as bad or very bad in 43 percent of polling stations observed, reporting that election precinct officials refused to count election ballots in front of them and attempted to complete official tabulation protocols behind closed doors. In one precinct, observers witnessed election commission members taking instructions from an unidentified person in the polling station's basement. In Ganja international observers witnessed a precinct chairwoman writing the vote tally in pencil, which would have given officials the ability to alter the final results. In Shamkir observers witnessed a precinct chairwoman hide an already completed election protocol after an unidentified person handed it to her. On election night in Baku, a candidate objecting to the fraudulent vote counting procedure at a polling station in his district was detained, along with his wife, at a local police station for more than an hour. International observers reported that precinct-level voting results were not posted in 54 percent of the counts observed.

Following the election, authorities acted to address some instances of election fraud. The CEC annulled results from 423 of more than 5,100 election precincts. President Aliyev dismissed three local executive authorities because of their interference in the campaign and voting process. The prosecutor general opened 17 criminal cases against local government officials, election commission members, and opposition candidates for violations of the election code on voting day. The prosecutor also ordered the arrest of four local election officials for election fraud, who were in pretrial detention at year's end. The CEC annulled four constituency results and ordered reruns of these races in May 2006. The CEC overturned the results of two other constituencies in favor of opposition candidates because of serious precinct irregularities and dismissed the election commission members of these six constituencies citing the members' involvement in fraud or failure to following election pro-

cedures. The CEC also dismissed a total of 108 precinct-level election commissions and 6 constituency commissions, also on fraud-related grounds.

In a December 1 hearing to certify the election results, the constitutional court annulled the results of an additional 6 constituencies, bringing to 10 the total number of annulled constituencies that will be rerun in May 2006; however, the 6 additional annulments also included the court's reversal of previous CEC decisions. Opposition supporters criticized the court's action because it cancelled a race previously awarded to an opposition Azadliq bloc candidate as well as a race that Azadliq claimed it had won in a fair contest.

The CEC and constitutional court actions did not fully address reports of fraud and other irregularities or allay the concerns of the international community about the extent to which the results fully reflected the will of the people.

Some opposition members refused to take their seats in protest of election fraud. The OSCE's final election assessment was pending at year's end.

The most recent presidential election was held in October 2003 and formally brought Ilham Aliyev to power. This election failed to meet international standards for democratic elections due to a number of serious irregularities.

In December 2004 nationwide municipal elections were marred by widespread fraud and serious irregularities, including ballot-box stuffing, forging of voters' signatures, multiple voting, voting without proper identification, and intimidation of election officials and voters by local government authorities appointed by the presidential administration. There were also technical problems.

Opposition parties played an active role in politics. There were 48 registered political parties in the country, at least 20 of which were considered to be opposition. Members of the opposition were more likely to experience official harassment and arbitrary arrest and detention than other citizens. Incidents of police harassing members of opposition political parties or their families increased (see section 1.f.) in connection with November's national parliamentary elections.

In August violent gangs attacked the party offices of the PFP in Baku and Naxhchivan in the immediate aftermath of the government's high-profile arrest of Ruslan Bashirli on charges of fomenting a revolution. Progovernment media outlets attempted to link opposition PFP leader Ali Kerimli to Bashirli's arrest, which spurred attacks on the party's offices.

On March 17, the president pardoned the seven opposition leaders arrested in 2003 postelection violence (see section 1.d.). On June 24, the courts vacated the convictions of these persons, allowing them to run for parliament in the November election.

There were no legal restrictions on the participation of women in politics, although traditional social norms limited women's political roles, and they were underrepresented in elective offices. The practice continued of "family voting," whereby men voted on behalf of their wives and other female family members. There were 15 women in the 125-seat parliament. Several women held senior government positions, including deputy speaker of parliament and deputy chair of the CEC.

Ethnic minorities such as the Lezghins, Talysh, and Avars continued to serve in parliament and in government.

Government Corruption and Transparency.—The law penalizes corruption by outlawing bribery; however, there was widespread public perception of corruption throughout all facets of society, including the civil service, government ministries, and the highest levels of government. According to the prosecutor general's office, criminal cases related to corruption were opened during the year, specifically on bribery charges; however, these cases had little or no impact on the prevalence of bribery and corruption in the country.

In January a new anticorruption law came into force that required public officials to report annual income, sources of income, property owned, and financial liabilities. It also prohibited nepotism and limited giving gifts and direct or indirect financial benefits to public officials or third parties; however, official records do not exist to validate the implementation of this law.

The law provides for public access to government information by individuals and organizations; however, the government often did not provide access. Although government ministries have separate procedures on how to request information, they routinely denied requests, claiming not to possess the information. Individuals have the right to appeal the denials in court; however, the courts generally upheld the decisions of the ministries.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although the government maintained ties with some human rights NGOs and responded to their inquiries, on occasion the government criticized and intimidated other human rights NGOs and activists. The MOJ routinely denied or failed to register some human rights NGOs.

The major local human rights NGOs were the Association for the Protection of Women's Rights, the Bureau of Human Rights and Respect for the Law, the Azerbaijan National Group of ISHR, the Azerbaijan Foundation of Democracy Development and Human Rights Protection, Azerbaijani Committee Against Torture, and the Institute for Peace and Democracy. Most of the leading NGOs affiliated themselves with one of two independent, umbrella organizations: the Human Rights Federation or the Helsinki Citizens Assembly.

The government met with a variety of domestic NGO monitors. The MOJ formed a joint prison condition monitoring commission with several representatives of the NGO community. The ministry also formed a joint political prisoner review committee with several representatives of the human rights community. In August the MIA granted permission for the first time for an NGO to have immediate access to police and pretrial detention facilities; the NGO exercised this right without obstruction.

Several NGOs reported that the government and police at times refused to protect them from so-called provocateurs who threatened, harassed, and attacked NGO activists and vandalized their property. Leyla Yunus, director of Institute of Peace and Democracy, received several death threats in connection with her research and reporting. State television aired photographs of her private residence on television and described her as an apologist for Armenia.

Local officials continued to harass and intimidate NGOs working outside Baku. In March the government suspended the activities of the international agricultural development NGO Adventist Development and Relief Agency, based on the statements of a former employee that, 10 years ago, the organization proselytized on behalf of the Seventh-day Adventist Church, with which it is affiliated. In May in Mingechevir, local officials prevented the Legal Education Society, which operated with some foreign funding, from conducting a seminar on civil liberties. The president subsequently dismissed the head of Mingechevir executive authority.

Despite an April 2004 presidential decree to implement the NGO registration law, the process remained cumbersome. The 2003 amendments complicated requirements to register grants from foreign entities and subjected the funds to a social security tax of 22 percent on employee salaries, while grants from a few countries with bilateral agreements with the government were subject to only a 2 percent tax. NGO activists reported that these provisions of the tax code inhibited their organizations' activities.

In August vigilante groups protested outside of the offices of a leading international democracy NGO because an arrested youth group activist falsely claimed that the organization trained him to foment revolution in the November election.

The government permitted visits by UN representatives and other international organizations such as the ICRC. International NGOs, such as Human Rights Watch and Reporters Without Borders, generally operated without government hindrance.

In July the OSCE representative on freedom of the media visited the country and subsequently issued a report of observations and recommendations (see section 2.a.).

On October 25, a presidential decree reversed a ban on election observation by NGOs receiving more than 30 percent of their financial support from international sources (see section 3).

Citizens may appeal violations committed by the state or by individuals to the ombudswoman for human rights. During the year the ombudswoman received 6,200 complaints, approximately 3 thousand of which were defined as authentic human rights violations accepted by the office for investigation. The ombudswoman may refuse to accept cases of abuse that occurred over a year ago, anonymous complaints, and cases already being handled by the judiciary. The ombudswoman traveled around the country to hear human rights complaints, cooperated with foreign diplomats working on human rights activities, and submitted an annual report to parliament. Compared with previous years, the ombudswoman was more outspoken in her criticism of government actions: in September she sharply criticized the NTRC for closing down a regional radio station of a large, independent media conglomerate before the election. However, local human rights NGOs and activists criticized the ombudswoman's work as ineffective and generally regarded her as not independent of the government.

The parliament and MOJ also had human rights offices that heard complaints, conducted investigations, and made recommendations to relevant government bodies. Officials of the human rights office within the Foreign Affairs Ministry regularly met with the diplomatic community to discuss issues of concern. The parliament's human rights body did not operate fully independent of government influence.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for equal rights without respect to gender, race, language, disability, or social status, but the government did not always respect these provisions or effectively enforce them. Violence and discrimination against women, trafficking of persons, and discrimination against ethnic Armenians were problems.

Women.—Violence against women, including domestic violence, continued to be a problem. In rural areas, women had no effective recourse against assaults by their husbands or others; there are no laws on spousal abuse or specific laws on spousal rape. Rape is illegal and carries a maximum 15-year prison sentence. The government stated that 44 rapes and attempted rapes were reported during the year. Most rape victims reportedly knew their assailants but did not report incidents out of fear and shame.

There were no government-sponsored programs for victims of domestic violence or rape. In Baku a women's crisis center operated by the Institute for Peace and Democracy provided free medical, psychological, and legal assistance for women. During the year the center provided services to 2,772 women, and 1,518 women called the center's crisis hot line. The institute also broadcast three public service announcements and short films in the regions, covering women's legal rights and court procedures.

Prostitution is not a crime but is an administrative offense punishable by a fine of up to $100 (500 thousand manat). Pimps and brothel owners may be sentenced to prison for up to six years. Prostitution was a serious problem, particularly in Baku. Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment was prohibited by law, and the government reported that it investigated 46 cases of sexual harassment during the year.

Women nominally enjoy the same legal rights as men; however, societal discrimination was a problem. Traditional social norms and poor economic conditions continued to restrict women's roles in the economy, and there were reports that women had difficulty exercising their legal rights due to gender discrimination. Women were underrepresented in high-level jobs, including top business positions.

Children.—The law requires the government to protect the rights of children with regard to education and health care. In practice difficult economic circumstances limited the government's ability to fulfill its commitments.

Public education was compulsory, free, and universal until the age of 17. The Ministry of Education reported 100 percent elementary school attendance, 97 percent middle school attendance, and 88 percent high school attendance during the year; the UN Children's Fund reported the elementary school figure was approximately 88 percent. The highest level of education achieved by the majority of children was high school. In impoverished rural areas, large families sometimes placed a higher priority on the education of male children and kept girls to work in the home. Some poor families forced their children to beg rather than attend school (see section 6.d.).

The government provided a minimum standard of health care for children, but the overall quality of medical care was very low.

There were isolated reports of child abuse and of trafficking in children (see section 5, Trafficking), and the government reported that it opened an investigation into one case of child trafficking.

Child marriage was not considered a significant problem, although evidence suggested it was growing, primarily in rural central and southern regions among poor families.

A large number of refugee and IDP children lived in substandard conditions in camps and public buildings. In some cases, these children were unable to attend school.

Trafficking in Persons.—The government adopted new legislation in June and amendments to the criminal code in October criminalizing trafficking in persons. However, for most of the year trafficking was not a criminal offense. The government prosecuted traffickers under laws prohibiting rape, forced prostitution and labor, and forgery of travel documents. Most trafficking-related crimes prosecuted during the year carried maximum penalties between 3 and 6 years' imprisonment, except for rape and sexual violence, which both carried maximum 15-year prison sentences. There also are specific criminal penalties for enslaving, raping, and forc-

ing children into prostitution. During the year the government opened 160 criminal investigations resulting in 153 convictions of individuals charged with trafficking-related crimes.

The deputy minister of internal affairs was the national coordinator for government antitrafficking activities, monitoring relevant government bodies' efforts and dealing with the NGO community. Government bodies involved in antitrafficking included: the Ministries of Internal Affairs, Foreign Affairs, Justice, National Security, and Health; the prosecutor general; the state border guard; customs; and the State Committee on Women's Issues.

The government regularly collaborated with neighboring countries on antitrafficking investigations.

The country was primarily a country of origin and transit for trafficked women, men, and children for sexual exploitation and forced labor. Russian, Central Asian, and local women and girls were trafficked from or through the country to the United States, United Arab Emirates (UAE), Turkey, Iran, and Pakistan for work in the sex industry. There was also internal trafficking of women for sexual exploitation. The government reported it identified 231 trafficking victims: 218 Azerbaijani, 11 Uzbek, 1 Russian, and 1 Kyrgyz. During the year the government also reported one case of trafficking of a child.

Women and girls were trafficked internally from rural areas to the capital for sexual exploitation, men were trafficked to Turkey and Russia for forced labor, and boys were trafficked internally for begging. Iranians, Iraqis, Afghans, and migrants from South Asia were smuggled through the country to Europe—particularly Germany, Sweden, France, and the Netherlands—and to the US, where they at times had their passports confiscated and were subjected to forced labor. Traffickers generally targeted women. Refugees, IDPs, and the rural poor faced a higher risk of being trafficked.

Traffickers were either foreigners or ethnic Azerbaijanis who acted in loose concert with international networks. They approached victims directly and indirectly through friends and relatives, usually offering to arrange employment abroad. Traffickers also used deceptive newspaper advertisements offering false work abroad. Traffickers reportedly used forged documents to move victims. Traffickers also used fraudulent marriage proposals from men posing as Iranian businessmen to lure women into prostitution in neighboring Iran. Some families willingly married their daughters to wealthy Iranians without concern for the actual outcome.

There was no evidence of official complicity in trafficking, but corruption in some government agencies facilitated trafficking.

In late June parliament passed antitrafficking legislation increasing protections for trafficking victims by relieving them from civil, administrative, and criminal responsibility for offenses committed under coercion, intimidation, or other trafficking conditions. The law also allows the use of pseudonyms to protect the identity of trafficking victims and provides for assistance and shelters for trafficking victims. October revisions to the criminal code implemented this legislation.

There was no standardized mechanism to return trafficked women to the country. According to the IOM, some Azerbaijanis and third country nationals who were either victims of trafficking or engaged in prostitution were deported to the country, primarily from Turkey and the UAE. However, the government had no program to assist them.

The government also referred victims to international organizations and domestic NGOs for assistance. The IOM and OSCE provided training for domestic NGOs on how to operate emergency hot lines, conduct awareness campaigns, and secure housing for trafficking victims. There were no known shelters for victims, but some NGOs, which cooperated with the government, reportedly sheltered victims in private homes.

During the year the government continued to implement its antitrafficking action plan. The government identified a site for a trafficking victims' shelter and by year's end began renovations to the building. With international assistance, the government developed but did not implement a standardized recruitment, selection, and testing process for police officers of the new antitrafficking unit.

Several NGOs, such as the Institute for Peace and Democracy and Clean World, and government bodies, such as the State Committee for Women's Issues, worked on antitrafficking activities. There were no government-sponsored antitrafficking public education campaigns, although the Ministry of Education supported school information programs run by domestic NGOs.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, and access to health care, or the provision of other state services, but discrimination in employment was a problem. It was commonly believed that children with disabilities were ill and needed to be separated

from other children and institutionalized. Several international and local NGOs developed educational campaigns to change social perceptions and reintegrate disabled children.

There are no legal provisions mandating access to public or other buildings for persons with disabilities, and most buildings were not accessible.

Care in facilities for the mentally ill and persons with disabilities varied—some provided adequate care while others lacked qualified caregivers, equipment, and supplies to maintain sanitary conditions and provide a proper diet.

The Ministries of Health, and Labor and Social Welfare were responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—Some groups complained that authorities restricted their ability to teach or print materials in their native languages. Specifically, Farsi-speaking Tallish in the south, Caucasian Lezghins in the north, displaced Meskhetian Turks from Central Asia, and displaced Kurds from the Armenian-occupied Lachin region reported sporadic incidents of discrimination, restrictions on the ability to teach in their native languages, and harassment by local authorities.

Some of the approximately 20 thousand citizens of Armenian descent living in the country historically have complained of discrimination in employment, schooling, housing, the provision of social services, and other areas. Azerbaijani citizens who were ethnically Armenian often concealed their ethnicity by legally changing the ethnic designation in their passports.

Other Societal Abuses and Discrimination.—The government did not officially condone discrimination based on sexual orientation; however, there was societal prejudice against homosexuals.

Section 6. Worker Rights

a. The Right of Association.—The law provides for freedom of association, including the right to form labor unions, but there were some restrictions on this right in practice. The overwhelming majority of labor unions remained tightly linked to the government, with the exception of the independent journalists' unions.

Uniformed military and police are prohibited from participating in unions, although civilians working in the interior and defense ministries were allowed to do so. The law also prohibits managerial staff from joining a union, but in practice managers in state industries often had union dues automatically deducted from their paychecks.

The law prohibits unions from engaging in political activity, although some government-aligned unions ignored this prohibition.

Many of the state-owned enterprises that dominated the formal economy withheld union dues from workers' pay but did not deliver the dues to the unions. As a result unions did not have resources to carry out their activities effectively. Unions had no recourse to investigate the withheld funds.

The Azerbaijani Trade Union Confederation (ATUC) had approximately 1.5 million members, including 26 labor federations in various industrial sectors. Although registered independently, some workers considered the ATUC closely aligned with the government.

Membership in the Union of Oil and Gas Industry Workers remained mandatory for the State Oil Company's 60 thousand workers, whose union dues (1 percent of each worker's salary) were automatically deducted from their paychecks.

There were no reports of government antiunion discrimination; labor disputes were primarily handled by local courts, which, while not exhibiting antiunion discrimination, were widely considered corrupt. There were reports of antiunion discrimination by foreign companies operating in Baku. Most foreign oil companies did not allow union membership.

b. The Right to Organize and Bargain Collectively.—The law allows trade unions to conduct their activities without government interference; in practice most unions were not independent. The law also provides for collective bargaining agreements to set wages in state enterprises, and trade unions actively negotiated with employers, particularly in the formal sector. In reality unions could not effectively participate in negotiating wage levels because government-appointed boards ran major state-owned firms and set wages according to a unified schedule. In addition the Labor Ministry reported that the government continued to have limited success in addressing worker-related issues with foreign companies.

The law provides most workers with the right to strike and workers exercised this right. Categories of workers prohibited from striking include high-ranking executive and legislative officials, law enforcement officers and court employees, health, electric power, water supply, telephone, fire fighters, and railway and air traffic control

workers. Striking workers who disrupt public transportation can be sentenced up to three years' imprisonment. The law prohibits retribution against strikers such as dismissal or replacement.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The constitution allows forced or compulsory labor under certain circumstances, and there were reports of forced or compulsory labor, including trafficking in persons (see section 5).

There were continued reports that some military officers used conscripts as unpaid laborers on construction projects.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law provides for the protection of children from exploitation in the workplace and from work that is dangerous to their health, but there were few complaints of abuses of child labor laws.

The minimum age for employment depended on the type of work. In most instances the law permits children to work from age 15; 14-year-olds may work in family businesses or at after-school jobs during the day that pose no hazard to their health with parental consent. Children under 16 may not work more than 24 hours per week; children between 16 and 18 may not work more than 36 hours per week. The law prohibits employing children under 18 in jobs with difficult and hazardous work conditions. The Ministry of Labor and Social Security is responsible for enforcing child labor laws.

There were reports that some parents forced their children to beg, and children were trafficked internally for this purpose. Children were also trafficked for the purposes of forced labor and sexual exploitation (see section 5).

e. Acceptable Conditions of Work.—During the year the government raised the minimum monthly wage from $25 to $30 (150 thousand manat), the third raise in 18 months. The minimum wage was insufficient to provide a decent standard of living for a worker and family, although it was $6 (30 thousand manat) above the official poverty level of $24 (120 thousand manat) set by the government. The Ministry of Taxes, the Ministry of Labor, and the State Social Protection Fund legally share responsibility for enforcing the minimum wage. However, in practice the minimum wage was not effectively enforced.

The law provides for a 40-hour work week; the maximum daily work shift is 12 hours. Workers in hazardous occupations may not work more than 36 hours per week. The law requires lunch and rest periods, which are determined by labor contracts and collective agreements. Local companies did not provide premium compensation for overtime, although international companies generally did. There was no prohibition on excessive compulsory overtime. The Ministry of Labor reported little success enforcing such contracts and agreements in the informal sector, where most individuals were employed.

The law sets health and safety standards; government inspections of working conditions were weak and ineffective, and standards were widely ignored. The ATUC also monitored compliance with labor and trade regulations, including safety and health conditions. During the year the ATUC reported that it inspected 2,300 enterprises and organizations and found 570 legal and technical violations. The ATUC stated that virtually all of the violations were addressed, and no official complaints were registered.

Workers could not leave jobs that endangered their health and safety without fear of losing their jobs. According to the Oil Workers Rights Defense Council (ORDC), an NGO dedicated to protecting worker rights in the oil sector, five State Oil Company workers died at sea in workplace accidents. One other oil worker died in other industry-related accidents. Workplace accidents were also a problem in other sectors of the economy. The law provides equal rights to foreign and domestic workers, although local human rights groups, including ORDC, maintained that disparities existed, particularly in foreign oil companies.

BELARUS

Under its constitution, Belarus is a republic with a directly elected president and a bicameral National Assembly (parliament). The country had a population of just under 10 million. President Aleksandr Lukashenko, first elected in 1994, systematically undermined the country's democratic institutions and concentrated power in the executive branch through flawed referenda, manipulated elections, and undemocratic laws and regulations. Parliamentary elections and a referendum that removed term limits on the presidency in October 2004 failed to meet international stand-

ards. The civilian authorities generally maintained effective control of the security forces; members of the security forces committed numerous human rights abuses.

The government's human rights record remained very poor and worsened in some areas with the government continuing to commit numerous serious abuses. The following human rights problems were reported:

- denial of citizens' right to change their government through a transparent democratic process
- government failure to account for the disappearance of opposition political figures and a journalist and denial of official involvement in those disappearances
- abuse and occasional torture of prisoners and detainees
- prison overcrowding
- arbitrary arrest and detention of citizens for political reasons
- lack of judicial independence
- imprisonment of citizens for criticizing officials or participating in public demonstrations
- government seizure of leaflets, newspapers, and bulletins from members of civil society
- government closure of several independent newspapers and interference in the operation of others
- massive government fines on independent papers, usually for alleged slander
- security service interference in citizens' right to assemble peacefully and use of force to disperse peaceful protesters
- deregistration and harassment of nongovernmental organizations (NGOs)
- deregistration of churches
- government restriction of citizens' ability to travel abroad freely
- government suppression of opposition political groups through judicial and extrajudicial measures
- domestic violence against women and children
- trafficking of women and girls
- official and societal discrimination against the Romani community
- government interference in the internal affairs of ethnic minority organizations
- official and societal discrimination against homosexuals
- government harassment of independent unions and their members

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports that the government or its agents committed any politically motivated killings; however, at least two persons died in police custody under unexplained circumstances, while unknown persons tortured and killed another at a time when the government was denouncing her NGO, and a journalist died under unexplained circumstances.

On January 7, police detained 18-year-old Maxim Mois for urinating in public. He died the same day under unexplained circumstances at a government detoxification facility. When family members went to collect his body, they reported his arms and legs were tied.

On June 20, 68-year-old Jozefa Waraksa was tortured and killed in the village of Rakov. Her tongue was split lengthwise before she was killed. Waraksa was a local leader in the Union of Belarusian Poles; she was killed during a period in which the government was loudly denouncing the organization and attacking it in the state media (see section 2.b.). Police charged a local resident, A.S. Pototskiy, with murdering her while drunk, and a court sentenced Pototskiy to 15 years in prison.

In August Vasiliy Shevelenko was killed in a government detoxification facility in Svetlogorsk. His father claimed Shevelenko was beaten on the head and neck and that his nose was broken and his arms bruised. Authorities initiated a criminal case against an employee of the facility for abusing his authority in connection with the killing; authorities had not completed the investigation at year's end.

On October 18, independent journalist Vasily Grodnikov was found dead in his apartment in unexplained circumstances. Authorities ruled that no crime had been committed (see section 2.a.).

Authorities reportedly blocked investigations into the killing of several servicemen by unknown persons.

b. Disappearance.—There were no confirmed reports of politically motivated disappearances during the year.

On April 7, authorities announced they reopened the investigation into the disappearance and presumed killing of television journalist Dmitryy Zavadskiy in 2000. However, the government did not make a serious effort to solve the case.Credible evidence indicated that government agents may have killed Zavadskiy for his reporting that government officials may have aided Chechen separatists. In August President Lukashenko granted the order of For Service to the Motherland to Colonel Dmitry Pavlichenko, named in a Parliamentary Assembly of the Council of Europe report as having played a key role in the disappearances.

On April 14, the UN Commission for Human Rights (UNCHR) approved its third resolution on human rights in the country, urging the government to conduct an impartial investigation into the disappearances of Zavadkiy, opposition figures Yury Zakharenko and Viktor Gonchar in 1999, and businessman Anatoliy Krasovskiy in 1999. The report recommended the suspension of those senior officials suspected of involvement. The UNCHR also extended the mandate of its special rapporteur to examine the country's human rights performance (see section 4).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, police and prison guards on occasion beat detainees and prisoners.

On March 11, a police officer in Orsha seriously beat Vasiliy Sinkovsky, detained on suspicion of theft, breaking four of his ribs and piercing a lung. Criminal charges were filed against the officer for abusing his authority.

At his May 31 trial, opposition party leader Nikolay Statkevich claimed that, after his arrest, he was placed in a cell with a prisoner suffering from dysentery (see section 1.e.). He also complained that authorities did not provide him food for the first day of his detention.

Mogilev police detained youth Zubr activist Evegeniy Suvorov without charge on August 28. Suvorov complained that his hands and feet were shackled behind him and he was held overnight and bent backwards in the "swallow" stress position. Suvorov had previously been arrested for distributing independent newspapers.

There were no reports of police coercing confessions through beatings or psychological pressure during the year.

Police and plainclothes officers occasionally beat individuals while arresting them or holding them in detention for organizing or participating in public demonstrations (see section 2.b.). In October 2004 police used truncheons and other force to break up a protest following the constitutional referendum and arrested at least 150 protesters. Police severely beat United Civic Party (UCP) leader Anatolyy Lebedko and a journalist.

There were credible reports that, in March, authorities allowed imprisoned opposition activist Mikhail Marinich to remain in his prison bed for three days after suffering a stroke before providing him medical treatment (see section 1.d.).

Credible reports indicated that police and prison officials continued to mistreat and torture prisoners. Reports from the Mozyr prison in particular claimed that beatings and mistreatment were common practices. Additionally, human rights groups reported prisoners did not receive adequate food, sufficiently warm clothing in winter, and were often denied a bed. As a result, tuberculosis, pneumonia and other diseases were widespread.

On March 14, guards at the Mozyr prison severely beat prisoner Ramazan Mamedbekov, reportedly on orders from warden Yury Zborovskoy, for refusing to perform unpaid work. On March 24, prison guards used excessive force against five convicts in Mozyr, in the process of which Major Shulga reportedly broke the arm of one prisoner. In protest of this abuse, 50 convicts went on a hunger strike.

The practice of hazing new army recruits through beatings and other forms of physical and psychological abuse reportedly continued. Authorities blocked efforts by family members and human rights observers to investigate reports of hazing of servicemen.

Prison and Detention Center Conditions.—Prison conditions remained austere and were marked by occasional shortages of food and medicine and the spread of diseases such as tuberculosis, syphilis, and HIV/AIDS. Leila Zerrougui, the chairperson of the UN Working Group on Arbitrary Detention, who visited the country in 2004, noted that conditions in detention centers were worse than those in prisons because of improper sanitary and living conditions, restrictions on detainees' rights to make phone calls and receive parcels, and pressure to confess to wrongdoing. According to human rights monitors, conditions in prison hospitals were also poor.

Overcrowding was not a serious problem in the country's prisons, which held approximately 33 thousand prisoners. However, many of the work release prisons, which housed those serving *khimya* (restricted freedom and labor in a remote area), were severely overcrowded. For example, the 74-bed *khimya* facility in Vitebsk housed over 200 prisoners. Facilities in Polotsk, Beryoza, and Zaslavl were also reportedly very overcrowded, causing them to violate sanitary, disease, and fire safety regulations. In many cases, food provided in prisons did not meet individual nutritional requirements.

Pretrial detainees were sometimes held with convicted prisoners. Authorities frequently kept those arrested for political activities in the Okrestina detention center in Minsk. Former detainees reported being placed in greatly overcrowded cells and being forced to take turns sleeping, as there was not room for everyone to lie down. Insufficient food was provided, although families and friends were often permitted to bring detainees food and hygiene products. The cells were damp, underheated, and poorly ventilated.

Authorities sometimes granted human rights observers access to prisons; however, no such visits occurred during the year. In August 2004 authorities provided a delegation from the UN Working Group on Arbitrary Detention general access to prisons and detention centers, but denied the group access to a Committee for State Security (BKGB) detention center on the grounds it had not requested the visit in advance. The delegation indicated that it had not been informed of a notification requirement.

d. Arbitrary Arrest or Detention.—The law limits arbitrary detention; however, the government did not abide by these limits. Authorities continued to arrest individuals for political reasons and use administrative measures to detain political activists before, during, and after protests (see section 2.b.).

Role of the Police and Security Apparatus.—The Ministry of Interior has authority over the police, but the BKGB and presidential security forces also exercise police functions. The president has the right to subordinate all security bodies to his personal command. Petty corruption among police was widespread, although the government made attempts to limit official corruption. Impunity remained a serious problem. While the law gives individuals the right to report police abuse to the prosecutor, the government often did not investigate abuses by the security forces or hold perpetrators accountable.

Arrest and Detention.—Police frequently arrested individuals without a warrant. However, to detain an individual for longer than three hours, police must obtain an order from an authorized individual.

The law requires that police provide an explanation when making a detention; in practice police often detained individuals for several hours for the ostensible purpose of confirming their identity. Authorities frequently used this tactic to detain opposition members and demonstrators, prevent the distribution of leaflets and newspapers, or as a pretext to break up civil society meetings (see section 2.b.). For example, on October 3, police detained and fingerprinted Andrey Malasay of the environmental NGO For a Clean Borisov for passing out schedules for independent television news. On August 24, police in Gomel disrupted a meeting of local NGOs for nearly an hour, demanding to verify everyone's identity. On July 30, police in Dokshitsy detained two Belarusian Popular Front members and seized copies of independent publications. Police also disrupted opposition meetings by detaining organizers for identity checks in Svetlogorsk on June 15, in Sianno on July 3, and in Pinsk on July 10. All were released without charge.

The law allows police to detain a person suspected of a crime for up to 10 days without a formal charge and for up to 18 months to conduct an investigation once charges are filed. The law allows prosecutors and investigators to extend these periods without consultation with a judge. The law gives detainees the right to petition the court to determine the legality of their detention. In practice appeals by suspects seeking court review of their detentions were frequently suppressed because detention officials were unwilling to forward the appeals. The law provides for bail, but bail was not granted in practice.

Despite legal protections, investigators routinely failed to inform detainees of their rights and conducted preliminary interrogations without giving detainees an opportunity to consult counsel. While the law requires the government to provide indigent persons with legal counsel from time of detention, authorities did not do so in practice. Information obtained from such interrogations was used against the defendants in court. Suspects were at times denied access to a lawyer. The government frequently failed to notify family members when a detention occurred, including that of a juvenile.

There were a number of individuals detained for political reasons during year. The government arbitrarily detained representatives of independent media (see section 2.a.). The NGO Reporters Without Borders stated that in July authorities arrested, fined, imprisoned, or prevented from entering the country 19 journalists who were trying to report on the Union of Belarusian Poles (see section 2.b.). Plainclothes officials working for the security services also regularly apprehended and detained individuals engaged in antigovernment demonstrations or who distributed opposition materials (see section 2.b.). Security officials also held some detainees incommunicado following demonstrations.

Lengthy pretrial detention was common. Authorities held several prominent political detainees for prolonged periods in pretrial detention without filing formal charges. On May 15, authorities arrested former opposition member of parliament Sergey Skrebets in Minsk on suspicion of bribery; Skrebets remained in detention awaiting trial at year's end. The BKGB held opposition politician Mikhail Marinich in pretrial detention from April to December 2004 before a court convicted him of the theft of computer equipment and cell phones (see section 1.e.).

Amnesty.—Starting in May, authorities released or shortened the sentences by a year of some two thousand prisoners under an amnesty celebrating the 60th anniversary of victory in World War II.

e. Denial of Fair Public Trial.—The constitution specifies that the judiciary is independent, but the judiciary did not operate independently in practice. There was credible evidence that prosecutors charged and courts convicted individuals on false charges.

The president has authority to appoint 6 of the 12 members of the Constitutional Court, including the chairman, and the chairmen of the Supreme Court and the Supreme Economic Court. He also has authority to appoint and dismiss all district and military judges, and credible reports claimed senior judges received housing from the presidential administration. Corruption and inefficiency in the judiciary were generally the result of political interference in the work of the court system. During the year one judge was tried and convicted of corruption.

While members of the political opposition were held in pretrial detention for prolonged periods, the former head of the presidential administration's property management department, Galina Zhuravkova, was held in house arrest from February 2004 until being convicted of embezzling $3.5 million on February 8. Despite being sentenced to four years in prison, she was never taken into custody.

The criminal justice system has three tiers: district courts, regional courts, and the Supreme Court. The Constitutional Court is supposed to adjudicate serious constitutional issues; however, in practice it was dependent on the executive branch, had no means of enforcing its decisions, and it did not challenge presidential initiatives.

Prosecutors are organized into offices at the district, regional, and republic levels. They are responsible to, and serve at the pleasure of, the prosecutor general, who is appointed by the president. Prosecutors are not independent and do not have authority to bring charges against the president or members of his executive staff.

In April the Office of the UN High Commissioner for Refugees (UNHCR) working group on arbitrary detention released a report that described prosecutors' authority as excessive and imbalanced. The report noted that the decision to hold a person in detention or to extend the period of detention is taken not by a judge but by a prosecutor, acting on the proposal of an investigator. Investigations also are conducted by investigators and prosecutors without effective judicial oversight. The report saw an imbalance between the powers of the prosecution and the rights of the defense. Lawyers do not benefit automatically from the right to examine the investigation file, to be present during the gathering of evidence, or to look at all elements of proof against a client until the prosecutor formally transmits the case to the court. Lawyers found it difficult to call some evidence into question, since technical expertise was under the control of the prosecutor's office. The working group was repeatedly told that, as a result, there are few cases of criminal defendants being found not guilty.

A presidential decree subordinating all lawyers to the Ministry of Justice compromised the independence of lawyers. Lawyers must be licensed by the Ministry of Justice and are required to work for the state in regional collegiums. The law prohibits private attorneys from practicing, and lawyers must renew their licenses every five years. Several lawyers have claimed that they were told their licenses would not be renewed because of their activities in defense of NGOs or opposition political parties.

Trial Procedures.—The law provides for public trials; however, the courts frequently held trials in judges' offices, which prevented interested observers from at-

tending. Several trials, particularly of political figures, were closed to the public. Judges adjudicate most trials; juries determine innocence or guilt only in the case of capital offenses in which the defendant pleads not guilty and demands a jury trial. Judges depended on the Ministry of Justice for funding court infrastructure and on executive branch officials for personal housing, and there were widespread and credible reports that executive and local authorities dictated the outcome of trials.

On October 22, authorities arrested Malady Front activists Dzianis Bujnitski and Siarhei Latsinski in Bobruisk for unfurling a prohibited white-red-white flag at a concert. A judge conducted their trial behind closed doors in jail, where he sentenced them to two days detention for petty hooliganism.

Defendants have the legal right to attend proceedings, confront witnesses, and present evidence on their own behalf; however, in practice these rights were not always respected.

The law provides for access to legal counsel for detainees and requires that the court appoint a lawyer for those who cannot afford one; however, at times these rights were not respected. The law provides for the right to choose legal representation freely; however, a presidential decree prohibits members of NGOs from representing individuals other than members of their organizations in court. This decree was used on several occasions to deny NGO members the right to defend individuals in court and was also used as a pretext to close certain NGOs (see section 4).

The laws establish a presumption of innocence; however, in practice defendants frequently had to prove their innocence.

Defendants have the right to appeal court decisions, and most criminal cases were appealed; however, appeals rarely resulted in verdict reversals. In an appeal, neither defendants nor witnesses appear before the court; the court only reviews the protocol and other documents from the lower court's trial. In 2004 the chairman of the Supreme Court stated that only 1.5 percent of court decisions were overturned on appeal.

Political Prisoners.—The number of reported political prisoners increased.

On May 31, a Minsk court sentenced Nikolay Statkevich and Pavel Severinets to three years of *khimya* in a politically motivated trial for organizing unsanctioned protests after the October 2004 referendum. Both sentences were later reduced to two years in a general amnesty. As the result of earlier politically motivated convictions, Statkevich served a 10-day sentence and Severinets a 15-day sentence for the same crime in October 2004. Those serving *khimya* live in prison barracks and are forced to find work under conditions set by the government. Severinets, head of a prodemocracy NGO, was sent to the village of Maloye Sitno, where he worked in a railroad station. Statkevich, leader of an opposition party, was sent to Baranovichi to be close to his family; on August 9, he was tried on the politically motivated charge of holding an unsanctioned meeting after several supporters visited him on July 29.

On June 10, a Minsk court sentenced Andrey Klimov to 18 months' *khimya* in a politically motivated trial for organizing an unsanctioned protest on March 25. Klimov subsequently found work as a street cleaner in the small town of Krupki. In 2004 Klimov announced his intention to run for president against Lukashenko. He previously spent four years in prison for alleged embezzlement.

In a general amnesty, on July 7, authorities released opposition activist Aleksandr Vasilev, who was sentenced in September 2004 with another opposition activist, Valeryy Levonevskiy, to two years in prison in politically motivated trials for authoring a poem insulting President Lukashenko. On December 9, prison officials prohibited Levonevskiy from sending letters to foreign embassies, claiming prisoners could only write to their own country's embassy. On December 15, prison officials denied Levonevskiy permission to attend his father's funeral, claiming he broke too many prison rules. Levonevskiy remained in prison at year's end.

On August 5, the government amnestied and released researcher Yury Bandazhevsky, imprisoned in 2001 on charges of corruption. Many believed Bandazhevskiy was arrested and tried because his research disputed government statements on the effects of Chernobyl radiation on health.

On August 18, a general amnesty reduced the prison sentence of opposition political figure Mikhail Marinich to two and a half years. In December 2004 the court sentenced Marinich to five years in prison for stealing property of an NGO he headed, even though the NGO had not claimed that the property was stolen. Marinich, a former government minister and presidential candidate, was widely regarded as a likely opponent of President Lukashenko in elections scheduled for 2006. During the trial, the prosecutor asked numerous questions about Marinich's political activities that were unrelated to the charges, lending credence to accusations the trial

was politically motivated. The court also ordered confiscation of $90 thousand found on Marinich's person at the time of his arrest, even though the money was unrelated to the charges.

There were several instances of authorities convicting and sentencing prodemocracy activists to short prison terms, then using alleged fights with cellmates as a pretext to prolong imprisonment.

On March 10, a court sentenced Anatoly Shumchenko to 10 days in prison for organizing an unsanctioned protest (see section 2.b.). While in prison, authorities charged him with hooliganism for allegedly fighting with his cellmate. His cellmate reportedly told a journalist that a BKGB officer paid him $93 (200 thousand rubles) to pretend Shumchenko had beaten him. Shumchenko spent 30 days incarcerated before the charge was dropped and he was released.

On August 2, a court sentenced Tadeusz Gavin to 15 days in prison for participating in an unsanctioned protest. In mid-August the court added 15 days to his sentence for allegedly attacking a cellmate. On November 14, the Supreme Court annulled the second sentence for lack of evidence of a crime, after Gavin had served the time.

On August 24, Minsk police arrested two Georgian prodemocracy activists, Georgy Kandelaki and Luka Tsuladze, for alleged problems with their identification. On August 26, two Georgian consuls arrived in Minsk to assist their citizens, but were denied access until August 30. On August 29, a court sentenced Kandelaki and Tsuladze to 15 days in prison for hooliganism after allegedly insulting a cellmate. They were denied access to a lawyer or translator for the trial. The two appealed successfully and were deported on September 2.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government did not respect these prohibitions in practice. In addition the law provides penalties for those who obstruct BKGB officers in the performance of their duties, even though these actions may in principle be illegal. Any effort to prevent BKGB officers from entering the premises of a company, establishment, or organization is an administrative offense, as is any refusal to allow BKGB audits or to deny or restrict BKGB access to company information systems and databases.

While the law prohibits authorities from intercepting telephone and other communications without a court order, in practice authorities continued to monitor residences, telephones, and computers. The BKGB, the interior ministry, and certain border guard detachments may use wiretaps but must first obtain a prosecutor's permission; the lack of independence of the prosecutor's office rendered the due process protections relating to wiretaps meaningless. The government telecommunications company Beltelecom has a monopoly on Internet service, allowing authorities to monitor practically all e-mail. There were credible reports that the government monitored e-mail sent from Internet cafes and from university networks.

The government owned a majority share in all cellular telephone companies. Ministry of Communications contracts for telephone service prohibited subscribers from using telephone communications for purposes that ran counter to state interests and public order. The ministry has the authority to terminate telephone service to those who breach this provision. There were several instances where prodemocracy activists had their cell phones disconnected as they attempted to spread information about peaceful demonstrations. On October 15, the cellular telephone company Velcom disconnected the mobile telephones of opposition activists spreading information asking citizens to place lit candles in their windows to protest government excesses.

The law requires a warrant for searches; however, the BKGB entered homes, conducted unauthorized searches, and read mail without warrants. In May a new law took effect giving the BKGB authority to enter any building at any time, so long as it applies for a warrant within 24 hours after the entry took place. There were credible reports that government agents covertly entered homes of opposition activists and offices of opposition groups.

Authorities conducted searches of residences for clearly political reasons. For example, on March 24, police raided the office of the *Zhoda* newspaper and confiscated decorations from office walls, including altered photographs of Lukashenko; *Zhoda*'s editor Aleksey Karol and deputy editor Aleksandr Sdvizhkov were each fined $1,200 (2,550,000 rubles) in September for "disseminating false information" through the altered photos. During the night of July 9, armed security forces smashed a window and broke down a door to enter the Minsk home of Vladimir Kishkurna, a local party leader. Claiming they found illegal ammunition, authorities seized a printing press stored at the residence and arrested Kishkurna's son. On September 24, authorities in Vitebsk used the pretext of searching for a bomber to search the homes of five political activists. During the searches, authorities confiscated printed mate-

rial and flags, and copied computer and cell phone memories. On November 26, police searched the apartment of Mariya Bogdanovich, claiming that neighbors reported she was hiding illegal Vietnamese immigrants. Police seized 1,500 copies of an independent newspaper. Bogdanovich had been fined $93 (200 thousand rubles) on November 21 for passing out the previous edition of this paper.

Nearly all opposition political figures reported that authorities monitored their activities and conversations. During the trial of Mikhail Marinich, the prosecutor introduced as evidence a number of transcripts of Marinich's phone conversations that had been recorded by the BKGB (see section 1.e.). Representatives of certain NGOs also said that their conversations and correspondence were monitored routinely by the security services.

There were numerous reports that the government coerced young people to join the pro-Lukashenko state-funded NGO Belarusian Republican Youth Movement (BRYM). There were credible reports that military conscripts were ordered to join the BRYM, and university students reported that proof of BRYM membership was often needed to register for popular courses or acquire a dormitory room.

There was one report that authorities threatened to punish family members for alleged violations of individuals. In March court officials visited the home of Mikhail Marinich's ex-wife and confiscated $1,860 (4 million rubles) worth of personal property towards payment of his fine (see section 1.e.). This occurred although the two had divorced two years before his alleged crime, Marinich had no property at his ex-wife's, his fine was only $3.68 (eight thousand rubles), and the government had already seized $90 thousand from Marinich. On June 7, a judge ordered a portion of these belongings returned to the family.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government did not respect these rights in practice.

On November 23, President Lukashenko told reporters that his government uses "serious pressure" to control the media and that he is in charge of this process. Individuals could not criticize the government publicly without fear of reprisal, and authorities attempted to impede criticism of the government, for example by videotaping political meetings and checking the identities of meeting participants (see sections 1.d. and 3). The law also limits freedom of expression by prohibiting the wearing of masks and use of unregistered flags, symbols, and placards bearing messages deemed threatening to the government or public order. For example, on March 9, police arrested Yevgeny Afnagel after they found a white-red-white nationalist flag on him during a search. On July 4, police detained artist Ales Pushkin for several hours after he attempted to display his portraits of nationalist World War II resistance fighters outside the National Fine Arts Museum. On August 6, authorities in Zelva disrupted a birthday celebration and seized several prohibited nationalist white-red-white flags.

In December parliament passed and the president signed a series of amendments that greatly inhibited the freedoms of speech and assembly. These amendments make it a crime, punishable by up to three years in prison, to give "false" information about the political, economic, social, military, or international situation of the country to a foreigner; to provide information on government agencies or the rights of citizens; to participate in the activities of unregistered NGOs; to participate in public demonstrations; to train people to demonstrate publicly; to finance public demonstrations; or to solicit foreign countries or international organizations to "act to the detriment" of the country.

The government took steps to restrict independent media. A March report by the Organization for Security and Cooperation in Europe (OSCE) representative on freedom of the media found the situation had deteriorated, with fewer independent media outlets and greater use by the government of administrative pressures to limit free expression.

The highest circulation newspapers and other print media were state-owned and printed only materials supportive of the government. There were independent small-circulation newspapers, including two dailies, and magazines, many of which engaged in criticism of the government. Local authorities frequently warned independent editors to avoid certain stories or criticism of the government. Authorities also warned businesses not to advertise in newspapers that violated this guidance. In January the information department of the Grodno regional government sent a letter to all state-run enterprises in the region warning them not to advertise in independent newspapers.

During the year the government closed five independent newspapers. Many other independent papers received warnings from the Ministry of Justice. For example, on July 4, Minsk mayor Mikhail Pavlov cancelled the registration of independent

newspaper *Den*, claiming it had not printed an edition in six months; the cancellation followed the May 26 seizure by police of 1,990 copies of *Den*, printed in Russia, on the pretext they listed an incorrect address for the newspaper. On August 24, Minsk judge Tamara Benchuk annulled the registration of Press-Service, which printed the independent newspaper *Kuryer iz Borisova* with a weekly distribution of 17 thousand, because of missing clauses in its charter.

In mid-November, authorities informed independent newspaper *Gazeta dlia Vas*, in Ivatsevichi, that it would be evicted from its office of three years to make room for harvest festival planning. On December 9, authorities informed the Pinsk-based independent newspaper, *Myastsovy Chas*, that its contract would be broken and the paper evicted from its office. No reason was given for the eviction. Earlier in the year authorities had also evicted the independent newspaper *Vitebskiy Kurier*.

In May authorities in Ivatsevichi prohibited public kiosks from selling independent newspapers. State-owned stores across the country also stopped selling independent newspapers. While independent newspapers could still be purchased from independent sellers, their circulation was seriously restricted by these measures.

In early April the ideology department of Borisov City ordered enterprises and state organizations not to subscribe to the independent newspapers *Kurier iz Borisova* and *Borisovskie Novosti*.

The Ministry of Information, tax inspectors, and other government bodies subjected independent media to numerous inspections. In January authorities refused to register offices of local independent newspapers *Volny Gorod* and *Mestnaya Gazeta*.

The arbitrary use of presidential power, often exercised through presidential decrees, created additional obstacles to an independent press. In July and August, President Lukashenko signed decrees restricting foreign and domestic sources from giving money to organizations for broadly defined political activities, including the distribution of information. These edicts followed a 2003 presidential decree which was used to crackdown on independent media outlets and NGOs. The Belarusian Association of Journalists announced September 16 that the number of independent newspapers had been severely reduced over the previous five years and that no new independent newspapers had appeared in that time.

Among broadcast media, only the state-run radio and the state-run television networks ONT and Belarusian Television broadcast nationwide. The government continued to make use of its near monopoly on television broadcasting to spread the official version of events and to minimize the presentation of opposing points of view. The state-owned broadcast media continued to marginalize the political opposition by depicting it negatively or ignoring it altogether. Local independent television stations operated in some areas and reported local news relatively unhindered by the authorities; however, most were under government pressure to forego reporting on national-level issues or subject to censorship. Russian channels NTV and RTR were generally available, although in many parts of the country only through pay cable services. However, their news programs were at times blocked from broadcast, or temporarily replaced with Belarusian programming. Broadcasts from other countries, including Poland and Lithuania, could be received in parts of the country.

During the year the government took actions that systematically reduced public access to foreign broadcast media. In January the state-owned television station LAD stopped rebroadcasting EuroNews. In June the Ministry of Information prohibited the broadcast of Ukrainian channel Inter-Plus and other Ukrainian television channels in the country. In October the Grodno cable company Garant stopped broadcasting the First Polish Television Channel, reportedly on order of the Ministry of Information.

On November 25, the Mir broadcasting company blocked journalists from transmitting abroad their coverage of a strike in Minsk (see section 6.b.). A Mir spokesman claimed the transmitting equipment was down for scheduled maintenance at the time of the strike. Police prevented many reporters from approaching the peaceful strike.

The government harassed and arrested journalists during the year. Several foreign journalists, particularly Poles, were prevented from entering the country or arrested after their arrival. Twelve journalists, including four from Poland, were detained for several hours on July 27 as they attempted to report on the Union of Belarusian Poles NGO. On August 6, authorities deported Polish journalist Adam Tuchlinski and prohibited him from returning for five years. On August 10, customs officers confiscated all videotapes, containing interviews with party and NGO leaders, from Polish reporter Mikolaj Wawrzenuik.

On August 26, police in Schuchin detained journalists Andrzej Poczobut and Ivan Roman for 24 hours for allegedly swearing outside a police station. The same day police also temporarily detained journalist Stanislav Poczobut. The three were trying to cover a Union of Belarusian Poles congress (see section 2.b.). On August 29, police again detained Andrzej Poczobut, this time for three days.

On March 20, Grodno police detained three Polish journalists, Adam Tuchlinski, Michael Kacewicz, and Martyn Smialowski. The three were accredited to observe parliamentary by-elections. Police held them for three hours and erased their video footage of voting.

On October 18, freelance independent journalist Vasily Grodnikov was found dead from a blow to the head by a blunt object inside his locked apartment. His brother, who found the body, reported signs of a struggle. On November 28, police announced there was no sign of a crime and closed the case. The prosecutor general's office reopened the case the next day but, on December 15, announced there was no crime, that Grodnikov died as a result of "his careless actions."

During the year police made no progress in investigating the October 2004 killing of Veronika Cherkasova, a journalist for the independent *Solidarnost* newspaper. While the official investigation centered on domestic violence, some members of the independent media viewed her death as related to her work, which included critical articles on the BKGB. On December 27, investigators closed the case citing their inability to identify the perpetrator.

The government censored the media. Authorities imposed huge fines on journalists and editors for criticism of the president or his supporters, and many publications subsequently engaged in self-censorship. Authorities fined, warned, or jailed members of the media, members of the opposition, civil society, and religious groups who publicly criticized the government. The defamation law makes no distinction between private and public persons in lawsuits concerning defamation of character. A public figure who was criticized for poor performance in office by a media outlet may ask the prosecutor to sue both the journalist who reported and the media outlet that printed the criticism.

The law specifies that the government may close down a publication after two warnings of violations of various restrictive laws, and authorities continued to frequently use such warnings to pressure independent newspapers. Regulatory provisions also grant authorities power to arbitrarily prohibit or censor critical reporting. For example, the state committee on the press has authority to suspend the publication of periodicals or newspapers for three months without a court ruling. The law also prohibits the media from disseminating information on behalf of unregistered political parties, trade unions, and NGOs. On April 13, the Ministry of Justice warned *Narodnaya Volya* for an article it wrote on the unregistered NGO Defenders of the Fatherland.

The government tightly controlled the content of television broadcasts. There were credible reports during the year that the BKGB censored national television news broadcasts.

The government used libel laws to suppress criticism of political leaders. The law provides for punishment of public insults or libel against the president by up to four years' imprisonment, two years' *khimya*, or a large fine. Authorities continued to use such laws, which also penalize insults to other government officials, to stifle press freedom and to imprison political opponents (see section 1.e). The laws penalizing slander of officials effectively constituted a prohibition on press criticism of the government.

In January the private *Pressbol* sports newspaper was ordered to pay a $14 thousand (30 million ruble) fine and its editor, Vladimir Berezhkov, a $4,600 (10 million rubles) fine for an October 2004 article claiming that Andrey Imanali, deputy head of the Belarusian Gymnastics Federation, was involved in organized crime. In July Imanali was charged with abduction in Russia and accused of long association with organized crime; this charge did not mitigate *Pressbol's* fines.

On May 23, Minsk authorities reopened a slander case against human rights activist Harry Pogonyailo. In November 2004 Pogonyailo gave an interview to Swedish journalists discussing the disappearance of Belarusian opposition figures. The interview never aired, as customs officials confiscated the tape. Authorities dropped the slander case on November 16.

On June 14, Minsk judge Lyubov Valevich ordered independent newspaper Narodnaya Volya to pay $46 thousand (100 million rubles) to Sergey Gaidukevich, leader of a progovernment party, for claiming he was involved in violating the Iraqi Oil-for-Food Program, even though a number of reputable international sources documented Gaidukevich's involvement.

On September 30, judge Basko, in Minsk's October Region court, fined the independent newspaper *Belorusskaya Delovaya Gazeta* $23 thousand (50 million rubles)

and one of its journalists $2,300 (5 million rubles) for allegedly libeling a former police officer in a 2003 article.

The government took numerous other actions during the year to limit the independent press, including limiting access to newsprint and printing presses, restricting the import of media-related materials, and temporarily suspending independent and opposition periodicals.

In November and December, authorities removed 17 independent newspapers from the state subscription list, making it impossible to subscribe to these newspapers. The state postal system, Belpochta, and the state kiosk network, Belsoyuzpechat, refused to distribute most of these newspapers. On December 22, the regional state kiosk system Vitebskoblsoyuzpechat stopped distributing independent *Vitebskiy Kurier*.

Several independent newspapers, including *Belorusskaya Delovaya Gazeta*, *Den*, and *Solidarnost* printed their materials in Russia because domestic printing presses (mostly state-owned) refused to print them. State printing houses refused to print four independent newspapers, including one of the country's two independent daily newspapers, *Narodnaya Volya*. On November 17, *Narodnaya Volya* sued the Krasnaya Zvezda printing house for breach of contract and won, but Krasnaya Zvezda did not resume printing, as it planned to appeal.

The government successfully discouraged companies that owned printing presses from printing the legally authorized leaflets of opposition candidates and parties by threatening them. During the autumn State Control Committee inspectors conducted detailed audits of many printing houses to see if they had printed material for the opposition. Although there are no laws against owning printing presses, authorities seized at least one opposition press (see section 1.f.).

The government restricted cultural events. During the year the government continued to prohibit six popular musical groups that had performed at a July 2004 opposition concert from appearing in concert or their music from being played on radio or distributed on compact disk or tape.

The government restricted the Internet. On August 16, the BKGB raided two apartments in Minsk and one in Grodno looking for the author of satirical cartoons lampooning the government, which were posted on the Internet. The BKGB seized a number of computers and detained three members of the NGO Trety Put for several hours of questioning. The three were told that they may be charged for slander, although no charges had been brought by year's end. On March 12, Grodno authorities closed the Internet chatroom *forum.Grodno.by* after declaring it "subversive." Beltelecom subsequently fired the chatroom's administrator, Aleksey Rads. On January 4, deputy education minister Tatiana Kovaleva complained that the Internet hindered educational and ideological processes and suggested that the government limit students' access to the Internet and impose education ministry control over Internet service providers and Internet cafes. Some students claimed state university officials monitored Internet usage on university networks. In early January the government blocked access to several Russian web sites for their alleged homosexual content.

On November 15, Minister of Education Aleksandr Radkov announced that all schools, including private institutions, are political bodies, must follow state orders, and cannot be headed by opposition members. Radkov also asserted his right as minister to appoint and dismiss the heads of private educational institutions.

The government restricted academic freedom, in part by requiring all educational institutions to teach and all students to study an official state ideology that combined reverence for the achievements of the Soviet Union and Belarus under Lukashenko with advocacy of an authoritarian, Soviet-style political and social structure. During the year the National Academy of Sciences fired three historians whose research was considered "anti-Soviet" or "anti-Russian." Authorities increasingly enforced a February 2004 presidential decree that requires every school to have an ideological officer on its staff. On January 21, the vice rector and administrator for ideology at Baranovichi State University were fired for failing to prevent students from performing a skit mocking President Lukashenko.

The government tasked the state youth organization BRYM with ensuring ideological purity among youth. Students reportedly were pressured to join the BRYM in order to receive benefits and rooms in dormitories and local authorities pressured BRYM members to campaign on behalf of government candidates.

Government-mandated textbooks showed a heavily propagandized version of historical events as well as other subjects.

On May 23, the Ministry of Education circulated a directive to all educational institutions calling for the expulsion of any student who engaged in antigovernment or unsanctioned political activity, and for the proper ideological education of all students. Student organizations credibly claimed that authorities expelled dozens of

students for their political activities during the year. On August 27, Minsk Mayor Mikhail Pavlov publicly ordered school administrators to keep their students from becoming politically active.

In May, Belarusian State University expelled journalism student Olga Klaskovskaya. Klaskovskaya worked for the independent newspaper *Nardonaya Volya* and had recently filed a complaint to the prosecutor general stating police had mistreated her as she covered a demonstration. The university claimed it expelled her for missing exams when she was caring for her sick child.

On November 24, the Belarusian State Economic University (BSEU) expelled fourth year student Tatiana Khoma for "violating the internal order of the university" and immediately evicted her from her dormitory room. Khoma had recently traveled to France, where she was elected to the executive committee of the National Unions of Students in Europe. In defending the expulsion, BSEU rector Vladimir Shimov said Khoma had traveled to France without the permission of the university; Shimov added that she was the 51st BSEU student expelled since September for traveling without permission.

Several members of opposition-oriented youth groups were expelled from institutions of higher education for their political activities. In May the Zhodino Polytechnic School expelled a 16-year-old for participating in a Chernobyl commemoration event. On September 19, the Zhodino city court dismissed the student's appeal to be readmitted. Another student, from Pleshchenitsy, claimed he was expelled for participating in the same event. On November 27, schools in Svetlogorsk threatened to expel students who participated in the Days of Solidarity on the 16th of each month. There were several unconfirmed reports that the government expelled politically active youth and assigned them to work in Chernobyl-affected regions.

On September 23, President Lukashenko justified the July 2004 government closure of the European Humanities University, the country's premier independent university, and the 2003 closure of the Belarusian National Humanities Lyceum on the grounds that the schools had sought to educate a new national elite that would turn the country to the West.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of peaceful assembly; however, the government severely restricted this right in practice. Police and other security officials beat and detained demonstrators following several unsanctioned but otherwise peaceful demonstrations.

By law, organizers must apply at least 15 days in advance to local officials for permission to conduct a demonstration, rally, or meeting. The local government must respond with a decision no later than 5 days prior to the scheduled event. However, authorities either did not grant permits to opposition groups or granted them only for demonstrations in out-of-the-way locations. A single infraction of these regulations entitles the government to shut down the organization concerned.

Demonstrators are required by law to pay for damages from demonstrations and for the presence of police and medical personnel, although this requirement was generally not enforced in practice. Only political parties, trade unions, or registered organizations may request permission for a demonstration of more than one thousand individuals. The law also prohibits the wearing of masks and use of unregistered flags, symbols, and placards bearing messages deemed threatening to the state or public order (see section 2.a.).

There were demonstrations in Minsk, varying in size from a few participants to approximately 2,500 persons. However, the government always kept such demonstrations under strict surveillance, and police and plainclothes security officers openly videotaped participants.

There were several reports that police beat demonstrators during protests. There were also reports that police violently pulled demonstrators into police vans. On April 26, interior ministry riot police broke the wrist of a 14-year-old at a Chernobyl protest in Minsk. On May 24, riot police detained eight minors protesting the renaming of Minsk streets. The riot police threw the eight into a bus, where they were beaten. Police punched one girl in the face, causing her to bleed. On July 7, an interior ministry police officer punched Svetlana Zavadskaya, widow of one of the "disappeared," in the face during a peaceful protest in Minsk. Authorities declined to investigate the attack, which was videotaped by journalists, claiming the police officer acted in self-defense. On September 16, interior ministry riot police beat Nikita Sasim at a protest in Minsk. Sasim spent six days in the hospital with a concussion. Police beat at least five other youth activists at the same event, causing bruises and ripping their clothes. On November 22, police sergeant Ivan Dulub reportedly dislocated Ales Kalita's arm after Kalita was arrested for distributing independent newspapers.

Authorities routinely broke up peaceful demonstrations and arrested participants. For example, on March 1, two thousand market vendors in Minsk protested an increase in the value-added tax. Police allowed the demonstration but that evening arrested Anatoly Shumchenko, a leader in the Perspektiva NGO, and Marina Bogdanovich. A court sentenced Shumchenko to 10 days in prison and fined Bogdanovich $2,180 (4.7 million rubles); authorities extended Shumchenko's sentence to 30 days for allegedly fighting a cellmate (see section 1.d.).

On April 26, police arrested 33 people for participating in an unauthorized rally marking the 19th anniversary of the Chernobyl disaster, including 14 Russian and 5 Ukrainian citizens. Two of the Russians were journalists. A Minsk court sentenced those arrested to prison terms of 8 to 15 days. Authorities released the Russians after their embassy stated it did not approve of their citizens' actions but required the Ukrainian and domestic arrestees to serve their full sentences. In addition, the court fined Marina Bogdanovich, one of the domestic arrestees, $1,700 (3.6 million rubles) for her participation.

On August 5, police arrested five members of the Malady Front youth group as they demonstrated in support of Polish policy in front of the Polish Embassy; a court sentenced two of them to 10 days in prison.

On August 27, police arrested three members of the Zubr youth group for holding an unauthorized protest, and a court sentenced them to 10 days in prison. During the year members of the Zubr youth group were arrested more than 400 times. Many were released without charge, but many others received fines or served up to 15 days in jail.

Authorities also made preemptive arrests of prodemocracy activists in advance of demonstrations. For example, police arrested Perspektiva leader Anatoly Shumchenko the day before a February 10 demonstration on suspicion of hitting a pedestrian with his car, and a court sentenced him to 10 days in prison for organizing an unauthorized protest. Police also detained Perspektiva members from Rechitsa and Borisov in advance of the March 1 protests.

The government took other measures to restrict the ability of prodemocracy and civil society groups to meet. During the year authorities continued to deny such groups access to the IBB conference center, a joint venture between German NGOs and the Minsk city government that was established with the goal of giving independent groups a place to meet. Minsk City authorities reportedly threatened to close the center if civil society groups were allowed access. On May 16, the Minsk Hotel informed a Swedish civil society NGO that it could not use its facilities for an NGO conference because the Minsk city ideological committee had informed the hotel that any payments received for this conference would be illegal. In addition the government refused visas to 13 of the 17 Swedish NGO participants. At times authorities disrupted meetings under the pretext of checking documents. On August 23, police in Gomel broke up a meeting of civil society NGO members, claiming they needed to confirm their identities. Local authorities prevented opposition parties from holding local conventions in a number of sites across the country (see section 3).

On October 29, police raided a meeting of the NGO Partnership and detained 60 people. Three of the NGO's leaders were sentenced to 15 days in prison, and one was fined $270 (580 thousand rubles), for organizing an illegal gathering. Partnership claimed it was meeting to satisfy a Ministry of Justice requirement as a prelude to receiving legal registration.

Freedom of Association.—The law provides for freedom of association; however, the authorities severely restricted it in practice.

The government employed an elaborate system of laws and regulations for the registration of organizations in order to restrict the ability of individuals to form associations that might be critical of the government or immune to official manipulation. All NGOs, political parties, and trade unions are required to register with authorities, and it is illegal to act on behalf of an unregistered organization. The law governing registration of public associations is extremely strict; registration procedures are costly and onerous, requiring the number and names of founders to be specified along with a legal address for the organization in a nonresidential building. Individuals listing themselves as members are vulnerable to retribution. More important, the government's refusal to rent office space to organizations of which it disapproved and the expense of renting private space forced most organizations to violate the nonresidential address requirement, leading to deregistration of existing organizations and denial of registration for new ones.

Authorities greatly accelerated the closure of local political party offices throughout the year. On September 14, Nikolay Zelenko, head of Minsk city's justice department, announced that 292 local party chapters had been closed in Minsk since the beginning of the year. Party sources reported that authorities had closed approxi-

mately 80 percent of their local chapters during the year, mostly for lack of a legal address. The Ministry of Justice reported it issued approximately 400 written warnings to NGOs, political parties, and trade unions during the year, and that courts deregistered 68 NGOs for "systematic or severe violations of the law." Most active civil society groups had already lost their registration. On December 28, Supreme Court judge Galina Zhukovskaya upheld the decision to close the educational NGO Belaruskaya Perspektiva for being registered in a residential building and for containing the word *Belaruskaya* (only official NGOs can be called "Belarusian"). An NGO spokesperson said that the NGO had not needed an office because of its small size and reliance on volunteers. The NGO attempted to find office space to comply with ministry warnings but could not find anyone who would rent them space. On December 29, authorities in Zhodino closed a branch of the Belarusian Language Society, also for lack of a proper legal address.

Harassment in the form of inspections by security officials and confiscation of political literature, usually without warrants, was widespread. On September 16, the customs service stopped activists from the Partnership NGO at Minsk's airport as they attempted to fly to Warsaw for a conference. The activists were detained two hours, and all their material was seized, but they were allowed to travel. Many other prodemocracy activists also reported being harassed and subjected to extra searches when crossing the country's borders. On July 1, police stopped four cars driven by local leaders of the Partnership NGO and confiscated 170 thousand copies of the group's bulletin.

A commission of government officials must review and approve all registration applications. The commission continued to base many of its decisions largely on the political and ideological compatibility of the applicant with the government. Credible reports indicated that most NGOs registered during the year dealt with sports and entrepreneurial interests and none promoted civil society. All but two national-level human rights NGOs have been deregistered or denied reregistration. On April 15, the Supreme Court liquidated the Independent Institute of Socio-Economic and Political Studies, one of two organizations in the country that conducted independent opinion polling, for lack of a legal address and other dubious pretexts.

The government also interfered in the internal affairs of NGOs. The Union of Belarusian Poles held a congress March 12–13 to elect new leaders. Credible sources stated the BKGB and police stopped Union of Belarusian Poles members' cars to prevent them from attending the congress, warned other members to stay away, and pressured others to change their vote in an unsuccessful attempt to secure the reelection of progovernment leaders. On May 12, the Ministry of Justice declared the congress to have been undemocratic and invalid. In late May the government-run Grodno regional printing plant refused to print the Union of Belarusian Poles' newspaper, *Glos znad Niemna*, and began printing progovernment versions of the paper without the knowledge of the group's leadership. On July 6, police arrested five *Glos znad Niemna* journalists protesting the government takeover of their newspaper. The five were fined between $230 (510 thosuand rubles) and $2,400 (5,125,000 rubles) for the protest. Police evicted the union's leaders from their headquarters on July 27 and gave the building to regime supporters. The Ministry of Justice forced a new congress on August 27, and authorities again intervened to prevent the attendance of many Union of Belarusian Poles members. Throughout this process authorities arrested, jailed, or fined numerous group members and Polish journalists (see section 2.a.) and attacked the organization in the government media. Police brought some leaders in for questioning more than 40 times.

c. Freedom of Religion.—The law provides for freedom of religion; however, the government restricted this right in practice. While the constitution affirms the equality of religions and denominations before the law, it also contains restrictive language that stipulates that cooperation between the state and religious organizations "is regulated with regard for their influence on the formation of spiritual, cultural, and country traditions of the Belarusian people."

The law concerning religion contains a number of restrictive elements that the government used to hinder or prevent activities of religious groups other than the Belarusian Orthodox Church. In particular, the law restricts the ability of religious organizations to provide religious education, requires all religious groups to receive governmental approval in order to distribute literature, and prohibits foreigners from leading religious organizations. A concordat and other arrangements with the government provide the Belarusian Orthodox Church, an exarchate of the Russian Orthodox Church, privileges not enjoyed by other religious groups. In March Vladimir Makarov, chief of the defense ministry's information directorate, called on Belarusian Orthodox clergy to fight the spread of "destructive sects" and to spread Orthodoxy. On May 20, a BKGB spokesman asserted that the country's citizens were less interested in unconventional religions after the government took unspec-

ified "action" to prevent the spread of "destructive cults." He specifically warned against the "Moon Church" and the Church of Scientology, which, he said, were spreading "propaganda" in the country.

In early December, police in Vitebsk raided the homes of local Muslims on the pretext of looking for suspects connected to two September bombings, even though authorities had previously arrested two brothers, who had no known connection to Islam, for the bombings. Police detained several of the Muslims for questioning and seized religious literature.

The law requires that religious organizations be registered by the Committee of Religious and Nationalities Affairs of the Council of Ministers (CRNA) or by local and regional governments. During the year the CRNA continued to refuse to register some religious groups considered to be nontraditional. Religious groups that could not register frequently were forced to meet illegally or in the homes of individual members. According to the CRNA, 26 religious denominations were officially registered as of September.

Under a 2002 law, all religious organizations were required to reregister with the CRNA by November 2004. The law establishes specific requirements for membership size and years of activity for religious groups. According to the CRNA, 2,676 of the 2,780 religious communities previously registered did so by the deadline. Of the remaining 104 communities, many had dissolved due to lack of membership. However, the CRNA denied reregistration to several mainly Protestant groups, such as the Light of the World, the New Life Church, and the Belarusian Evangelical Church.

The CRNA refused to register the Belarusian Autocephalous Orthodox Church (BAOC) without the approval of local Belarusian Orthodox Church bishops, which was not forthcoming. Because the BAOC was not registered, authorities confiscated a building they renovated in Semkov Gorodok.

The Hare Krishnas were denied registration in 2004. They appealed to the Supreme Court, but have not received an answer, as well as to the UN Human Rights Committee. After the Krishnas were not registered, a number of their lease agreements were terminated by landlords. The Minsk community has been unable to find a new legal address.

The CRNA also denied reregistration to the Protestant group Light of the World in 2004. The lease on group's church was terminated on October 31, and authorities prevented them from leasing new premises.

The law allows persons to gather to pray in private homes; however, it requires that individuals obtain permission from local authorities to hold rituals, rites, or ceremonies in homes. Police interfered with religious meetings in residences several times during the year, sometimes resulting in fines for participants.

The government will only register Orthodox communities not based in Moscow with the approval of the local Moscow Patriarchiate bishop. In June authorities warned the priest of the unregistered Russian Orthodox Church Abroad (ROCA), Father Leonid Plyats, that he would receive jail time or a massive fine if he conducted "illegal religious activities," including holding small gatherings of worship on private homes. On November 9, authorities denied registration to a different ROCA parish in Ruzhany. In this case, the bishop told ROCA members to worship at the Moscow Patriarchate Church instead. The ROCA parish refused, and its members have received four fines, totaling over two thousand dollars (four million rubles) for worshiping in private homes. ROCA has four parishes in the country, none of which were registered.

The law does not provide for the return of property seized during the Soviet period or the Nazi occupation and restricts the return of property that is being used for cultural or educational purposes. There were no reports that the government returned property to religious groups during the year. A Catholic parish asked the government to return a Roman Catholic church, which the government was using to house state scientific archives. On October 4, the Council of Ministers replied the government would not return the building to the church until it was provided with a similar size building for the archives.

The government continued to limit the ability of a number of groups to own or use property for religious purposes. As of October the CRNA refused to reregister the New Life Church because it tried to use a barn that it purchased three years previously as its legal residence. Authorities refused to allow the church to renovate the building, change the registration status of the cow barn, or permit church members to meet in the building as-is. Authorities fined the leaders of the church more than $5,500 (12.5 million rubles) during the year for conducting services in the barn. On November 17, authorities issued a registration document reclassifying the barn as a religious building. However, on November 30, authorities claimed this registra-

tion was issued illegally, annulled the registration, and fired the two officials who issued it.

The government interprets the law as permitting residential property to be used for religious services only after it has been converted from residential use. This interpretation effectively requires all religious organizations to reregister their properties as religious properties. However, authorities continued to reject requests for property registration from many Protestant churches, as well as from other nontraditional faiths. On August 22 and September 21, the government closed the Belarusian Evangelical Reformed Church and the Belarusian Evangelist Church, respectively, for failure to secure nonresidential legal addresses for worship.

According to the Full Gospel Evangelical Christian Church, authorities continued to deny it permission to construct a building for religious purposes in Minsk.

Meeting hall officials cancelled or refused to extend agreements with religious groups to use their facilities, citing a government decree specifying measures to ensure public order and safety during public gatherings. Over the summer the Church of Jesus Christ Word of Faith was denied permission to rent a hall in Minsk for a large meeting.

On November 9, CRNA chairman Stanislav Buko announced that authorities would not register "destructive sects." He claimed no such sects were operating in Belarus but noted authorities closely monitor the activities of people bearing the characteristics of such sects. University textbooks reportedly classified Baptists and Adventists as members of sects.

The law provides that citizens may speak freely about their religious beliefs; however, authorities continued their efforts to prevent, interfere with, or punish persons who proselytized for any religious group other than the Belarusian Orthodox Church. The government also fined and detained members of unregistered religious groups that engaged in illegal religious activity. Baptists, Pentecostals, and other Protestants were warned or fined for illegally conducting and hosting religious services. According to the CRNA, convictions for such offenses were based on charges of either disturbing public order or illegally gathering without prior permission. On November 25, a court issued a warning to the pastor of the Reformed Baptist Church Christ's Covenant for illegally conducting services in a private home. The church received three warnings for lack of a legal address.

The government did not permit foreign missionaries to engage in religious activities outside of the institutions that invited them. The law requires one-year, multiple-entry "spiritual activities" visas for foreign missionaries. Even religious groups with a long history in the country, particularly Protestants, continued to have difficulties obtaining visas. In mid-December authorities did not renew visas for two Catholic priests from Poland, who had worked in the country for more then 10 years, and ordered them to leave by the end of the year.

Societal Abuses and Discrimination.—Between 50 thousand and 70 thousand persons identified themselves as Jewish. However, the overwhelming majority of the Jewish population, 98 percent, was not actively religious. Of those who were, most were believed to be adherents of either Reform or Conservative Judaism.

There were isolated instances of anti-Semitic vandalism during the year. In a three-week period in April, vandals desecrated 20 tombstones at a Jewish cemetery in Brest. On August 16, vandals reportedly defaced a Holocaust memorial in Minsk for the third time, although authorities denied that the incident occurred. While the government investigated such incidents and often assisted in restoring memorials, police made no arrests in connection with the vandalism of these sites. On December 4, vandals painted swastikas and other Nazi symbols on memorials at the Kurapaty site, including on markers commemorating Jewish and Tartar victims. Police made no arrests but subsequently provided a full-time police presence at the site.

The state distribution agency Belsoyuzpechat continued to distribute the anti-Semitic and xenophobic newspaper *Russki Vestnik*, despite a 2003 order by the prosecutor general and the information ministry that distribution of the newspaper should be terminated. Sales of such literature continued throughout the year in stores, government-owned buildings, and at events affiliated with the BOC. Anti-Semitic and Russian ultranationalist literature continued to be sold and given away at Pravoslavnaya Kniga (Orthodox Bookstore), a store operated by Orthodox Initiative that sells Orthodox literature and religious paraphernalia. The CRNA claimed it was difficult to prevent the distribution of Russian-produced anti-Semitic literature.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for freedom of movement; however, the government at times restricted its citizens' right to choose their place of residence and their foreign travel. Internal passports served as primary identity documents and were required for permanent housing, receiving work, and hotel registration.

Credible reports indicated that police continued to harass individuals because they lived at a location other than the legal place of residence indicated in their internal passport.

The law provides for freedom of movement in and out of the country; however, the government at times restricted this right. Government regulations specify that citizens who wish to travel abroad must obtain an exit stamp valid for one to five years. The government could invalidate stamps that had been issued. Authorities prohibited certain opposition activists who had not paid fines for participating in unlawful public demonstrations or who were not on the side supported by the government in the Union of Belarusian Poles (UBP) dispute (see section 2.b.) from travelling abroad. At times the government harassed civil society members who had travelled abroad.

In November authorities prohibited UBP members Andrzej Pisalnik, Jozef Porzecki, Wieslaw Kiewlak, and Andrzej Poczobut from travelling abroad. Despite this prohibition, Poczobut travelled to Poland in November. On his return border guards seized his passport; it was returned to him December 12 with a notation saying he was prohibited from international travel.

On November 23, border guards told UBP activists Inessa Todryk, Anzelika Arechwa, and Andrzej Lisowski they could not leave the country. On November 3 and 4, border guards prevented UBP activist Anzhelika Orekhova from leaving the country. Other UBP activists were detained for hours at the border, but eventually allowed to leave.

On October 28, the Minsk City council of lawyers denied human rights lawyer Vera Stremkovskaya permission to travel to an OSCE conference in Tbilisi, threatening revocation of her license. The same day the council passed a resolution barring all lawyers from foreign travel for one month.

In several cases opposition activists wishing to travel abroad were detained at the border for lengthy searches while leaving or returning to the country. On October 27, customs officials held opposition party leader Aleksandr Kozulin at the airport for several hours as they confiscated material from him, causing him to miss his flight. The same day customs officials seized written material from opposition party leader Anatoly Lebedko as he returned to Minsk from a meeting with members of the European Parliament.

On August 17, the BKGB questioned independent journalist Aleksandr Rautenko about the purpose of his travel after he returned from Prague.

During the year the government imposed new restrictions on travel abroad. A March 9 presidential decree, ostensibly intended to counter trafficking in persons, requires any student who wishes to study abroad to obtain permission from the minister of education. When signing the decree, Lukashenko publicly stated his opposition to citizens' studying abroad. The government used this requirement to block the participation of 59 high school students in one educational exchange program abroad. The decree also requires the interior ministry to track all citizens working abroad and travel agencies to report citizens who did not return from abroad at their scheduled time to the interior ministry. The government denied reregistration to most travel agencies that arranged work abroad. A June 13 presidential decree placed new controls on the foreign travel of government officials. Various presidential statements during the year and a presidential decree issued on October 4 served to reduce the number of children from Chernobyl-contaminated areas who were able to travel abroad for treatment, particularly those who wanted to travel during the school year. For example, several hundred children were denied permission to go to Germany and Italy in February. The decree also requires that students or their chaperones who did not return to the country on time be reported to the presidential administration.

The law requires travelers to areas within 15 miles (25 kilometers) of the border to obtain an entrance pass. Police arrested several prodemocracy activists for violating this law after holding meetings in towns near the border (see section 3).

The law does not provide for exile abroad, and there were no reports that the government used it in practice.

The law provides for internal exile, and the government used it. Detention in internal exile is one possible penalty for defaming the president. During the year the courts sentenced 3 opposition leaders to 18 to 24 months of internal exile (see section 1.e.).

The law provides for the right to emigrate, and the authorities generally respected this right; however, there were restrictions for individuals with access to sensitive government information or citizens involved in criminal investigations. Persons who have been refused permission to emigrate may appeal to the courts.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. Under the law, all persons who applied for or received asylum are protected against *refoulement*, the return of persons to a country where they feared persecution. In contrast with the previous year, there were no reports that the government detained individuals transiting the country from Russia and deported them back to Russia. As of the end of October, the government had granted refugee status to 548 Afghanis and 123 Georgians.

The law does not allow for temporary protection of persons who may not qualify as refugees; however, the government granted humanitarian protection to approximately 40 persons who may not have qualified for refugee status but who had humanitarian grounds for remaining in the country.

The authorities cooperated with the UNHCR and other humanitarian organizations in assisting refugees.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides the right for citizens to change their government peacefully; however, the government effectively denied citizens this right. President Lukashenko dominated all branches of government. Since his election in 1994 to a five-year term as the country's first president, Lukashenko has consolidated power steadily in the executive branch, using referenda in 1996 and 2004 to amend the constitution to broaden his powers and extend his term in office.

The constitution provides for parliament to meet twice a year for a total of no more than 170 days. Presidential decrees issued when parliament is out of session have the force of law, except in a few cases specified in the constitution. In practice the president also issued decrees when parliament was in session. The constitution allows the president to issue decrees with the force of law in specific, urgent circumstances, a provision President Lukashenko has interpreted broadly.

Elections and Political Participation.—In October 2004 the country held seriously flawed parliamentary elections and a referendum to change the constitution and eliminate term limits for the president, thereby allowing Lukashenko to run for a third term in 2006. The government used administrative resources to support the referendum and government-backed candidates, who won in every district. An OSCE observation mission reported that the election fell significantly short of international standards for democratic elections, citing the active exclusion of opposition candidates, detention of opposition campaign workers and domestic observers, restrictive campaigning rules, unbalanced media coverage, flawed vote counting, and a lack of transparency in vote tallying. Other electoral irregularities included the firing and non-extension of employment contracts of opposition candidates and individuals who worked on their campaigns, and widespread, credible reports of coercion of individuals to vote early, when oversight was more lax.

On March 20, a by-election was held in Grodno to fill the last vacant seat in parliament. The government's arbitrary expulsion of opposition candidates, seizure of opposition campaign materials, and use of state resources to support the government-backed candidate marred this vote. An estimated 25 percent of voters voted up to 5 days early. Some of these, mostly state employees, reported they were ordered to do so by their employers. No independent observer was allowed to watch the vote count, and police escorted three observers out of polling stations.

During the year the government made it more difficult for political parties to operate. In June parliament passed a restrictive law governing political parties that made it much easier for the government to suspend or close parties. A party could be suspended for six months for any legal violation. The government could also close any political party after it receives two warnings for any violations; under the old law the warnings had to be for the same violation. Political parties frequently received warnings for petty offenses. In January the Ministry of Justice formally warned the Belarusian Popular Front because its official stamp read, "Republic of Belarus, Minsk." Even though the Ministry of Justice had approved this stamp, it issued the warning, maintaining the stamp should only read, "Minsk." The law also requires that each party have registered branches in four of the country's seven regions.

At the time the law passed, the Ministry of Justice was in the process of closing an estimated 80 percent of the local party offices in the country on a variety of pre-

texts, rendering the parties inactive in a majority of regions (see section 2.b.). In December, after deregistering these local offices, the Ministry of Justice warned a number of parties for not having registered branches in enough regions. Additionally, the law prohibits parties from receiving support from abroad. On September 19, the Minister of Justice ruled that any political bloc or coalition must register with the government; the ruling was most likely aimed at the most organized opposition grouping in the country, the 10 Plus coalition.

During the summer authorities disrupted a number of the 121 local political conventions organized by the 10+ opposition coalition. Police were present at almost every meeting, in many cases videotaping participants or demanding to see their identification. In Pinsk, Elsk, and Sianno police arrested the conventions' organizers before the events could begin. Police raided the meeting in Kalinkovichy on the pretext there was a drug lab in the building, while Svetlogorsk police detained organizers for several hours to check their documents. In three cases local fire departments ordered the evacuation of meeting halls, and in one case a hazardous materials team ended the convention, claiming there was a mercury spill. On July 9, opposition parties planned to hold a meeting at the House of Culture in Domachevo, but the site was locked when they arrived. Such events happened in a number of towns. In addition, 11 opposition members were arrested and charged with "violating passport rules in a border zone" for traveling to Domachevo. Others were arrested for the same offense in Ashmany. The government considers all territory within 15 miles (25 kilometers) of the border to be a restricted zone.

The government began issuing fines against the political opposition that were generally much higher than in previous years, often exceeding the average annual salary of $2,450 (5.2 million rubles). The government also began confiscating the private property of opposition activists who could not pay these fines. UCP deputy Marina Bogdanovich was fined $2,200 (4.7 million rubles) for participation in a March 1 strike. On May 27, court officials entered her home and confiscated property, including books, an iron, a cell phone, and her daughter's stereo and computer, as payment towards the fine. On March 11, court officials seized property, including an electric tea kettle, a washing machine, a lamp, a vacuum cleaner, and a painting from the editor of *Pressbol* newspaper towards payment of a fine for libel (see section 2). On February 14, a Grodno judge fined former opposition member of parliament Valery Frolov $3,300 (7 million rubles) for participating in an unsanctioned protest.

Numerous and credible reports indicated many people were fired from their jobs because of their political activities or party membership (see section 6.a.). In some cities activists claimed that anyone who ran as an independent parliamentary candidate in 2004 was fired during the year. There were other credible reports that authorities threatened to remove children from school or university because of the parents' activities. In November the head of the ideology department of Baranavichy, Mr. Zhidko, forced Viktor Syritsa, a lecturer at the Baranavichy Economic and Law College, to resign because he organized a meeting between his students and an opposition politician. On August 23, local officials in Varkhi refused to renew the employment contract of school principal Leonid Gorovoi, a member the Belarusian Social Democratic Party Hramada. On October 14, a district court in Gorodok rejected Gorovoi's appeal for the return of his job. In defending their decision, local officials reportedly blamed the "flawed schedule" Gorovoi created for the high incidence of thyroid cancer in the region. In February customs authorities did not renew the work contract of Vasil Vauraniuk, a member of the Belarusian Social Democratic Party Narodnaya Hramada, who served as an election observer in the October 2004 elections.

Party members were often detained, fined, or jailed after conducting meetings. For example, authorities in Baranovichi detained UCP leaders Anatoly Lebedko and Sergey Kalyakin on July 16 for holding an unsanctioned meeting, even though it was held in a registered party office. On July 18, authorities fined two UCP members $240 (516 thousand rubles) each for organizing a meeting in a private residence. On August 30, authorities fined Belarusian Party of Communists activist Anatoliy Novik $475 (1 million rubles) for holding an unsanctioned meeting, even though the meeting was at a registered party office.

Opposition members routinely faced other forms of harassment throughout the year. Police frequently stopped and briefly detained opposition presidential candidate Aleksandr Milinkevich and his campaign team when they traveled around the country. On November 24, authorities in Bobruisk turned off the electricity and disconnected the telephones to an apartment where Milinkevich was trying to hold a press conference. Authorities also prevented some local residents from meeting with him.

There were 32 women in the 110-member lower house of parliament and 18 women in the 56-member upper house of parliament. However, no women chaired any of parliament's 14 committees. There were 3 women in the 25-member Council of Ministers, and the head of the Central Election Commission was a woman. With the exception of the judiciary, men held virtually all leadership positions.

No high-level members of government or parliament openly identified themselves as members of a minority, although several are Polish or members of other ethnic groups.

Government Corruption and Transparency.—Corruption in the executive branch of government was a significant problem. Authorities prosecuted a significant number of individuals for corruption—over four thousand in the first 11 months of the year—indicating growing efforts to combat corruption. However, corruption remained a problem in the highest levels of government, with a poor delineation between the president's personal and official funds, and a heavy reliance on off-budget revenues. The government itself profited from official corruption, for example through high levels of goods confiscated at the border being sold in state shops and the increasing renationalization of the economy. According to Transparency International, the problem appeared to be endemic and worsening. In 2004 authorities arrested and convicted the head of the property management division of the presidential administration, Galina Zhuravkova, for embezzling over $3 million. Despite being sentenced to four years in prison, she was never taken into custody.

The law and government policies severely restrict public access to government information, and authorities moved to restrict it further during the year. In practice citizens were given good access to certain categories of information, and access to other information was extremely limited. A 2004 presidential edict broadened significantly the amount of government material considered a state secret.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several domestic human rights groups were active in the country; however, authorities hindered their efforts to investigate alleged human rights violations. Authorities monitored NGO correspondence and telephone conversations and harassed NGOs by bureaucratic means such as frequent tax and other inspections and deregistration (see sections 1.f. and 2.b.). The government generally ignored reports issued by human rights NGOs and did not meet with these groups during the year. Official government media did not report on human right NGOs and their actions; independent media that reported on human rights' issues were subjected to closure and harassment (see section 2.a.).

The government has closed most major registered human rights NGOs and NGO resource centers, actions viewed by independent observers as politically motivated. On July 19, the president signed a restrictive new law that allows authorities to close an NGO after just one warning from the government of a violation of the law. The violations most frequently cited were discrepancies between the stamp that had been presented when the organization registered and the one used on a subsequent occasion, inaccuracies in an organization's letterhead, the use of a mailing address at a residence rather than the registered office, alleged forgeries among the signatures required to obtain legal registration, and failure to follow the organization's own by-laws. The law allows authorities to close an NGO for illegally accepting foreign assistance and allows the Ministry of Justice to participate in any NGO activity, review any NGO document, and request any information from an NGO. It also requires NGOs to present a detailed report annually to the Ministry of Justice on their activities, office locations, names of officers, and total number of members.

On July 18, the Nadezhda Center in Vilejka region cancelled reservations at the last minute for a summer human rights camp hosted by the Foundation for Legal Technologies NGO on the pretext that government inspectors had found unsanitary conditions at the camp. On February 21, the Supreme Court closed Adradzhenne Aychyny, an NGO dedicated to women's economic and political rights, for allegedly not responding to Ministry of Justice requests for information in a timely manner. The closing occurred immediately after the NGO held a seminar on gender issues with Vyasna, a human rights NGO that the government had previously closed.

The law prohibits persons from acting on behalf of an unregistered NGO, and the government prosecuted several persons for this offense during the year. On September 28, Grodno judge Natalya Kozel fined Jan Roman $600 (1.3 million rubles) for passing out bulletins of a trade union that was not registered in that region. On October 11, the Minsk prosecutor's office issued a warning to the Romani NGO *Zhoda* for writing an appeal on behalf of the Union of Belarusian Poles, whose leadership the government did not recognize. On December 2, police searched the home of Telman Masliukov, claiming he had illegal drugs and weapons. Police seized ma-

terial from the unregistered Zubr youth group and charged Masliukov with acting on behalf of an unregistered organization.

A presidential decree provides that international assistance may only be granted to, or accepted by, an organization that is registered with the Ministry of Economy; however, government regulations prohibit international assistance for human rights organizations regardless of their registration status. Another presidential decree prohibits foreign support for a broad range of activities, including the preparation, administration, and organization of elections and referenda; the organization of meetings, rallies, demonstrations, pickets, and strikes; the publication and distribution of promotional materials; and the organization of seminars and other types of promotional activities involving the population. The law also prohibits unregistered organizations from providing assistance to other NGOs.

The government sometimes refused groups permission to accept foreign support even if they complied with government reporting requirements. For example, after two months of applying, the government refused the Belarus Helsinki Committee permission to accept one thousand dollars from the International Helsinki Federation.

Break-ins and questionable tax audits remained problems during the year. On June 17, Minsk's Moskovskiy District tax office again attempted unsuccessfully to collect back taxes and fines on the Belarus Helsinki Committee, although the committee won several court cases against these taxes in 2004. In the same frequently recurring case, on December 20, the Supreme Economic Court overturned its own earlier ruling and ordered the Belarus Helsinki Committee to pay $72 thousand (155 million rubles) in back taxes and fines on a grant it received from the European Union (EU). In May Rada, the Belarusian Association of NGOs for Youth and Children, was ordered to pay fines and back taxes on EU and UN grants. On February 24, four Ministry of Justice officials broke into and searched the office of the International Institute for Socio-Economic and Political Studies outside Minsk.

Authorities were increasingly reluctant to discuss human rights with international NGOs, whose members often had difficulty traveling to and were occasionally expelled from the country.

The government rejected an April 14 UNCHR resolution that urged it to conduct a transparent investigation into the disappearances of prominent opposition activists and to suspend or dismiss officials suspected of involvement in the disappearances (see section 1.b.). The resolution also stressed the need for the government to bring election standards into line with international norms, release persons imprisoned for political reasons, assure the freedoms of media, assembly and association, and comply with the various UNCHR mechanisms. The UNCHR extended the mandate of its special rapporteur on the human rights situation in the country; however, the government again refused to grant the rapporteur a visa to enter the country to conduct an assessment. On September 19, Deputy Foreign Minister Viktor Gaisenok announced that the government would not cooperate with the rapporteur.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides that all citizens are equal before the law and have the right to equal protection of their rights and legitimate interests. The constitution and other laws also specifically prohibit discrimination based on factors such as race and language, or gender in certain instances. However, the government did not always protect these rights in practice. Violence against women and children, trafficking of persons, and discrimination against persons with disabilities, Roma, and homosexuals were problems.

Women.—Domestic violence, including spousal abuse against women, was a significant problem. In January 2004 the country's delegation to the Commission on the Elimination of Discrimination Against Women stated that 30 percent of women reported suffering from domestic violence. Spousal abuse is punishable under the law, and women's groups indicated that the police generally enforced laws against domestic violence and that the courts generally imposed appropriate sentences. In 2004 some 350 criminal cases were opened for domestic violence. Nevertheless, women were reluctant to report domestic violence due to fear of reprisal and social stigma. Women's rights activists reported they were unable to get domestic violence legislation introduced into parliament. NGOs operated crisis shelters, primarily in Minsk.

Rape was a problem. A law against rape exists; however, most women did not report rape due to shame or fear that the police would blame the victim. There is no explicit law against spousal rape, and there have been no prosecutions. Over 20 percent of women reported experiencing sexual abuse at least once, according to data released by the Ministry of Labor and Social Security in 2004. In the first 10

months of the year, the Ministry of Interior reported 392 rapes, a 17 percent increase from the year before. Socially, spousal rape was not viewed as a crime.

The law prohibits prostitution, but the penalties usually involved only a warning or a small fine. Although authorities and local human rights observers reported that prostitution was not a significant problem, considerable anecdotal evidence indicated that it was growing, particularly in regions outside the main cities. Prostitution rings operated in government-owned hotels.

Trafficking in women was a serious problem (see section 5, Trafficking).

Sexual harassment was reportedly widespread, but no specific laws other than those against physical assault deal with the problem.

The law provides for equal treatment for women with regard to property ownership and inheritance, family law, and in the judicial system, and this was generally respected in practice. The law also requires equal wages for equal work; however, this provision was not always enforced. Women had significantly fewer opportunities for advancement to the upper ranks of management or government and a disproportionate number of the unemployed were women. At year's end women held only four high-level government positions and four CEO positions in major companies. Women reported that managers frequently considered whether a woman had children when examining job candidates. The Ministry of Labor and Social Security is responsible for ensuring gender equality; however, it cannot issue binding instructions to any other government agency.

Children.—The authorities were committed to children's welfare and health, although the quality of education and medical care was lower outside of major cities.

Children begin school at the age of 6 and are required to complete 9 years of education. The government made 11 years of education available at no cost, and most children completed compulsory schooling. In many cases the government paid for university education.

Children were entitled to free health care. While allowing thousands of children living in Chernobyl-affected areas to travel abroad for rehabilitation, the government introduced new regulations that blocked certain groups of children from traveling during the school year (see section 2.d.). There were no differences in the health treatment available to girls and boys.

Child abuse was a limited problem. The Ministry of Labor reported that 86 percent of the country's 32 thousand orphans had been abandoned by their parents; this statistic appeared to include children of alcoholic parents removed from the home by the government.

Child marriage was generally not a problem. However, within the Romani community, girls as young as 14 and boys as young as 16 could marry with parental consent.

Trafficking of children was a problem (see section 5, Trafficking).

The law allows military units to adopt and train orphans between the ages of 14 and 16. While these children are not enlisted in the military, they must comply with military rules, wear a uniform, and obey orders. They are required to join the unit upon reaching the draft age of 18.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked from and within the country. The government continued to make efforts to combat trafficking, including the adoption of decrees to protect victims' rights and increase punishment for traffickers; however, corruption among police officers and border guards continued to inhibit the government's antitrafficking efforts.

The law criminalizes trafficking in persons for sexual or other kinds of exploitation. The penalty for trafficking is 5 to 7 years' imprisonment; severe forms of trafficking are punishable by up to 15 years' imprisonment. On March 9, a presidential decree increased the punishment for trafficking. Although the possible penalties remain the same, amendments to the criminal code made after this decree ensure that those convicted of trafficking receive longer sentences than they would have prior to the decree. The decree also amended the law to provide that trafficking victims are not held criminally responsible for illegal acts committed while a victim and that the government may confiscate the property of convicted traffickers.

Government efforts to combat trafficking improved. In the first half of the year authorities convicted 84 persons for trafficking, compared to 67 in the same period in 2004. On March 3, a Minsk district court sentenced the head of a sex trade ring to 15 years in prison for trafficking 168 persons to foreign countries.

The government's antitrafficking efforts are coordinated by the interior ministry's department on combating trafficking in human beings. Many observers concluded

that the government needed to clarify the role and power of the department in order for it to be effective.

Attention to trafficking at the border increased, but segments remained largely uncontrolled. An EU program provided training and equipment to border guards; however, an open border exists with Russia. The Ministry of Labor continued to monitor and license activities of employment agencies offering labor contracts in foreign countries. Under a March presidential decree, all agencies that facilitate travel, work, study, and marriage abroad were forced to reregister with the government and provide full information to the government about foreign employment contracts, if applicable (see section 2.d.). Out of 716 travel agencies, 198 were not reregistered. Most agencies dealing with work abroad, as well as most modeling agencies and marriage brokers, were not reregistered.

Authorities cooperated with counterparts in Germany, the United Kingdom, Israel, the Netherlands, France, Spain, Lithuania, Austria, Poland, Italy, Turkey, and other countries on trafficking cases.

NGO sources estimated that 10 thousand citizens became victims of trafficking annually, primarily for sexual exploitation in other countries. The country was both a country of origin and transit for women and girls trafficked to the EU (particularly Germany, Poland, the Czech Republic, Lithuania, and Cyprus), the Middle East (particularly Israel), Turkey, Russia, Ukraine, and Japan. The country's open border with Russia was a particular problem as it allowed easy trafficking of women. Women under the age of 30 and girls were at particular risk of being trafficked due to their ignorance of the danger and their lack of economic opportunities, although women over 30 increasingly became trafficking victims during the year.

Traffickers used force, fraud, and coercion to traffic persons, mostly from economically depressed areas, for sexual exploitation or for physical or menial labor. Traffickers used offers of foreign employment or marriage and travel agencies to recruit victims. More than half of the women trafficked were promised jobs as dancers or entertainers without any mention of prostitution or sex work. Traffickers often withheld victims' documents and used physical and emotional abuse to control them.

Employment agencies, particularly travel and modeling agencies, and persons with connections overseas were primarily responsible for trafficking. Some traffickers reportedly had links to organized crime and drug trafficking.

Corrupt officials facilitated trafficking by accepting bribes and turning a blind eye to trafficking. On March 3, former culture ministry official A. Semenov was sentenced to 8 years in prison for using his position to traffick 20 women to Italy.

Women seldom reported trafficking crimes to police due to the social stigma attached to trafficking, aversion to dealing with authorities, insufficient protection of victims and witnesses, and a shortage of services for victims. Some victims were deported back to the country and did not receive special status or assistance as trafficking victims. The International Organization for Migration (IOM) assisted 455 victims as of December 1, compared with 251 in 2004. The IOM attributed the increased number to public awareness of the problem of trafficking and improved law enforcement assistance to trafficking victims.

On August 8, the government adopted a decree that defines the status of trafficking victims and mandates measures to provide protection, medical care, and social rehabilitation to victims. The decree makes traffickers responsible for expenses incurred by the government, helping victims and permitting agencies that assisted victims to gain reimbursement through the courts.

On January 20, a state television network aired an antitrafficking film during prime time. There was also an increase in the number of antitrafficking billboards and television and radio public announcements through the year.

The IOM, the UN Development Program (UNDP), and La Strada/Young Women's Christian Association (YWCA) conducted national awareness campaigns and provided training to NGOs in regional towns. La Strada/YWCA and the IOM continued to open and operate hotlines. On August 23, the IOM and other official foreign donors began a two-year program to combat trafficking through the economic empowerment of women. The government did not conduct any trafficking awareness programs during the year, but increased reporting on trafficking in the government-controlled media.

Persons with Disabilities.—The law does not specifically prohibit discrimination against persons with disabilities. Discrimination in the provision of employment, education, access to health care, and other government services was a problem, although the government made improvements during the year.

The law mandates that transport, residences, and businesses be accessible to persons with disabilities; however, facilities, including public transport and government office buildings, were usually not accessible. The Republican Association of Disabled Wheelchair Users (RADWU) reported that the government's 2001 program to make

public buildings accessible to persons with disabilities over a five year period had few results. For example, ramps were installed on the exteriors of some buildings, but the interiors remained inaccessible. RADWU estimated that over 75 percent of persons with disabilities were unable to leave their homes without assistance. Many sidewalks and stores had no ramps and many buildings had only stairs or small elevators.

Central authorities provided minimal and mainly ineffectual benefits for persons with disabilities. For example, while persons with disabilities may receive a 50 percent discount on rent and utilities, it could only be claimed if they lived alone. Since few homes were accessible to persons with disabilities and most lived with friends or family who helped provide daily mobility, very few could claim benefits. Public transportation was free, but neither the subway nor the bus system were wheelchair accessible.

The government prohibited employers from requiring persons with disabilities to work more than seven hours a day. However, this restriction discouraged companies from hiring persons with disabilities. The government supported only state-run rehabilitation facilities that were often not as well-equipped or responsive to patient needs as NGO facilities.

The Ministry of Labor and Social Security is the main government agency responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—Unlike in previous years, there were no reports that youth in ultranationalist skinhead groups such as the Russian National Union and the National Bolshevik Party harassed foreigners and citizens promoting Belarusian culture.

Events and stores associated with the Belarusian Orthodox Church sold anti-Semitic literature (see section 2.c.).

In March the government interfered with the election of the new leader of the Union of Belarusian Poles (see section 2.b.).

There was significant official and societal discrimination against the country's approximately 65 thousand Roma. Police harassed Romani women selling produce or telling fortunes in markets, while government media and officials portrayed Roma negatively. In October and November, state television channel ONT aired a documentary, "*Gypsies Go to Jail*," that portrayed all Roma as criminals who sold drugs from childhood. On December 21, the CRNA, responding to complaints by Romani groups, asked the prosecutor general's Office to examine whether this program dishonored the Roma.

The Romani community was characterized by high unemployment and a low level of education; in November authorities estimated the unemployment rate at 93 percent. Romani children spoke mainly Romani and Belarusian and struggled in the school system, where the primary language of instruction was Russian. Romani students reported that teachers and fellow students often considered them lazy or mentally incompetent due to language-related academic difficulties. The Romani Lawyer's Group continued again during the year to petition the government to permit the establishment of a public Romani school in Minsk, arguing that there were schools for Jews, Lithuanians, and Poles; authorities had not responded by year's end.

Roma were often denied access to higher education in state-run universities.

The Russian and Belarusian languages have equal legal status; however, in practice Russian was often the only language used in government activities and on government forms. The government's record in providing certain services in the Belarusian language improved slightly during the year. On occasion authorities conducted official activities or published government documents in Belarusian, although they continued to limit the availability of early childhood education in Belarusian. Schools taught several subjects, such as national history and geography, in Belarusian, but increasingly taught most subjects in Russian.

In September Belarusian State University officials required student group leaders to report students who identified themselves as ethnic Lithuanians or Poles, claiming the information was needed to determine the percentage of international students at the university.

Other Societal Abuses and Discrimination.—Discrimination against homosexuals was a problem. Homophobia was widespread, and instances of harassment occurred in all spheres of society.

The government-controlled media tried to smear the opposition by associating it with homosexuality. The media broadcast footage of a contrived demonstration by a small group of "sexual minorities" at the October 2 opposition congress along with the comments of bystanders that "gays are evil." Program announcers added com-

ments to the effect that homosexuality goes hand-in-hand with Western paths to development.

Societal discrimination against persons with HIV/AIDS was a problem. HIV-infected individuals were afraid to disclose their status for fear of prejudice. Even doctors often feared AIDS and lacked knowledge about the disease. The UNDP reported that very few medical personnel dealt with HIV/AIDS patients and HIV-infected women could give birth only at one department at one hospital. In prisons, HIV-infected inmates faced strong discrimination and were segregated to minimize the risk of injury or death at the hands of other prisoners.

Incitement to Acts of Discrimination.—On June 2, the defense ministry newspaper *Vo Slavu Rodiny* published an article and poem that denounced the election of the Union of Belarusian Poles' leadership as undemocratic and illegal, likening it to Hitler's fifth column and insinuating that it was aiding a foreign country in trying to overthrow the government. The poem encouraged the public to meet such efforts with violence, such as using clubs against "these" Poles.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers, except state security and military personnel, to form and join independent unions on a voluntary basis; however, the government did not respect these rights in practice. During the year the government continued efforts to suppress independent unions and bring all union activity under its effective control. Its measures to this end included conversion of all government employees to short-term contracts, nonextension of employment contracts for some members of independent unions, arrest of members of independent unions for distributing union literature, confiscation of union materials, denial to union members of access to work sites, excessive fines, and pressure on union members to join progovernment unions.

The government-controlled Federation of Trade Unions of Belarus (FTUB) was the largest union organization, claiming four million members; this number was likely inflated, since the country's total workforce was approximately four million. The Belarusian Congress of Democratic Trade Unions (BCDTU) was the largest independent union affiliation with four independent unions totaling 12 thousand members.

Unlike the previous year, the government did not close any independent unions; however, on August 9, the Minsk City economic court evicted the Belarusian Free Trade Union (BFTU) from its offices for alleged nonpayment of rent to the government-owned housing bureau of the Minsk Partizanskiy region. The BFTU denied the allegation. The eviction left the union without a legal residence and therefore vulnerable to being closed by the government.

On August 29, the Ministry of Justice ordered the independent Radio and Electronic Industry Workers' Union (REP) and BCDTU to provide information on their membership and organizational structure within 48 hours. Union leaders criticized the order, and REP leader Gennady Fedynich claimed that his union had been under inspection for seven months and that the ministry already had the information it required. The BCDTU had also gone through a government inspection a few months earlier.

On October 4, Grodno authorities, under orders from the Ministry of Justice, inspected the Belarusian Independent Trade Union (BNP) at the Grodno-Azot factory, checking documents, membership lists, and minutes of conferences and sessions of the BNP executive committee, as well as membership dues. The union's leader claimed he was not informed of the inspection in advance and expressed the view that authorities were carrying out instructions given by Lukashenko in a FTUB conference speech to "destroy" all independent trade unions. The government claimed it informed the union in advance of the inspection, and that no violations were found.

The Ministry of Justice closed the Belarusian Party of Labor in August 2004; the party was not re-established during the year.

The government restricted the ability of workers to organize independent unions. A presidential decree requires that unions enroll at least 10 percent of workers in an enterprise in order to form and register a local union and at least 500 members to form and register a national union. Independent trade union leaders reported that the requirement made union registration, and therefore union activities, nearly impossible in many of the larger state-owned enterprises. Some local unions were denied registration under the decree.

On November 4, the Ministry of Justice ordered the independent Free Trade Union of Metalworkers (FTUM) to reregister as a local organization after a ministry inspection found the union only had 217 members. FTUM leadership protested, claiming the union has 542 members and that the ministry had blocked 4 of the

union's 9 local branches from registering. The ministry also found the Democratic Union of Transport Workers to have too few members, and referred the case to the prosecutor general for further action.

On July 18, President Lukashenko signed a decree giving the progovernment FTUB the exclusive right to inspect any employer, government-owned or private, for compliance with labor regulations without regard to whether it actually employed FTUB members. The BCDTU considered that this decree discriminated against unions not affiliated with the FTUB. On October 20, the Ministry of Labor gave the FTUB the right to inspect any business for compliance with wage regulations, regardless of whether that firm employed FTUB members.

On September 20, at the FTUB convention, Lukashenko criticized independent trade unions and advised the FTUB to enlist the remaining independent trade union members into the FTUB. An October 26 presidential decree granted FTUB-affiliated unions free use of office space in state-owned buildings. This decree did not apply to independent trade unions.

Since 2004 the government has forced government employees and employees of state-owned businesses, who were a majority of the workforce, to work under a short-term contract system. There were credible reports that the government used this system to dismiss independent union members and opposition political activists. While contracts could be signed for periods up to five years, most major employers concluded contracts for six-month or one-year terms. On August 23, President Lukashenko signed a decree that set the minimum contract length at one year. Any contract for a shorter period must have the worker's written consent; contract terminations required a two-week notice. Independent unions welcomed the decree but considered the contract system to be "fundamentally" wrong and incompatible with international standards. Union sources reported that state companies began offering bonuses to workers who signed contracts; workers who signed contracts received salary increases of up to 35 percent.

Authorities took a number of actions to interfere with the organizing and operation of independent unions. During the year the government revived its ideology program at state enterprises, assigning new ideology directors to promote government policies and monitor workers' attitudes. Previously, tenured and relatively independent workers occupied such positions. One independent union leader claimed that the ideology director at his factory characterized the job as being to rid the factory of all nongovernment unions.

On August 15, the Minsk Automobile Plant (MAZ) transferred Vladimir Volkov, the chair of the MAZ REP, to a less qualified position with a decrease in pay, claiming his health kept him from fulfilling his duties. Sources indicated that Volkov's health did not affect his work, but gave the MAZ administration a reason to annul his contract and move him to another section of the factory. The new position prevented Volkov from speaking to other union members at the plant.

On September 28, a Grodno court fined Jan Roman, a journalist for the independent union newspaper *Solidarnost* and member of the REP, $600 (1.3 million rubles) for acting on behalf of an unregistered organization. The action was based on allegations by the head of the guard unit at the Grodno Automobile Engine Plant that Roman had distributed leaflets containing foul language and biased information that disrupted the plant's working environment. In reaching its decision, the court ignored documents showing that REP was registered with the Ministry of Justice and ruled that the union was an unregistered organization because it did not have a local chapter or registration in Grodno. Roman was again arrested October 7 for passing out copies of an independent newspaper but released after an hour. On September 21—a week prior to Roman's conviction—unknown persons broke into and ransacked REP's rented Grodno offices, breaking computers, overturning furniture, and removing documents and electronic files. REP leaders blamed the break-in on government services. On September 13, unknown persons broke into the Minsk office of REP leader Gennady Fedynich and removed documents and electronic files.

Authorities harassed independent union leaders. On October 13, the prosecutor general's office summoned BCDTU leader Aleksandr Yaroshuk to question him on where he heard that President Lukashenko had ordered the FTUB to eliminate independent unions. In September the prosecutor general's office questioned REP leader Gennady Fedynich about material in a REP bulletin, the place the bulletin was printed, and arrangements for its distribution.

Authorities continued to threaten or fire employees at state-run enterprises who joined independent unions; workers often chose to avoid joining nongovernment unions in order to keep their jobs and provide for their families. For example, in Orsha, threats of job loss reportedly caused independent union membership to drop from 250 to 190 during the year. Union leaders and political activists were typically

unable to renew their contracts or were unsuccessful in finding new jobs in their profession. Oleg Dolbik, head of the dissolved Belarusian Union of Air Traffic Controllers, was fired as an air traffic controller in 2004 and has since had difficulty finding a job in his profession.

On July 29, Maria Bogdanovich, an opposition activist who was fired from the Gomel region history museum on May 25, won a lawsuit against the museum administration. The Gomel central court ordered the museum to pay Bogdanovich for her forced May 25–July 29 absence from work and to change the reason of her dismissal from "repeated failure to carry out her labor contract duties without valid reasons" to "dismissal by mutual consent." Bogdanovich accused the museum administration of victimizing her for her political activities. Employers are not required to reinstate workers fired for political or union activity.

The government interfered with unions' participation in regional and international labor organizations.

On February 2, BCDTU leader Aleksandr Yaroshuk reported that the government, citing the BCDTU's "insufficient membership," did not include the largest independent union in the country's official delegation to the regional International Labor Organization (ILO) conference in Budapest; instead, the country's unions were represented by Eduard Matulis, deputy chairman of the government-controlled FTUB.

In October 2004 an ILO commission of inquiry found that the government had interfered in union activity and made 12 recommendations to the government on increasing its respect for freedom of association. In June the ILO application of standards committee concluded that the government had not taken concrete measures to comply with the recommendations. The government refused permission for a special ILO commission of inquiry to visit the country in September due to "scheduling conflicts." In November the ILO committee on freedom of association presented a report that concluded the government had failed to implement any of the 12 recommendations.

In 2003 the Ministry of the Economy instructed the ILO to stop all activities related to its technical assistance project for labor unions because the registration of the project had been rejected. The ministry cited the exclusion of the government-controlled FTUB from project activities as the main reason that registration was denied, even though local branch unions affiliated with the FTUB participated in project activities throughout the year.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively; however, government authorities and state-owned enterprises interfered in union activities and hindered the ability of workers to bargain collectively, in some instances arbitrarily suspending collective bargaining agreements.

In October 2004 an ILO commission of inquiry concluded that several trade unions had been denied the right to bargain collectively because of the deregistration and nonregistration of unions. Unions reported that some enterprises and state agencies pressured workers to accept individual contracts in lieu of collective contracts and also altered the duration of the contracts from life to fixed terms.

While the FTUB has exclusive rights to inspect any workplace, independent unions were rarely able to engage in such activities. For example, the BFTU chairman, Gennady Bykov, was denied access to the Minsk Factory of Automatic Lines, despite having a union leader pass. According to the BFTU, the head of the personnel department of the plant refused to grant Bykov access until he provided information about his reporting and about the union conference at which he was elected chairman of the BFTU. After the requested information was submitted, Bykov was granted an access pass until the end of the year. Bykov linked the incident to the administration's fear of BFTU's activities and its increasing membership at the plant.

The law provides for the right to strike; however, tight government control over public demonstrations made it difficult for unions to strike or hold public rallies. During the year small vendors and workers organized several small strikes in various regions of the country. Nonetheless, authorities authorized only small demonstrations away from city centers. Management and local authorities frustrated workers' attempts to organize strikes on many occasions by declaring that such activities would be illegal.

In April Brest Oblast judge Ruslana Syanko found Valantsin Lazarenkau, the chair of the Brest Oblast branch of the Free Trade Union, guilty of holding an unsanctioned meeting in a market during a market vendors' demonstration on March 15. Lazarenkau claimed he did not organize the meeting but was invited as a guest speaker. Judge Syanko fined Lazarenkau $237 (510 thousand rubles). On April 25, Minsk city authorities denied REP permission to stage a rally in central

Minsk on May 1 on the grounds that the REP failed to apply 15 days in advance, as stipulated by law. According to REP leader Gennady Fedynich, the application was delivered on April 15.

There are no special laws or exemptions from regular labor laws in the six special economic zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, women and girls were trafficked for sexual exploitation (see section 5).

The government approved several *subbotniks* by which workers "volunteered" to work on Saturday and donate the day's earnings to finance government social projects. Participation in *subbotniks* was technically voluntary but effectively mandatory; workers who refused to participate were subject to fines and intimidation by employers and government authorities.

On March 1, the government arbitrarily ordered 150 graduating medical students to work for 3 years in small towns and villages assigned by the government. While the government routinely assigned students who received state scholarships or stipends to work in such areas after graduation, this was the first time authorities forced students who had not received assistance into compulsory service.

With the concurrence of a doctor, an administrative court may sentence alcohol and drug abusers to up to two years' labor in a government work-treatment center, one of which is located in each of the country's six regions. Inmates receive minimal pay, almost all of which is taken to cover room and board.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government has laws and policies to protect children from exploitation in the workplace, including a prohibition on forced and compulsory labor and policies regarding acceptable working conditions, and the government implemented these laws in practice.

The law establishes 16 as the minimum age for employment. With the written consent of one parent or legal guardian, a 14-year-old child may conclude a labor contract. The prosecutor general's office reportedly enforced this law effectively. Minors under the age of 18 were allowed to work in nonhazardous jobs, but were not allowed to work overtime, on weekends, or on government holidays. Work was not to be harmful to the minor's health or hinder his/her education. Child labor was generally not a problem.

e. Acceptable Conditions of Work.—The national minimum wage of $55 (118 thousand rubles) a month did not provide a decent standard of living for a worker and family. Officially, average real wages were approximately $250 (537 thousand rubles) a month at year's end, although many employees received additional wages under the table.

The law establishes a standard work week of 40 hours and provides for at least one 24-hour rest period per week. Because of the country's difficult economic situation, a number of workers found themselves working considerably less than 40 hours per week, and factories often required workers to take unpaid furloughs due to raw material or energy shortages or lack of demand for factory output. The law provides for mandatory overtime and holiday pay and restricts overtime to 4 hours every two days, with a maximum of 120 hours of overtime allowed each year. The government was believed to have effectively enforced these standards.

The law establishes minimum conditions for workplace safety and worker health; however, employers often ignored these standards. Workers at many heavy machinery plants did not wear even minimal safety gear. There is a state labor inspectorate, but the agency lacked authority to enforce employer compliance and often ignored violations. From January to June, workplace accidents killed 101 workers and seriously injured 337 others; 46 percent of those killed in accidents were inebriated. The law does not provide workers the right to remove themselves from dangerous work environments without risking loss of employment.

BELGIUM

Belgium, with a population of approximately 10.4 million, is a parliamentary democracy with a constitutional monarch who plays a mainly symbolic role. The council of ministers (cabinet), led by the prime minister, holds office as long as it retains the confidence of the lower house of the bicameral parliament. Federal parliamentary elections held in May 2003 were free and fair and resulted in a four-party coalition government. The country is a federal state with several levels of government, including national, regional (Flanders, Wallonia, and Brussels), community (Flem-

ish, Francophone, and German), provincial, and local. The civilian authorities generally maintained effective control of the security forces

The government generally respected the human rights of its citizens, and the law and the judiciary provided effective means of addressing individual instances of abuse. The following human rights problems were reported:

- lengthy pretrial detention
- violence against ethnic and religious minorities
- domestic violence against women
- trafficking in women and children

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

There was violence towards Muslims and Jews (see section 2.c.).

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited the country between April 18 and 27. The delegation followed up on a number of issues examined during previous visits, in particular the treatment of persons allegedly deprived of their liberty by the police, the procedure and methods applied during the repatriation of foreign nationals, as well as the conditions in prisons and psychiatric hospitals. The CPT had not released its finding by year's end. The investigation into the 2003 death of a prisoner at Lantin penitentiary continued and was still pending at year's end.

Prison and Detention Center Conditions.—Prisons generally met international standards. The government was upgrading some older facilities but overcrowding remained a problem as incarcerations outpaced construction. During the year the country expanded psychiatric prison ward capacity following criticism of inmate treatment.

Juvenile prisoners were sometimes held with adults. Convicted criminals and pretrial detainees were held together.

The government permitted visits by members of parliament and independent human rights groups; they visited during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The federal police council, an anticorruption unit, and the federal interior ministry managed the operations of the federal police forces. An independent oversight committee monitored police activities and compiled an annual report for parliament. The federal police were responsible for internal security and nationwide law and order. The local police operated branches in all 196 police districts responsible for local law enforcement. There were incidents of corruption in the police force. In March four police in Boom were arrested on corruption charges; their trial began in November. A parliamentary oversight committee continued to report on cases of wrongful use of force, racism, and verbal abuse by police at all levels. These reports were under investigation at year's end.

Arrest and Detention.—An individual can be arrested while in the commission of a crime, or based on a warrant issued by a prosecutor, and must be brought before a judge within 24 hours. Detainees are promptly informed of the charges against them. While the law provides for bail, it was not a prevailing practice and was only occasionally granted. In practice arrested persons have prompt access to a lawyer of their choosing or, if they could not afford one, to a state-appointed attorney.

The courts rarely used the Summary Trial Act, which allows for the immediate arrest and summary appearance of criminals caught in the act of committing a crime.

There were no reports of political detainees.

Pretrial confinement was subject to monthly review by a panel of judges, which could extend detention based on established criteria, for example, if the court deemed the arrested person likely to commit further crimes or attempt to flee if released. There were instances where lengthy pretrial detention was a problem. Dur-

ing the year 38 percent of the prison population consisted of pretrial detainees. The average length of pretrial detention was 90 days.

Fehriye Erdhal, a Kurdish woman accused of involvement in a 1996 terrorist attack in Turkey, remained under house arrest. In April the Bruges Chamber of Indictment ruled that she, together with 10 Turkish DHKP/C militants, must appear in court to answer charges of arms possession and belonging to a terrorist organization. In June the same chamber of indictment ruled that the government has no power to try Erdhal for her role in a Turkish murder case of 1996. In October the Ghent chamber of indictment ruled that the court of assizes could not try Erdhal since the Turkish murder case was outside its jurisdiction.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judicial system is composed of civil and criminal courts, which both refer cases to courts of appeal. The courts of first instance (district courts) are responsible for civil and commercial litigation for matters that exceed the jurisdiction of a justice of the peace. There are five appeal courts and one supreme court of appeal (*Cour de Cassation*) overseeing both the civil and criminal courts. The supreme court of appeal verifies that the law has been correctly applied and that no procedural errors have been committed. When the supreme court of appeal overturns a ruling, the case is referred to one of the appeals courts to reexamine the facts.

The criminal courts consist of the magistrate's court, correctional courts, and the criminal chambers of the court of appeal. Additionally each province has a court of assize, with a public jury judging the cases. These courts have jurisdiction over all the most serious crimes and political crimes. The courts of assize are courts of first and last instance and their rulings cannot be appealed.

Each judicial district has a labor court, which deals with litigation between employers and employees regarding wages, notice, competition clauses, and social security benefits. There is also a magistrate in each district to monitor cases involving religious groups (see section 2.c.).

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. All defendants are presumed innocent and have the right to be present, to have counsel (at public expense if needed), to confront witnesses, to present evidence, and to appeal.

The law authorizes jurisdiction over alleged war crimes and crimes against humanity committed outside the national territory only when the victim or perpetrator is a citizen of or resides in the country. On June 28, the Brussels Court of Assizes convicted two Rwandan nationals for their part in the 1994 Rwandan genocide. They received 10 and 12 years' imprisonment respectively. In July the same court awarded damages to victims. The government was pursuing the former Chadian president, Hissein Habre, for crimes against humanity committed against Belgian citizens in Chad.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The law accorded "recognized" status to six religions and a grouping of nonconfessional philosophical or secular organizations, each of which received benefits from the federal and regional governments. The lack of recognized status generally did not prevent nonrecognized religious groups from freely practicing their religions, and citizens generally practiced their religion without official harassment or impediment.

In 1996 a parliamentary inquiry heard testimony on and from 189 sectarian or nonrecognized religious organizations. As a result of the inquiry, parliament passed a law establishing an independent government funded organization—the Center for Information and Advice on Harmful Sects (*Centre d'Information et d'Avis sur les Or-*

ganizations Sectaires Nuisables or (CIAOSN). The CIAOSN researches and responds to requests from the government or the public for information about sectarian organizations. While its analysis is not always flattering to the organizations researched, it has yet to declare any group "harmful". For some groups most often inquired about, the CIAOSN has published informational booklets. Some groups continued to complain that their inclusion in the report of the parliamentary commission caused discriminatory action against them. While the list (an annex to the parliamentary proceedings) has no official status, the groups continued to state that the prominence of the list and governmental funding of the CIAOSN caused negative assumptions and guilt by association. In practice the CIAOSN, with a staff of 8 persons, maintained information on more than 500 organizations in its library. In July Justice Minister Laurette Onkelinx announced that the government would not recognize the Church of Scientology and reaffirmed that the church appeared on the parliamentary list.

In June a Brussels appellate court judge ruled that the Church of the Kingdom of God had suffered damage by appearing in the parliamentary report of sectarian organizations. The president of the chamber of representatives argued that the judge's ruling undermined the legislative authority and independence of the lawmakers and filed an appeal with the country's highest court. The case was pending at year's end.

Political leaders avoided parliamentary debate over the use of religious symbols in public schools and allowed individual schools to continue to determine such matters. In June the Antwerp appellate court ruled that public schools could ban headscarves if it serves the educational aims of the school. The Movement against Racism, Anti-Semitism, and Xenophobia appealed to the council of state seeking annulment of individual school directives banning scarves. The appeal was pending at year's end.

The Maaseik municipal authorities fined a woman wearing a *niqaab* (a garment which covers the entire head with only the eyes visible) based on 1993 directive, ordering that all people walking the streets should be identifiable. The community accepted the ruling, and women have refrained from wearing the *niqaab* in public.

There is no provision in immigration law for foreign members of religious groups to enter the country to conduct religious work or for them to obtain work permits for that purpose. However, various religious groups, including the Church of Jesus Christ of Latter-day Saints, continued to receive visas for members from abroad temporarily to conduct missionary activities.

Societal Abuses and Discrimination.—Jewish advocacy groups noted 27 anti-Semitic incidents during the first half of the year, and Muslim organizations reported several anti-Islamic incidents. As of October there were 42 incidents reported as opposed to 27 for the same period in 2004. These included verbal abuse, swastikas painted on buildings, and a few physical attacks.

In April the Antwerp appellate court convicted an author who in writings denied the existence of the genocide committed by the Nazis. He was sentenced to one-year's imprisonment and the payment of symbolic damages. He also was stripped of his civil rights for a 10-year period.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately one thousand persons during the year.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The government, in partnership with the International Organization for Migration (IOM), provided relocation assistance to unsuccessful asylum applicants who agreed to repatriate voluntarily to their country of origin. Unsuccessful applicants who did not leave voluntarily were subject to forced repatriation.

There are six detention centers for aliens who entered the country illegally. During the year the government upgraded its facilities to house underage detainees separately from adults. Children of asylum seekers including those awaiting repatriation attended school. In practice the government delayed repatriation for entire families who had children attending school.

Undocumented asylum seekers arriving by air, whose claims did not appear legitimate as determined by immigration officials, were not allowed to enter but were held in an airport closed detention center while awaiting forced or voluntary repatriation.

During the year Kurdish asylum seekers went on hunger strike and were given a two-month suspension of their deportation order. There were other incidents with asylum seekers on hunger strike in protest of their pending repatriation; their stay in country was not extended.

During the summer there were incidents with the police moving rejected asylum seekers from open to closed detention centers. Following the incidents, advocacy groups and interior ministry officials agreed to make the stay in the closed center prior to deportation as short as possible.

In April a Brussels court ordered the government to pay damages to a Kurd who had waited seven years to receive final word regarding his asylum application. The court found the government had failed to handle the application expeditiously.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens ages 18 and older exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voting in all elections is compulsory, with failure to vote subject to a nominal fine.

Elections and Political Participation.—Federal parliamentary elections, considered free and fair, were held in May 2003 and resulted in a four-party coalition government. Most major institutions, including political parties, are divided along linguistic lines. Federal, regional, and linguistic national decisions often take into account the specific needs of each regional and linguistic group. With three official languages, the country had a complex linguistic regime, including language requirements, for various elective and appointive positions. The law prohibits the official financing of any racist or xenophobic party or any party that does not respect human rights.

There were 53 women in the 150-seat chamber of representatives and 26 women in the 71-seat senate; 5 of the 21 federal cabinet ministers were women, and there were 12 female ministers among 33 regional ministers. In 2002 parliament adopted legislation that requires an equal number of male and female candidates on party tickets for all future regional and federal elections.

There were four members of minorities in the chamber of representatives and six members of minorities in the senate; one of the federal cabinet ministers was a member of a minority, and there were two minority regional ministers.

In 2004 the justice minister decided to create a committee to assist in preparing elections for the representative bodies of the Muslim community. Elections for the general assembly took place March 20. Only 43,765 Muslims voted. Candidates of Turkish origin won 40 of the 68 seats of the assembly, those of Moroccan origin garnered 20 seats, those of other backgrounds won 6, and 2 Belgians of European origin were elected. After the election the executive board reached a consensus to elect a larger share of Moroccan origin representatives to the executive board, as they are the largest Muslim community in the country.

Government Corruption and Transparency.—There were several revelations of medium-scale corruption by local officials during the year. Two city councilors were held for several weeks before receiving bail on charges that they took personal benefit from expenses paid by a local housing society they managed. As part of the fallout, the minister president in charge of the region in Wallonia was forced to resign. Other cases remain under investigation.

The government provides free access to citizens and noncitizens to government information; however, there were exceptions, such as material involving national security.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these laws; however, violence against women, trafficking in persons, and violence against minorities were problems.

Women.—Domestic violence against women, including spousal abuse, remained a problem. One in five women was subject to domestic violence, with 13.4 per cent subjected to serious violence (requiring hospitalization). In 2004 federal police reported 10,137 cases of domestic violence. Under a national pilot implemented in two judicial districts, police reports must be forwarded to the prosecutor's office for action. No results were available at year's end. The law defines and criminalizes domestic violence and provides for fines and incarceration. Figures for prosecutions and convictions were not available at year's end. The law allows police to enter a home without the consent of the head of household when investigating a domestic violence complaint; however, there were complaints that the police did not do this frequently in practice. By year's end the government had not fully implemented provisions of the law that required it to establish and maintain a database of statistics on domestic violence.

A number of government-supported shelters and telephone help lines were available across the country. In addition to providing shelter and advice, many offered assistance on legal matters, job placement, and psychological counseling to both partners

Rape, including spousal rape, is illegal, and the government prosecutes cases of rape. However, no data was available on the number of persons charged or convicted of rape, including spousal rape. A convicted rapist can be imprisoned for a minimum of 10 years to a maximum of life. The maximum sentence is based on the age of the victim.

Prostitution is not illegal; however, the law prohibits organizing prostitution or assisting immigration for the purpose of prostitution.

Trafficking in women was a problem (see section 5, Trafficking).

Sexual harassment is illegal, and the government generally enforced the law. A victim of sexual harassment in the workplace can file a claim with a court of justice and claim damages. While the law provides victims of sexual harassment the right to sue their harassers and provides for financial remedies, most cases of sexual harassment were resolved informally.

Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The Institute for the Equality of Men and Women is authorized to initiate lawsuits if it finds that equality laws have been violated. There was some economic discrimination against women; the gross average salary for a woman was 85 percent of the national gross average salary.

Children.—The government was committed to children's rights and welfare.

Free full time education is compulsory from ages 6 to 16; subsequently education remains compulsory until the age of 18, but pupils may continue on a part time basis. Most children over 15 years old (more than 75 percent) finish school with a secondary diploma. There is generally little or no difference in the academic achievement of girls and boys.

The government funded health care; boys and girls had equal access.

There were reports of child abuse. During the year there were 60 prosecutions for child abuse. As a result of public awareness campaigns to sensitize the general public to the problems of child abuse, the number of reports of child abuse and neglect increased. The law provides for the protection of youth against sexual exploitation, abduction, and trafficking. The law provides for severe penalties for child pornography and persons possessing pedophilic materials. It permits the prosecution of residents who commit such crimes abroad and provides that criminals convicted of the sexual abuse of children cannot be paroled without first receiving specialized treatment and must continue counseling and treatment upon their release from prison.

Government and private groups provided shelters for runaways and counseling for children who were physically or sexually abused. Child Focus, the government-sponsored center for missing and exploited children, reported that it handled 3,305 cases concerning 3,658 children in 2004. Approximately 40 percent of the reported cases concerned runaways, 17 percent involved abduction by parents, 30 percent were reports of disappearance, and nearly 10 percent were pedophilia cases.

Although child prostitution was not widespread, it was a problem. As a result of the government's 2004 campaign to prevent child prostitution, the public appeared more aware of the problem, and increased reporting was evident.

Trafficking in children was a problem (see section 5, Trafficking).

Trafficking in Persons.—The law criminalizes trafficking in persons; however, the country was both a transit and a destination point for trafficking in women and children. Despite laws that offer protection and continued residence in the country to foreign victims of trafficking who come forward, both governmental and nongovernmental sources indicated a continuing rise in trafficking of women and minors for sexual exploitation.

The law provides that persons convicted of violating the antitrafficking law are subject to one to five years' imprisonment and substantial fines. Members of trafficking "organizations" and persons committing offenses that include aggravated circumstances may be punished by 10 to 15 years of hard labor and higher fines. Penalties for trafficking of children are more severe and include possible life imprisonment if the victim is less than 10 years of age.

New legislation came into force during the year that creates stiffer penalties for trafficking of unaccompanied minors; makes it no longer possible to invoke the defense of the consent of the victim; and creates aggravating factors that can increase the sentence.

In April 2004 the justice minister issued a new directive on investigating trafficking cases. Liaison magistrates are appointed with the courts of first instance, appellate courts, and labor courts. They are part of the Experts Network of the College of Prosecutors General. The directive ordered the magistrates to prioritize cases involving young victims, cases concerning violation of human dignity and involving the use of violence. The minister identified as second priority cases those involving criminal organizations, cases of continued criminal activity, and ones with an important social impact. The directive established new guidelines for conducting investigations, confirming the responsibility of the trafficking unit of the federal police to conduct strategic and operational analyses.

In 2004 the federal police reported a significant increase in Bulgarian gangs involved in forced prostitution and related crimes, an increase in private prostitution and escort services, and a smaller number of African prostitutes working in bars. The government assisted in international trafficking investigations.

Trafficking victims continued to come primarily from sub-Saharan Africa (particularly Nigeria), Central and Eastern Europe (particularly Albania and Bulgaria), and Asia (particularly China). Nigerian and Albanian victims usually were women between the ages of 21 and 30 trafficked for prostitution. Victims of sexual exploitation were increasingly women under age 18. Gangs that controlled the trade sometimes threatened victims with violence, including retribution against the victims' families in their home countries. Chinese victims often were young men trafficked for manual labor in restaurants and sweatshops.

There appeared to be a decreasing number of trafficking cases that were the work of organized gangs from Central and Eastern Europe, particularly Albania. While a growing number of victims came forward, this rarely led to the identification or capture of the traffickers. Traffickers not only moved their victims frequently from city to city within the country, but also used the European Union's open borders to move victims from country to country. Freedom of movement also made it easy for traffickers to evade arrest if one of their victims went to the authorities.

The law provides that victims of trafficking who provide evidence against their trafficker may be granted temporary residence and work permits and are eligible to receive significant financial assistance from government-funded reception centers managed by nongovernmental organizations (NGOs). In each of the country's three regions, the Government designated and subsidized a nonprofit organization to provide such assistance. At the conclusion of legal proceedings against their traffickers, victims generally were granted permanent residence status and unrestricted work permits. The rights of victims generally were respected in practice, and they were not treated as criminals. The Center for Equal Opportunity and the Fight against Racism (CEOOR) did not maintain statistics on how many victims of sexual exploitation were sheltered and assisted.

In 2004 the three regional specialized centers offered shelter to 893 victims, primarily from Nigeria, China, Romania, Bulgaria, and Albania.

The government worked closely with the IOM to develop programs to combat trafficking and to assist its victims. For example the government provided funding for information campaigns in countries of origin to warn women of the dangers of trafficking. It also provided funding to the IOM to assist the voluntary return of victims to their home countries and to assist them in readjusting once they had returned home. The government worked closely with and supported NGOs that combated trafficking.

Persons with Disabilities.—The law provides for the protection of persons with disabilities from discrimination in employment, education, access to health care, and the provision of other state services. There were no reports of societal discrimination

against persons with disabilities. While the government mandated that public buildings erected after 1970 be accessible to such persons, many older buildings are still inaccessible.

National/Racial/Ethnic Minorities.—Immigrant communities complained of discrimination. Members of the Muslim community, estimated at 450 thousand, and principally of Moroccan and Turkish origin, claimed that discrimination against their community, notably in education and employment and especially against young men, was greater than that experienced by other immigrant communities. In 2004 the CEOOR, which is tasked with investigating complaints of discrimination, handled 924 complaints. In its annual report covering 2004, the CEOOR mentioned an increase in complaints regarding racism and discrimination in the workplace. The discrimination concerned hiring, verbal abuse, and contract termination on the grounds of color of the skin, faith, and wearing a headscarf.

During the year, there continued to be reports of ethnic and religious incidents, primarily directed towards Muslims and Jews (see section 2.c.). Increases in anti-Semitic nonviolent incidents noted in some unofficial reports may have reflected the increased and easier reporting mechanisms.

Other Societal Abuses and Discrimination.—Discrimination against homosexuals received considerable public and political attention. In April a Nivelles court convicted a landlord who refused to lease a house to a same-sex couple. It was the first ever conviction for discrimination against homosexuals. In May a juvenile court convicted two youngsters for physically assaulting a homosexual couple, under the law combating discrimination. The country permits homosexual marriages.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers the right to associate freely, including the freedom to organize and to join unions of their own choosing, and workers exercised this right in practice. Approximately 63 percent of employed and unemployed workers were members of labor unions. During the year trade unions complained about difficulties (legal and practical) they encountered when seeking to organize workers in small businesses and retail groups. Fines for antiunion discrimination are too small to deter antiunion discrimination effectively. According to the International Confederation of Free Trade Unions (ICFTU), employers prefer to pay fines rather than reinstate workers dismissed for union activities.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protects this right in practice. The right to bargain collectively is recognized, and the government protected this right in practice. Approximately 63 percent of all workers were covered by such agreements. The law provides for the right to strike, and workers exercised this right in practice. According to the ICFTU, the right to strike was often undermined in practice, with many cases in recent years of employers seeking court rulings to ban strikes. Since this practice was widely used, the social partners completed the "gentlemen's agreement", which aimed to promote dialogue between the social partners in the event of collective disputes. Courts have limited the right to strike since 2002 by an agreement that commits both labor and management to "social dialogue." This "social dialogue" did not prevent at least three strikes during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law and policies generally protect children from exploitation in the workplace. The minimum age of employment for children is 15. Youths between the ages of 15 and 18 could participate in part-time work and study programs and work fulltime during school vacations. Trafficking of children occurred (see section 5). The labor courts effectively monitored compliance with national laws and standards, and there were no violations reported by year's end.

e. Acceptable Conditions of Work.—The monthly national minimum wage for workers over 21 years of age was approximately $1,492 (1,243 euros), coupled with extensive social benefits, which provided a decent standard of living for a worker and family.

The standard workweek is not to exceed 38 hours, and the national collective bargaining agreement prohibited more than 11 hours of overtime daily and 50 hours weekly. An 11 hour rest period is required between 2 work periods and overtime is paid at a time and a half premium Monday through Saturday and at double time

on Sundays. The ministry of labor and the labor courts effectively enforced these laws and regulations.

There are comprehensive provisions in the law for worker safety. Workers have the right to remove themselves from situations that endanger their safety or health without jeopardy to their continued employment, and workers exercised this right in practice. Regulations were generally enforced effectively.

The CEOOR reported increased discrimination based on national origin and race in the workplace (see section 5).

BOSNIA AND HERZEGOVINA

The 1995 peace agreement for Bosnia and Herzegovina (the Dayton Accords) created the independent state of Bosnia and Herzegovina (BiH) and two multiethnic constituent entities within the state, the Federation of Bosnia and Herzegovina (the Federation) and the Republika Srpska (RS), along with the independent District of Brcko. The country has a population of approximately 4 million; the Federation has a Bosnian Muslim (Bosniak) and Croat majority, while the RS has a Bosnian Serb majority. The constitution provides for a federal democratic republic with a bicameral parliamentary assembly but assigns many governmental functions to the two entities, which have their own governments. The Dayton Accords provide for an Office of the High Representative with authority to impose legislation and remove officials. The BiH government is headed by a tripartite presidency consisting of Bosnian Croat Ivo Miro Jovic, Bosnian Serb Borislav Paravac, and Bosniak Sulejman Tihic. In the Federation, a directly elected president nominates and the House of Representatives approves the prime minister. In the RS, a directly elected president nominates and the National Assembly confirms the prime minister. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor; although there were improvements in some areas, serious problems remained. The security situation in sensitive return areas and police responsiveness to incidents targeting minority returnees did not improve. The following problems were reported:

- deaths from landmines
- physical abuse by police officials
- overcrowding and poor conditions in prisons
- improper influence on the judiciary by nationalist elements, political parties, and the executive branch
- pressure and harassment of the media by authorities and dominant political parties
- official restrictions on activity by religious minorities
- political, ethnic, and religious violence
- official obstruction of the return of displaced persons
- widespread perception of government corruption
- two of the International Criminal Tribunal for the former Yugoslavia's (ICTY) most wanted war crimes suspects, Ratko Mladic and Radovan Karadzic, remained at large
- discrimination against women, ethnic minorities, persons with disabilities, and sexual minorities
- trafficking in persons
- limits on workers rights

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

There were no developments during the year in the December 2004 killing of Hrustan Suljic, president of the local Bosniak returnee community near the town of Teslic, by unknown persons in front of his family home. The police investigation into the killing was ongoing at year's end.

In March RS authorities surrendered Serb indictee Dragoje Paunovic to the BiH state court war crimes chamber; Paunovic was accused of crimes against humanity in connection with the forced deportation of Muslim civilians from the eastern RS in 1992.

Domestic courts and the ICTY continued to adjudicate cases arising from crimes committed during the 1991–95 conflicts (see sections 1.e. and 4).

During the year landmines killed 10 persons and three demining accidents killed 1 person and injured 2 persons. Two of the fatalities were children under the age of 12.

b. Disappearance.—There were no reports of politically motivated disappearances.

An estimated 15 thousand to 20 thousand persons remained missing from the wars in 1991–95. The International Committee of the Red Cross (ICRC) reported that, since 1995, it had received requests from family members to trace 21,480 persons missing from the war. By year's end, a total of 6,855 persons had been accounted for, including 443 found alive. The national Missing Persons Institute (MPI), established in 2004, was responsible for absorbing the entity-level missing persons commissions and continuing the search for missing persons in partnership with the International Commission on Missing Persons (ICMP). The MPI was not fully operational during the year, but in the interim its tri-chairmanship composed of Bosniak, Croat and Serb representatives of the entity-level commissions coordinated the exhumation and identification of missing persons.

During the year entity-level commissions carried out 288 exhumations of mass or illicit gravesites with the forensic support of the ICMP and recovered 282 partial and complete sets of human remains. During the year the Federation commission uncovered five mass graves in Liplje near Zvornik that contained the remains of more than 1,000 victims of the Srebrenica massacre. During the year the ICMP's laboratory generated DNA matches that may lead to the identification of 1,882 individuals. The ICMP also collected blood samples from relatives to assist in identifying 958 missing persons.

The RS government established an independent Srebrenica Commission to comply with a 2003 Human Rights Chamber decision ordering it to inform families of the fate of relatives missing from the Srebrenica massacre and to investigate the events giving rise to the massacre and report the results of the investigation. In November 2004 the commission turned over a classified annex of documents implicating an unknown number of war crimes suspects to RS authorities for investigation. In March the RS government forwarded to the Office of the High Representative and the state prosecutor a list of 892 persons suspected of involvement in the massacre who still hold government jobs. However, the High Representative Paddy Ashdown found that RS authorities failed to provide information about hundreds of individuals listed in the classified annex. In October RS authorities submitted their final report as required by the High Representative Ashdown.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, physical mistreatment of prisoners by police occurred.

During the year there were a number of citizen complaints in both entities alleging excessive use of force during arrest. According to the European Union (EU) police mission and the RS and Federation professional standards units (PSUs), the number of complaints against police officers remained at approximately the same level during the year as in 2004. Investigations and into police misconduct and standards of accountability continued to improve during the year (see section 1.d.).

Reports of societal violence against minority communities declined slightly during the year; police investigation of these incidents and police protection in general remained at the same level as in 2004 (see sections 2.d. and 5).

There continued to be societal violence directed at returning refugees (see sections 2.d. and 5).

Prison and Detention Center Conditions.—Conditions were poor in police detention facilities, where overcrowding and inadequate food and hygiene were chronic problems. Prison standards for hygiene and access to medical care met prisoners' basic needs; however, overcrowding and antiquated facilities remained chronic problems. During the year, inmates at Tunjice Prison in Banja Luka staged a protest over poor living conditions, inadequate medical treatment, extortion of bribes, and physical abuse by guards. The RS minister of justice met with the inmates and pledged to investigate their allegations, as well as to institute disciplinary proceedings against guards who physically abused them. There were some incidents of ethnically motivated violence among inmates. For example, in June four ethnic Serb prisoners serving sentences for war crimes in Zenica prison were attacked by Bosniak inmates. The Serb prisoners went on a hunger strike in support of their request to be transferred to Kula Prison in East Sarajevo. The Federation minister of justice conducted an investigation and declined the transfer request.

Corruption among prison officials continued to be a problem.

Adult and juvenile female inmates were held together in separate wings of facilities for adult males. Male inmates aged 16 to 18 were housed with adult male inmates, while male inmates under the age of 16 were held separately.

The government permitted visits by independent human rights observers; international community representatives were given widespread and unhindered access to detention facilities and prisoners. The ICRC conducted prison visits in both entities during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The law gives the government of each entity responsibility for law enforcement. The EU Force (EUFOR) continued to implement the military aspects of the Dayton Accords and to provide a secure environment for implementation of the nonmilitary aspects of the settlement. The North Atlantic Treaty Organization headquarters in Sarajevo is responsible for overseeing defense reform, counter-terrorism efforts, and cooperation with the ICTY. The EU police mission continued its mandate to monitor, mentor, inspect, and raise standards of the local police.

The Federation and the RS have their own police forces, as does the District of Brcko. There are three primary levels of law enforcement in the country: the state-level BiH Ministry of Security, which does not have a police force but is supported by the State Investigation and Protection Agency (SIPA) and the State Border Service (SBS); the Federation Ministry of Interior; and the RS Ministry of Interior. The RS interior ministry is centralized with five public safety centers. The Federation interior ministry is decentralized; each of the 10 cantons has its own cantonal ministry of interior that functions autonomously. Neither the Federation nor the RS interior ministries reports to the BiH Ministry of Security. Although they share information, these structures function quasi-independently and have jurisdiction over different offenses. For example, the security ministry is responsible for state-level crimes, such as terrorism and trafficking in persons, whereas the RS and Federation interior ministries are responsible for crimes in their areas. In October the entities and state authorities approved a police reform proposal which supported key European Commission principles on unified policing and set out a roadmap for implementation.

Police in the RS generally did not meet target standards of ethnic representation, as mandated by various agreements; however, the number of minority police officers in both entity police forces continued to increase slightly.

The EU police mission acted in an advisory capacity to entity police forces, with a limited mandate. Interior ministry PSUs functioned as internal affairs investigative units in each entity and in the Brcko District. The presence of these units led to the processing of complaints of police misconduct and discipline of police in accordance with standard procedures.

During the year the RS PSU investigated 792 excessive force complaints and determined that 67 citizen complaints and 115 internal complaints were well founded. The unit forwarded recommendations for disciplinary action to prosecutors in 170 cases considered to be major violations of duty. During the year, 26 criminal (felony) reports and 27 misdemeanor reports were filed against 29 interior ministry employees for offenses including narcotics trafficking, forgery, theft, domestic violence, assault, extortion, and traffic violations.

During the year the Federation PSU investigated 100 cases and concluded that 32 complaints were well founded. The 10 cases that were deemed to be major violations of duty were forwarded to prosecutors for appropriate disciplinary action. As a result of disciplinary actions, eight police officers were fined, two were fired, and one was reassigned.

There were continued reports of corruption at the highest levels of the security forces at the entity and national level. Investigations conducted by police in cooperation with the international community, including the EU police mission, resulted in several ministers and police officials being fired or prosecuted (see section 3).

Arrest and Detention.—In practice persons were openly arrested with warrants based on sufficient evidence and issued by a judge. The law requires that persons suspected of committing a crime must be taken before a prosecutor within 24 hours after detention. This requirement was observed in practice. The prosecutor has an additional 24 hours to determine whether the person should be released or to bring the person before a judge to decide if they should remain in pretrial custody. Police are also authorized to detain individuals for up to 6 hours at the scene of a crime for investigative purposes. Detainees are allowed to request a lawyer of their own choosing and to inform family members of their detention. Courts are required to provide indigent defendants with attorneys only in felony cases; however, authori-

ties did not always do so in practice, particularly for less serious offenses. Detainees were promptly informed of the charges against them. There was a functioning bail system. There were no reported cases of arbitrary arrest or detention during the year.

There were no reports of political detainees.

The law provides that pretrial detention cannot be longer than one year. Persons in pretrial detention have the right to be informed of all charges against them once an indictment has been handed down. Under the law, a trial must be undertaken in a speedy manner; in practice, detainees were usually not held in pretrial detention for more than three months.

e. Denial of Fair Public Trial.—The laws of both entities provide for an independent judiciary; however, there were indications that political parties influenced the judiciary in certain politically sensitive cases. Judicial reforms have reduced the level of intimidation by organized crime figures and political leaders, although such interference continued to occur. For example, the executive branch exercised some overt influence over the judicial system, particularly through the questionable use of pardons.

The State Court is the highest court in the country for criminal cases. The country also has a Constitutional Court, whose judges are selected by the Federation's House of Representatives, the RS National Assembly, and the president of the European Court of Human Rights in consultation with the presidency. Each of the entities has its own supreme court and prosecutors' offices. There are cantonal courts in the Federation, district courts in the RS, and municipal courts in both entities.

Local officials and police generally cooperated in enforcing court decisions, but problems persisted as a result of organizational inefficiency. Despite efforts to streamline court procedures, large backlogs of unresolved cases remained a problem in many jurisdictions. Authorities generally respected and implemented constitutional court decisions. During the year local authorities failed to implement four decisions of the Human Rights Chamber and its successor institution, the Human Rights Commission of the Constitutional Court; however, two of these cases were resolved after intervention by the court.

Trial Procedures.—Under Federation and RS laws, trials are public and the defendant has the right to counsel, at public expense if the defendant is charged with a crime punishable by long-term imprisonment. However, courts did not always appoint defense attorneys for indigent defendants in cases where the maximum prison sentence was less than 10 years. The law provides that defendants have the right to confront or question witnesses and to present witnesses and evidence on their behalf. Defendants have the right to appeal.

The first war crimes trial at the national level began in the BiH State Court War Crimes Chamber in September. The defendant in that case, Boban Simsic, was charged with war crimes against Bosniak civilians in Visegrad in 1992. The case was ongoing at year's end.

Local capacity to prosecute and adjudicate war crimes cases improved substantially. During the year, the war crimes chamber of the state court began conducting war crimes trials. In July the state court rendered its first war crimes verdict, sentencing Abdulahim Maktouf, an Iraqi national residing in the country, to five years in prison for participating in the kidnapping of three Croat civilians, one of whom was beheaded. In December the appeals panel of the state court overturned the verdict and order a retrial. Lower-level domestic courts also continued to conduct trials for war crimes suspects. During the year Federation prosecutors secured 11 war crimes convictions.

In February the Banja Luka district court acquitted 11 former Prijedor police officers who were indicted in 2003 for detaining members of the Matanovic family. In 2001 police discovered the bodies of Catholic priest Tomislav Matanovic and his parents, who disappeared from Prijedor in 1995, in the well of their family residence in Rizvanovici. The ICTY approved the transfer of this case to the domestic judicial system. The prosecutor appealed the verdict to the RS Supreme Court, which had not reached a decision by year's end.

Of the eight Bosnian Serbs arrested by the RS in October 2004 for war crimes against Muslims and transferred in November 2004 to the Sarajevo cantonal court, four cases were returned to the RS prosecutor's office, and four remained in Sarajevo cantonal court. The cases of defendants Svetko Novakovic, Jovan Skobo, Zeljko Mitrovic, Momir Skakavac, and Dragoje Radanovic were ongoing at year's end.

In September the Sarajevo cantonal court acquitted Momir Glisic of committing war crimes against civilians in the Grbavica settlement near Sarajevo. The Federation prosecutor appealed the decision to the Federation Supreme Court; the appeal was pending at year's end. During the year the Sarajevo cantonal court convicted

Veselin Cancar of war crimes and sentenced him to four years and six months' imprisonment. Goran Vasic was also convicted of war crimes and sentenced to five years and six months' imprisonment.

The State Court made only modest progress on adjudicating organized crime cases, where the lack of effective witness protection hampered prosecutions.

Political Prisoners.—There were no reports of political prisoners.

Property Restitution.—The Domestic Commission on Real Property Claims (DCRPC) processed claims for property wrongfully taken during the 1992–95 war that were not adjudicated by the Commission for Real Property Claims (CRPC), whose mandate ended in 2003, or by municipal housing authorities. During the year the DCRPC resolved 98 cases. As of July less than 7 percent of the claims for property seized during the war remained outstanding; most of the settled claims were resolved in favor of the prewar owners/occupants. Because the DCRPC transferred thousands of unresolved cases to municipalities for adjudication at the end of 2004, only 12 of 127 municipalities had resolved all pending claims by July 30. Banja Luka municipality in the RS and Sarajevo Canton in the Federation had the highest numbers of unresolved claims.

In September 2004 the Constitutional Court upheld a Federation law prohibiting ownership of property in the Federation by anyone who served in the Yugoslav military after May 19, 1992. The ruling affected former Yugoslav officers, mostly Serbs, who claimed four thousand apartments they had abandoned during the war. The court also ruled that the Federation could apply a Yugoslav legal principle that prevents a citizen from claiming tenancy rights to more than one apartment at a time; this adversely affected the officers' claims, since most had apartments elsewhere, primarily in Serbia. Even with the court ruling, the DCRPC must still render official legal decisions in all these cases.

The Constitutional Court received 2,700 new cases during the year. By the end of the year, the court had resolved 1,693 cases, including all but 10 of the cases filed in 2004. The court found constitutional violations in approximately 5 percent of the cases it considered. Authorities enforced the Constitutional Court's orders in all but a few cases.

Roma displaced during the war had difficulty repossessing their property as a result of discrimination and because they lacked information on procedures (see section 5). In many cases, Romani families lacked documents proving ownership or had never registered their property with local authorities. The lack of documentation prevented them from applying for reconstruction assistance.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Unlike the previous year, there were no reports that RS or Federation police routinely conducted searches of private homes without obtaining a search warrant.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government did not always respect press freedom in practice. Laws safeguarding freedom of the press were delegated to the cantons in the Federation and to the central authorities in the RS.

The government generally respected freedom of speech in practice; individuals could criticize the government without fear of reprisal and frequently did so.

The government restricted press freedom and officials openly threatened the press in some instances. Officials also commonly subjected media outlets to less overt pressure, such as threatening them with loss of advertising or limits on their access to official information.

Many independent, privately owned newspapers were available and expressed a wide variety of views. Several printing houses operated in the country, precluding the formation of a publishing monopoly. *Dnevni Avaz*, whose editorial policy strongly reflects Bosniak interests, remained the largest circulation daily, followed by Banja Luka-based daily *Nezavisne Novine*. In the RS, the government-owned *Glas Srpske*, remained the largest newspaper and printing company, although there were also several independent newspapers.

Two government-owned stations (Federation Television (FTV) in the Federation and Radio Television of Republika Srpska (RTRS) in the RS) remained the largest television broadcasters in the country. A third government-owned station, Bosnia and Herzegovina Television, has operated since August 2004. A local commercial network of five stations operated in both entities (Mreza Plus), as did the private television networks OBN and PinkBH. Dozens of small independent television stations broadcast throughout the country.

Radio continued to provide a forum for diverse points of view. Opposition perspectives were fully reflected in the news programs of independent broadcasters. Independent or opposition radio stations broadcast in the RS, particularly in Banja Luka. One of these, Nes Radio, reflected a wide variety of political opinions. During the year a number of radio stations in Croat-majority areas distanced themselves from hard-line nationalistic views and covered opposition viewpoints.

Politicians and government officials pressured the media by accusing them of opposing the interests of a given ethnic group or betraying the interests of their own ethnic group. Because of to the country's communal tensions, these accusations were an effective form of intimidation. On occasion, government officials, particularly in the RS, exerted economic pressure by directing the advertising of government-owned companies away from media critical of officials or official policies. Officials and political leaders strongly criticized the media in public, sometimes creating a threatening environment for journalists critical of government policies.

In April an employee of the Banja Luka faculty of mechanical engineering made threatening phone calls to a journalist who planned to publish a story about irregularities at the faculty. The journalist reported the incident to the police, who promptly detained and charged the person responsible.

In September the Serb Democratic Party (SDS) office in the town of Gacko and SDS deputies in the town's municipal assembly declared an RTRS reporter unwelcome in the town because of a series of reports she published on local SDS officials' involvement in corruption and embezzlement and issued a press release urging town residents to join them in shunning the reporter. SDS Gacko issued an apology after RTRS, the Office of the High Representative, and the BiH journalists' association condemned the action.

Also in September the warden of the Kula Prison made a threatening telephone call to a journalist from *Nezavisne Novine* who had reported on conflicts between the former RS minister of justice (then an inmate at the facility) and other inmates. The RS minister of justice apologized for the call after *Nezavisne Novine* published the threats and the BiH Journalists' Association protested.

In September 2004 a journalist for the daily newspaper *Dnevni List* published an article about convicted murderer Muamer Topalovic's request for temporary release from prison. Topalovic made threats against the journalist, and also filed slander charges against him. In October, the journalist was acquitted in the slander suit; the police investigation into the threats against the journalist was ongoing at year's end.

The laws in the RS and the Federation prohibit criminal cases against journalists for defamation, although journalists may be sued in civil court. According to the Federation ombudsman's July special report, courts were not prepared for the large volume of civil suits against journalists, and courts' lack of capacity to handle the caseload resulted in long delays. The ombudsman also expressed concern that delays and plaintiff demands for large amounts of compensation could have a chilling effect on freedom of expression.

Since 2002, approximately 400 defamation cases have been tried in cantonal and district courts in the Federation and RS; approximately 350 charges were brought in Federation courts. Public figures, particularly politicians, tended to initiate defamation cases, although journalists also frequently brought charges against colleagues.

The government did not restrict access to the Internet.

The government did not restrict academic freedom; however, academic freedom was constrained by ethnic favoritism and politicization of faculty appointments. In Sarajevo, Serbs and Croats complained that members of the Bosniak Party of Democratic Action (SDA) and Bosniaks in general received preferential treatment in appointments and promotions at the University of Sarajevo. The University of Banja Luka continued to limit faculty appointments almost exclusively to Serbs. The University of Mostar remained divided into eastern and western branches, reflecting the continued ethnic divide in the city.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. A wide range of social, cultural, and political organizations functioned without interference.

While political parties did not compel individuals to become members, many viewed membership in the leading party of any given area as the surest way of obtaining, regaining, or keeping pension and health benefits, housing, and jobs in government-owned companies.

The law allows NGOs to register freely at the BiH Ministry of Civil Affairs and Communications and therefore to operate anywhere in the country; however, some NGOs and associations of NGOs experienced difficulties registering, including long delays and inconsistent application of the law. Some NGOs, frustrated by bureaucratic delays at the state level, chose instead to register their organizations at the entity level in one or both entities.

c. Freedom of Religion.—The law provides for freedom of religion; however, societal violence and the threat of violence restricted the ability of adherents of minority religions in non-ethnically mixed areas to worship as they pleased. At year's end the state minister of human rights and refugees had not yet adopted the bylaw containing instructions for implementation of the 2004 Law on Religious Freedom.

Entity and local governments and police forces frequently allowed or encouraged an atmosphere in which abuses of religious freedom could take place, although there was improvement from previous years. Overall, respect for religious freedom declined during the year. In some cases, however, police and local government officials acted to protect religious freedom by providing security for major religious events and for religious buildings. The reluctance of police and prosecutors to aggressively investigate and prosecute crimes against religious minorities remained a major obstacle to safeguarding the rights of religious minorities.

Ethnically motivated religious violence was often directed against ethnic symbols, clerics, and religious buildings. Local police generally did not conduct serious investigations into such incidents. For example, in December the glass door on the mosque in Donja Puharska, near Prijedor, was broken. This was the third act of vandalism against the mosque during the year.

In the RS, administrative and financial obstacles impeded the rebuilding of religious structures that were damaged in the 1992–95 war, limiting the ability of minorities to worship and interfering with their return in many areas.

The law requires religious communities to register with the BiH Ministry of Justice; any religious group can register if it proves that it has at least 300 adult members who are citizens. By September 30, local units of the four major religious communities (Muslim, Serbian Orthodox, Jewish, and Catholic) had registered, as well as several Christian denominations, including Baptist, evangelical Christian, and Jehovah's Witnesses congregations.

Religious education classes are mandatory for Serb children in RS public schools and optional for children in other parts of the country; however, in practice, classes were generally offered only for students of the majority religion in a given area. Authorities sometimes pressured parents to consent to religious instruction for their children. In some cases, children who chose not to attend religion classes were subject to pressure and discrimination from peers and teachers.

Societal Abuses and Discrimination.—There were a number of acts of vandalism against Islamic religious targets during the year. For example, unknown persons wrote insulting or anti-Muslim graffiti on the walls of the Hadziosmanija mosque in Banja Luka in January, on the house of an imam in Balinovac, near Mostar, in April, and on the mosque in the RS town Zvornik in July. In October unknown persons broke into the newly reconstructed mosque in the RS town of Bosanski Samac and assembled stones in the shape of a cross inside the mosque. Also in October two intoxicated men disrupted evening prayers on the first day of Ramadan in the Osmanpasina mosque in Trebinje, in the RS. Police detained both men and charged them with disturbing the peace. In December unknown persons vandalized Muslim gravestones in Banja Luka.

There was also vandalism against Serbian Orthodox and Catholic religious targets. In the Federation town of Glamoc, unknown persons set the flag of the Serbian Orthodox church on fire; police conducted an investigation but did not apprehend any suspects. In May unknown persons desecrated several graves in the Prijedor Catholic cemetery, including those of father Tomislav Matanovic and his relatives; the bodies of the Matanovic family, who were believed to be war crimes victims, were found in the well next to their former home in 2001.

There were a number of controversial cases involving construction of religious objects or monuments. In May 2004 Federation authorities ordered the removal of crosses that had been illegally constructed on public land in Stolac; however, the removal was delayed pending the outcome of a lawsuit filed in May on the legality of the Federation government's decision; the lawsuit was ongoing at year's end.

During the year Croats in the Mostar suburb of Jasenica objected to the reconstruction of a mosque on the grounds that it would be larger and different from the prewar building in violation of a law that allows reconstruction only in the same style as the original building. City officials ordered removal of the mosque; however, the order had not been carried out by year's end. Construction has been halted.

An illegally constructed Serbian Orthodox church remained on the land of a Bosniak returnee in the town of Konjevic Polje in the eastern RS, despite the RS Ministry of Urban Planning's September 2004 decision that the church should be removed and the absence of local Serb residents. On September 11, the local Orthodox priest celebrated mass in the church, which was attended by a small number of believers. Local police were present and there was no violence.

The Jewish community had approximately one thousand believers and was recognized as one of four established religions in the country.

In January two anti-Semitic articles written by a local journalist were published in the Islamic extremist *SAFF* magazine and the tabloid magazine *Walter*. In addition to making general anti-Semitic statements (for example, denying the Holocaust), the articles accused the Jewish community and some of its individual members of corruption and conspiracy. One article included an altered photograph depicting the leader of the Jewish community wearing a yarmulke, a Hitler mustache, and an armband with Star of David insignia. In December a local television station aired an Iranian television program which called the Holocaust a myth; the Jewish community strongly protested the broadcast.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, some limits remained in practice.

The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons (IDPs).—According to the Office of the UN High Commissioner on Refugees (UNHCR), between the end of the war in 1995 and the end of November, 1,011,555 persons who left the country had returned. Of these, 452,205 were returnees to areas where they were an ethnic minority. The UNHCR registered only 6,162 returns through November, of which 5,581 were minority returnees. These numbers are substantially lower than in 2004, particularly for returnees to areas where they would be an ethnic minority.

The difficult economic situation in the country remained the most significant factor inhibiting returns, with many rural areas experiencing unemployment rates above 60 percent. When jobs were available, minority returnees often complained of discrimination in hiring. Funds for reconstruction assistance continued to decline, although the BiH Ministry of Human Rights and Refugees began implementing projects from the joint return fund during the year.

The security situation for returnees improved during the year, although isolated incidents of violence were reported and a hostile atmosphere still existed in many areas. Many returnees cited authorities' failure to apprehend war criminals as a disincentive to return, as they did not want to live in communities with persons who had committed war crimes and had not been held accountable. Many displaced persons were creating permanent lives away from their prewar homes, and only individuals with few other options (including a large number of elderly pensioners) tended to return.

Other factors inhibiting returns included a lack of available housing and high municipal administration taxes on documents that are necessary for return, such as birth or land certificates. Minority returnees often faced intimidation and discrimination, lack of access to health care and pension benefits, poor local infrastructure, and denial of utility services such as electricity, gas, and telephone by publicly owned utility companies. While problems decreased from previous years, they persisted in hard-line areas. Authorities in some areas of Croat-controlled Herzegovina and some towns in eastern RS continued to resist minority returns, obstructing returnees' access to local services, including municipal power and water, education, issuance of important civil documents, and health care.

In the RS, the refugee ministry provided support to Bosniaks and Croats returning to the RS and to Bosnian Serbs returning to the Federation. The Federation Ministry for Refugees assisted Croats and Serbs returning to the Federation and Bosniaks returning to the RS. Both entity-level refugee ministries provided limited reconstruction assistance to returnees and also committed part of their budgets to be implemented through joint projects to be determined by the BiH State Commission for Refugees. In October 2004 the commission agreed that 30 priority municipalities should receive reconstruction assistance through the newly established joint reconstruction fund. During the year municipal authorities began selecting beneficiaries and implementing projects in the fund's target municipalities. The BiH Ministry of Human Rights and Refugees also began implementing two separate projects partly funded by the Council of Europe Development Bank (CEDB) and other foreign government agencies. The CEDB project was aimed at getting resi-

dents out of collective centers (in the Federation) and alternative accommodation (in the RS) and back to their prewar homes.

Protection of Refugees.—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum to any persons during the year.

During the year the government did not grant temporary protection to any persons who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. As a result of the 1999 conflict in the former Federal Republic of Yugoslavia (FRY), approximately six thousand persons, half of them from Kosovo, fled the FRY and came to the country. In June the Council of Ministers extended the temporary refugee status of Kosovo refugees until June 2006; however, the status of all other FRY refugees expired on June 30. Refugees with pending asylum applications, regardless of national origin, may remain in the collective centers until their cases can be decided. According to UNHCR statistics from December, 736 refugees from Serbia and Montenegro, including refugees from Kosovo, remained in collective centers. An additional 3,018 refugees from Serbia and Montenegro were also living in communities throughout the country. By year's end, the government had not accepted any of these refugees for resettlement in the country.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully; however, the use of coercive tactics by some nationalist parties precluded full citizen participation without intimidation.

Elections and Political Participation.—Observers from the Organization for Security and Cooperation Europe (OSCE) concluded that the 2002 general elections had been conducted largely in line with international standards for democratic elections, but noted problems including the inability of numerous voters to find their names on voter registers, group voting, and a few cases of voter intimidation.

An OSCE observer mission judged the regional and municipal elections in October 2004 to be largely in line with international standards, but noted the same problems as in the 2002 general elections.

Individuals and parties representing a wide spectrum of political views could freely declare their candidacies and stand for election. The three major nationalist parties, (the SDA, the Croatian Democratic Union, and the SDS) dominated the political scene by virtue of their size and influence, although opposition parties were not excluded from participation in political life. Membership in the three nationalist parties conferred formal advantages, as nonparty members were often excluded from appointment to many key government positions.

The election law requires that at least 30 percent of political party candidates be women. There were 7 women in the directly elected 42-seat BiH House of Representatives (lower house) and no women in the 15-seat BiH House of Peoples (upper house), whose members were appointed by entity legislatures. There were 23 women in the 98-seat Federation House of Representatives and 20 women in the 83-seat RS National Assembly. There was 1 woman in the nine-member Council of Ministers.

There was only one member of a minority in the BiH House of Representatives and no members of a minority in the nine-member Council of Ministers. Under the Dayton Accords, members of the ethnic Serb, Croat, and Bosniak groups must be appointed to government positions on a proportional basis (based on the 1991 census). Separate from those groups, there are 16 recognized national minority groups. While other minorities may hold these offices, the law does not compel their appointment and therefore they remained underrepresented.

Government Corruption and Transparency.—There were reports of official corruption during the year. For example, a former Croat member of the BiH presidency Dragan Covic was indicted in March for tax evasion and bribery. In April the Office of the High Representative removed him from his position after he refused to resign. In February 2004 state authorities arrested the local Interpol deputy director on corruption charges; in June he was acquitted of all charges. In September the state court convicted Ante Jelavic, a former Croat member of the BiH presidency, for em-

bezzling funds during his tenure as Federation finance minister and sentenced him to 10 years in prison. He did not appear at the sentencing hearing and a warrant was issued for his arrest. The law bars citizens from holding positions of public responsibility if they have pending criminal indictments against them. In June BiH Minister for Communications and Transport Branko Dokic resigned after being charged with abuse of office.

In addition to Covic, three persons were removed from office during the year. On June 2, the commanders of NATO and EU peacekeeping forces dismissed General Novak Djukic from his position as chief of staff of the RS Army after Serb recruits under his command refused to swear allegiance to the state. On July 8, High Representative Ashdown removed Nikola Lovrinovic from his position as minister of education in the Central Bosnia canton for failing to implement higher-level education legislation. On October 28, Ashdown removed Milovan Pecelj from his position as RS minister of education for failing to carry out his duties.

Although the law provides for citizen access to government records, many government agencies did not comply with the law. For example, some agencies have not yet prepared the required registry of documents that are available and guidelines for access to them. According to the law, the government must provide an explanation for any denial of access, and citizens may appeal denials in the court system or to the ombudsman's offices. In practice, the government sometimes failed to provide an explanation for denial of access to information as required by the law; however, if citizens appealed denials to the ombudsmen or the courts, the government generally provided an explanation. Public awareness of the law remained low.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were rarely cooperative and responsive to their views.

Domestic NGOs were active. For example, the Helsinki Committee of BiH and the Helsinki Committee of the RS continued actively reporting on a wide range of human rights abuses. While NGOs enjoyed relative freedom to investigate human rights abuses, authorities rarely responded to their recommendations and often categorically rejected or delayed acting on their interventions.

The government cooperated fully with international organizations such as the Office of the High Representative, which has special powers over the government, as well as other international organizations such as the UNHCR, ICRC, OSCE, and ICMP.

The Constitutional Court handles all human rights cases filed since the beginning of 2004. In January the backlog of the Human Rights Chamber, whose mandate ended in 2003, was transferred to the Constitutional Court. The Human Rights Commission, consisting of five judges from the Human Rights Chamber, was appointed to address this backlog. By November the commission had issued 2,683 decisions, of which 634 were decisions on the merits of cases. The most common cases included claims for the return of frozen foreign currency accounts, war damages cases, and claims involving pensions and property rights.

The country has twelve human rights ombudsmen, three at the state level, and three each representing the Federation, the RS, and Brcko. Citizens' remedies for human rights violations included filing civil suits or seeking assistance from the ombudsmen. However, the ombudsmen's recommendations were not binding, and the civil court system had major backlogs. The ombudsmen were effective in some individual cases, but were less successful in addressing institutional patterns of discrimination.

The Federation continued its cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the State Court's War Crimes Chamber.

While the RS improved its cooperation on war crimes cases, two of ICTY's most wanted war crimes suspects, wartime commander of the RS Army Ratko Mladic and wartime RS president Radovan Karadzic, remained at large and, in the eastern RS, Foca, Bijeljina, and Pale remained under sanction for failing to cooperate with the ICTY.

During the year authorities assisted in the transfer of 9 persons indicted for war crimes to the ICTY for prosecution. The ICTY held 56 accused in custody, while 23 accused have been provisionally released from pretrial detention. In August local authorities arrested ICTY indictee Milan Lukic in Buenos Aires. Lukic appealed his extradition to the ICTY, and the case was ongoing at year's end. In September the ICTY transferred the Bosnian war crimes case of Radovan Stankovic for trial in BiH

by the war crimes chamber. Stankovic was the first ICTY indictee to be tried in a Bosnian court. The ICTY has approved the transfer to the Bosnian court of an additional six indictees; they are appealing the decision. In September RS authorities transferred Serb indictee Sredoje Lukic to the ICTY to stand trial for crimes against humanity for his involvement in the alleged murder, detention, rape, and abuse of Muslim civilians in the RS town of Visegrad in 1992.

The ICTY trial of former FRY president Slobodan Milosevic, who was charged with genocide and other crimes in the country, remained ongoing at year's end. In January the ICTY sentenced Colonel Vidoje Blagovic, a senior officer in the wartime Bosnian Serb army, to 18 years' imprisonment for genocide for his role in the Srebrenica massacre. His codefendant, Dragan Jokic, received a nine-year sentence for war crimes and crimes against humanity. The ICTY trials of Momcilo Krajisnik, a senior military official in the wartime Bosnian Serb army, and Naser Oric, commander of the Bosnian army in the Srebrenica area, were ongoing at year's end.

Many, if not most, of the perpetrators of killings and other abuses committed in previous years remained unpunished, including war criminals indicted by the ICTY, those responsible for the approximately 8 thousand persons killed after the fall of Srebrenica, and those responsible for approximately 15 thousand to 20 thousand other persons who were missing and presumed killed as a result of "ethnic cleansing." In September the RS Srebrenica Commission criticized the RS Ministry of Defense for not providing sufficient information on police units that were active during the 1995 massacres of civilians in the Srebrenica area.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or other social status; however, discrimination against minorities, women, sexual minorities, persons with disabilities, and others was pervasive.

Women.—Violence against women, including domestic violence and sexual assault, remained a widespread and underreported problem. According to a 2004 study by the Sarajevo faculty of criminology, 20 percent of female respondents indicated that they had been physically abused by their husbands or boyfriends. In 79 percent of these cases, the violence occurred repeatedly. Spousal rape and spousal abuse are illegal in the Federation and the RS; however, domestic violence usually was not reported to the authorities. Experts estimate that only 1 in 10 cases of domestic violence are reported to the police. During the year, the RS domestic violence hotline received 1,019 reports. Both entities adopted a law on domestic violence that requires police to remove the offender from the family home.

Police received specialized training in handling cases of domestic violence and several local NGOs operated a 24-hour hotline to provide assistance and counseling to domestic violence victims. Reluctance on the part of victims to report domestic violence to authorities or to testify against their abusers contributed to lack of prosecutions. There were shelters in Mostar, Tuzla, Banja Luka, Sarajevo and Modrica to assist victims of domestic violence. Several NGOs reported an increase in domestic violence reports because of awareness-raising campaigns that informed victims about their rights and encouraged them to make official complaints.

Rape and spousal rape are illegal; the maximum penalty for either crime is 15 years' imprisonment. A sense of shame reportedly prevented some rape victims from complaining to authorities. While police generally responded to reports of sexual assault, they tended not to treat reports of spousal rape with the same seriousness.

Prostitution is illegal. The law treats procuring as a major crime, but prostitution and solicitation are misdemeanors punishable by a fine only. Police raids on bars and brothels drove prostitution underground, and it frequently took place in private apartments or on an outcall basis. Single mothers or other vulnerable women, particularly from economically depressed rural areas, were at higher risk of being recruited for sexual exploitation.

Trafficking in women for purposes of sexual exploitation was a serious problem (see section 5, Trafficking).

The law prohibits sexual harassment, but sexual harassment was a serious problem that was poorly understood by the general population. Many women surveyed by NGOs reported experiencing treatment that constituted sexual harassment in their workplaces. Victims of sexual harassment almost never filed complaints, largely because they did not recognize their experiences as harassment and were not aware of their legal rights and remedies.

The law prohibits gender-based discrimination. Women have equal legal status to men in family law and property law, and were treated equally in practice throughout the judicial system.

During the year the BiH government established the Agency for Gender Equality, which worked to harmonize legislation with the Law on Gender Equality and inform

women of their legal rights. The Federation, RS, and BiH parliaments had committees for gender equality.

Women served as judges, doctors, and professors, although few women held positions of real economic or political power. A small but increasing number of gender-related discrimination cases were documented. Anecdotal accounts indicated that women and men generally received equal pay for equal work at government-owned enterprises but not always at private businesses. Women in all parts of the country had problems with nonpayment of maternity leave allowances and the unwarranted dismissal of pregnant women and new mothers. Many job announcements openly advertised discriminatory criteria such as age (typically under 35) and physical appearance of female applicants. Women remained underrepresented in law enforcement agencies, although progress continued to be made.

Children.—The governments of both entities were generally committed to the rights and welfare of children; however, social services for children were extremely limited. The BiH Ministry of Human Rights and Refugees also had an oversight role in enforcing children's rights. Children with disabilities lacked sufficient medical care and educational opportunities.

Education is free and compulsory through age 15; however, parents were required to pay for textbooks, lunches, and transportation, which some families could not afford. A lack of reliable monitoring and statistics on enrollment and drop-out rates hindered efforts to ensure that school-age children received an education. Children with special needs were legally required to attend regular classes, but schools were often unable to accommodate them. Except for Roma, almost all children finished primary school through the 9th grade; the completion rate was lower for secondary school. Boys and girls attended school equally.

According to the country's annual Helsinki Committee human rights report, up to 70 percent of Romani children did not attend school regularly. Many Romani children were unable to attend school because of extremely poor living conditions, lack of proper clothing, and the inability or unwillingness of families to pay school-related expenses. Verbal harassment from other students, language problems, and registration costs and requirements also contributed to the exclusion of Roma from schools, despite the desire of many parents to enroll their children.

Students in minority areas frequently faced a hostile environment in schools that did not provide an ethnically neutral setting. Obstruction by nationalist politicians and government officials slowed efforts to remove discriminatory material from textbooks, abolish school segregation, and enact other reforms. Cantonal governments in the Federation and the Ministry of Education in the RS pressured school directors at the primary and secondary school level, and several schools were directed by hard-line political figures.

Administrative and legal unification of the 52 cases of "two schools under one roof," with separate classes for Bosnian Croats and Bosniaks, did not lead to integrated classrooms, although shared extracurricular activities, school entrances and recreation facilities sometimes resulted. In some areas of the country, notably Vitez in central Bosnia and Prozor-Rama and Stolac in Herzegovina, local officials and parents sought to establish complete physical segregation of Bosniak and Croat students. Segregation and discrimination were entrenched in many schools, particularly in the teaching of national history and religious education. In the RS, non-Serbs made up less than 5 percent of the teaching staff in primary and secondary schools. In the Federation, minority teachers made up between 5 and 8 percent of all teachers, depending on the canton.

Schools throughout the country continued to use textbooks on subjects outside the so-called "national group" of subjects that contained controversial material. For example, textbooks in Bosnian Croat-majority areas refer to Croatia as the homeland of all Croat people, while texts in the RS instill a sense of patriotism towards Serbia and Montenegro.

During the year the Interentity Textbook Review Commission drafted guidelines for authors of new textbooks that emphasized multiple points of view, including those of women and national minorities. Despite their earlier commitment to the commission, five Bosnian Croat cantonal ministers of education and RS Minister of Education Milovan Pecelj refused to sign the guidelines.

Medical care for children in the Federation is controlled at the cantonal level, and the level of care varied widely between cantons. In the RS, the law provides that the Ministry of Health furnish free medical care to children up to 15 years of age; in practice, children often did not receive medical care unless they had medical insurance paid for by their parents. Boys and girls had equal access to medical care.

Family violence against children was a problem. Police investigated and prosecuted individual cases of child abuse; there were no statistics available on the extent of the problem. Municipal centers for social work were responsible for pro-

tecting children's rights, but often lacked resources and alternative housing for children who ran away from home to escape abuse or who needed to be removed from abusive homes. Some NGOs estimated that one in four families experienced some form of domestic violence, including physical, psychological, or sexual abuse of children.

In certain Romani communities, girls were married between the ages of 12 and 14. Apart from efforts to increase Romani participation in education, there were no programs aimed specifically at reducing the incidence of child marriage.

Trafficking in girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Child begging was common in some Romani communities; infants (with adults) and children as young as four were sent out to beg on street corners, often working 10 or more hours per day in all weather conditions.

According to statistics released during the year by the Ministry of Human Rights and Refugees, 38,547 of the 186,138 displaced persons from the country were children under 18.

Trafficking in Persons.—The law prohibits trafficking in persons; however, women and girls were trafficked for sexual exploitation and children and adults were sometime trafficked for labor, particularly from the Romani community. There were reports that police and other officials were involved in trafficking.

Under the law, trafficking is a state-level crime that carries a sentence of up to 10 years in prison. The BiH Ministry of Security is responsible for coordinating antitrafficking law enforcement at all levels of government.

During the year authorities intensified efforts to combat trafficking, formalizing a victim referral mechanism, drafting by-laws on domestic trafficking victims, concluding a memorandum of understanding with six local NGOs to provide shelter and other services to victims, working with the entity ministries of education to incorporate trafficking awareness training into the public school curriculum, and conducting extensive training for police, prosecutors, judges, teachers, and social workers.

The state prosecutor's office has exclusive jurisdiction over trafficking cases and can decide which cases to prosecute at the BiH level and which to send to the entity level. The national antitrafficking coordinator, whose mandate includes coordination of victim protection efforts among NGOs, police, and government institutions as well as law enforcement, reported directly to the Ministry of Security. A nationwide interagency investigative task force to combat trafficking, the antitrafficking strike force, was chaired by the chief state prosecutor and included prosecutors, police, and financial investigators and targeted trafficking and illegal migration. There were four major strike force investigations that resulted in indictments during the year.

In a major trafficking case in Sarajevo, in 2004 authorities charged a bar owner, his wife, and another bar employee with procuring, pandering, and tampering with evidence. In April a court convicted the bar owner, Samir Haganovic, and sentenced him to three years and eight months' imprisonment. The court sentenced his wife and former employee to one and a half years' imprisonment.

In September a court convicted two men of trafficking and the prosecutor reached a plea agreement with two others for participating in the exploitation and sale of Ukrainian trafficking victim Olena Popik, who died of AIDS-related illnesses in Mostar in November 2004. The four received prison sentences ranging from seven months to two years.

The country was a destination, transit point, and, to a lesser extent, country of origin for women, girls, and, in a few cases, teenage boys trafficked for sexual exploitation. During the year, Romani children were trafficked into and within the country for forced labor. The country was also a transit point for Chinese nationals being trafficked for forced labor; illegal Chinese immigrants generally remained in the country for short periods before continuing to destinations in Western Europe.

Over 90 percent of trafficked women in the country came from Moldova, Romania, Serbia and Montenegro, and Ukraine. While no reliable estimates are available, a significant number may have been trafficked on to Western Europe. According to the International Organization for Migration (IOM), most victims were lured by false job offers, such as advertisements offering work in Italy or Germany as dancers, waitresses, and domestic servants. Some NGOs reported that trafficking victims were increasingly lured into the country by promises of marriage to traffickers or their associates, while others knowingly entered into false marriages to obtain work and residence permits. Most trafficked women entered the country through Serbia and Montenegro. Those who transited the country generally continued on via Croatia. The IOM reported Bosnian victims in other parts of Europe and local NGOs observed some Bosnian victims within the country.

There were no reliable estimates on the number of women trafficked during the year; police raids forced trafficking further underground, increasing the difficulty of estimating the scope of the problem. During the year the IOM assisted 38 victims, 14 of whom were repatriated; 6 victims were citizens, while 5 were minors.

Traffickers came from a variety of backgrounds, including freelance operators and loosely organized local criminal networks. Large international organized crime syndicates were less involved than in previous years. Some employment, travel, and tourist agencies fronted for traffickers.

Victims reported working in conditions akin to slavery, with little or no financial support. In some cases, traffickers paid victims some wages so that they could send money home to their families. Traffickers coerced victims to remain in these situations through intimidation, verbal threats, seizure of passports, withholding of food and medical care, and physical and sexual assault. To keep victims in the country legally, traffickers also made victims apply for asylum since, as asylum seekers, they were entitled to remain in the country until their claims could be adjudicated.

There continued to be reports of police and other official involvement in trafficking, particularly at the local level. In October 2004 border police arrested a member of the RS interior ministry's elite special unit near Bijeljina while he was attempting to cross into the country from Serbia with two suspected trafficking victims in his car. Authorities immediately suspended him from duty and opened an investigation, which was ongoing at year's end. During the year, authorities charged a State Border Service officer with abuse of office for placing a false stamp in the passport of a suspected trafficking victim; the case was ongoing at year's end.

If screening established that a person was a trafficking victim, authorities did not prosecute that person for immigration or prostitution violations. In most cases, foreign victims were voluntarily repatriated. Persons found not to be trafficking victims were often deported and occasionally prosecuted for immigration and other violations.

During the year the government adopted a formal victim referral mechanism and signed memoranda of understanding with the six NGOs that ran shelters for trafficking victims. The local NGO Forum of Solidarity operated the main shelter in Sarajevo and ran one safe house in Doboj where victims received medical care, counseling, repatriation assistance and limited vocational training. Other NGOs operated safe houses in Sarajevo, Banja Luka, Mostar, and Bijeljina. Although police provided protection for the shelters, victims told NGO employees that they did not trust local police and feared that traffickers would pursue them if they left.

During the year NGOs assisted 88 trafficking victims, who were provided basic shelter and medical, psychological, and legal assistance. The Office of the UN High Commissioner for Human Rights published a manual on legal advocacy and trained local attorneys to assist trafficking victims on a range of criminal and civil issues, including their immigration status and legal rights if they chose to testify against their traffickers.

In cooperation with the IOM, the government launched a public awareness campaign focusing on children in primary and secondary schools and teacher training.

Persons with Disabilities.—The law in both entities prohibits discrimination against persons with disabilities; however, there was discrimination against persons with disabilities in employment, education, access to health care, and in the provisions of other state services.

Throughout the country, there was clear discrimination between different categories of persons with disabilities, and the vast majority of persons with disabilities were unemployed. For example, persons with disabilities resulting from the war were given a de facto privileged status above the civilian war disabled and persons who were born with disabilities. Children with disabilities were often hospitalized in residential institutions or confined to their homes, and they rarely had the opportunity to attend school. One NGO estimated that 30 percent of persons with disabilities residing in institutions were capable of independent living if housing and resources were available. Some institutions inappropriately housed mentally ill and developmentally disabled persons together.

In the Federation, the law mandates that all existing public buildings must be retrofitted to provide access to persons with disabilities by November 2007 and that new buildings must also be accessible. However, in practice, buildings rarely were accessible to persons with disabilities. The RS had comparable laws for building access but progress on retrofitting older public buildings remained slow.

National/Racial/Ethnic Minorities.—Ethnic differences remained a powerful force in the country, although mixed communities existed peacefully in a number of areas. Nationalist Bosnian, Serb, and Croat politicians sought to increase the ethnic homogeneity of the population in areas they controlled by discouraging IDPs of their own

ethnicity from returning to their prewar homes if they would be in the minority there (see section 2.d.). However, the RS government was supportive of Bosniak and Croat returns to the RS, and Bosniak returns to the Srebrenica area increased; however, the RS continued to support integration of displaced Bosnian Serbs within the RS using the war veterans' budget and at the municipal level, land allocations.

While incidents of violence decreased overall in the country, follow-up investigations in a number of cases were problems. Police conducted investigations but consistently failed to apprehend and charge perpetrators of ethnically motivated hate crimes. For example, in February an unknown assailant physically attacked an elderly Bosniak returnee to the RS town of Doboj.

In May a match between the country's junior national soccer team and the team of Serbia and Montenegro in Bijeljina was marred by ethnic slurs against Bosniaks and burning of the BiH flag by Bosnian Serb supporters of the visiting team. Also in May unknown persons broke the windows of three Bosniak-owned shops in Prozor.

Harassment and discrimination against minorities continued throughout the country, often centering on property disputes, despite improvements in some areas. These problems included desecration of graves, arson, damage to houses of worship, verbal harassment, dismissal from work, threats, and assaults.

Ethnic discrimination in employment and education remained key obstacles to the return of residents (see section 5, Children). Widespread firing of ethnic minorities during and after the war was not reversed in most cases, and members of the ethnic majority in a region often were hired over minorities in places where the minorities had been employed. Although privatization of large state-owned enterprises was conducted under the supervision of the international community, many smaller enterprises were sold to politically well-connected individuals, usually members of the majority group in their communities. These enterprises generally did not employ minorities. For example, none of the Croat-owned businesses in Stolac employed Bosniaks.

The Roma population, estimated at 40 thousand to 80 thousand, faced serious difficulties in exercising the full range of fundamental human rights provided to them under the law. Access to employment, education, and government services was a particular concern. Many Roma were excluded from public life because they lacked birth certificates, identification cards, or a registered residence. Many Roma also could not access health care or register to vote. Only a small number of Romani adults were officially employed and Roma were often denied social support; some families sent their children out to beg or relied on other sporadic sources of income. In August the Council of Ministers adopted a national Roma strategy, which focused on improving Romani access to education, employment, health care, property rights and more robust political participation by Roma. However, the government had not started implementing the strategy by year's end.

While authorities permitted Romani children to attend schools in all areas of the country, their attendance was often low as the result of pressure from within their own community and from local non-Romani communities discouraging them from attending school (see section 5, Children).

Other Societal Abuses and Discrimination.—While the law prohibits discrimination on the basis of sexual orientation, it was not enforced in practice, and there was frequent societal discrimination against gay, lesbian, bisexual, and transgender persons. Sexual minorities who were open about their orientation were frequently fired from their jobs. In some cases, dismissal letters explicitly stated that sexual orientation was the cause of termination, making it extremely difficult to find another job. Some gay teens were harassed at school and were kicked out or ran away from home after revealing their orientation to their parents.

Some teachers described homosexuality as deviant behavior when presenting the public school curriculum on health and sexuality to their students.

According to unreliable government statistics, there were less than a hundred cases of HIV/AIDS in the country. There was a significant stigma against persons with HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers in both entities (except members of the military) to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. However, the BiH government refused to register an umbrella organization of entity-level unions (formed in mid-year) at the state level, which effectively blocked the activity of the principal unions above the entity level.

The law prohibits discrimination by employers against union members and organizers; however, protections against retaliation for union activity were not strong

and discrimination continued. Practical barriers to employees bringing complaints against employers included high unemployment, a backlogged court system, and the large number of workers in the gray economy.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and conduct union activities without interference; however, authorities did not impose sanctions against employers who obstructed union organizing and activity in practice. Some unions reported that employees of private companies were threatened with dismissal if they joined a union.

The right to bargain collectively is provided by law in the RS and in a comprehensive collective bargaining agreement in the Federation. However, collective bargaining in both entities did not involve voluntary direct negotiation between a union and individual employers, but rather work agreements between the government and workers in the public sector. In the Federation, there were no collective bargaining agreements between private employers and unions. In the RS, the general collective bargaining agreement applies to all workers and is negotiated between unions, the government, and employers. This general agreement applies to private companies whether or not their workers are union members. There is no law in the District of Brcko on collective agreements, so workers there effectively did not have the right to bargain collectively.

The law provides for the right to strike and workers exercised this right in practice.

There are no special laws or exemptions from regular labor laws in the country's six export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Entity labor laws restrict child labor, and the entity government implemented these laws in practice. The minimum age for employment of children in the Federation and in the RS is 15 years; minors between the ages of 15 to 18 must provide a valid health certificate in order to work. The law prohibits children from performing hazardous labor, such as night work. Although child labor was not generally a problem, children sometimes assisted their families with farm work and odd jobs. Romani children often begged on the streets, particularly in larger cities.

Trafficking in children for sexual exploitation and sometimes for labor was a serious problem (see section 5).

Entity governments are responsible for enforcing child labor laws. Neither entity had inspectors dedicated solely to child labor inspections; rather, violations of child labor laws are investigated as part of a general labor inspection. Both entities' labor inspectorates reported that they have not found significant violations of child labor laws in the workplace, although they did not conduct any reviews of children working on family farms.

e. Acceptable Conditions of Work.—The monthly minimum wage in the Federation was $193 (308 convertible marks) and in the RS the "minimum price of work" used as a base for the salary scale of government employees was $51 (82 convertible marks); however, neither provided a decent standard of living for a worker and family. Many workers had outstanding claims for back payment of salaries and pensions. The law requires employers in both entities to make substantial mandatory contributions to pension and health care funds; as a result, employers often did not officially register their employees in order to avoid paying high social welfare benefits, leaving employees without access to public health care.

The legal workweek is 40 hours; however, seasonal workers may work up to 60 hours per week. The law requires that employers pay overtime to employees. Overtime is limited to 10 hours per week in the Federation with no provision for premium pay; in the RS, overtime is limited to 10 hours and is paid a 30 percent premium, although an employee may volunteer for an additional 10 hours in exceptional circumstances. Federation and RS laws require a minimum rest period of 30 minutes during the work day.

Authorities did not adequately enforce regulations related to acceptable work conditions. While entity labor inspectorates made some effort to enforce registration of employees, they limited most labor inspections to conditions for the officially registered workforce. Since the courts served as the recourse for complaints involving registered workers, the RS labor inspectorate had to submit fines and penalties for court approval; because of court backlogs, this system was not effective, and many workers for practical purposes worked without protections.

The law provides workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment; however, this right was not effectively enforced in practice.

BULGARIA

Bulgaria is a parliamentary democracy of approximately 7.7 million persons, and is ruled by a coalition government headed by Prime Minister Sergei Stanishev. Multiparty parliamentary elections in June were deemed generally free and fair despite some reported irregularities. While civilian authorities generally maintained effective control of law enforcement officers, there were some instances in which law enforcement officers acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were problems in several areas. The following human rights problems were reported:

- police abuses, including beatings and mistreatment, of criminal suspects, prison inmates, and members of minorities
- harsh conditions in prisons and detention facilities
- arbitrary arrest and detention
- impunity
- limitations on freedom of the press
- some restrictions on freedom of religion
- discrimination against certain religious minorities
- widespread corruption in executive and judicial branches
- violence and discrimination against women, children, and minority groups, particularly the Roma
- trafficking in persons
- discrimination against persons with disabilities
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Neither the government nor its agents committed any politically motivated killings; however, there were reports that police killed two persons during the year.

On November 10, Anguel Dimitrov died while being arrested in a nationwide operation against organized crime. The chief secretary of the Interior Ministry confirmed early reports that Dimitrov had died of a heart attack. An autopsy, however, showed that he died of a brain hemorrhage caused by severe blows to the head. On December 14, the military appellate prosecutor's office suspended an investigation into Dimitrov's death, citing a lack of evidence of police abuse. According to prosecutors, police used lawful measures to detain a dangerous criminal who was resisting arrest.

On April 16, Yulian Krastev, a 38-year-old homeless man, was found beaten to death in an apartment block in Varna. The prime suspect in the murder was a police officer who lived in the same building. The officer was dismissed from his job and the Varna regional military prosecutor's office launched an investigation, which was ongoing at year's end.

The internal inquiry by the Ministry of Interior (MOI) into the March 2004 fatal shooting by two police officers of a 25-year-old Rom in Plovdiv uncovered no evidence of police abuse, but the officers were transferred to other units of the police directorate. The Plovdiv military prosecutor's criminal investigation into the incident was ongoing at year's end.

During the year 25 persons, including a senior customs official, were killed in societal violence reportedly linked to organized crime.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, police commonly beat criminal suspects, particularly minorities.

Police often mistreated criminal suspects in police custody, most often during the initial interrogation. Human rights observers charged that police sometimes handled minor offenses by arresting suspects, beating them, and releasing them within a 24-

hour period, so that no judicial involvement was required (see section 1.d.). The Romani nongovernmental organization (NGO) Romani Baht reported receiving complaints of police brutality from Romani victims who were too intimidated to lodge an official complaint with the authorities.

On May 5, two police officers in Pernik reportedly beat Rossen Stoyadinov, a Rom, who was not informed of his rights as a detainee and was forced to confess to thefts (see section 1.d.). Stoyadinov later obtained a medical certificate for the injuries from a local doctor and filed a complaint with the Ministry of Interior.

Human rights groups claimed that medical examinations to investigate police abuses were not properly documented, that allegations of police abuse were seldom investigated thoroughly, and that offending officers were very rarely punished.

At year's end an investigation by the Sofia military prosecutor's office was still ongoing in the case of charges of police brutality stemming from a January 2004 incident in which two Sofia police officers unleashed their dog on Assen Zarev, a Rom, after questioning him about the whereabouts of another person. The officers reportedly beat Zarev and threatened to shoot him. An internal inquiry conducted by the MOI found no abuse of authority on the part of the police officers.

The appeal of two police officers was ongoing at year's end following their May sentencing by the Plovdiv military court for their role in the March 2004 beating of 22-year-old detainee Boris Daskalov. The court gave two of the police officers involved 18-month suspended sentences, and fined their direct supervisor. In April 2004 the MOI inspectorate confirmed that the police officers had exceeded their powers, and seven police officers received disciplinary sanctions for the incident.

Prison and Detention Center Conditions.—Prison conditions generally did not meet international standards; however, the government undertook some steps to improve the situation.

Conditions in some prisons remained harsh and included overcrowding, inadequate lavatory facilities, and insufficient heating and ventilation.

NGO prison monitors reported that brutality by prison guards against inmates continued to be a problem. There were also reports of brutality among inmates. Prisoners had the right to report substandard conditions or mistreatment to prison authorities; however, NGO observers complained that the process for submitting complaints did not function effectively.

Overcrowding remained a problem, although the Ministry of Justice reported a slight decrease in the prison population following the introduction of a probation system. There were 11,324 prisoners in the country's twelve prisons, a figure estimated by the Ministry of Justice to exceed by three times the capacity of the prison system. NGOs received complaints from prisoners about the quality and quantity of food they were served.

Despite some infrastructure improvements that were carried out during the year most prisoners continued to share toilets and had infrequent restroom access. Many detention centers were in basements with little or no access to sunlight.

There were 1,039 detainees in the country's 51 detention centers. The detention facilities system operated below capacity, according to data from the MOJ. The government installed ventilation systems in 31 of the centers to improve airflow.

The government generally permitted independent monitoring of prison conditions by independent observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, there were reports of infringement of these provisions by police.

Role of the Police and Security Apparatus.—The MOI is responsible for oversight of internal law enforcement including activities of the National Police, the National Service for Combating Organized Crime (NSBOP), the National Security Service (civilian domestic intelligence), the National Gendarmerie Service (paramilitary police), and the Border Police. Public order services, such as the National Intelligence Service and National Bodyguard Service, were directly subordinate to the president and were not subject to adequate judicial, executive, or legislative oversight of their activities or budgets.

A survey of the Center for Study of Democracy (CSD) published in March found that a significant percentage of crimes committed in the country are not reported to the police. Although respondents offered varying reasons for not reporting the crimes, the most cited were the lack of confidence in police competence, dislike of police, and fear of reprisal.

The MOI reported that 214 complaints of police corruption were submitted in writing or to its hotline from January to November. As a result, 49 officers were fired and 105 administratively censured through November. During the same period 16 officers were referred to the military prosecution service for prosecution. MOI in-

vestigations of criminal acts committed by police resulted in six extortion convictions in 2004.

Impunity remained a problem; lack of accountability inhibited government attempts to address police abuses. Human rights groups claimed that the structure of judicial authority represented a serious obstacle to the accountability of law enforcement officers for alleged human rights abuses. All complaints involving MOI and other police forces are required to be heard through the military court system. The Sofia Military Appellate Court is the court of final appeal for cases involving MOI personnel. NGOs claimed that this separate court system encouraged a latent bias in favor of police and resulted in halfhearted prosecutions by military prosecutors who were not eager to see their colleagues punished.

Human rights-related training is mandatory at the police academy and officers' schools.

On July 28, a disagreement over wages between a farm owner and a Romani employee led to a brawl in Kozloduy that resulted in the hospitalization of 10 persons. Human rights groups claimed that the four police officers who witnessed the incident did not undertake the necessary actions to terminate the disorder.

Arrest and Detention.—Although warrants are not always required for arrest, police normally obtained them from a prosecutor prior to apprehending an individual. If the person is released within 24 hours without being charged, no judicial involvement in the case is required (see section 1.c.). Some human rights groups claimed that police abused this provision by arbitrarily detaining persons, particularly Roma, but releasing them within 24 hours; however, such complaints were much less frequent than in previous years. Persons could be detained for no more than 24 hours at the request of an investigator or police officer; however, detention could last for up to 72 hours without charge if ordered by a prosecutor.

The law provides for bail, and it was widely used.

Although the law provides for access to legal counsel from the time of detention, a 2004 survey by the Bulgarian Helsinki Committee (BHC) found that 11 percent of detainees did not have counsel at the pretrial stage. Legislation expanding access to legal aid for low income defendants in criminal cases was adopted in September, although questions remained about the proposed program's implementation and funding.

Detainees were generally informed promptly of the charges against them. However, on May 5, two police officers in Pernik arrested Rossen Stoyadinov, a Rom, for 24 hours after requesting that he accompany them to the police station without informing him of the charges against him (see section 1.c.).

Although the government generally observed the statutory limit of one year for pretrial detention or two years in the case of the most serious crimes, there were a few violations due to a backlog of cases. In the event of a conviction, time spent in pretrial detention was credited toward the sentence.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the effectiveness of the judiciary was hampered by corruption, inefficiency, and a lack of checks and balances.

Although many serious systemic flaws remained, observers noted modest improvement in the efficiency of moving cases through the criminal system. Long delays in trials were common, and investigators and police continued to struggle with a large backlog of outstanding investigations.

The court system consists of regional courts, district courts, appellate courts, military courts (on the district and appellate levels), the Supreme Cassation Court, and the Supreme Administrative Court. The Constitutional Court, which is separate from the rest of the judiciary, is empowered to rescind legislation that it considers unconstitutional, settle disputes over the conduct of general elections, and resolve conflicts over the division of powers among the various branches of government. The procedural codes determine which court hears a particular case.

In October the government adopted a revised criminal procedure law to address problems of judicial coordination, but the law did not take effect before year's end.

Questions remained about the vast authority of the chief prosecutor's office, the immunity of magistrates, and the structure of the Supreme Judicial Council.

Corruption in the judiciary was a problem. Many observers believed that reforms were essential to establish a fair, impartial, and efficient judicial system.

Trial Procedures.—The law stipulates that all courts conduct hearings in public unless the proceedings involve state security or national secrets, and authorities generally respected this provision. Defendants have the right to know the charges against them, to have government-provided legal representation in specified cases, and to be given ample time to prepare a defense. The participation of a defense attorney is mandatory if the crime incurs a punishment of at least 10 years in prison,

or if the defendant is a juvenile, a foreigner, a person with mental or physical disabilities, or is not present. Many cases requiring a government-provided defense attorney were considerably delayed by the lengthy process of procuring private attorneys willing to be reimbursed at low rates. Defendants in criminal proceedings have the right to confront witnesses and to examine evidence, and to present their own witnesses and evidence. The law provides for the right of appeal, which was used widely.

Defendants have the right to be present at trial. Juries are not used, although cases involving more serious crimes are heard by one judge and two assessors or lay judges, who are ordinary citizens chosen to serve as representatives of the public. If the crime entails a punishment of more than 15 years in prison, the panel consists of two judges and three assessors. The verdict is determined by majority vote of the panel.

Military courts handle cases involving military personnel (including MOI personnel) and certain national security matters. As a part of the judiciary, military courts are independent from the military and provide the same rights as the civilian courts. Military prosecutors also investigate allegations of crimes committed by police officers.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these provisions in practice.

In August Sofia municipal officials, with the assistance of police, demolished the homes of several Romani families in the Hristo Botev neighborhood who lacked titles to the land and legal registration for the houses (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. There were reports, however, that journalists were threatened and intimidated by individuals with political interests. NGOs reported that significant numbers of journalists practiced self-censorship due to political influence, and to pressure from management and organized crime. Some journalists allegedly accepted payments in return for positive coverage of politicians, prominent businessmen, and organized crime syndicates.

Individuals criticized the government freely without reprisal, and the government did not attempt to impede criticism.

A variety of newspapers were published freely by political parties and other organizations representing the full spectrum of public opinion.

In an open letter to the prime minister in early June 2004, 266 judges criticized the manipulation of the media by MOI officials. The prime minister responded on June 14 by reaffirming the importance of the independence of the judiciary and encouraging direct dialogue, rather than media campaigns, as a solution to the problem. Domestic organizations cited politically motivated intimidation and dismissal of journalists as a major problem.

Defamation is punishable under the law. In most cases the courts defined libel and interpreted the law in a manner that favored journalistic expression. Fines for libel ranged from approximately $1,875 (3,000 leva) to approximately $6,250 (10,000 leva); fines for slander ranged from approximately $3,125 (5,000 leva) to $9,375 (15,000 leva). Although observers noted a slight increase in the number of defamation suits brought against journalists in recent years, only a small number of cases resulted in the journalist being fined. The majority of defamation cases were brought against reports about corruption or mismanagement, and the most frequent plaintiffs were government officials or other persons in public positions.

On September 1, in the town of Vratsa, unknown persons set on fire the local office of the largest circulating national daily newspaper, *Trud*. The incident followed a threat against *Trud*'s local correspondent, who had reported on government contracts given to a local businessman alleged to have links to organized crime.

There were no developments in the investigations into threats against newspaper *Naroden Glas,* news agency De Facto, or national daily newspaper *24 Hours* in 2004.

Television and radio provided a variety of news and public interest programming. Although state-owned media presented opposition views, media observers believed that the inadequacy of existing legislation left state-owned media vulnerable to government pressure. Despite this vulnerability, Bulgarian Telegraph Agency (BTA), the state-owned news agency, was generally regarded as unbiased, and the state-owned Bulgarian National Radio (BNR) was often one of the most outspoken critics of the government and its policies.

The Council for Electronic Media (CEM) was unable to promulgate new licensing procedures because the National Assembly did not approve the strategy for developing radio and television activities until September, despite the 2002 passage of legislation requiring CEM to issue radio and television programming licenses only in accordance with the strategy. The CEM was forced to deny at least 20 applications in 2004. It was not clear when the government would resume licensing electronic media. Although the CEM could not initiate new tenders for television and radio programming licenses, it was still able to regulate programming and to transfer, amend, revoke, and terminate such licenses.

On February 18, the Supreme Administrative Court reversed its own 2004 decision and confirmed the CEM's March 2004 firing of BNT Chairman Kiril Gotsev for his 2002 decision not to allow a televised rebuttal to comments made in a political talk show. The court held that Gotsev's decision not to air the rebuttal gravely violated the affected party's freedom of expression and limited its right to defend its reputation.

In 2004 the CEM noted 71 infringements of the radio and television act: 55 by television operators and 16 by radio operators. The CEM fined 34 of these operators for violations that were considered serious, including violating the right to free expression of opinion, violating source confidentiality agreements, and airing programs that promote discrimination on the basis of race, ethnicity, and national origin.

On April 7, the Ruse district court repealed the December 2004 sentence imposed on Romanian TV journalist George Buhnici for having used a microphone and a camera hidden in his glasses to film illegal cigarette trade at the Bulgarian-Romanian border. The court cited procedural violations and returned the case to the district prosecutor.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

In October, however, the European Court of Human Rights (ECHR) held that the country had violated the right of its citizens to peaceful assembly by dispersing demonstrations and denying registration as a political party to the Macedonian activist group Ilinden. This group was prevented from holding peaceful meetings from 1998 to 2003, and Bulgarian courts refused it legal registration three times on the grounds that it was a separatist group whose statute and program were directed against the unity of the nation. The government had not taken action on the ECHR ruling by year's end.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. The law prohibits groups that endanger national unity or promote and incite racial, national, ethnic, or religious hatred, violate the rights of citizens, or seek to achieve their objectives through violent means. The government generally respected the rights of individuals and groups to freely establish their own political parties or other political organizations.

The law prohibits the formation of political parties along religious, ethnic, or racial lines and prohibits citizens' associations from engaging in political activity. In practice this prohibition did not restrict political participation by ethnic minorities. The law requires all electoral campaigning to be conducted in the Bulgarian language. Several political groups complained that this law was arbitrarily applied during the parliamentary election campaign this year.

In April a new law took effect that obliged all existing parties to reregister by year's end and introduced a five-thousand-person membership requirement, which was expected to result in a substantial decrease of the number of registered political parties (see section 3).

c. Freedom of Religion.—Although the law provides for freedom of religion, the government restricted this right in practice for some religious groups. The law designates the Bulgarian Orthodox Church (BOC) as the "traditional" religion and the government provided preferential financial support to it, as well as to several other religious communities perceived as holding historic places in society, such as the Muslim, Roman Catholic, and Jewish faiths. The law prohibits the public practice of religion by groups not registered through the court system.

In June the ECHR granted an accelerated hearing to the Alternative Synod, which had filed a complaint alleging that in 2004 the government improperly intervened in an internal church dispute. The case was pending in the ECHR at year's end, as were several smaller cases in Bulgarian courts involving property disputes between the Orthodox Church and the Alternative Synod.

The law requires religious groups to formally register with the Sofia City Court if they wish to operate and be recognized as legal entities, or to worship in public.

The religious confessions law, passed in 2002 and in effect since 2003, shifted responsibility for registration from the Religious Confessions Directorate of the Council of Ministers to the courts in an effort to remove political influence from the process. Groups that had previously registered with the government did not have their registrations transferred; they were required to reregister in the court. The requirements of registration and re-registration include submitting a statement of the denomination's beliefs. The BHC has expressed concern that the requirement for groups to submit a statement of beliefs when applying for registration or re-registration constitutes an infringement on their freedom of religion. The law specifically exempts the Bulgarian Orthodox Church from registration.

The Religious Confessions Directorate provides "expert opinions" on registration matters upon the court's request. Only once, for the 2003 application of the Ahmadi Muslim Organization of the Muslim Ahmadi Community, had the directorate issued an advisory opinion that resulted in the rejection of registration for a denomination.

Although the law does not require local formal registration, some local branches of nationally-registered denominations experienced problems with local authorities who insisted that the branches be registered locally.

The number of religious groups registered with the court increased from 36 in 2003 to 61 in February.

Jehovah's Witnesses reported that police in several towns issued warrants to members of the denomination who were attempting to proselytize. On June 12, the deputy mayor of Plovdiv fined Hans Amon, a Jehovah's Witness member, for violating the local decree on public order by distributing brochures with religious content. The group also reported that its places of worship in Burgas were vandalized several times during the year by large rocks thrown through the windows.

On May 11, the Sofia City Court attempted to settle a two-year dispute over leadership of the country's Muslim community by formally registering Mustafa Alish Hadji as chief mufti. Rival Islamic leader Nedim Gendzhev filed an appeal, and in December the Sofia appellate court ordered Gendzhev's registration as leader of the Muslim community. The decision had not been enforced by year's end. Many observers criticized the court procedure as opaque and politically influenced. A number of religious groups reported that foreign missionaries and religious leaders experienced difficulties in obtaining and renewing residence visas in the country because the law does not provide for a separate visa category for travel related to religious purposes. Some missionaries have resorted to entering the country on tourist visas, which limit the length of their visits to no more than 30 days every 6 months.

The Jewish community, the Muslim community, the Catholic Church, and some Protestant denominations claimed that a number of their properties confiscated under the Communist government had not been returned. A central problem facing restitution claimants was the need to demonstrate that the organization seeking restitution was the same organization—or the legitimate successor of the organization—that owned the property prior to 1944. This was difficult because Communist hostility to religion led some groups to hide assets or ownership and because documents had been destroyed or lost over the years.

In July the Supreme Cassation Court ruled against the Jewish community in its long legal battle to reclaim a high-value property in central Sofia built on the site of a former Jewish school. Previous court decisions had held that the organization representing the Jewish community was unable to establish its organizational lineage back to the original owners of the property. In contrast, the July ruling acknowledged the community's lineage but held that the expropriation procedure was properly executed by the Communist government at the time of the property's nationalization in the 1960s, and that the community was not legally entitled to any further compensation. Both foreign and domestic observers expressed concern about possible manipulation of the judicial process, and the Jewish organization Shalom filed a new request for special judicial review, which was pending before the Supreme Cassation Court at year's end.

Societal Abuses and Discrimination.—Relations among the major religious communities generally were amicable; however, discrimination, harassment, and general public intolerance of nontraditional religious groups remained an occasional problem. Human rights groups reported that societal discrimination against nontraditional religious groups gradually lessened over the last few years.

The country's small Jewish community became a target of the extremist political party Ataka, which employed anti-Semitic rhetoric during the parliamentary election campaign. Both the newspaper launched by Ataka in October and the group's website contained anti-Semitic material.

Police arrested three teenagers who had admitted desecrating over 100 Turkish graves in Haskovo on April 8. The three youths, who have acknowledged an interest

in the skinhead movement, were reportedly intoxicated when they decided to vandalize the cemetery. The investigation was ongoing at year's end.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it in practice.

Internally Displaced Persons (IDPs).—Flooding during the summer months caused the displacement of approximately five thousand persons when their homes were destroyed or rendered uninhabitable. The poor were disproportionately affected due to their socioeconomic vulnerability. The government worked with NGOs and other governments to provide assistance to those who were displaced, but many persons remained displaced at year's end.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. The government provided some protection against *refoulement*, the return of persons to a country where they feared persecution; however, the UN High Commissioner for Refugees (UNHCR) and NGOs, including the BHC, expressed concern over the government's handling of claims for refugee and asylum status and reported that there may have been cases in which possible bona fide refugees were turned away at the border. The government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The government also provided temporary protection to persons who may not qualify as refugees under the 1951 convention and 1967 protocol. This protection, known under Bulgarian law as "humanitarian status," was provided to 78 persons during the year.

The law requires that persons seeking refugee status request and file an application within 72 hours after entering the country legally.

The UNHCR, in cooperation with the International Organization for Migration (IOM), operated three transit centers near the Greek, Turkish, and Romanian borders to interview refugee applicants and assisted the government with a small reception center in Banya.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—On June 25, general parliamentary elections were held, with the Bulgarian Socialist Party (BSP) winning a plurality of the votes. Despite scattered reports of irregularities, the elections were widely deemed free and fair.

The extreme nationalist party Ataka surprised observers by winning nearly 9 percent of the vote, higher than experts had predicted. The newly formed party capitalized on negative stereotypes of Roma and other minorities to attract a base of support from diverse segments of the electorate. Ataka's campaign, which included anti-minority statements, publications, and television broadcasts, was paralleled by a series of small but sometimes violent clashes involving Roma and ethnic Bulgarians.

The law prohibits the formation of political parties along religious, ethnic, or racial lines and prohibits citizens' associations from engaging in political activity. In practice, this prohibition did not restrict political participation by ethnic minorities, and political parties representing minority groups were active on the local and national level. The law requires all electoral campaigning to be conducted in the Bulgarian language. Several political groups complained that this law was arbitrarily applied during the parliamentary election campaign this year (see section 2.b.).

In April a new law took effect obliging all existing parties to reregister by year's end and introducing a five-thousand-person membership requirement, which observers expected to result in a substantial decrease in the number of registered political parties (see section 2.b.).

There were 51 women in the 240-seat National Assembly. A number of women held elective and appointive office at high levels in the government, including one deputy prime minister and two other ministers. Women also held key positions in the National Assembly, including one deputy speaker and the chair of one of the

24 standing committees. The leader of one of the seven parliamentary groups was a woman.

There were 31 members of minorities in the 240-seat National Assembly, of whom 28 were ethnic Turkish, 1 was Romani, and 2 were ethnic Armenian. There were three ethnic Turkish ministers in the cabinet and 2 Romani deputy ministers. While the ethnic Turkish minority was well-represented, Roma were underrepresented, particularly in appointed leadership positions. Pomaks held elected positions at the local level.

In the 2003 local elections, 3 percent of municipal councilors elected were Romani, and advocacy groups reported that a considerable number of Romani mayors also were elected. The National Association of Municipalities reported that Muslim candidates accounted for 12.5 percent of municipal mayors and 15.2 percent of municipal councilors elected in 2003. Over 300 political parties were registered, including a number of predominantly Romani and ethnic Macedonian parties.

Government Corruption and Transparency.—Widespread public concern over government corruption deepened throughout the year, according to NGOs.

The interministerial anticorruption commission was responsible for coordinating government efforts to fight public corruption and engaging in public awareness campaigns, although business representatives criticized the commission as ineffectual. The commission received approximately 200 complaints of corruption during the year, and referred about 10 percent of them to the prosecution office for further action.

In November the Ministry of Interior launched an investigation into alleged corruption at the Customs Agency, resulting in the resignation of a senior customs official.

While the government implemented several measures to fight corruption, the European Union (EU) reported that corruption remained a problem and noted that renewed efforts were needed to combat it, particularly for high-level corruption. In its October report on the country's progress on accession to the EU, the European Commission highlighted limited progress in the area of organized crime and corruption. The report noted the failure of authorities to obtain a single significant conviction for high-level corruption in recent years, despite widespread awareness of the scale of the problem.

NGO and media observers alleged that links between criminal groups and corrupt law enforcement officials had compromised effective law enforcement.

The law provides for public access to government information; however, in practice the government often restricted such access. In 2004 the NGO Access to Information Program reported approximately 140 cases in which government institutions denied access to information. The Supreme Administrative Court reviewed more than 20 appeals of denials in the first half of the year.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Human rights observers reported uneven levels of cooperation from various national and local government officials during the year.

After a one-year delay and two failed attempts, the National Assembly appointed the country's first national ombudsman in April. By law the ombudsman receives and reviews complaints filed by individuals of rights or freedoms abridged by government institutions. The ombudsman can request information from state authorities, act as an intermediary in resolving disputes, make proposals for terminating existing practices, and refer information to the prosecution service. At year's end, however, the institution was not yet functional and did not have an office. NGOs criticized the lack of guarantees for the efficiency and impartiality of the ombudsman's office and called for strengthening the legal framework of the office, through constitutional amendments if necessary.

The law provides for the establishment of a nine-member antidiscrimination commission with powers to receive and investigate complaints, issue rulings, and impose sanctions. In April the National Assembly appointed members of the national antidiscrimination commission; at year's end, however, the commission was not functioning.

The ECHR passed 20 sentences against the country during the year, compared to 25 in 2004. The court has awarded citizens over $240 thousand (200 thousand euro) in compensation for damages suffered as a result of the government denial of fair trial, unreasonably slow judicial process, inadequate prison conditions, maltreatment of detainees or prisoners, and other restrictions of liberty. Between taking

office in August and the end of the year, the government paid over $132 thousand (110 thousand euro).

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the grounds of race, gender, disability, social status, and sexual orientation; however, the law does not prohibit discrimination on the basis of language. Societal discrimination continued to occur, particularly against women, practitioners of nontraditional religions, sexual minorities, and ethnic minorities such as the Roma.

The government took steps during the year to implement administrative provisions of the 2004 antidiscrimination law, but progress was slow. A number of potentially groundbreaking court rulings against discrimination were issued under the new law, but questions remained about implementation and the outcome of possible appeals.

Women.—Domestic violence was a serious problem according to NGOs. Although there were no precise statistics on its occurrence, police believed that one of every four women had been a victim of domestic violence. Courts and prosecutors tended to view domestic abuse as a family matter rather than a criminal act. As a result, police often were reluctant to intervene in cases of domestic abuse, even if a woman sought police protection or assistance.

In March the parliament adopted the protection against domestic violence act, almost two years after the bill was introduced for review. The law defines domestic violence as any act or attempt of physical, psychological, or sexual violence against members of one's family or between cohabitating persons. Before passage of this act, domestic violence could only be prosecuted under the criminal law prohibiting bodily harm. The new civil law empowers the court to impose fines, place restraining orders, order eviction, and mandate special counseling. Approximately 100 such injunctions were issued under the new law during the year.

The government did not provide shelter or counseling for women. By year's end, the Bulgarian Gender Research Foundation reported having trained over 300 police officers and judges on the provisions of the new domestic violence law.

Police and social workers actively referred victims of domestic violence to shelters. In Sofia the NGO Nadya Center provided shelter to battered women, and the NGO Animus Association Foundation (AAF) operated a crisis center that provided short-term emergency shelter for female victims of violence. There were also 15 crisis centers around the country operated by local NGOs that provided assistance to female victims of violence. The AAF reported that it periodically received client referrals from the police.

The AAF operated a 24-hour hot line for women in crisis, including victims of trafficking, with trained volunteers as well as professional therapists to counsel victims. The hot line also provided volunteers to assist victims in obtaining other necessary services including medical exams and treatment, reissued identity documents, and information on housing and employment opportunities.

The law criminalizes rape, which was underreported because of the stigma that society attached to the victim. Spousal rape, though not specifically addressed in the law, can be prosecuted under the general rape statute; however, it was rarely prosecuted in practice. Sentences for rape range between 2 and 8 years in prison, and between 3 and 10 years in prison if the victim is a descendent relative. In cases where rape results in serious bodily injury or suicide of the victim, sentences range between 10 and 20 years' imprisonment. The government generally enforced laws against rape, and sentences tended to conform to statutory guidelines. According to NGOs, the social taboo experienced by rape victims discouraged them from reporting the crime and was a far more serious obstacle to prosecution than police reluctance to investigate.

Prostitution is legal and was commonly practiced; however, a variety of activities associated with prostitution, such as pimping, are illegal. Forced prostitution is illegal and remained a serious problem. Poor socioeconomic conditions contributed to a disproportionately higher number of Romani women engaged in organized prostitution.

Trafficking in women was a serious problem (see section 5, Trafficking).

Sexual harassment is prohibited under the 2003 antidiscrimination law, which also outlines the process for redress. Sexual harassment was a widespread problem, and the government did not effectively enforce provisions of the country's antidiscrimination law forbidding it. A survey conducted by the Agency for Social Research (ASR) in 2002 found that approximately 40 percent of women had suffered sexual harassment in the workplace. During the year the former chief of the Plovdiv sanitary control inspectorate was charged with coercion, which is punishable by up to six years' imprisonment, for allegedly threatening to dismiss two of his female

subordinates for declining his sexual advances. The criminal case was under review by the court at year's end.

Under the law women enjoy the same rights as men, including under family and property law, and in the judicial system; however, women faced some discrimination in terms of job recruitment. In November 2004 a national council on equality between women and men, headed by the Minister of Labor and Social Policy, was established under the Council of Ministers to ensure that the rights of women were being protected. Primarily a consultative body, the council is charged with promoting cooperation and coordination among NGOs and government agencies. In November the government adopted a national plan for equal treatment of men and women, which the council had developed over the course of the year.

Women experienced some economic discrimination. According to an International Labor Organization (ILO) survey published in 2004, women's salaries in the private sector were 24 percent lower than men's.

The Ministry of Labor and Social Policy (MLSP) operated a number of programs to address economic discrimination and integrate women into the mainstream of society and the economy.

Children.—The government generally was committed to protecting children's welfare; however, government efforts in education and health were constrained by serious budgetary limitations and by outmoded social care structures.

The law provides for compulsory public education until the age of 16; however, the government did not effectively enforce attendance requirements. Although public education was free through the twelfth grade, children were required to pay for books, which was a problem for poor families.

The UN Children's Fund (UNICEF) reported that net school attendance from 2000 to 2004 was approximately 90 percent. Most students completed some secondary school. During the year a Ministry of Finance study found that 40,000 students dropped out of school during the 2004–2005 academic year, compared to 31,552 in the previous year. The study reported that children primarily left school because of low household income, parental lack of interest, lack of motivation, or immigration. The number of school dropouts was highest in the regions with a large Romani population.

Romani children generally received an inferior quality of education. Romani children generally attended separate schools from ethnic Bulgarian children, partly due to a legacy of segregation and official discrimination. Government figures for the year indicated that 30 percent of Romani students attended completely segregated schools. Nearly 10 percent of Roma had never attended school, and less than 1 percent had a university degree.

In October a Sofia court found the city guilty of discrimination based on its failure to provide equal educational opportunities to Romani children, many of whom attended Sofia's three ethnically segregated Roma schools. The government's appeal of the ruling was pending at year's end.

Conditions for children in state institutions were poor. Social prejudice against children with disabilities led families to institutionalize these children. The provisions of a 2003 national action plan on children in institutions have led to an annual decline in the number of child wards. By the end of July, 9,525 children were housed in institutions, down from 10,284 in December 2004. Human rights monitors sharply criticized the serious deficiencies in government-run institutions, including orphanages, educational reform boarding schools, facilities for children with mental disabilities, and shelters for homeless children. Inadequate budgets, poorly trained or unqualified staff, and insufficient oversight plagued these facilities. Standards of hygiene and access to medical care were poor.

On October 19, a five-year-old blind child died from hot water burns sustained while left unattended in the bathroom of an institution for children with disabilities in Dobromirci. A police investigation into staff negligence was ongoing at year's end, and the Ministry of Labor and Social Policy was preparing to carry out its stated intention to close the facility.

According to NGOs, living conditions in reform boarding schools run by the Ministry of Education and Science remained poor, offering few medical, educational, or social services (see section 1.e.). At most of these institutions, the government failed to provide for residents' needs for food, clothing and teaching materials. Mixed-age classes and low levels of staff motivation considerably impaired the teaching process. However, due process procedures for juveniles in these institutions improved.

Violence against children was a problem. The National Statistical Institute (NSI) reported 849 cases of child abuse in 2004, a decrease of 15 percent since 2003. The government removed children from abusive homes and prosecuted abusive parents. During the year an awareness campaign funded by UNICEF drew public attention to the problem of child abuse.

Although no official statistics were available, the State Agency for Child Protection (SACP) reported that child marriage was relatively uncommon nationwide but prevalent in the Romani community. The SACP also voiced its concern that arranged marriages, a traditional aspect of Romani culture, were resulting in trafficking in persons. Between 2003 and 2004 the government discovered four cases of parents selling their daughters into arranged marriages in other countries. There were media reports of "markets" for underage Romani brides in some areas of the country.

The MOI identified 398 children as "at risk" of being forced into prostitution during the first nine months of the year, compared to 510 in 2004. Child prostitution reportedly was particularly common among Romani girls; there were no known cases of boys engaged in prostitution.

Trafficking in children was a problem (see section 5, Trafficking).

Widespread poverty led many Romani children to turn to begging, prostitution, and petty crime on the streets. There were reports of child smuggling rings paying Romani women for babies that were later sold to couples in Western Europe. Police launched 17 investigations in the Burgas and Peshtera areas in connection with the reports, all of which were ongoing at year's end.

In December 2004 the SACP reported that 625 children were known to be either living or working on the streets and were primarily involved in begging, prostitution, or car window washing; approximately 400 of these children were believed to be exploited for labor by adults, although experts believed that actual figures were higher. There were reports that approximately 225 children lived and worked on the streets without the involvement of a trafficker, pimp, or other third party. Many of these children had been abandoned by their parents or sent by their families to urban areas to seek work. The NSI reported a 68 percent increase from 2003 to 2004 in the number of children registered by police for vagrancy and begging: 1,785 children in 2004, compared to 1,059 in 2003. As part of the national strategy for street children, SACP continued implementing the programs it initiated in 2003 to address the situation of street children. One of these programs included putting street children in protective custody. In the first nine months of the year, the MOI placed 274 children involved in begging and vagrancy in five special shelters for street children; in 2004 496 such children were sent to these shelters. The shelters were intended to serve more as immediate protective resources than facilities for long-term or intermediate care. They provided food, bathing facilities, and basic medical care, but children were usually not kept for more than 24 hours unless remanded to protective custody by the special order of a prosecutor.

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking was a serious problem. The country remained primarily a point of transit, and to a lesser extent, of origin and destination, with most victims trafficked for the purpose of sexual exploitation. Police reported an upward trend in the number of persons being trafficked from the country. A number of individual law enforcement officers and other government authorities were reportedly involved in trafficking.

The punishment for trafficking in persons includes prison terms of 1 to 8 years and fines up to approximately $5,000 (8,000 leva). Aggravated circumstances increase the penalties to up to 15 years in prison and fines of up to approximately $12,500 (20,000 leva), and the court may confiscate the trafficker's assets. A variety of additional laws may be used to prosecute persons for activities often associated with trafficking, such as inducement to prostitution. Law enforcement officers complained that because the minimum penalty for trafficking is less than five years' imprisonment, the law does not permit them to fight trafficking with special investigative techniques, such as wiretapping.

The International Organization for Migration (IOM) reported that it had identified and assisted 621 victims of trafficking between January 2000 and December 2004. The actual number of cases may be much higher. Police reported dismantling at least 6 trafficking rings and arresting 13 alleged traffickers during the first 9 months of the year. There were 11 trafficking convictions during the first half of the year. In 2004 the government conducted 3,347 investigations into trafficking-related crimes, resulting in 2,273 prosecutions, 1,347 convictions, and 900 sentences entered. Of these only 24 persons were prosecuted under the trafficking provisions, resulting in 4 convictions.

Two police units, one within the National Border Police and the other within the NSBOP, specifically addressed the problem of trafficking. The government participated in multinational antitrafficking activities, particularly within the Southeast Europe Cooperation Initiative (SECI). In January the parliament adopted an amendment permitting the extradition of citizens for crimes committed abroad, including trafficking.

The NSBOP and IOM reported that victims came from within the country, as well as from Romania, Moldova, Russia, Ukraine, and the countries of central Asia. The destinations of victims trafficked from and through the country were Greece, Turkey, the Czech Republic, Poland, Macedonia, Kosovo, and the countries of Western Europe. Victims overwhelmingly were women and girls trafficked for the purposes of sexual exploitation. Young women between the ages of 18 and 24, with less education, and with problematic family relations were most vulnerable to being trafficked, according to NGO and government sources. Minorities, particularly Roma, and women working in the sex industry were also at particular risk. The IOM reported that 34 percent of the victims it assisted in 2004 were Roma. According to the IOM and AAF, there were also cases of trafficking in male children.

Girls and young women were often approached by persons who gained their trust, frequently other young women and acquaintances, who described glamorous work opportunities abroad. Some were sold into bondage to traffickers by relatives. Unaccompanied young women trying to cross the border into Macedonia, Romania, or Turkey reportedly were at risk of being abducted into trafficking. In larger cities, organized crime groups were often responsible for trafficking, although they used various front companies to pose as employment agencies, escort and intimate services businesses, or tour operators. Small crime groups and freelance operators monopolized trafficking in smaller cities and towns.

According to AAF, the process of transforming victims into prostitutes generally took place before they left the country. Victims typically were taken to a large town, where they were often kept for weeks, isolated, beaten, and subjected to severe physical and psychological torture to make them more submissive before they were transported to their destination points. Once the victims left the country, their identity documents were routinely confiscated, and they found themselves forced to work as prostitutes in cities across Europe. The victims could be required to pay back heavy financial debts to the agency that helped them depart the country, leaving them in indentured servitude. Traffickers punished victims severely for acts of disobedience and threatened the victims' families and family reputations to ensure compliance.

Some law enforcement officers or other government authorities, including local authorities and customs officials, allegedly facilitated human trafficking, although there was no evidence of a pattern of official complicity. Officials often accepted bribes to ignore trafficking, although some officers may have been more involved. Those involved in facilitating trafficking overwhelmingly were low-level, low-paid officials in the rural and border regions.

In January the national antitrafficking commission, the primary coordination and policy-making body for trafficking issues, held its second meeting, formally adopting a national antitrafficking strategy. As of year's end, however, the commission had not met regularly, appointed a functioning secretariat, or established the regional antitrafficking commissions foreseen by the national strategy. The witness protection legislation adopted in November 2004 had not been implemented fully by year's end because of insufficient funding.

In association with NGOs, the government conducted trafficking awareness programs for law enforcement personnel and consular officers posted to Bulgarian embassies, addressing both the legal provisions relating to trafficking in persons and medical and psychological treatment for trafficking victims. The IOM continued a trafficking awareness campaign begun in 2000, which has developed several regional networks of police, prosecutors, and concerned NGOs to raise awareness of trafficking. The program included a referral mechanism to provide protection and assistance to returning victims. The government made available to the IOM several local shelters and safe houses where the IOM provided free housing, protection, and reintegration assistance to victims, including those willing to testify in the prosecution of traffickers. The government also supported the information campaigns organized by local and international NGOs. During the year the IOM reported sheltering approximately 100 women and girls, and the AAF sheltered 53 women.

The AAF operated a 24-hour hot line for women in crisis that received 142 calls regarding trafficking of women and children during the year.

Persons with Disabilities.—Although the law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, the government did not effectively enforce these provisions in practice. Societal discrimination against persons with disabilities persisted.

The law requires improved access to buildings for persons with disabilities, and public works projects had taken this into account; however, enforcement of this law lagged in existing, unrenovated buildings. A 2002 survey by the Center for Inde-

pendent Living (CIL) found that approximately 82 percent of public buildings were inaccessible to persons with disabilities.

Conditions in institutions for persons with disabilities were poor. NGOs reported that staffing problems, particularly on night shifts in institutions for adults, posed significant risk to residents, whose primary complaints were of mistreatment and theft by staff.

On June 30, 24-year-old Ivailo Vakarelski was found beaten and strangled to death in the state psychiatric hospital in Karlukovo. At year's end the hospital authorities had reportedly neither conducted an internal investigation nor performed a postmortem exam, which is generally mandatory in such cases.

The investigation into the 2003 case of a patient reportedly strangled to death by another patient at the Podgumer social institution for adults with disabilities was terminated three months after the incident because police were reportedly unable to collect sufficient evidence.

Laws existed to promote the hiring and employment of persons with disabilities; however, the government's enforcement of these provisions was poor, and some provisions resulted in employer discrimination against persons with disabilities in the hiring process. An overwhelming majority of persons with disabilities were unemployed.

Persons with mental and physical disabilities, including very young children, were often separated from the rest of society; the segregation of children with disabilities into special schools lowered the quality of their education. According to the MLSP, over 2,500 children with disabilities did not attend school; however, according to the CIL, the number may have been twice as high. The MLSP operated 28 institutions for children and youths with disabilities throughout the country. MLSP reported 1,362 children in these institutions. NGOs complained about poor conditions in these institutions despite slight improvements during the year (see section 5, Children).

National/Racial/Ethnic Minorities.—Societal discrimination against the Roma and other minority groups increased during the year, occasionally resulting in incidents of violence between the members of the ethnic Bulgarian majority and ethnic Romani minority.

According to a 2001 census, non-Muslim ethnic Bulgarians made up 86 percent and ethnic Turks 9 percent of the population. Although the Roma were officially estimated to comprise 4.6 percent of the population, their actual share was more likely between 6 and 7 percent, according to a 2002 Council of Europe report that counted 600 thousand to 800 thousand Roma in the country. Ethnic Bulgarian Muslims, often termed Pomaks, are a distinct group of Slavic descent whose ancestors converted from Orthodox Christianity to Islam; they constituted 2 to 3 percent of the population.

Although there were no reports of lethal police assaults on Roma, police harassed, physically abused, and arbitrarily arrested some Roma, and reports of police harassment and torture were documented (see section 1.d.). The government made little progress was made in resolving cases of police violence against Roma. Human rights groups complained that magistrates sometimes failed to pursue crimes committed against minorities.

On August 1, inflammatory anti-Roma leaflets were distributed following a violent altercation between ethnic Bulgarians and Roma in Pleven on July 30. Ethnic Bulgarian residents of the Storgozia area in Pleven unsuccessfully asked city officials to evict Romani residents from the buildings in which the fight took place.

During the summer Ataka and another political party proposed two draft laws to create "self-defense groups" designed to take punitive action against "Romani criminals." Neither piece of legislation passed, and there was no evidence that vigilante groups of this nature existed in practice.

On February 19, a group of youths beat a Romani family on a train near the village of Osetenovo. Human rights monitors reported that the attackers, who disseminated racist leaflets to passengers, were members of a nationalistic group that had a gathering the same day. Transportation police launched an investigation into the incident, and an NGO hired an attorney to represent the victims. No further developments had been publicized by year's end.

Victims of ethnically motivated violence included ethnic Bulgarians as well as Roma. In a highly publicized case that contributed to ethnic tensions in the country, Stanomir Kaloyanov, an ethnic Bulgarian professor, died of head injuries sustained during a May 23 race-related brawl in the ethnically mixed Zaharna Fabrika neighborhood of Sofia. Three ethnic Romani suspects were arrested immediately following the incident and were released without charge. At year's end the investigation into the murder was ongoing.

There were no developments relating to cases of skinhead violence against Romani residents of Sofia in 2004.

There were no developments in the April 2004 case in which two men reportedly brutally beat Georgi Angelov, a Rom, and cut off his ear with a razor blade. Human rights groups reported that the police failed to effectively investigate this and similar incidents.

The unemployment rate among the Roma was nearly 65 percent, reaching as high as 80 percent in some regions. Approximately 10 percent of Roma had graduated from high school and only 1 percent had a university degree. Severe unemployment and poverty among the Roma, combined with generally unfavorable attitudes toward Roma among ethnic Bulgarians and Turks, contributed to strained relations between the Roma and the rest of society.

Workplace discrimination against minorities, especially the Roma, continued to be a problem.

Many Roma and other observers made credible allegations that the quality of education offered to Romani children was inferior to that afforded most other students (see section 5, Children).

Many Roma lived in substandard housing and lacked legal registration for their places of residences. This situation rendered them particularly vulnerable in August, when Sofia city officials ordered the demolition of 22 Romani houses lacking legal deeds in the Hristo Botev district of Sofia. Approximately 150 Roma were left homeless. NGOs responded with fierce criticism, characterizing the demolitions as an election year attempt to exploit anti-Roma sentiment.

The Roma were disproportionately affected by the summer floods that destroyed vital infrastructure and displaced more than five thousand persons (see section 2.d.). Observers attributed the greater vulnerability of the Roma to displacement to preexisting economic hardship and harsh living conditions.

With the support of the European Bank for Reconstruction and Development, the government attempted to provide housing for families previously displaced in 2001 by building new apartment blocks in Sofia and Plovdiv. However, NGOs reported that only 80 families had been resettled in Sofia by October, and many of the new units were put to commercial, rather than residential use.

NGOs reported that Roma encountered difficulties applying for social benefits, and local officials discouraged rural Roma from claiming land to which they were entitled under the law disbanding agricultural collectives. Many Roma suffered from inadequate access to health care.

On July 27, a Blagoevgrad trial court ruled against a restaurant that had denied service to Romani customers. The court found the refusal of services to be in violation of country's antidiscrimination law and ordered the restaurant to refrain from repeating such conduct. The claim had been brought by the European Roma Rights Center (ERRC), which used the law's provision authorizing public interest lawsuits by NGOs.

During the year the NGO Romani Baht filed 18 discrimination cases under the 2003 protection against discrimination act. The cases, which alleged discrimination in employment, education, access to public buildings, and ethnically motivated harassment, were ongoing at year's end. Five of the six cases that Romani Baht filed in 2004 were successful.

The country's small population of Pomaks remained in an ambiguous position. In the town of Yakoruda, local officials refused to recognize the Pomak identity, and those calling themselves Pomaks alleged discrimination by government officials.

With the support of local NGOs and foreign donors the government implemented a program to teach Romani folklore and history to over five thousand children in an effort to increase interethnic understanding and fight prejudice. Government integration programs also included busing over two thousand Romani children from ghettoized neighborhoods to mixed-ethnicity schools. Assistant teachers from minority backgrounds were hired to assist children from Turkish and Romani linguistic minorities to learn Bulgarian and to integrate into mixed classes.

Other Societal Abuses and Discrimination.—Although the law prohibits discrimination on the basis of sexual orientation, the government did not effectively enforce this provision in practice. Although incidents of violence against sexual minorities were rare, societal discrimination was a problem, manifesting itself primarily as discrimination in employment. Members of the lesbian, gay, bisexual, and transgender (LGBT) community were often refused employment on the grounds of sexual orientation or fired after revealing their sexual identity.

In August a gay pride parade in Varna was cancelled by the organizers when vocal opposition was raised by local residents and Orthodox religious leaders.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of all workers to form or join trade unions of their choice, and workers exercised this right in practice.

Approximately 18 percent of the workforce was unionized; according to individual trade unions and the Democratic Trade Unions Association, the percentage of the workforce that was unionized continued to decrease.

The law prohibits antiunion discrimination and includes a six-month period for redress against dismissal as a form of retribution. Mediation and the judicial system could be used to resolve complaints, and the burden of proof in such cases rested entirely on the employee.

There were reports of discrimination and harassment against trade union activists and members, who were relocated, downgraded, or fired. In the private sector, a few employers had a policy of illegally prohibiting trade union membership within their enterprises. There were credible reports that some private employers also forced newly employed workers to sign declarations that they would not establish or join trade unions.

There were reports of employers deducting dues from workers' salaries and not passing them on to the unions.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government generally protected this right in practice. The law provides an adequate legal structure for collective bargaining, which was practiced nationally, regionally, and on the local level; however, labor unions alleged that many employers failed to bargain in good faith or to adhere to agreements that were concluded. NGOs reported that collective bargaining was not always effective in practice. Private employers reportedly often refused to negotiate collective agreements, delayed negotiations unnecessarily, or refused to sign agreements; in other cases, private employers signed agreements but did not apply them. A 2003 study published by the European Industrial Relations Observatory estimated that 40 percent of Bulgarian employees worked under collective bargaining agreements.

The law provides for the right to strike, and workers exercised this right in practice; however, key public sector employees (primarily military and law enforcement personnel) were subject to a blanket prohibition against striking. These employees were able to take the government to court as a means of ensuring due process in protecting their rights.

There are no special laws or exemptions from regular labor laws in the country's six export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5). Children were sometimes forced to work due to economic conditions or because of pressure from family members or criminal organizations (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—There were laws and policies to protect children from exploitation in the workplace, including a prohibition on forced or compulsory labor and policies regarding acceptable working conditions. The government was somewhat effective at implementing these laws and policies in practice. The law sets the minimum age for employment at 16 years and the minimum age for dangerous work at 18 years; employers and the MLSP are responsible for enforcing these provisions. Child labor laws generally were enforced well in the formal sector, but NGOs reported that children were exploited in certain industries (especially small family-owned shops, textile factories, restaurants, family farms, construction, and periodical sales) and by organized crime (notably for sexual exploitation and the distribution of narcotics). During the first 9 months of the year, the MLSP's general labor inspectorate (GLI) found 110 violations of child labor regulations. Of these 110, 68 cases dealt with the employment of children without a permit, all of which were referred for prosecution. The remaining 42 involved administrative rather than criminal violations, and the employers were fined.

Few official statistics on child labor were available. The ILO estimated in 2000 that 14 percent of children ages 5 to 17 years were working. Children were engaged in paid work outside of the home in the commercial and service sectors, agriculture, forestry, transportation, communications, industry, and construction. According to the ILO, children's workdays often exceeded the seven-hour legal maximum, and sometimes children did not receive overtime pay for hours worked. Local NGOs reported that children worked on non-family-owned farms for meager monetary or in-kind wages, such as food, and that institutionalized children often sought modestly

paid agricultural labor during periods when they were allowed out of residential facilities.

The worst forms of child labor occurred infrequently, but included hired heavy physical labor and health hazards on family tobacco farms, particularly among the ethnic-Turkish minority. The government continued programs to eliminate the worst forms of child labor, using educational campaigns about the effects of child labor and implementing interventions aimed to protect, withdraw, rehabilitate, and reintegrate children engaged in the worst forms of child labor. Trafficking of children was a problem (see section 5).

In accordance with a March memorandum of understanding with the ILO, the Ministry of Labor and Social Policy established a child labor unit to coordinate child labor issues and to develop a national database on child labor in the country. In May the labor minister appointed a chief coordinator, a position funded by the ILO for one year.

e. Acceptable Conditions of Work.—During the year the government approved and implemented an increase in the national minimum wage to approximately $94 (150 leva); however, this wage did not provide a decent standard of living for a worker and family.

The law provides for a standard workweek of 40 hours with at least one 24-hour rest period per week. The MLSP is responsible for enforcing both the minimum wage and the standard workweek. Premium pay for hours worked over 40 per week was supposed to be negotiated between employers and employees. The law stipulates that premium pay for overtime could not be less than 150 percent during workdays, 175 percent during weekends, and 200 percent during official holidays. The law prohibits overtime for children under age 18, pregnant women, and women with children up to age 6. The law required a minimum 24-hour rest period, in addition to premium compensation, for overtime hours worked during the weekend. Enforcement generally was effective in the state sector but was weaker in the private sector.

There was a national labor safety program, with standards established by the law, which states that employees are entitled to healthy and nonhazardous working conditions. The MLSP is responsible for enforcing these provisions. However, conditions in many cases continued to worsen. The law requires joint employer and labor health and safety committees to monitor workplace conditions; however, implementation was slow and these committees remained in the developmental stages at year's end.

The law gives employees the right to remove themselves from work situations that present a serious or immediate danger to life or health without jeopardy to their continued employment; however, in practice refusal to work in such situations could result in the loss of employment.

CROATIA

The Republic of Croatia is a constitutional parliamentary democracy with a population of 4.4 million. Legislative authority is vested in the unicameral Sabor (parliament). The president, Stjepan Mesic, serves as head of state and commander of the armed forces, cooperating in formulation and execution of foreign policy and directing operations of the intelligence service, and nominates the prime minister, who leads the government. Presidential and local elections held during the year were generally conducted in accordance with electoral legislation, despite some irregularities. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- political influence and a severe backlog of cases in the courts
- intimidation of witnesses in domestic war crimes trials
- several partially *in absentia* trials against large groups for war crimes
- unresolved restitution of nationalized property for all religious communities
- incidents of societal violence and harassment of religious minorities
- trafficking in persons
- violence and discrimination against women
- violence and discrimination toward ethnic minorities, particularly Serbs and Roma

During the year the government demonstrated increased willingness to prosecute war crimes committed by ethnic Croats and increased its cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), including initiating an interagency action plan to locate and transfer Ante Gotovina, one of the most wanted ICTY indictees, to The Hague. On December 7, Spanish authorities arrested Gotovina in the Canary Islands; cooperation of the Croatian counterintelligence services and Croatian chief state prosecutor led to Gotovina's arrest. Although Serbs continued to represent the vast majority of individuals prosecuted, international trial monitors reported that Serb defendants generally had a better chance of receiving a fair trial then in the past.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

During the year four civilians were killed by landmines in the regions of Sibenik, Vukovar, Split, and the Lika area.

b. Disappearance.—There were no reports of politically motivated disappearances.

Government figures showed that 1,142 persons, mostly ethnic Croats, remained missing from the 1991–95 military conflict. In addition the government collected information on approximately 892 missing ethnic Serbs. Through June the bodies of 56 missing persons were exhumed, while the remains of another 104 persons found earlier were identified. In August a mass grave was uncovered near Okucani with the remains of 15 persons, and in November another was uncovered near Novska with the remains of 6 persons. The government handled all exhumations and identifications, with the ICTY monitoring only the sites related to cases they investigated. The International Commission on Missing Persons assisted in the recovery and identification of remains.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices.

Interior ministry statistics showed a general decline in reports of police mistreatment. In June a court sentenced one police officer to 15 months in prison and another to 4 months probation for the severe beating in 2004 of a young man during questioning in Varazdin.

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however, overcrowding was a problem. A government report found that most prisons were filled 10 percent above capacity.

The government permitted visits by independent human rights observers. The International Committee of the Red Cross had free access and reported full cooperation on the part of the authorities during its tour of prisons during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention and the government generally observed these prohibitions. In contrast with 2004, there were no reports that judges issued warrants in war crimes cases on ethnic grounds.

Role of the Police and Security Apparatus.—There are approximately 21 thousand police officers under the authority of the interior ministry. The intelligence service is under the authority of the government and president. The national police have primary responsibility for international security; in times of disorder, the government and the president may call upon the military to provide security. An independent oversight board monitors intelligence service performance.

Minority representation in the police remained negligible except in Eastern Slavonia, and the government had not fully implemented the law requiring the hiring of minorities.

Corruption was a problem among some police officers. Through June three senior police officers and the head of the interior ministry's Criminal Police Directorate were reassigned due to corruption allegations. Under European Union, Organization for Security and Cooperation in Europe (OSCE), and other international guidance, the interior ministry continued to update and codify rules of ethical police conduct and improve the capabilities of the police internal control section.

Weak police performance, including poor investigative techniques, insensitivity to ethnic issues, indecisive middle management, and susceptibility to pressure from hard-line local politicians, remained a problem, despite government efforts to address it. During the year the interior ministry, in cooperation with the OSCE, expanded a comprehensive program of police reforms, in part to extend community policing pilot programs through the country. By year's end more than 650 officers re-

ceived training. During the year the interior ministry expanded programs to provide training for all active police officers.

Arrest and Detention.—Police normally obtain arrest warrants by presenting evidence of probable cause to an investigative magistrate; however, police can make arrests without a warrant if they believe a suspect might flee, destroy evidence, or commit other crimes. The police have 24 hours to justify an arrest to a magistrate.

Police must provide detainees' access to an attorney of their choice within 24 hours of their arrest. If a detainee does not have an attorney and is charged with a crime for which the sentence is over 10 years' imprisonment, the magistrate is required to appoint counsel. The government generally enforced this in practice. The magistrate must decide whether to extend a detention for further investigation within 48 hours of an arrest. Investigative detention generally lasts up to 30 days; however, trial courts could extend the period up to 12 months in certain cases. Detainees may be released on their own recognizance pending further proceedings, although most criminal suspects were held in custody pending trial. The option of posting bail after an indictment is available but was not commonly exercised. Detainees are also allowed visits by family members.

Unwarranted arrests of Serbs for war crimes remained an ongoing concern, despite some improvement during the year. OSCE monitors reported that arrests of Serbs based on unsubstantiated charges continued, including some based on police reports. Of five Serbs apprehended in the country in the first seven months of year, two were arrested on the basis of the police reports rather than court orders. Authorities arrested one when he entered the country to vote in local elections; he was released after a few days as no charge was pursued. Police arrested the second when he was obtaining documents at a police station after returning to the country; he was released after three days when no one could identify him as a perpetrator of a war crime.

There were no reports of political detainees.

According to a state prosecutor's survey conducted during the year, the average length of pretrial detention varied between four and five months. The law allows 6 months' standard maximum pretrial detention, but the court can extend it to 12 months in certain cases—primarily war crimes and organized crime cases—at the request of the state prosecutor.

In contrast with the previous year, there were no reports of abuse of pretrial detention.

Amnesty.—The law provides for amnesty except for war crimes. In practice when investigations fail to substantiate original charges of war crimes, courts have lowered the charges and convicted defendants, allowing them to grant the defendants amnesty. This resolves the case for the court without further investigation and allows the defendant to go free, but disregards the future repercussions that a criminal record may have on potentially innocent defendants, particularly with regard to employment.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary continued to suffer from some political influence and a backlog of approximately 1.6 million cases. In a November 9 progress report on the country, the European Commission noted that the judiciary was one of the main areas where corruption was perceived by the public.

The judicial system consists of municipal and county courts, commercial and misdemeanor courts, an administrative court, and the Supreme Court. The Constitutional Court determines the constitutionality of laws, governmental acts, and elections. A parallel commercial court system adjudicates commercial and contractual disputes. The State Judicial Council is responsible for appointing, disciplining, and, if necessary, removing judges. Parliament appoints the chief state prosecutor, who appoints chief state attorneys at the county and municipal level; the State Prosecutorial Council, a disciplinary body appointed by parliament, appoints and disciplines deputy prosecutors.

During the year Serb leaders continued to express concern about discrimination in the appointment of judges and reported that, on occasion, the State Judicial Council either refused candidates or left positions vacant rather than appoint ethnic Serbs. At the end of the year, 96 percent of the 7,441 judicial employees were Croat, 2.4 percent were Serb, and 1.6 percent belonged to other national minorities.

Trial Procedures.—The law provides for the right to a public trial, and an independent judiciary generally enforced this right. The legal system does not use juries but panels of judges, which in some cases include lay judges. Defendants have the right to be present and consult with an attorney in timely manner and could confront or question witnesses against them and present witnesses and evidence on

their behalf. Defendants have access to government held evidence relevant to their cases and enjoyed presumption of innocence and the right to appeal.

Excessive court delays remained a problem, and the Constitutional Court increasingly awarded damages to persons whose court procedures had continued for up to 32 years without a decision. Through June the Constitutional Court issued 288 judgments finding unreasonable delays in lower and Supreme Court rulings and ordered the government to pay fines in 62 percent of these cases. During the same period, the Constitutional Court received 610 complaints of excessive court delays. The court noted that such delays threatened the integrity of the legal system and called into question the court's ability to provide effective remedies. The European Court of Human Rights (ECHR) called the delays "excessive" and a violation of citizens' right to trial in a reasonable time.

In contrast to 2004, there were no reports of the government ignoring or failing to enforce Constitutional Court rulings related to the privatization of property

To deter potential political interference, the government in July replaced the police director in Osijek and sent a team of police from Zagreb to investigate a potential war crimes case involving, among other suspects, the Osijek city assembly president, who was also a member of parliament. According to observers and the media, there were strong indications that the assembly president could influence the local police and judiciary in the handling of the case. Since some witnesses were unwilling to give testimony in Osijek, the chief state prosecutor requested, and the Supreme Court allowed, the investigative judge to question them at the Zagreb County court. In December Osijek nongovernmental organizations (NGOs) called for the Osijek mayor to resign after he publicly named witnesses who agreed to testify in the investigation. While the witnesses' names were not protected and the chief state prosecutor could not file criminal charges against the mayor, NGOs maintained the mayor's actions obstructed justice and interfered in a criminal investigation.

The inexperience and lack of systematic training programs, management standards, and systems for new judges, continued to be a problem. With international assistance, the Ministry of Justice expanded the number and scope of programs at the judicial academy to improve professional training for judges.

During the year domestic courts continued to try cases arising from the 1991–95 war, including several partially *in absentia* trials with large groups of defendants. State prosecutors continued to review all open war crimes cases, eliminating unsubstantiated charges. The most recent list contained about 1,200 individuals and covered approximately 369 open investigations, 290 suspended investigations, and between 550 and 580 pending indictments.

During the year the Supreme Court decided 18 appeals of war crimes convictions that were filed by 13 Serbs, 3 Croats, 1 Bosniak, and 1 Hungarian, confirming 6 of the convictions and reversing 12, for a 67 percent reversal rate. The number of domestic war crimes trials fell compared with past years due to the elimination of most *in absentia* cases. Despite the decreased caseload, observers questioned the criminal justice system's ability to conduct fair and transparent trials in complex and emotionally charged cases where witness intimidation was a problem.

Persons convicted *in absentia* regularly made use of their guaranteed right for a retrial. Some ethnic Serbs voluntarily returned to the country to be arrested for pending war crimes charges or *in absentia* convictions, since this was the only way they could challenge a conviction under the law. In April authorities arrested one such Serb returnee, Sava Sasic, based on a 1993 *in absentia* conviction with 29 other persons. During his June retrial, the prosecutor revised the war crimes charge to armed rebellion, which is subject to amnesty. The court convicted and amnestied Sasic, who was released after three months in detention.

While the atmosphere surrounding domestic war crimes trials generally improved, inadequate training, shortcomings in the legal code, inadequate witness protection, and an often-hostile local public hampered the war crimes adjudication process. The Witness Protection Act came into force in early 2004 and became operational during one case in July in Osijek. At a July NGO meeting, trial observers reported that witnesses did not have confidence in the judiciary or in law enforcement.

In cooperation with authorities, the international community organized four witness protection workshops in which 98 judges, state attorneys, and police officers participated. The witness protection unit revamped its policies after the workshops to address the concerns of international experts and strengthen regional cooperation.

Many observers questioned the impartiality of trials in the jurisdiction where war crimes occurred, since judges, prosecutors, and witnesses may be more exposed to external influences there. Courts trying domestic war crimes continued to display bias toward defendants based on their ethnic origin, although the OSCE noted that Serb defendants had a better chance of receiving a fair trial than in the past. The

most noticeable problem was the difference in charges filed against Serbs and Croats, with Serbs being accused of a wide range of conduct while Croats were almost exclusively charged for killings. In at least three cases, courts continued to prosecute Serbs for genocide on the basis of acts that were not of the gravity usually associated with verdicts of international tribunals ascribing genocidal intent and conduct. Most persons on trial for war crimes were ethnic Serbs, and, of those, nearly three-quarters were tried *in absentia* in group trials in Vukovar County where some defendants were present. Courts also were reluctant to prosecute some crimes involving Serb victims.

The OSCE reported that courts reached decisions in a total of 21 war crimes cases, convicting 13 persons (12 Serbs and 1 Croat). The courts acquitted 5 persons (4 Croats and 1 Serb) and dropped charges against 4 Serbs at trial (including convicting defendants on reduced charges, then amnestying them). Approximately 60 percent of all defendants were tried *in absentia*; 75 percent of those were Serbs.

As in 2004, the Supreme Court delayed the issuance of some decisions related to war crimes cases. In at least one of these cases, the person accused remained in detention without the court ruling within the legal three-month deadline.

In March the Karlovac County Court indefinitely suspended the second retrial of Mihajlo Hrastov, a Croat former member of the Karlovac police special forces, after his attorney stated that he was unfit for trial and had been admitted to a psychiatric hospital. The Supreme Court overturned two previous acquittals of Hrastov for the murder of 13 unarmed Yugoslav National Army prisoners near Karlovac in 1991. Although OSCE observers reported that Hrastov supporters in the courtroom continued to create an atmosphere of intimidation for prosecution witnesses and court officials, the Supreme Court denied the prosecutor's request to relocate the retrial but did order it held before a new panel of judges.

In June the Supreme Court president, upon request of the chief state prosecutor, moved the trial of Slobodan Davidovic, who was suspected of war crimes committed in Bosnia and Herzegovina, from Vukovar to the Zagreb County court in order to help ensure a fair trial. In December the court convicted Davidovic and sentenced him to 15 years' imprisonment. OSCE trial monitors expressed concern that Davidovic's court-appointed defense was inadequate.

In June the Supreme Court increased the sentence of Lieutenant Nikola Ivankovic, from 12 years' to 15 years' imprisonment for participating in the 1991 killing of 19 mostly ethnic Serb civilians in the town of Paulin Dvor. The court also overturned the acquittal of a second defendant in the case, Enes Viteskic, and ordered his retrial.

In June the Gospic County court acquitted Nikola Cvjeticanin in a retrial on charges of war crimes against civilians. In 2003 the Supreme Court overturned Cvjeticanin's 2002 conviction on the charges, and in October 2004 the Gospic County court released him following 33 months in detention.

In September the retrial of eight Croatian soldiers accused of the 1992 torture and murder of ethnic Serb prisoners at the Lora Prison began in Split before a new panel of judges. The retrial followed the August 2004 Supreme Court decision to overturn the Split Country Court acquittal of the soldiers on the grounds that the lower court had incompletely established facts and excluded crucial evidence. Four defendants, who have been in custody since September 2004, were present at the retrial, while four others were being tried *in absentia*.

In September the Zagreb County Court convicted five Croat former reserve police officers, known as the Pakracka Poljana group, in a retrial for the murder of one of the members of their group and for abuse of several ethnic Serbs in 1991. The court sentenced the five defendants to prison terms of 3 to 10 years each. Two of the defendants in the trial remained at large, and the court issued an international warrant for their arrest. The Supreme Court ordered a retrial of the case in September 2004 after three defendants were acquitted and the other two received 1 to 2 year prison sentences.

The appeal of the acquittal of four Croatian soldiers charged with killing two elderly Serb civilians near Sibenik in 1995 remained pending before the Supreme Court at year's end.

The Vukovar County court trial of 18 former members of a Serb paramilitary unit who were charged with genocide and war crimes in the town of Lovas in Eastern Slavonia continued at year's end; the trial was an example of genocide charges for acts not of the gravity associated with international genocide verdicts, as noted by OSCE trial monitors. Only one of the accused was present during the trial.

In April the Vukovar County Court began the trial of 27 persons—15 Serbs, 11 Ruthenians and 1 Roma—accused of war crimes against civilians from Miklosevci, a mostly Ruthenian-populated village. Eighteen defendants were fugitives and were

being tried *in absentia*, while the rest were on provisional release. The defendants were accused of genocide, murder, and intimidation of non-Serbs in 1991 and 1992.

Political Prisoners.—There were no reports of political prisoners.

Property Restitution.—During the year the government continued to facilitate repossession of illegally occupied homes; however, the property law implicitly favors ethnic Croats over ethnic Serbs. The law gives precedence to the right of temporary occupants, who are mainly ethnic Croats, to that of original owners, predominantly ethnic Serbs. Owners generally could not repossess their property unless housing was secured for the temporary tenants. In December the government assessed that 55 private houses belonging to ethnic Serbs remained occupied, down from 1,197 houses at the beginning of the year. According to an OSCE report in November, another 135 unclaimed properties remained occupied, and 107 disputed properties were being processed by the state attorney's office. Backlogs in the judicial system impeded the resolution of housing disputes.

During the year the government made significant progress in providing reconstruction assistance.

In September the ECHR Grand Chamber began reconsideration of the 2004 ECHR ruling that termination of a person's tenancy rights in an apartment did not violate the right to a home or to peaceful enjoyment of possessions. In the case, the tenant left an apartment at the outset of war and did not return within six months as required by law in order to maintain tenancy rights. The ECHR ruling effectively confirmed the government's assertion that tenancy rights could not be treated as a form of ownership and set a precedent for many potential claimants—mostly ethnic Serbs—who had lost tenancy rights on similar grounds.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

On March 15, a parliamentary committee investigating claims that the Counterintelligence Agency had five journalists under surveillance in 2003 and 2004 concluded there were grounds to suspect that the agency had breached the journalists' human rights and fundamental freedoms without reason (see section 2.a.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and the press; however, government officials occasionally interfered with the media and attempted to influence national television.

A wide range of private newspapers and magazines were published without government interference. The privately owned Tisak distributed approximately 75 percent of the print media. Political parties, private companies (some foreign owned), and the government owned or influenced various newspaper and magazine outlets. The print media were becoming increasingly susceptible to promoting media owners' political and business interests. Foreign newspapers and journals were available in urban areas throughout the country; however, they remained largely inaccessible to many persons due to their high cost. Despite the two-year-old media law, media ownership was not fully transparent, making it possible for political or other interests to conceal their influence on media outlets.

The government owned and operated the national television and radio network (HRT). Independent television and radio stations operated in the country, and two of the three national television stations were private.

Local broadcast media were vulnerable to political pressure since most stations were at least partially owned by local governments. Approximately 70 percent of the media was partly or fully owned by local governments and approximately 46 percent of local radio stations depended on the financial support of local authorities. In May the Sisak-Moslavina County Croatian Journalists Association executive committee released a statement criticizing some political parties for pressuring media and journalists in that county; the statement did not identify the parties or provide details.

In November, HTV management removed Tihomir Ladisic, one of two anchors of the popular political talk show, *Otvoreno*. The press reported that Ladisic's removal was motivated by a program, which he had edited and anchored, that spoke openly about the role of Croatian military forces in Bosnia and Herzegovina.

In December *Feral Tribune* reported that its editor, Drago Hedl, received death threats because of his reporting on war crimes cases in Osijek in 1991. The police investigated but did not identify the perpetrators.

In December members of parliament debated a December 12 television talk show on the legacy of former president Tudjman. Members of the ruling parties attacked the program as anti-Croatian, and the parliament conveyed its dissatisfaction by refusing to approve HRT's annual report. The program council subsequently sus-

pended the program's editor and host, Denis Latin. The debate prompted the Croatian Helsinki Committee on Human Rights (HHO) and the Croatian Journalists Association to express concern that the ruling coalition was attempting to establish program control over HRT through use of political press. Both Latin and one of the guests on the December 12 program, Radio 101 editor Zrinka Vrabec Mojzes, received death threats.

Libel is a criminal offense; in recent years there were no reports of politically motivated libel cases. A large number of libel cases from previous years remained unresolved due to the inefficient judicial system. The Croatian Journalists Association continued to insist on decriminalization of slander and libel, but the government took no steps to decriminalize them during the year.

In February a Split County court upheld the sentence in a defamation case against Ljubica Letinic, a journalist for HRT. In July 2004 a municipal court in Split gave Letinic a two-month suspended prison sentence for defaming a local businessman on television in 2002. The OSCE expressed concern at the court's upholding of the sentence.

In October a Zadar Municipal court found the head of the Lovinac town branch of the ruling political party, the Croatian Democratic Union (HDZ), guilty of making death threats to a Slobodna Dalmacija journalist in August 2004. The official was sentenced to a seven-month suspended prison sentence. The official allegedly threatened harm because he was displeased with an article stating that he belonged to the committee that decided to erect a monument in a nearby town to the World War II-era Ustasha official, Mile Budak.

In November the Zagreb municipal court issued a five-month suspended prison sentence to journalist and writer Predrag Matvejevic for libel. In a 2001 article, Matvejevic criticized certain Croatian writers for inciting ethnic hatred during the presidency of the late Franjo Tudjman. The court action was based on a complaint by writer Mile Pesorda. Two international NGOs, the Vienna-based South East Europe Media Organization and Reporters Without Borders, publicly criticized the court decision.

In November the Rijeka county court issued a two-month suspended prison sentence to *Novi List* journalist Slavica Mrkic Modric, who was sued for libel by the Rijeka mayor's chief of cabinet.

In November the Rijeka county court also rejected as unfounded the appeal by *Novi List* journalist Robert Frank of the court's April 2004 issuance of a three-month suspended prison sentence to Frank in a libel suit brought by the Rijeka mayor's chief of cabinet.

In November the Split municipal court fined retired *Slobodna Dalmacija* journalist Ilija Marsic approximately one thousand dollars (6,600 kuna) for accusing a Split prosecutor of intentionally covering up alleged irregularities in the privatization of *Slobodna Dalmacija*.

In February five independent journalists filed a petition requesting that authorities investigate allegations that the Counterintelligence Agency put them under surveillance in 2003 and 2004 and tried to discredit them after they reported on sensitive war crimes issues. On March 15, the parliamentary internal affairs and national security committee concluded there were grounds to suspect the agency breached the journalists' human rights and fundamental freedoms without reason. There was no specific follow-up on the case, although the president of the Croatian Journalists Association and the five journalists expressed relative satisfaction with the investigation and the committee's conclusions. Former Counterintelligence Agency chief Franjo Turek had accused the journalists being involved in operations that undermined national security. There were no reports that security services had journalists under surveillance during the year.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice; however, the law grants discretionary power to the Ministry of Justice over the establishment and internal governance of foundations. While it was applied equally to all organizations, the law itself is restrictive and controlling. For example, the law provides that organizations will not be entered into the registry if their statutory goals are deemed trivial or if their property is not deemed sufficient to carry out their statutory activities. The law also permits the government to influence the appointment of an organization's management body.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. There is no official state religion; however, the Roman Catholic Church has a historic relationship with the state that was not shared by other religious groups. The Catholic Church signed concordats with the state granting it a number of benefits. Similar agreements were subsequently reached with other religious groups, but the Jewish community did not sign it pending the return of nationalized property.

The law requires a group to have at least 500 members and to be registered as an association for 5 years in order to register as a religious community. However, all religious groups in the country prior to the 2003 passage of the law were in the process of being registered as communities without condition. Three religious communities were registered during the year, bringing the total to 4,000, with 17 additional communities awaiting registration.

In December three churches—the Church of the Full Gospel, the Alliance of Churches "Word of Life," and the Protestant Reformed Christian Church—challenged in the Constitutional Court the government's refusal to conclude agreements providing them benefits similar to those provided by agreements with the Catholic, Serb Orthodox, Islamic, and other communities. The government maintained that the churches did not meet its requirements by having a minimum of six thousand members and by being continuously active in the country since 1941. The appeal was still pending in the Constitutional Court at year's end. Registered communities have the status of a legal person and enjoy tax and other benefits. Some international groups have criticized the restrictiveness of the conditions for registration of new religious communities.

The law does not explicitly prohibit photographs with a headscarf on identification documents. However, the Constitutional Court was reviewing a case in which police in the coastal town of Crikvenica refused in 2004 to issue identification documents to a Muslim woman because she was wearing a headscarf in her photograph. Police standards were not consistent, and the police reportedly accepted such photographs in other locations in the country. The case was still pending before the Constitutional Court at the year's end.

The government required that religious training be provided in schools although attendance was optional.

National broadcaster HRT in July signed an agreement with eight minority religious communities guaranteeing equal representation in its programs. HRT agreed to live broadcasts of important annual celebrations and minimum weekly and monthly coverage. Under an agreement with the Roman Catholic Church, HRT provided up to 10 hours per month of regular coverage of Roman Catholic events.

Little progress was made in restituting property nationalized during the World War II era to most major religious communities. In May the Roman Catholic Bishopric Conference reported that only a few properties were returned during the year. The Serbian Orthodox Church, the second largest claimant of property after the Catholic Church, reported that its joint restitution subcommission had not met with the government during the year and stated that resolution of most of their outstanding issues, including property restitution, had stalled. There was no progress returning nationalized property to the Jewish community. The Muslim community had no property claims; local authorities in Rijeka continued to delay the long-sought construction of a mosque.

Societal Abuses and Discrimination.—Societal violence and physical abuse of religious minorities was a problem.

For example, in May a group of HDZ supporters in Vojnic shouted abuse and threw stones on the car of the imam who supported the rival Social Democratic Party (SDP) from the nearby village of Maljevac after local elections. He later received apologies from the local HDZ leadership. The imam did not sustain injuries and could not identify the persons who attacked him to police.

In November a plaque on the Islamic community building in Dubrovnik was damaged by fire. The police investigated the incident but did not identify any suspects.

At the end of August on a Serb Orthodox religious holiday, a bomb went off in front of a Serb house in Glavinja Donja near Imotski. Twelve persons were in the house at the time of the explosion, but there were no casualties. Police investigated the incident but had made no arrests by years' end. In a December report on the status of investigations into ethnically related violence against Serbs, the police attributed the incident to conflict between drug mafia gangs. Anti-Serb derogatory graffiti was earlier sprayed on the cemetery wall in the same village.

Harassment of clergy and vandalism and destruction of religious property was also a problem.

Incidents involving harassment of clergy and desecration and vandalism of Serbian Orthodox Church property continued to occur sporadically. In Dalmatia, Ser-

bian Orthodox officials reported numerous incidents of verbal threats and isolated physical attacks against clergy and property. Serbian Orthodox officials complained that local police seldom took action against alleged perpetrators. For example, in April unknown persons repeatedly broke into and sprayed fascist symbols on the Orthodox church of St. Pokrov in Knin; police investigated the incidents but had not identify any suspects by year's end.

In April an Orthodox chapel was set on fire at the Osijek cemetery; police investigated the case, but had not released their findings by the end of the year.

In late September the Orthodox Church in Sibenik reported that a group of young men broke into the courtyard of the Orthodox Eparchy shouting ethnic slurs and threats, damaging furniture, and smashing windows. The police apprehended three young adults involved in the incident, but stated that the event had no political meaning and described it as alcohol-induced violence. During a visit from the Serbian ambassador, the Sibenik mayor expressed regret over the incident.

In December, unknown persons stoned Orthodox churches in Drnis and Zadar, where the St. Ilija church sustained minor damage. In the Drnis incident, a group of men reportedly smashed the windows to the church and verbally abused the local priest, telling him not to ring the church bells "because this is not Serbia." In November unknown persons broke into the church of St. Petka in Vukovar. Since nothing was stolen, observers considered the break-in, which was similar to other incidents in Dalmatia earlier in the year, to have been motivated by religious intolerance. The Croatian Helsinki Committee noted in its annual report that the police were reluctant to consider these incidents as ethnically or religiously motivated crimes and instead treated them as common crimes.

Serbian Orthodox clergy in Dalmatia remarked that the positive overtures of the central government stood in stark contrast with that of local authorities, law enforcement and judiciary, who persistently discriminated against Serbs. For example, cases involving two church-owned flats that were occupied illegally remained pending at county courts in Zadar and Split for over a decade. Also, Serbian Orthodox clergy who arrived from Serbia and Montenegro and from Bosnia and Herzegovina faced bureaucratic obstacles in obtaining a longer-term residency permit that entails benefits such as health care and pensions. The priests were required to renew their status at relatively short intervals that interrupted their stay, preventing them from accumulating the years of residency needed for a more permanent status.

The Jewish community has approximately 2,500 members.

In April the Jewish community and some international organizations received a threatening anti-Semitic letter. Police investigated the case but had not identified any suspects by year's end.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Refugees returning to the country encountered obstacles obtaining permanent residency status under favorable conditions. The law states that former habitual residents who returned by January could be reinstated to their prewar status as habitual residents without further requirements, such as meeting housing and financial criteria, and could subsequently apply for citizenship. The government extended the deadline to June. The interior ministry streamlined the application process after international observers complained that officials varied procedures and criteria for granting permanent residency from case to case. Also, due to poor communication, many potential claimants were unaware that they could regularize their status, and international observers suggested a further extension of the deadline. The OSCE estimated there were approximately three thousand potential claimants in Bosnia and Herzegovina and Serbia and Montenegro.

Observers continued to note that fear of arrest among ethnic Serbs for war crimes, often based on weak evidence, dissuaded some refugees from returning. The state prosecutor continued to review the list of war crime suspects to address this concern.

Government procedures to verify and document citizenship improved during the year. For example, authorities ceased rejecting applicants who listed a collective center as their permanent address. However, reports continued of obstruction by some local officials who applied procedures inconsistently. In May the government signed an agreement with the Bosniak community granting citizenship to approximately 100 Bosniaks from municipalities bordering Bosnia and Herzegovina who were longtime residents of the country but who were not given citizenship after independence.

The government did not take steps to recognize or "convalidate" legal and administrative documents issued by entities not under Croatian control from the period of the 1991–95 conflict. Without such recognition, citizens (almost exclusively ethnic Serbs) remained unable to resolve a wide range of problems in accessing pensions and disability insurance, establishing work experience, and other areas.

An OSCE survey in 2004 indicated that the majority of ethnic Serb refugees who wanted to return to their prewar domiciles had done so. By the end of November, 4,907 persons who were in the former Yugoslavia were repatriated to the country, compared to the 7,033 returnees in 2004. International organizations that monitor return of refugees considered the decline in returnees to be within expectations, since most of the remaining refugees willing to return were former tenancy rights holders who were waiting to be provided with housing. According to the office of the UN High Commissioner for Refugees (UNHCR), as of the end of November, 123 thousand of the 280 thousand Serbs who had left the country in 1995 had returned. In September the OSCE estimated that, of the total returnees, over one-third left soon afterwards due to the lack of employment opportunities or means to support themselves.

Ethnic tensions directed against returning ethnic Serb refugees continued at reduced levels in the Danube region but were more pronounced in parts of Dalmatia and its hinterlands, where incidents rose in frequency compared to the previous year (see section 5). The largest disincentive to returns was the poor state of the regional economy, compounded by an increase in ethnic incidents in return areas and slow implementation of return programs.

The ability of refugees to return to the country was hampered by limited access to housing, slow resolution of some bureaucratic obstacles, and lack of employment opportunities. Repossession and reconstruction of Serb houses were well under way. During the year the government processed 9,500 requests for reconstruction assistance. An additional 10 thousand owners who were denied reconstruction filed appeals; those appeals remain unresolved. The government in December assessed that 55 private houses belonging to ethnic Serbs remained occupied, down from 1,197 at the beginning of the year. Two-thirds of the remaining properties were located in Dalmatia. An estimated one-fifth of houses returned to their owners were looted beforehand. In July the government adopted a protocol for looted properties but did not define instructions for its implementation. By November the government had processed 145 of the first 600 cases identified as eligible.

There were cases of persons attempting to use the courts to recover alleged investments they had made while illegally occupying property. In December the first Serb returnee almost lost his house in a court-ordered auction because he could not reimburse the former occupant $7,200 (44 thousand kuna) for improvements. After the international community intervened, the government prevented the sale by offering a settlement to the former occupant. The government said it would offer settlements in 24 similar cases pending in the courts.

The government slowly began to resolve the claims of persons who, prior to the war, held tenancy rights in socially owned apartments. Without such rights, claimants, who were mainly ethnic Serbs, were unable to return to their prewar apartments (see section 1.e.). The government extended until September the deadline for filing tenancy claims for apartments in urban areas. Approximately 11,270 individuals both inside and outside urban areas submitted claims (of these, some 4,150 applications were from urban areas); by year's end some 42 humanitarian cases identified by the international community were provided with housing.

Internally Displaced Persons (IDPs).—Authorities took an inconsistent and nonuniform approach to minority IDPs, hampering their return. A significant number of IDPs remained in the country, although not all were under the government's direct care. At the end of November the UNHCR office reported that there were 4,847 IDPs in the country. Of these, 3,190 were mainly Croats originating from the Danube region, while 1,657 were ethnic Serbs in the Danube region who did not hold official IDP status.

The government allowed free access to all displaced persons by domestic and international humanitarian organizations and permitted them to provide assistance.

Protection of Refugees.—The law generally provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. During the year the government did not grant asylum to any of the 184 asylum seekers.

The government cooperated with the UNHCR and other humanitarian and international organizations in assisting refugees and returnees.

The government's appeals commission conducted substantive reviews of cases of asylum seekers who were initially rejected, although UNHCR expressed concern that the commission appointments remained under government influence. The UNHCR closely followed up on cases of individuals who were deported or returned by government authorities to Bosnia and Herzegovina or to Serbia and Montenegro.

There were no reports of persons requesting temporary protection during the year.

Section 3. Respect for Political Rights: the Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections on the basis of universal suffrage.

Elections and Political Participation.—Stjepan Mesic was elected president in January. Citizen's Organized to Monitor Elections (GONG), the leading local election-monitoring NGO, reported that the January presidential elections were conducted in accordance with electoral legislation, with some irregularities, including breaches of procedure by individual polling committees and inaccurate voter lists. There were more serious problems in the first round of presidential elections at polling stations established for citizens who lived in Bosnia and Herzegovina, including cases of partisan polling officials, voting under names of deceased persons, and inaccurate voter lists.

GONG issued a similar assessment of local elections in May, although it faulted the lack of transparency in campaign financing. GONG described the professionalism of the election administrative bodies as satisfactory to very good, with some exceptions.

The law requires that ethnic minorities be represented in local government bodies if the census shows that a minority group constitutes at least a specified percentage of the local population. While authorities generally implemented this provision, the government did not take updated voter lists into account in calculating the number of elected minority representatives, as is also required by law. Use of the voters lists would have resulted in greater minority representation due to the return of refugees since the 2001 census.

In July the government instructed local governments to exclude voters lists in determining the proportion of minorities in local communities. In October the National Minorities' Council asked the government to withdraw its instruction on grounds that it contradicted the law. The Serb community and NGOs expressed similar criticisms. Observers estimated that additional minority councilors would be seated in over 12 towns if voters lists were taken into consideration. In October GONG challenged the government's instruction in the Constitutional Court. In December the opposition SDP appealed on the same grounds. The court had not reached a decision by year's end. However, minority elections were held in October in three municipalities, where additional councilors were elected albeit with minimal voter participation.

Following presidential elections, Prime Minister Sanader announced that a dual citizenship agreement with Bosnia and Herzegovina would resolve problems related to the right of citizens who are resident there to vote. However, preliminary reports of that agreement, initialed by the interior minister in August, indicated that the existing situation would continue.

There were 33 women in the 152-seat parliament, including 2 women in positions of deputy speaker. There were 4 women in the 15-seat cabinet, including the deputy prime minister, the minister of justice, and the foreign minister. There were 4 women among the 13 Constitutional Court justices and 20 women among the 40 Supreme Court justices.

The electoral law reserves up to 8 parliamentary seats for ethnic minorities. There were 11 members of minorities in the 152-seat parliament, of whom 8 were elected as minority representatives.

Government Corruption and Transparency.—Corruption was perceived to be widespread, particularly in health service and land registration. In its November 9 progress report on the country, the European Commission noted that surveys highlighted a public perception that corruption had worsened over the previous year. The Ministry of Justice, with help from the international community, made progress in the latter area, introducing a digitalized land registry in May to increase public access to records and thereby remove a source of potential corruption.

Law enforcement investigated a number of allegations of corruption by senior government or former government officials, including former foreign minister Mate Granic and Nevenka Tudjman, daughter of the late president Franjo Tudjman. Al-

though Tudjman was acquitted, in July the Supreme Court overturned the lower court ruling that one of the previous four charges for unauthorized consulting, with which Tudjman was charged, was not a criminal abuse of official duty and ordered a retrial. The retrial was scheduled for late October, but was postponed due to Tudjman's serious illness and chemotherapy treatment. The Supreme Court rejected the proposed indictment of Mate Granic due to lack of evidence.

While the government's Office for the Prevention of Corruption and Organized Crime (USKOK) continued to improve its capacity and authority to manage criminal investigations, the country's institutional ability to combat corruption remained unproven. The failure of USKOK to secure more than a few indictments demonstrated the immaturity of the judicial system to handle corruption investigations, stemming in part from the lack of a common definition of what constitutes corruption.

In February USKOK began investigating possible large-scale illegal sales of refugee Serb houses to the government's Agency for Refugee Property (APN). At year's end USKOK was still investigating the case. Some 20 plaintiffs brought criminal charges for fraud, and another 30 sought out-of-court settlements with the state attorney, an obligatory step before filing criminal charges. In one case the court voided a false contract and ruled to restore the ownership. The agency made its contracts approval procedure more stringent and prohibited several staff members who were under investigation from signing purchase agreements. One local NGO representing ethnic Serb refugees and assisting them in filing charges, complained that the agency had violated the law by refusing to allow damaged parties access to files, including to contracts that might reveal fraud. The NGO also asserted that the state prosecution was slow to respond to related charges that it had filed in January against the head of the APN.

The effectiveness of the parliamentary Commission for the Prevention of Conflict of Interest, which, as one of its duties, required officials to publicly declare their assets, was limited by infighting and an overly broad mandate.

The law provides the right to access government information, but was unevenly applied in practice.

In August radio journalist Jelena Berkovic won a court case against the government for failure to provide requested documents within the deadline provided by law. In September the government removed HRT from the list of public institutions required to comply with the law on access to information. NGOs warned that the exemption would negatively influence the transparency of the electoral process.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often cooperative and responsive to their views.

The office for cooperation with NGOs and other government ministries and offices were active in coordinating and promoting NGO and governmental efforts on human rights and civil society. In May the government approved the integration of the Human Rights Center, a leading human rights NGO, into the public sector. The UN continued to provide funds to the center, which the government supplemented later in the year. The center's board included both public and private sector representatives.

In December two men from Vukovar, one of whom was a former special police forces member, physically assaulted the president of the prominent human rights NGO Citizens Human Rights Committee, Zoran Pusic, and his wife in front of their house in Zagreb, slightly injuring Pusic. The attackers, who were reportedly intoxicated, also verbally abused Pusic. Police initiated misdemeanor proceedings against one of the attackers.

The office for human rights was the primary government body responsible for developing, coordinating, and implementing the government's human rights policies. While the office did not have authority to investigate alleged human rights abuses, it cooperated effectively with NGOs and the international community to conduct awareness-raising campaigns to promote gender equality and women's rights, encourage general tolerance, and prevent trafficking in persons. The office also awarded project grants to NGOs to address various human rights problems. It was adequately funded and enjoyed the cooperation of other government agencies.

In October the ICTY chief prosecutor reported that the government fully cooperated with the ICTY. During the year the government complied with all ICTY requests for information and evidence and initiated an interagency action plan to locate and transfer Ante Gotovina, one of the most wanted ICTY indictees, to The

Hague. Under the direction of the chief state prosecutor, authorities tracked Gotovina and alerted the ICTY chief prosecutor, the Spanish prosecutor, and Spanish police, leading to Gotovina's December 7 arrest in Canary Islands. In August the government cooperated in the arrest of Hrvoje Petrac, allegedly a leading financial supporter of Gotovina, by authorities in Greece.

During the year further steps were taken to transfer ICTY cases to the country as part of the tribunal's completion strategy. In September the ICTY approved its chief prosecutor's request to transfer the indictments against Mirko Norac and Rahim Ademi to Croatia, completing the transfer in October. Upon the request of the chief state prosecutor, the president of the Supreme Court decided that the Zagreb County court would adjudicate the case due to its complexity and security concerns. Norac was serving a 12-year sentence on an unrelated domestic war crimes conviction. In addition the state prosecutor worked closely with the ICTY prosecutor to prepare a framework for the transfer of investigative materials on unindicted cases.

In May a proposal by the ICTY prosecutor to modify indictments against Ivan Cermak and Mladen Markac to include participation in a joint criminal enterprise to drive ethnic Serbs from the country drew widespread criticism, including from the president and prime minister, who accused the prosecutor of trying to criminalize the war effort.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on gender, age, and race, disability, language, or social status; however, discrimination against women, ethnic Serbs, and Roma continued.

Women.—Violence against women, including spousal abuse, continued to be a problem. The media reported that 1,456 cases of family violence were recorded by police in the first 10 months of the year, an increase of 27 percent over 2004. The high misdemeanor court reported that 5,169 court procedures were initiated for breaches of the law on family violence and 3,848 cases were resolved in the first 7 months of the year. According to the interior ministry, one-third of the murders committed over the previous four years were a result of family violence.

The family violence law provides that a domestic violence case may be initiated by persons other than the victim, including the police. Under this law, family violence is treated as a misdemeanor; penalties range between $166 to $1,660 (1,000 to 10,000 kunas) or up to 60 days in prison. Under the criminal law, perpetrators can face up to three years in prison for the same acts. NGOs complained that the courts were slow to schedule first hearings, issued few convictions, and administered only minimum prison sentences and fines. NGOs specializing in domestic violence criticized the police rulebook that gave police discretion to assess threat levels when administering restraint orders and other measures. During the year the government began implementing procedures under a new national strategy against family violence. In November the interior ministry assigned police officers trained to handle family violence to every police station in the country and introduced around-the-clock duty to provide fast intervention, secure victims' safety, and remove perpetrators from families.

The ombudswoman for gender equality and women's NGOs warned that courts were consistently too lenient towards perpetrators. This was illustrated in July by a highly publicized case of a woman who reported her husband for grave harassment and death threats. The court failed to take action against the husband, who subsequently killed the woman. The case initiated a public discussion on domestic violence. The ombudswoman also criticized the interior ministry for refusing to send her complete documentation on such cases, thereby obstructing her efforts.

The government improved its cooperation with NGOs, although NGOs remained concerned that the budget for family violence prevention was minimal and unstable. There were 10 shelters, operated mainly by NGOs and financed by donations, for victims of domestic violence. For the first time, the government allocated $216,600 (1.3 million kunas) to operate these shelters during the year. Hotlines, counseling, and legal assistance were also available to victims of domestic violence. In December 2004 the government adopted a two-year strategy against family violence which focused on prevention, including training the relevant agencies and the judiciary. Under the strategy the government in September adopted a protocol that defines modes of conduct and cooperation between police, judiciary, centers for social welfare, and other institutions in family violence cases. The government also published an address book of institutions offering assistance to victims. During the year the government spent approximately $1.2 million (7 million kuna) for activities under the strategy.

Rape, including spousal rape, is illegal; however, NGOs reported that many women did not report rape or spousal rape. The law provides penalties for rape of 1 to 10 years' imprisonment and of 3 to 15 years' imprisonment for rape under aggravated circumstances, such as rape that resulted in death or pregnancy or if the victim was a minor.

According to a 2003 survey by Autonomna Zenska Kuca, 34 percent of women had unwanted sexual relations at least once in their lives. The government's office for human rights reported 38 rape convictions during the year. The police registered 89 rape complaints in the first 11 months of the year; of these, 66 prosecuted as crimes while the remainder were classified as attempted rapes. No spousal rape cases were reported to the Zagreb county court, while one person in Rijeka was sentenced to two years in prison for spousal rape. According to the NGO Women's Room, women frequently did not report rape and spousal rape because they lacked information about available legal protections, felt ashamed, feared reprisal, or, in case of spousal rape, were concerned over the economic consequences. Women's NGOs noted that victims were also reluctant to report rape, particularly spousal rape, because it was difficult to prove in court and because medical staff, police, and judiciary were not trained to treat such victims. They also alleged that sentences for spousal rape tended to be too lenient.

Prostitution is illegal but occurred. According to the state prosecutor's statistics, authorities initiated 301 misdemeanor procedures for prostitution during the year. According to an estimate by the Croatian Trade Unions' Association, approximately 3,500 women were involved in prostitution.

Trafficking in women for the purposes of sexual exploitation remained a problem (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace; however, it was a problem. According to a 2004 survey by Poslovni Forum, over 17 percent of female employees reported experiencing sexual harassment in the workplace at some point in their career. According to trade unions, the problem was most pronounced in the textile and leather, trade, and catering industries. The ombudsman and unions reported that they worked on sexual harassment cases, although many women were reluctant to take action for fear of reprisal.

The law prohibits gender discrimination; however, women generally held lower paying positions in the work force in practice. In July the government employment bureau found that women comprised 58.8 percent of the unemployed, an increase from the previous year. During the year a major employment organization found that women's wages were on average 19 percent below men's, double the difference reported by the State Bureau of Statistics in 2003. Women held the preponderance of low-level clerical, labor, and shop-keeping positions.

In January the UN Committee on Elimination of Discrimination Against Women raised concerns about gender stereotypes in school textbooks, employment discrimination, under representation of women in local government, and the high incidence of domestic violence. A dozen prominent domestic NGOs that drafted the report considered the lack of political will to implement laws a greater problem than the legal framework. They cited a range of problems, including the lack of measures to protect victims of family violence and intermittent funding of shelters. Many relevant institutions did not collect statistics by gender, including those dealing with labor issues.

The office for gender equality is responsible for implementing the Gender Equality Law and formulating the government's gender policy; the office of the gender ombudsman monitors implementation of the law, including the submission of mandatory action plans for state institutions and public companies. Prior to local elections in May, the gender equality office campaigned through its local and regional networks for fair representation of women on party slates. While women made up over 50 percent of the population, their representation on party slates ranged from 6.7 to 17.8 percent. The office also continued developing a network of local gender equality commissions and in April established a coordination body of county gender equality commissions.

Children.—The government was generally committed to the rights and welfare of children.

Education was free and mandatory through grade eight (generally age 14); boys and girls had equal access to education. The majority of students continued their education until the age of 18, with Roma being the only notable exception. Romani children faced serious obstacles to continuing their education, including discrimination in schools and a lack of family support. An estimated 10 percent of Romani children began primary school, and only approximately 10 percent of these went on to secondary school.

International organizations and local NGOs continued to report the practice of holding separate, lower quality classes for Romani students in the northern part of the country. A 2003 lawsuit challenging the segregation of primary school classes in the northern Medjimurje region remained pending before the Constitutional Court. At year's end the ECHR had not reached a decision on a December 2004 lawsuit filed by the European Center for Roma Rights and HHO on behalf of 15 Romani children who were allegedly subjected to racial discrimination in elementary schools. In September the HHO repeated its concern over the prolonged silence of the Constitutional Court, which had been its primary motive for filing the lawsuit with the ECHR.

The HHO noted that at least four primary schools included in the indictment continued the practice of segregated classes during the year. The schools initially failed to organize mixed primary school classes after receiving pressure from parents; they cited a lack of social and psychological skills of Romani children as grounds for their failure. While schools in Drzimurec Strelec and Orehovica employed Romani assistants to help students overcome the language barrier, the HHO considered that this measure alone could not substantially improve the situation. The ombudsman's 2004 report and the Council of Europe commissioner for human rights recommended the introduction of preschool education for Romani children, which would enable them to learn Croatian and avoid later segregation.

During the year a local NGO began a pilot project for Roma and other vulnerable children with the goal of integrating them into society and educating teachers and parents.

Medical care for children was free, and boys and girls had equal access.

Child abuse, including sexual abuse, was a problem. According to state prosecution statistics, 1,121 persons were reported for criminal acts against children in 2004; 908 of the cases involved neglect and abuse of children and minors, while the rest were for various forms of sexual abuse or pornography. During 2004 577 persons were convicted for abuses of children.

In 2004 Amnesty International reported on the inability of authorities to prevent violence among children in social care institutions and expressed concern that minors were placed in institutions with adults. During the year authorities assigned experts to social welfare institutions to work on suppression of violence among minors and introduced simplified procedures for children to report such incidents. The Ministry of Health and Social Welfare conducted an analysis of homes for children and youth with behavioral disorders and began employing additional experts including psychologists in these homes.

Trafficking in children was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

No nationwide statistics on child marriages among Roma existed, but social welfare services in Medjimurje county with a substantial Romani minority, reported that common-law marriages were customary among partners at the age of 16 and above. According to their estimates, as many as 60 percent of female teenagers entered such marriages, which were often prompted by pregnancies. These marriages were in some cases made official when partners reached adulthood. Government sources noted that an increase of maternity and child allowances two years ago contributed to an increased birth rate among Roma, who considered the allowances a good source of steady income.

Trafficking in Persons.—The law prohibits trafficking in persons; however, women and minors were trafficked to, from, and within the country.

The law defines trafficking in persons as a crime separate from slavery and provides penalties between 1 and 10 years' imprisonment for traffickers. The minimum penalty for trafficking crimes committed against a minor is 5 years' imprisonment. In addition, if the crime was committed by a criminal organization and resulted in a death, the penalty is 5 years to life imprisonment. The government reported ongoing criminal proceedings against 13 persons and 1 conviction for trafficking during the year. During the year the state prosecutor initiated investigations against 10 known and several unknown persons for trafficking offenses. Nine of the 10 were citizens, and 1 was Bosnian. One investigation resulted in the indictment of two persons, while the other investigations were not completed at year's end.

A witness protection law defines the conditions under which state protection is granted when a witness' life, health, freedom, or property are threatened; however, it was not used in any trafficking-related case during the year.

The government has a national committee for the suppression of trafficking in persons and a national coordinator for trafficking in persons issues who is the head of the office for human rights. Ministries and agencies responsible for the suppression of trafficking include the ministries of foreign affairs, justice, interior, health and social care, and education and office of the state prosecutor. Police participated

in international investigations through the Southeast European Cooperation Initiative regional center in Bucharest.

Police awareness of the problem of trafficking in persons continued to improve; however, according to NGOs, failure to identify trafficked women among illegal aliens smuggled into the country was a serious problem that resulted in a significant underestimate of the trafficking problem in the country. During the year the interior ministry, in cooperation with the International Organization for Migration (IOM), completed six multimodular seminars for the police, state prosecutors, and investigative judges, which started in 2004. Over a two-year period the program reached 1,600 police officers. The police academy continued to teach antitrafficking as a regular part of its curriculum, offering 18 hours of instruction per semester.

The country was primarily a transit country for women and girls trafficked to other parts of Europe for prostitution, as well as a lesser but increasing, source and destination country for trafficked women. Women from Romania, Bulgaria, Bosnia and Herzegovina, and other countries were trafficked through Bosnia and Herzegovina and Serbia and Montenegro to the country, where some remained to work as prostitutes while others were trafficked onward. Women were transported through the country by truck or boat. Women from Albania, Bosnia and Herzegovina, Bulgaria, Hungary, Macedonia, Moldova, Romania, Slovenia, and Serbia and Montenegro were detained for illegal entry into the country; some of these were believed to be trafficking victims.

Refugees, displaced persons, and young persons were most at risk of being trafficked. Anecdotal information indicated that international organized crime groups, local groups, and travel or marriage agencies were responsible for trafficking. Victims were subject to violence, intimidation, withholding of documents, and threats by traffickers.

There were no reports that government officials were involved in trafficking.

The government did not deport or punish victims of trafficking. While the law criminalizes international prostitution and unauthorized border crossings, it exempts trafficking victims from prosecution. Similarly, the law allows authorities to charge foreign prostitutes with a misdemeanor and initiate deportation proceedings if they do not fulfill legal requirements for their stay in the country but exempts trafficking victims from deportation.

The government has a legal framework to provide for victim assistance, and there were support services available for trafficking victims. The government continued financially to support a shelter for trafficking victims. The International Committee of the Red Cross, in cooperation with the government, operated four reception shelters for victims. Working with local NGOs and the IOM, the government offered victim assistance such as rehabilitation and medical and legal assistance.

During the year the government reported assisting six trafficking victims who were Croatian, Bosnian, Bulgarian, and Romanian citizens and preventing the attempted trafficking of another woman. Two of the victims were minors.

The government was active in public awareness campaigns and it continued to support an NGO hotline and alternative shelter. In September the government adopted the National Plan for the Suppression of Child Trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, and access to health care and in the provision of other state services; however, discrimination occurred.

In December several members of parliament, including one with disability, criticized the government for having implemented only 12 of 70 measures envisaged under the national strategy for persons with disabilities adopted in 2003. The parliamentarians cited examples such as the lack of home medical care for immobile persons and the government's failure to provide public information in a form accessible to blind persons.

In April the media reported on repeated acts of violence and sexual abuse in a home for mentally incapacitated children operated by the Catholic charity Caritas in Brezovica. The government brought criminal charges against the director, who was suspected of covering up evidence and preventing criminal proceedings against staff. One employee was arrested. In September the state attorneys' council turned down the chief state attorney's request to suspend the deputy state prosecutor in charge of children and youth for disregarding evidence and terminating an investigation into the case. The case generated considerable public discussion about children's issues.

The law mandates access to buildings for persons with disabilities; however, the government did not always enforce these provisions, and the law did not mandate that facilities be retrofitted. As a result, access to public facilities was limited.

National/Racial/Ethnic Minorities.—Constitutional protections against discrimination are applied to all minorities; however, in practice a pattern of open and sometimes severe discrimination continued against ethnic Serbs and Roma. There was some discrimination against minorities in schools (see section 5, Children).

Violence against Serbs continued particularly in the Dalmatian hinterland, the most active area of refugee return, and to some extent in Eastern Slavonia. Incidents occurred largely after the local elections in May and over the summer when many Serbs returned or visited their homes. The HHO reported that the number of interethnic incidents rose during the first six months of the year in comparison to the previous year.

In its annual report, released in December, the HHO asserted that authorities had not adequately investigated and prosecuted ethnically motivated incidents, some of which were particularly grave. In December, the police issued a report on approximately 50 incidents that occurred during the year and claimed to have identified suspects in a third of the cases. Both the media and NGOs expressed concern that the police had not been successful in identifying suspects of several of the most serious crimes.

In May Zadar police found, in the village of Karin, the body of an elderly Serb resident of Zagreb that bore visible signs of violence. The police had not identified any suspects by year's end. The December police report stated that several hundred persons had been questioned and a number of polygraph tests administered in connection with the case.

In October and November two returnee Serbs were fatally injured by hand grenades while collecting firewood in the forest near the area of Lipik. The area was not known to have been mined, and there were strong indications that the grenades had been planted. The UNHCR expressed concern that the incidents had occurred in the same area over a short period of time and under similar circumstances. Police were still investigating the incidents at the year's end.

In May unknown persons detonated bombs near municipal buildings in the predominantly Serb villages of Trpinja and Borovo Selo in Eastern Slavonia causing considerable property damage. The same night unknown persons detonated an explosive device in a Serb-owned apartment in Vukovar.

The small mainly Serb village of Djevrske near Sibenik was the site of three violent interethnic incidents within six months that involved persons harassing and threatening guests in a cafe, damaging a cafe and two cars, and smashing windows and firing shots in a restaurant. Police arrested three perpetrators in the last incident, one of whom was fined for misdemeanors.

In July two unknown assailants severely beat and injured two elderly Serbs in Ostrovica and threw rocks at the house of another returnee; police had not made any arrests in the case by year's end.

Looting of property owned mainly by ethnic Serb refugees continued in the Zadar area. Three incidents of breaking and looting in a single day were reported in the returnee villages of Smokovic and Islam Grcki near Zadar.

The OSCE reported on several ethnically related incidents where the perpetrators were charged with misdemeanor offenses, such as disturbing public order, rather than criminal offenses. In a majority of the cases, police and prosecutors were reluctant to identify cases as ethnic discrimination.

The largest Serb NGO, Serb Democratic Forum, ascribed the increased number of interethnic incidents in the Dalmatian region in part to persons who were reluctant to give back agricultural land they were occupying to the ethnic Serb owners. The NGO asserted that the police did not always remain impartial and uphold the law in property disputes between ethnic Croats and ethnic Serbs.

Authorities discriminated against ethnic Serbs in several areas, including in administration of justice, employment, and housing (see sections 1.e. and 2.d.). Ethnic Serbs in war-affected regions continued to be subject to societal harassment and discrimination.

In June a senior majority party official in Sisak used ethnic slurs against ethnic Serbs who participated in the coalition that removed him from power after the local elections. The media branded the former county prefect as an old-style nationalist, and the party distanced itself from the statement, but he was later appointed as adviser in the prime minister's cabinet.

In September Croat parents in the villages of Dalj, Erdut, and Aljmas in Eastern Slavonia refused to send 200 children to school to protest the reinstatement of three Serb teachers who allegedly refused to teach in the Croatian language and demonstrated extreme nationalist views during and after the war. In the past years, these teachers taught only in Serb classes. After consultations with the Ministry of Education, the teachers were reassigned to other classes in Dalj and elsewhere.

Societal violence, harassment, and discrimination against Roma continued to be a problem. While only nine thousand persons declared themselves to be Roma in the 2001 census, officials and NGOs estimated the Romani population at between 30 thousand and 40 thousand.

Roma faced many obstacles, including language (many Roma, particularly women, had only limited Croatian language skills), lack of education, lack of citizenship and identity documents, high unemployment, and widespread discrimination. Romani NGOs estimated that 25 percent of Roma did not have citizenship documents and thus could not obtain social benefits, employment, voting rights, and property restitution. According to the Council of Europe, only 6.5 percent had permanent jobs, while the Ministry of Social Welfare estimated in December that 20 thousand to 30 thousand Roma were receiving some form of social assistance. The Ivo Pilar Institute for Social Research estimated that only 17 percent of Roma had permanent employment and over 50 percent lived exclusively on social welfare.

International organizations and local NGOs continued to report the practice of holding separate, lower quality classes for Romani students in the northern part of the country (see section 5, Children).

In March the government adopted an action plan to invest approximately $10 million (62.5 million kunas) in the next 10 years, mainly to improve conditions for Roma in education, health, employment and housing. In May the Ministry of Justice signed contracts with 32 lawyers to provide free legal aid to Roma, mostly to resolve their citizenship status. During the year, the Ministry of Health established mobile teams to provide basic health care to Romani communities. The government supported some other programs for Roma, including employing two additional social workers in the Medumurije region.

International observers noted that the government did not fund and was slow to implement its 2003 National Program for Roma. In December the government allocated approximately $2 million (12 million kuna) for implementation of the program, of which just over half was allocated to improve Romani settlements with the worst living conditions.

Other Societal Abuses and Discrimination.—There was some societal discrimination against homosexuals. In August one NGO reported that 11 criminal proceedings for physical assaults against homosexuals were initiated during the year. In one incident a homosexual couple was attacked by a group of teenagers who shouted offensive remarks, then severely beat up the couple. The victims, who immediately reported the incident, complained that the police were slow to react.

A 2004 survey of employers indicated that one-third would not willingly employ workers who declared themselves homosexuals.

Societal discrimination against persons with HIV/AIDS remained a problem. The Croatian Association for HIV reported that dentists and general practitioners often refused treatment of HIV positive patients and some hospitals postponed surgeries because doctors were reluctant to operate. For example, one person was waiting for hernia surgery in Zagreb since June, and another person's thyroid surgery was postponed at a hospital in Zagreb in September because a doctor refused to operate. Also, transplanting centers refused to put HIV patients on their lists of potential organ receivers.

The UN Development Program (UNDP) reported that one weekly in May published the initials and other personal information in detail sufficient to identify a cafe owner in Split suspected to be HIV positive and alleged that he was intentionally spreading AIDS. The damaged party did not take legal action against the weekly. The UNDP also reported that official health requirement rulebooks were still in place, which disqualify HIV positive from employment as merchant seamen, aircrew, and security guards.

Section 6. Worker Rights

a. The Right of Association.—Workers are entitled by law to form or join unions of their own choosing, and workers exercised this right in practice. Approximately 64 percent of workers were members of unions. Unions generally were independent of the government and political parties.

The law prohibits antiunion discrimination and expressly allows unions to challenge firings in court. However, in general, citizens' attempts to seek redress through the legal system were seriously hampered by the inefficiency of the court system, where cases often languished for months or years before reaching a final resolution (see section 1.e.).

b. The Right to Organize and Bargain Collectively.—The law protects collective bargaining and the right to organize, and workers exercised these rights in practice.

The law provides for the right to strike, with some limitations and workers exercised these rights during the year. Members of the armed forces, police, government

administration, and public services were not permitted to strike. Workers may only strike at the end of a contract or in specific circumstances mentioned in the contract after they have gone through mediation. When negotiating a new contract, workers are required to go through mediation before they can strike over a new contract. Labor and management must jointly agree on a mediator if a dispute goes to mediation. If a strike is found to be illegal, any participant may be dismissed and the union held liable for damages.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits all forced or compulsory labor, including by children; however, there were reports that it occurred (see Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There were laws and policies to protect children from exploitation in the workplace and provide for acceptable working conditions. While the government for the most part implemented these laws and policies effectively, there were cases of child labor, as illustrated by the well-publicized accidental drowning of two Romani children in August while taking a break from agricultural work. The drownings brought public attention to the problem of child labor, specifically the practice of Romani children being employed in agriculture.

In 2004 the State Inspectorate recorded 52 cases involving labor by children between the ages of 14 and 17. The children, 51 percent male, were employed in the hospitality, retail, industrial, construction, and media sectors. During the same period, the inspectorate catalogued 6 cases of children between the ages of 16 and 18 sustaining injuries while performing work. Three of the injuries occurred on construction sites, the other three injuries involved industrial machines

The minimum age for employment of children is 15 years, which was enforced by the Ministry of Economy, Labor, and Entrepreneurship in conjunction with the ombudsman for children and the State Inspectorate. The law prohibits workers under the age of 18 from working overtime, at night, or under dangerous conditions.

The law prohibits trafficking in children; however, it occurred (see section 5).

The law proscribes the worst forms of child labor. Recent changes to the criminal code criminalized trafficking in children for purposes of sexual exploitation and labor. The national ombudsman for children coordinates the country's efforts to prevent the exploitation of children and to assist in removing children from exploitative situations. The State Labor Inspectorate has 92 inspectors whose duties include inspection for illegal employment of minors. The inspectorate forwards all cases of violations involving minors to the office of the ombudsman for children. Between January 1 and September 15, the inspectorate uncovered 165 labor law violations involving minors in the hospitality, tourism, retail sales, handicraft, agricultural, and entertainment industries.

e. Acceptable Conditions of Work.—The national minimum monthly wage of $308 (1,850 kunas) did not provide a decent standard of living for a worker and family. According to official data, over 100 thousand workers received less than minimum wage. The labor inspectorate enforces the minimum wage.

Nonpayment and late payment of wages continued to be a problem, although it lessened in recent years. Nonpayment of overtime or for work on holidays was also a problem. According to the Croatian Federation of Independent Trade Unions, 48,400 employees were not paid for their work in 2004. The labor inspectorate estimated that employers failed to register over 400 thousand workers as being employed.

The law provides for a standard workweek of 40 hours. Workers are entitled to a 30-minute daily break, 1 day off out of 7, and a minimum of 18 days of paid vacation annually. The law provides that workers are entitled to time-and-a-half pay for overtime and limits overtime to 10 hours per week. The labor inspectorate must be notified if overtime work for an individual employee continues for more than 4 consecutive weeks, for more than 12 weeks during a calendar year, or if overtime work of all employees of a certain employer exceeds 10 percent of the total working hours in a particular month. In 2004 the inspectorate reported receiving 1,710 reports of employers not registering employees, 942 reports of failure to pay salaries, 1,388 reports of failure to pay overtime, and 703 reports of employers extending work hours in violation of the law. Pregnant women, mothers of children under 3 years of age, and single parents of children under 6 years of age, may work overtime only if they freely give written consent to perform such work.

The government set health and safety standards, which were enforced by the Ministry of Health; the ministry's inspectorate has jurisdiction over enforcement of health and safety laws at the workplace and compiled annual data on injuries and health and safety code violations. In practice, many industries often did not meet

the standards for worker protection. In 2004 the inspectorate initiated 1,894 misdemeanor procedures against 3,628 employers for violating safety standards. Also, there were 80 criminal complaints filed against 102 individuals as well as 206 fines levied. Under the law, workers may remove themselves from hazardous conditions and have recourse through the courts if they believe that they have been dismissed wrongfully for doing so; however, according to the state inspectorate, workers did not exercise this right in practice and normally only reported employers after they had left their job.

CYPRUS

Since 1974, the southern part of Cyprus has been under the control of the government of the Republic of Cyprus while the northern part has been ruled by a Turkish Cypriot administration which proclaimed itself the "Turkish Republic of Northern Cyprus (TRNC)." The United States does not recognize the "TRNC," nor does any country other than Turkey. A substantial number of Turkish troops remain on the island. A buffer zone or "green line" patrolled by the UN Peacekeeping Force in Cyprus (UNFICYP) separates the two parts.

REPUBLIC OF CYPRUS

The Republic of Cyprus is a constitutional republic and multiparty presidential democracy with approximately 780 thousand citizens. President Tassos Papadopoulos was elected in February 2003 in free and fair elections. The civilian authorities maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- police abuse
- violations of asylum seekers' rights
- violence against women
- trafficking in persons

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, one prisoner died in police custody.

According to press reports, on January 20 police found prisoner Jevor Hakorian unconscious in his cell in the Nicosia Central Prison. The police maintained that Hakorian was immediately taken to the Nicosia General Hospital where he was pronounced dead. The post-mortem examination found that he suffocated after swallowing his own stomach fluids. At year's end the police investigation was still continuing, pending final toxicological results from the government laboratory. The police indicated that a coroner's investigation was necessary to determine the final cause of death. No complaints have been filed against police in this case.

In May police reportedly killed an asylum seeker (see section 2.d.).

b. Disappearance.—There were no reports of politically motivated disappearances.

The government participated in the autonomous, tripartite (UN, Greek Cypriot, Turkish Cypriot) UN Committee on Missing Persons in Cyprus (CMP) as part of its continuing efforts to account for persons who remained missing after the intercommunal violence beginning in 1963–64 and the events beginning in 1974.

The CMP made progress on a series of contentious issues during the year and exhumed the remains of approximately 25 unidentified bodies in June. These remains were stored with the remains of approximately 50 unidentified individuals that Turkish Cypriot authorities exhumed unilaterally during the first half of the year from a suspect site in advance of a planned construction project. In August the two sides agreed on a protocol for genetic testing that removed a key obstacle to progress in resolving the identification case-load. According to the government, 1,493 Greek Cypriots remained missing.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that police abused detainees.

There continued to be reports that police engaged in heavy-handed tactics and degrading treatment of suspects.

In January the court acquitted a police officer charged with raping a Moldavian woman in her prison cell in February 2004. In July a police disciplinary committee called for the officer's resignation, but the officer appealed the decision. The committee ordered a new investigation, which concluded that the officer should be demoted rather than relieved of duty. The assistant chief of police appealed this decision, and the officer remained on suspension at year's end.

In April a naturalized citizen reported that police beat and locked him in a cell for 15 hours following a car accident in Limassol. The Limassol police chief denied the claims, and police headquarters maintained that the claimant had attacked the policemen and had hit an officer who had intervened in the altercation. The police pressed charges against him, while the alleged victim filed a complaint with the ombudsman. The Ombudsman's Office issued a report on the incident and the deputy chief of police ordered an investigation in August. The investigation was on going at year's end.

In July an Afghani man claimed that in 2004 police detained him and a Polish female friend and strip-searched them. After the interrogation, the man alleged the officers forcefully took him to his apartment and forced them to pose with two women in sexually suggestive photographs, which were later carried in a major newspaper. The police reported that the officers were off-duty at the time of the incident and that a disciplinary committee investigation was completed in August. At year's end the committee had not decided on disciplinary action against the officers, who remained suspended from duty.

In July police allegedly assaulted journalists and cameramen in Limassol during a strike by truck drivers (see section 2.a.).

In July the Criminal Court found a Nicosia police officer guilty of common assault after beating a teenage suspect in custody in 2004 while off duty. He was fined $300 (150 CYP).

In August the ombudsman sent a report to the attorney general and the minister of justice supporting allegations made by a detainee that Limassol police mistreated him during his 2002 detention. The initial police investigation concluded that the complainant's claims were unfounded. However, the ombudsman's report confirmed that the complainant suffered serious bodily injuries at the hands of the police and recommended a second police investigation into the case. The police ordered a second investigation in July that was still ongoing at year's end.

In September the press reported that a Polish laborer died after being held in police custody. These reports alleged that the man was taken to a police station after a confrontation with his neighbors, where he experienced convulsions and fainting spells. The police confirmed that an ambulance took the man unconscious to the hospital where he later died. The ombudsman was investigating the case, and police have stated that the government doctor who conducted the post-mortem examination concluded that the cause of death was likely a pre-existing condition. At year's end the case was still under investigation pending toxicological and other medical results. According to the police, the man's roommates reported that the man regularly suffered from seizures, but they were unaware whether he suffered from a particular illness.

Unlike the previous year, there were no reports that police strip-searched Turkish Cypriots crossing the green line.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, although there were some problems.

The Ombudsman's Office and NGOs received complaints that police and prison officials subjected Turkish Cypriots and foreigners imprisoned in Nicosia's Central Prison to discriminatory treatment. Some inmates alleged that the police, prison wardens, and Greek Cypriot inmates regularly beat and abused them. They claimed that the authorities did not answer their calls for protection and prevented some inmates from reporting mistreatment without prison officials present. They also claimed that inmates incarcerated for non-violent crimes have been confined with dangerous criminals and raped.

The deputy director of the Office of the Commissioner of Human Rights at the Council of Europe (COE) told the press in November that there had been an improvement in conditions at the Nicosia central prison, but that more needed to be done. A report by the COE's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its 2004 visit to the prison and the Athalassa State Psychiatric Hospital had not been released by year's end.

During the year overcrowding remained Nicosia central prison's greatest problem despite renovation and expansion. The prison's new capacity was 340 although at times during the year it held up to 614 inmates. Approximately 14 percent of the

inmates were foreigners who were imprisoned for entering or living in the country illegally. The government provided no assistance for the rehabilitation of drug abusers and limited support for inmates reintegrating into society following incarceration. Judges began to hand down sentences that included community service as a means of reintegrating inmates into society. In addition, one NGO (Ayios Onissimos) assisted inmates upon their release. In March the nongovernmental organization (NGO) Ethnopad (the National Organization for the Protection of Human Rights) made an impromptu visit to police holding cells (attached to the prison) where many illegal immigrants and/or asylum seekers were held and called on the government to institute reforms. ETHNOPAD also asked the government to address problems in the prison system and to stop imprisoning debtors, drug addicts, and mental patients. On June 15 a new law was implemented that prohibited the imprisonment of debtors. Since the law has no retroactive effect, the president ordered a six-month suspension of pending arrest warrants against debtors. The press reported that there were approximately 125 thousand such warrants pending before June 15.

Juveniles were generally held separately from adults, although there were isolated exceptions due to overcrowding.

The government permitted prison visits by independent human rights observers and such visits occurred during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The Cyprus Police maintained internal security. The Greek Cypriot National Guard backed by a contingent of Greek military forces was responsible for external security but also had domestic security responsibilities. The Greek Cypriot National Guard is headed by a Greek military officer retired from the Greek Army who reports to the Greek Cypriot Ministry of Defense, which reports to the Greek Cypriot President. Greek military forces in Cyprus report directly to the Greek military. The police are the responsibility of the Ministry of Justice and Public Order. The president appoints the chief of the police. The police force is divided into headquarters (with six departments), six district divisions (including one inactive district located in the area under the Turkish Cypriot administration), and seven police units that provided specialized services. Although there were individual cases of misconduct reported within the police force, there were no serious cases of police corruption or bribery. The assistant chief of police for administration typically handled investigations into such cases and recommended appropriate disciplinary measures to the chief of police. The police reported that during the year they investigated four cases of alleged police misconduct, which resulted in no convictions. Criminal investigators appointed by the attorney general were investigating another three by year's end. In January the police established an internal recording system for incidents that were racially motivated. The police stated that this assists them in documenting "racism" as a motive for criminal activity. In March the police formalized the mission, operational procedures, role, and duties of an Office for Combating Discrimination. Also in March ethnic liaison officers were appointed at every divisional police headquarters. In November a 100-hour antiracism training seminar was conducted at the Police Academy in Nicosia.

Arrest and Detention.—Judicially issued arrest warrants were required. Persons may not be detained for more than one day without referral of the case to the courts for extension of the period of detention. Most periods of investigative detention did not exceed 8 to 10 days before formal charges were filed. The attorney general's office generally made efforts to keep pretrial detention to a minimum, especially in cases of serious crimes. Attorneys generally had access to detainees. Bail was permitted. The government claimed the right to deport foreign nationals for reasons of public interest whether or not they had been charged with or convicted of a crime.

Authorities maintained approximately one hundred detention centers (local jails serving as alien detention facilities) (see section 2.d.). Those who are arrested for illegal entry without identification have also been detained indefinitely when authorities did not know where to deport them.

There were no reports of political detainees.

At year's end fewer than 10 people in detention were awaiting trial.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

Most criminal and civil cases begin in district courts, from which appeals may be made to the Supreme Court. There are no special courts for security or political offenses.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The constitution of Cyprus provides

for public trials and defendants have the right to be present and to consult with an attorney in a timely manner. An attorney is provided for those who cannot afford one, and defendants are allowed the right to question witnesses against them and present evidence or witnesses on their behalf. The law also guarantees that defendants and their attorneys have access to government-held evidence related to their cases. Defendants enjoy a presumption of innocence and have a right of appeal. The government generally respected these rights in practice.

Political Prisoners.—There were no reports of political prisoners.

Property Restitution.—At year's end Turkish Cypriots had filed 25 cases in Republic of Cyprus courts in an effort to reclaim their property in the government-controlled area now managed by the guardian of Turkish Cypriot properties.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet.

Opposition newspapers frequently criticized the authorities. Independent newspapers and periodicals proliferated. There were seven major daily newspapers, one weekly, and six major magazines. Several private television and radio stations competed effectively with government-controlled stations. International broadcasts were available without interference throughout the island, including telecasts from Turkey and Greece.

In May the publisher of *Politis*, a large circulation newspaper that has been critical of the government, claimed that the government brought criminal charges against him for allegedly evading foreign exchange and corporate taxation laws 11 years ago in an attempt to silence his newspaper. The publisher denied the charges and claimed that he was singled out because of 2004 reporting that suggested the governor of the central bank had abused his position for personal gain.

The government imposed significant restrictions on Turkish (as opposed to Turkish Cypriot) journalists crossing the green line to cover news events in the government-controlled areas.

During the year Turkish Cypriot advertisers repeated claims made by the vice chairman of the Turkish Cypriot Advertisers Association in 2004 that Greek Cypriot newspapers had refused to carry advertisements for businesses located in the area administered by Turkish Cypriots.

In July the Journalists' Union (JU) accused the police of targeting press freedom as a result of their alleged assault on reporters and cameramen covering truck driver strikes. The ombudsman supported this claim and reported that the police displayed a lack of detailed planning during the strike and exhibited a negative disposition toward the public's right to information.

The ombudsman concluded that the arrest of the Cyprus Broadcasting Corporation (CyBC) cameraman was unjustified and was aimed at preventing him from filming clashes between police and the strikers. In September a report by an independent committee appointed by the government concluded that the police had not used excessive force, and that the mass media had portrayed the incident as more serious than it actually was. The JU expressed its disagreement with the committee's findings. The Cyprus Media Complaints Commission issued its own report in September stating that members of the police rapid reaction unit had used excessive force, especially during the arrest of the CyBC cameraman, based on eyewitness accounts and footage filmed by the cameraman.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The law specifies that the Greek Orthodox Church of Cyprus, which was not under the authority of the mainland Greek Orthodox Church, has the exclusive right to regulate and administer its internal affairs and property in accordance with its holy canons and charter. The law also states that the Turkish Cypriot religious trust, the *Vakf* (the Muslim institution that regulates religious activity for Turkish Cypriots), has the exclusive right to regulate and administer its internal affairs and property in accordance with *Vakf* laws and principles. No legislative, executive, or other act may contravene or interfere with the Orthodox Church or the Vakf. The

Armenian Orthodox Church, Maronite Christians, and "Latins" (Roman Catholics) are also recognized under the law.

The government required other religious groups to register as a nonprofit company if they desired to engage in financial transactions, such as maintaining a bank account.

On July 10, the first Buddhist temple opened in Nicosia, and the first Jewish synagogue opened on September 12 in Larnaca.

Missionaries have the legal right to proselytize, but the government closely monitored missionary activities. It is illegal for a missionary to use physical or moral compulsion to make religious conversions. The police may investigate missionary activity based on a citizen's complaint. Police could also open an investigation if missionaries are suspected of involvement in illegal activities threatening the security of the government, constitutional or public order, or public health and morals. In the past there were occasional apprehensions, but no arrests under these laws; however, no detentions were reported during the year.

The government required children in public primary and secondary schools to take instruction in the Greek Orthodox religion. Parents of other religions may request that their children be excused from such instruction and from attending religious services. In previous years some Jehovah's Witnesses' parents reported that their children were not excused from all religious instruction.

Societal Abuses and Discrimination.—In November there were press reports that the police and the municipality harassed the Buddhist temple. The municipality allegedly claimed that the temple did not have the proper license to operate as a temple, and police said they visited this site as required by law after receiving numerous anonymous and formal complaints about disturbances. There were also reports that police had visited the synagogue due to complaints of disturbances soon after its opening.

Although Turkish Cypriots reported that unused mosques in the South were vandalized, the government routinely carried out maintenance and repair of mosques in the area under its administration. In April unknown persons vandalized a recently rehabilitated Turkish Cypriot cemetery in Larnaca. The authorities had not identified any suspects at year's end.

There were no reports of anti-Semitic acts. The Jewish community included approximately 300 expatriate residents and fewer than 10 Cypriots.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The government did not restrict Greek Cypriots from traveling to the area administered by Turkish Cypriots, but generally discouraged them from staying at former Greek Cypriot-owned properties, gambling in the area administered by Turkish Cypriots, or buying or developing property there. The government prohibited Turkish nationals from crossing from the area administered by Turkish Cypriots to the South.

In June 2004 the government began to allow European Union (EU) citizens and citizens of other countries not subject to a visa requirement who entered Cyprus from ports in the area administered by Turkish Cypriots to cross the green line into the government-controlled areas. The government considered all ports of entry in the area administered by Turkish Cypriots to be illegal and continued to block any effort by Turkish Cypriot authorities or international parties to open Ercan Airport or any port in the area administered by Turkish Cypriots for travel to destinations other than Turkey. In October Cyprus vetoed an effort to improve regional cooperation on air traffic management between Eurocontrol and a group of five countries that included Azerbaijan. A senior official in the Ministry of Communications and Works stated publicly that this was in response to the establishment of direct flights between Baku and Ercan Airport.

In June authorities barred approximately 200 Bulgarians living in the area administered by Turkish Cypriots from crossing to the South to vote in the Bulgarian elections at the Bulgarian Embassy. The government considered them illegal settlers and did not allow them to cross the green line into the government-controlled areas.

Similar to last year, the number of Greek Cypriots and Turkish Cypriots crossing the green line increased. Greek Cypriots and Turkish Cypriots were required to show ID cards when crossing. Members of each community were required to obtain insurance coverage in the community where they planned to drive their vehicles. Turkish Cypriots flew in and out of Larnaca Airport without obstruction.

Many Turkish Cypriots have obtained Republic of Cyprus passports. During the year the government issued 9,561 passports to Turkish Cypriots.

The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons (IDPs).—Although they would fall under the UN definition of IDPs, Greek Cypriots consider those displaced as a result of the division of the island to be refugees. In 1989 these people and their descendants numbered approximately 203 thousand; at year's end an estimate was unavailable.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted them refugee status or asylum.

Qualified refugees were permitted to stay and given temporary work permits but they were not granted permanent resettlement rights. During the year no refugees were forced to return, and refugee status was granted to 25 persons.

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to 117 persons during the year.

The government generally cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

In 2004 the ombudsman recommended increased access to places where detained asylum seekers could apply for asylum, and in February the ombudsman recommended increased access to lawyers for detained asylum seekers. By year's end the recommendations had not been implemented.

According to NGOs and the Ombudsman's Office, the inmates in detention centers were exclusively foreign and often asylum seekers who were arrested for illegal entry, despite their pending asylum claims. July and August press reports described cases in which asylum seekers had been held in detention for six months or longer while they awaited a decision.

In March the press reported that a Kurdish man was arrested when he went to the police station to apply for asylum 10 days after being smuggled from the area administered by Turkish Cypriots with his family. An NGO reported in September that the man was still in jail. The man's wife and two young children were being sheltered by a local women's support center after she claimed that the authorities abused her at the government's asylum seekers' reception center. The ombudsman was investigating the case at year's end.

In May the NGO Action for Equality, Support, and Anti-Racism publicly accused police of violating the law and the human rights of asylum seekers by carrying out illegal arrests, detentions, and deportations. The group claimed that authorities treated asylum seekers as illegal immigrants or economic migrants and jailed or deported them. In July an NGO accused the government of using legal technicalities to deport long term residents (sometimes as long as 11 years), only months before an EU directive would have come into effect (set for January 2006) permitting anyone who had been on the island legally for five years or more to stay on the island. The group also reported in July two suicide attempts by asylum seekers who had allegedly been denied their rights by the authorities. During the year an Iranian man whose application was denied doused himself with gasoline outside the asylum services offices and was about to light a match when a police officer stopped him; another man (nationality disputed, Iraqi Kurd or Syrian) slit his wrists in front of a police officer while in custody after having spent several months in detention on a deportation order.

In May the press reported that a police officer shot and killed a Syrian asylum seeker allegedly in self-defense; however, three other Syrians in the car claimed that they were all unarmed and insisted that the police had distorted the facts. The police reported that an investigation was completed and was pending at the attorney general's office at year's end. They maintained that there were five people in the car, that one was armed, and that the shooting was in self-defense.

Also in May a Somali asylum applicant claimed he was illegally arrested and deported to Israel, where he had previously been staying temporarily, during judicial proceedings surrounding his asylum application. The attorney general's office reported that, while the man was initially arrested for overstaying his visitor's permit and a deportation order was issued (the man's lawyer disputed the overstay charge), it was cancelled and he was not deported until after his asylum application was rejected. After the man was deported, his lawyer filed an appeal with the Supreme Court to challenge the legality of the man's arrest and initial deportation order. The

lawyer was also appealing the rejection of the man's asylum application before the Supreme Court. At year's end the man was being detained in Israel, and the press reported that the Israeli Immigration Court had requested that the government coordinate his transfer back to Cyprus to continue his asylum appeal. The press reported in December that the Israeli court stated that the man's deportation from Cyprus to Israel was allegedly conducted "in secret" by Cypriot immigration authorities without notifying the Cypriot attorney general, the Cypriot courts, or Israeli authorities.

In September a local NGO reported several complaints from asylum seekers who alleged they were physically and psychologically abused by police; the complaints were directed to the ombudsman. Another NGO claimed that asylum seekers have complained about the denial of state medical care.

In November the Supreme Court granted residence to a Serbian asylum seeker who had been in Cyprus for seven years, citing the EU directive slated to grant permanent residence to those who have been in the country legally for five years or longer. In December the press reported that three asylum seekers who married Cypriots were arrested when they withdrew their asylum applications after allegedly being advised by police or immigration authorities to do so.

Local NGOs claimed that at least one family of an imprisoned asylum seeker was held in a retirement home and not allowed to leave. Local NGOs reported that the asylum seeker's reception center at Kofinou has implemented a policy of accepting only families, in an attempt to increase the safety of women and children living in close quarters at the center.

Also in November the government approved a directive to expedite asylum applications with the goal of shortening the stay of those who do not meet the requirements for refugee status. The NGO Action for Equality, Support, and Anti-Racism stated that the directive leaves open the possibility of implementing a "safe country of origin or transit" policy.

The Immigration Office of the Ministry of Interior has a standing request of the Education Ministry that requires proof of legal residence at the time of student registration and the reporting of the parents of those in illegal status. The ombudsman has expressed disagreement with this policy, and in December the House Human Rights Committee called on the Education Ministry to reconsider it. At year's end the policy remained in place.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In 2003, President Tassos Papadopoulos was elected in free and fair elections to a five-year term with the support of the AKEL (Restoration Party for the Working People), EDEK-Socialist Movement (United Central Democratic Union), and DIKO (Democratic Party) parties.

By year's end the government had not enacted legislation to comply with a 2004 European Court of Human Rights (ECHR) ruling designed to prevent the violation of the rights of Turkish Cypriots living in the government-controlled areas to free elections and to freedom from discrimination.

Women held 9 seats in the 56-seat parliament, and some held senior positions in the executive and judicial branches.

There were no members of minorities in the parliament. However, in addition to their political voting rights, the small Maronite, Armenian, and "Latin" (Roman Catholic) communities also elected special nonvoting representatives from their respective communities who sat in the parliament.

Government Corruption and Transparency.—In June 2004 the media reported that a newly elected representative to the European Parliament had allegedly exported historical artifacts and solicited a bribe from a police officer to ensure that the officer would be acquitted of attempted manslaughter charges. Reports indicated the government attempted to cover up the incident until a newspaper published a confidential police report detailing the alleged exchanges between the pathologist and the police officer. In September 2004 the attorney general requested that the European Parliament lift the official's parliamentary immunity to enable the police to investigate the charges against him. On June 13, the European Parliament's Legal Affairs Committee sent a letter to the Supreme Court requesting clarification of which judicial body had the authority to ask for the lifting of the member of the European Parliament's immunity. On June 16, the Supreme Court responded that it had no authority to decide which body was empowered to make such a request. On September 27, the European Parliament voted in favor of lifting the member's

immunity. The police have opened investigations into both sets of accusations, which were ongoing at year's end.

In May the press reported that the government was reviewing allegations of nepotism directed at the Justice Minister with regard to the hiring of prison staff.

In December the auditor general submitted her annual report outlining serious mismanagement within various departments of the government, and the government ordered an investigation.

The constitution provides for the right of access to government information; however, there are no specific laws that assure public access. Civil servants were not allowed to give access to government documents without first obtaining permission from the relevant minister. However, there were no reported cases of persons being denied access to government information during the year.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

A number of NGOs considered themselves human rights groups; most, however, were concerned exclusively with alleged violations of the rights of Greek Cypriots by Turkish Cypriots or Turks. NGOs with a broader human rights-related mission included groups promoting awareness of domestic violence, migrant support, and those concerned with allegations of police brutality. Domestic NGOs were numerous but had limited impact on public opinion or specific legislation. International NGOs active in Cyprus were few, but included Doctors of the World.

The UN, through the autonomous tripartite CMP, continued its efforts to account for persons missing after the intercommunal violence beginning in 1963–64 and the events beginning July 1974 (see section 1.b.).

Similar to last year, government suspicion of the UN Office for Project Services (UNOPS) in particular, and of domestic NGOs by association, continued during the year. In 2004 government officials and the Greek Cypriot media accused UNOPS of trying to win public support for the UN settlement plan by "bribing" individuals and NGOs with grants for specific pro-solution programs.

A delegation from the Council of Europe's European Commission against Racism and Intolerance visited the country in September to examine trafficking in women and the rights of foreign migrants and asylum seekers; however, its findings had not been released by year's end.

During the year the government ombudsman received complaints from citizens and foreigners living on the island and conducted independent investigations. The Ombudsman's Office enjoyed generally good cooperation with other government bodies. Following a 2003 council of ministers decision, the office of the ombudsman assumed responsibility for two new EU-mandated authorities, the Racism and Discrimination Authority and the Equal Rights in Labor Authority. The ombudsman releases a wide-ranging annual report and a limited number of single-issue reports. The Ombudsman's Office was well respected and considered effective; however, the government had not yet implemented many of its recommendations.

The parliament's committee on human rights is made up of 10 parliamentary members who serve 5-year terms. The committee discusses wide-ranging human rights issues, including trafficking in persons, prison conditions, and the rights of foreign workers. The executive branch does not exercise control over the committee, which can help formulate policy by introducing some types of legislation; it can also recommend amendments and approve or reject government-proposed legislation.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally effectively enforced it. However, violence against women, child abuse, trafficking in persons, discrimination against Turkish Cypriots living in the government-controlled areas, and discrimination against Roma were problems.

Women.—Violence against women, including spousal abuse, was common. The law establishes clear mechanisms to report and prosecute family violence and provides that the testimony of minors and experts such as psychologists may be used as evidence to prosecute abusers. The law provides for prison terms for the abuse of family members; however, very few court cases resulted in convictions. Doctors, hospital workers, and education professionals are required to report all suspected cases of domestic violence to the police. Many victims refused to testify in court, and, under the law, spouses cannot be compelled to testify against each other. In cases where

a spouse was the victim and only witness and she refused to testify, the courts were forced to drop the case. At year's end there were no statistics available regarding the number of spousal abuse convictions.

An NGO working with domestic abuse victims reported that, during the year, the number of telephone calls to its hot line had increased by 12.7 percent. The NGO reported that 709 individuals, of whom 80 percent were women, 10 percent children, and 10 percent men, called claiming to be victims of domestic violence. The NGO also operated a shelter for victims of domestic violence in Nicosia that served 37 victims during the year.

The law criminalizes rape and spousal rape with a maximum sentence of life in prison. Most convicted offenders received considerably less than the maximum sentence. The police indicated that there were the following numbers of sexual assault convictions during the year: 6 rapes, 3 defilements of girls between 13 and 16 years of age, and 1 defilement of girls between 13 and 16 years of age under the domestic violence law.

The law does not prohibit "voluntary" prostitution; however, it is illegal to live off the profits of prostitution and police routinely arrested pimps under this section of the criminal code. Procuring a woman for prostitution is a misdemeanor. The police reported there were two convictions for "procuring" and eight convictions for living on the earnings of prostitution or persistently soliciting prostitution during the year.

Women were trafficked for sexual exploitation (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace, and the government effectively enforced it. Nonetheless, there are reports that it was a widespread problem, but such incidents were largely unreported to authorities. One sexual harassment case reached the courts during the year.

In 2003 a senior editor at the semi-governmental news agency CyBC was found guilty of sexual harassment and actual bodily harm charges stemming from a 2002 incident involving a female television reporter and presenter. The courts fined the defendant approximately two thousand dollars (one thousand CYP). In June 2004 the Supreme Court ordered CyBC to lift its employment suspension of the defendant. The defendant appealed the fine, and on June 21 the Supreme Court acquitted the defendant and voided the fine.

Women generally have the same legal status as men under family law, property law, and in the judicial system. Laws requiring equal pay for men and women performing the same work were enforced effectively at the white-collar level. At the blue-collar level, research from one NGO suggested that remuneration for women was 25 to 30 percent less than for men. Although the country has a strong legal framework aimed at securing full equality between men and women at work, department of labor inspections do not enforce these laws effectively in the blue collar sector. The government agency tasked with the promotion, protection, and coordination of women's rights is the National Mechanism for Women's Rights of the Ministry of Justice and Public Order.

Press reports in May indicated there was a widespread problem of single mothers having difficulty obtaining child support payments and that police allegedly showed little interest in helping them report non-paying fathers. The courts maintain a system of wage and assets garnishing and ultimately imprisonment to enforce payments. During the year an NGO supporting single parents reportedly worked with police to encourage collection efforts.

Children.—The government was strongly committed to children's rights and welfare.

Free education was available through the age of 18. Education was compulsory up to the age of 15, or 9 years of education. The highest level of education achieved by most children was secondary school, and virtually all children attended school. Approximately 60 percent of these completed some form of university or tertiary education.

Approximately 85 percent of the population was eligible to receive free public health care and boys and girls had equal access to health care.

Child abuse was a problem. In 2004 there were 46 cases of child abuse reported to the welfare department. In 2004 272 children were taken into the care of social services, 171 of whom lived with foster parents, while 106 were housed in same-sex institutions. The welfare department said the majority of the cases, which were increasing compared with previous years, were linked to domestic violence, alcohol abuse, and parents suffering from psychological illness. The police reported that there were 30 criminal prosecutions pending before the courts concerning child abuse and/or sexual exploitation at year's end.

There was one report from a private researcher of child marriage in the Roma community.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to and through the country. Trafficking of women to the country for sexual exploitation was a problem. The law is gender-specific and does not address internal or labor trafficking. There were allegations of police corruption.

It is a felony to engage in the sexual exploitation and trafficking of adults (with or without their consent) and children. The court may order persons convicted of trafficking to pay part or all of the expenses incurred for the provision of protection, temporary shelter, medical care, and psychiatric care for victims. The court may also order persons convicted to pay compensation to the victim, including repatriation expenses. Responsibility for combating trafficking was shared by the ministries of justice, labor, and interior and the attorney general's office. During the year the police reported that two individuals were convicted specifically on charges of trafficking.

The police reported that of the 91 cases in 2004 in which people were charged with crimes related to prostitution and sexual exploitation, 33 had resulted in acquittals, 16 had resulted in convictions, 22 cases were still awaiting trial, 5 were still under investigation, 4 were dismissed, 8 were suspended due to lack of evidence, and 3 were dropped due to a lack of evidence by year's end.

The police also stated that of the 28 cases in 2004 in which individuals were charged directly with trafficking in persons, 17 persons were still awaiting trial, 6 were acquitted, 2 were convicted; 2 cases were suspended due to lack of evidence, and in 1 case the charges were withdrawn.

During the year the police opened 38 new cases involving 60 suspects of crimes related to prostitution and sexual exploitation. At year's end 22 of these cases were still pending trial, 10 were under investigation, 1 had been dismissed, 2 resulted in acquittals, and 3 resulted in convictions. A total of 42 people were charged with trafficking in persons for sexual exploitation during the year.

Information regarding whether the government had assisted international trafficking investigations was not available at year's end. The law prohibits the extradition of Cypriot citizens.

The country was both a destination and transit point for persons being trafficked for sexual exploitation, and authorities were aware of and generally tolerated the situation. The country was a destination for women trafficked from Eastern Europe, primarily Ukraine, Romania, Moldova, Russia, Belarus, and Bulgaria. There were no reliable statistics on the number of trafficking victims; however, 33 victims pressed charges during the year. Foreign women working as *artistes* or barmaids were vulnerable to trafficking and exploitation. In some cases women reportedly were forced to surrender their passports, perform sexual services for clients, or were not paid their full salaries. There was also evidence that female victims coming from China on student visas engaged in prostitution and in some cases were victims of sexual exploitation.

Some NGOs have alleged that government officials with oversight and policing responsibility over the sex industry frequented cabarets and nightclubs.

The law obligates the government to provide protection and support for trafficking victims by allowing them to remain in the country to press charges or by facilitating their return home. Of the 33 victims who pressed charges against their traffickers, 30 asked for police protection. The law also requires the government to provide shelter, medical, and psychiatric care to trafficking victims until they have recovered from the trauma of their experience. The government may appoint a guardian for victims to advise and give counsel and to represent the victim with the appropriate government agency. Victims may sue traffickers for damages.

The government maintained that most women who qualified as trafficking victims choose to return to their home countries voluntarily without testifying in court. There were reports that cabaret owners and *artiste* agents pressured women to withdraw complaints made about their situations or not to follow through with their intention to testify in court. Of the 47 women who requested police protection in 2004, the government reported that 36 of them had returned to their countries of origin, 11 remained, and 2 were awaiting trials to testify at year's end.

NGOs that protect the rights of women and immigrant workers were available to assist trafficking victims and reported that they received one to two requests for assistance per month.

The Russian Orthodox Church in Limassol operated a shelter for trafficking victims funded in part by the Orthodox Church of Cyprus. A Russian psychiatrist was available to assist victims. During the year a total of 47 trafficking victims stayed in the shelter. Of these, 31 returned to their home country without filing charges; 8 were witnesses in police cases and have now found employment in different fields; six were recognized as victims of trafficking, but the police had not opened cases

against their traffickers due to insufficient evidence; all six have been allowed to stay for six months and to change fields of employment. There was no formal referral process between the police and the shelter. Social welfare services typically housed victims in government-subsidized homes for the elderly and in hotels.

During the year an 18-year-old Ukrainian responded to an Internet advertisement for waitress work in Cyprus. She ended up in a cabaret in a rural area where the cabaret owner forced her to have sex with clients inside and outside the cabaret. She did not speak any English and her travel documents were withheld by the cabaret owner, who told her that she had to go with clients to repay her travel expenses. One client purchased her for the night, took her to his farm, had sex with her, and then made her clean his barn. Eventually the girl learned of the Russian Orthodox Church's shelter through another *artiste* and she managed to go there. She testified to the police against the cabaret owner, and the police opened a criminal case against him.

In February the Civil Registry and Migration Department of the Ministry of Interior produced a revised leaflet for women entering the country to work in cabarets. The leaflet is available at the airport in English, Russian, Romanian, and Bulgarian and lists the requirements for *artiste* work permits (including medical tests) and the rules governing their compensation. It states that employers commit a criminal offense by forcing *artistes* to prostitute themselves, but that an *artiste* likewise violates the law if she willingly prostitutes herself and she may consequently be deported. The leaflet does not mention trafficking, but states that its aim is to protect aliens from exploitation. It lists contact numbers for the social welfare services, the Ombudsman's Office, and several NGOs.

On May 12, the Council of Ministers adopted a national action plan to combat trafficking that includes the following steps, among others: a public information campaign, the creation of antitrafficking police units in all districts, revised rules for *artiste* visas, continued unannounced checks on cabarets and nightclubs employing *artistes*, increased governmental cooperation with NGOs, new trafficking legislation designed to better combat trafficking and allow the full implementation of international treaty obligations, measures to combat police corruption, the creation of a hot line for victims to be operated by an NGO, and the operation of a shelter for victims.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and in practice the government effectively enforced these provisions. The law mandates that public buildings and tourist facilities built after 1999 be accessible to all; however, government enforcement of the law was ineffective, and older buildings were not required to provide access for persons with disabilities. In November the Nicosia municipality implemented the construction of sidewalk ramps on four streets and additional parking spaces for people with disabilities in the downtown area.

There were no long-term care facilities specifically for persons with mental disabilities, but many such persons were housed at the Athalassa psychiatric hospital.

The amended People with Disabilities Law, which extends the ombudsman's authority to cover discrimination based on disabilities in both the private and public sector, had not been fully implemented by year's end. The press reported in November that persons with disabilities felt that the lack of access to public buildings in the country was a clear example of discrimination. Among the complaints enumerated were narrow sidewalks, lack of transport, absence of parking spaces, and absence of disabled-friendly toilets and elevators. The report also noted that during the year the government budget reportedly included approximately $80 thousand (40 thousand CYP) for the construction of disabled-friendly establishments, despite the fact that no government buildings had ramps within regulation sizes or specially designated parking spaces. The Ministry of Labor and Social Insurance's Service for the Care and Rehabilitation of the Disabled was responsible for protecting the rights of the persons with disabilities. In addition the Minister of Labor and Social Insurance chaired the Pancyprian Council for Persons with Disabilities, which comprised representatives of government services, organizations representing persons with disabilities, as well as employer and employee organizations. The council monitored action for the protection of the rights of persons with disabilities and served as a forum for persons with disabilities to participate in decision-making.

National/Racial/Ethnic Minorities.—The 1975 Vienna III Agreement remains the legal source of authority regarding the treatment of Turkish Cypriots living in the South. The government generally effectively enforced the agreement, which provides for the voluntary transfer of populations, free and unhindered access by the UNFICYP to Turkish Cypriots living in the south, and facilities for education, med-

ical care, and freedom of religion. However, the Turkish Cypriot leadership complained that there is no school established in Limassol for Turkish Cypriot students as provided for under the terms of the 1975 Vienna III Agreement.

On July 29, a 28-year-old Greek Cypriot former policeman was arrested for attacking a Turkish Cypriot and his Greek Cypriot friend in a cafe in Nicosia. In March the same person, who was reportedly a known member of an ultra-nationalist organization, was involved in a similar incident in which he allegedly attacked and injured another Turkish Cypriot. He faced four charges in connection with both incidents, including assaulting and causing actual bodily harm and acting with intent to incite hostility between Greek Cypriots and Turkish Cypriots. In November he was acquitted of all charges. The judge stated that the prosecution failed to prove his guilt, citing conflicting testimony given by witnesses.

Some of the Turkish Cypriots living in the government-controlled areas reportedly faced difficulties in obtaining identification cards and other government documents, particularly if they were born after 1974. Turkish Cypriots made few formal complaints to UNFICYP about their living conditions in the south. Complaints most often concerned the lack of affordable accommodation.

A local NGO reported complaints from Turkish Cypriots married to Turkish citizens whose children have not been automatically granted Cypriot citizenship despite legislation that mandates this. Instead of granting automatic citizenship, the Ministry of Interior currently seeks approval from the Council of Ministers before confirming that the children of Turkish Cypriots married to Turkish nationals are Cypriot citizens. They approved 1,063 cases over the past 2 years.

Turkish Cypriot authorities reported in September that there had been no response from Greek Cypriot police regarding a 12-year-old Turkish girl (resident in the area administered by Turkish Cypriots) who disappeared and was last seen in Paphos. The police reported that they had responded to an UNFICYP request for assistance, noting they had located the girl and that she was not a minor.

During the year a local NGO reported that Romani families living in Limassol faced housing problems and that many of their children did not attend school. A program run by the social welfare services for the integration of Roma into society was suspended following protests from neighbors who objected to the presence of the Roma in their area.

In September the Ministry of Education, under pressure from the parents' association of a school in Paphos district, suspended the Roma children living in the area until they were tested for hepatitis. Earlier in the summer, three Roma children had been diagnosed with hepatitis A and despite the fact that they were successfully treated, the parents' association insisted that Roma children represented a health hazard. When the test results indicated no illness, the children returned to school without incident. The ombudsman opened an investigation into the issue.

In November the press reported that a group called Football against Racism in Europe (FARE) stated that racism was a problem in the country. Despite a denial of the problem by the chairman of the Cyprus Football Association, an African player for a Cypriot team stated to the paper that he "almost always" hears monkey chanting during matches. Also in November the Cyprus Football Association fined a team $800 (CYP 400) after its fans directed monkey chants at two African players on the opposing team.

Other Societal Abuses and Discrimination.—Despite legal protections, homosexuals faced significant societal discrimination, and few homosexuals in the country were open about their sexual orientation. One NGO reported that there were complaints of discrimination toward homosexuals and HIV positive individuals. NGOs were reluctant to initiate awareness campaigns. During the year, there was a lack of education about HIV/AIDS. It was widely believed that HIV/AIDS is a concern only for homosexuals and intravenous drug users.

Incitement to Acts of Discrimination.—The government continued to use textbooks at the primary and secondary school level that included inflammatory language derogatory of Turkish Cypriots and Turks. This was a particularly serious concern with history textbooks.

In June the ombudsman issued a strong warning to insurance companies not to discriminate against customers based on their ethnic origin after the press reported that a total of 30 complaints had been filed against insurance companies at the GOC Motoring Center alleging that coverage was denied on the basis of race or nationality.

Section 6. Worker Rights

a. The Right of Association.—All workers, except for members of the police and military forces, have the legal right to form and join unions of their own choosing without prior authorization, and workers did so in practice. Police officers were per-

mitted only to join associations that have the right to bargain collectively but not to go on strike. More than 70 percent of the workforce belonged to independent unions. Antiunion discrimination is illegal, but union leaders contended that private sector employers were able to discourage union activity because the enforcement of labor regulations was sporadic and penalties for antiunion practices were minimal.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government generally protected this right in practice. The law provides for collective bargaining, and workers exercised this right in practice; however, collective bargaining agreements were not legally enforceable. Collective bargaining agreements covered all workers, citizen and foreign, with the exception of housekeepers and *artistes*; approximately 60 percent of workers were covered by such agreements. All workers have the right to strike: but authorities have the power to curtail strikes in "essential services," although this power was used rarely in practice. In July there was a truckers' strike in Limassol. In November the press reported there was a one-day rural bus strike that left thousands without transport. The law provides that members of the armed forces, the police, and the gendarmerie do not have the right to strike, but the right to strike is recognized for all other members of essential services. There have been strikes in the past in government-run hospitals, airports, and by the police, and the government did not take any actions against these workers. Members of essential services are protected by the agreement for the resolution of disputes in essential services, which is an agreement between the government and essential services personnel.

There are no special laws or exemptions from regular labor laws in the export processing zone in the port of Larnaca.

c. Prohibition of Forced or Compulsory Labor.—The government prohibits forced or compulsory labor, including by children; however, there were reports that it occurred (see section 5). There were also reports that foreign maids and illegal foreign workers were subject to the nonpayment of wages and the threat of deportation (see section 6.e.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively enforced the laws and policies to protect children from exploitation in the workplace. The minimum age for employment in an "industrial undertaking" is 16. The Ministry of Labor's inspectors were responsible for enforcing the child labor laws and did so effectively.

e. Acceptable Conditions of Work.—The legal minimum wage was approximately $724 (362 CYP) per month for shop assistants, practical nurses, clerks, hairdressers, and nursery assistants. The minimum wage rose to approximately $770 (385 CYP) after 6 months' employment. Neither amount provided a decent standard of living for a worker and family. All other occupations, including unskilled workers, were covered under collective bargaining agreements between unions and employers within the same economic sector. The wages set in these agreements were significantly higher than the minimum wage. The immigration services of the Ministry of Interior set the salary for foreigners working as housekeepers at $300 (150 CYP) per month, plus $80 (40 CYP) for lodging if the worker did not live-in, and an additional 16 percent that employers were required to pay directly to the state in the form of social insurance. Workers were not allowed to claim pensions, unless they became citizens (although in some cases there were bilateral agreements that allowed workers to claim credit in their countries of origin). Unions and labor confederations generally effectively enforced negotiated wage rates (collectively bargained rates), which were generally much higher than the minimum wage. The immigration services were responsible for enforcing the minimum wage for foreign workers, but did not actively do so.

The legal maximum workweek was 48 hours, including overtime. Unions and employers collectively determined the actual working hours. White-collar employees typically worked 39 hours a week in the private sector and blue-collar employees worked 38 hours a week. In the public sector, the workweek was 38 hours during the winter and 35 hours in the summer. The law does not require premium pay for overtime or mandatory rest periods; this is usually stipulated in the contracts of workers in the largest sectors. Labor inspectors effectively enforced these laws.

By law there was no premium pay for overtime for foreign workers, however limits on workweeks are stipulated in their contracts and varied according to the sector of work.

Following the country's EU accession, the Ministry of Labor experienced a substantial increase in the number of complaints of labor exploitation. Foreign workers, primarily from Eastern Europe, East Asia, and South Asia, reportedly were forced to work up to 13 hours a day, 7 days a week, for very low wages. NGOs and the

ombudsman also confirmed that employers often retained a portion of foreign workers' salaries as payment for accommodations.

There were reports of mistreatment of maids and other foreign workers. Such reports usually involved allegations that maids, primarily from East or South Asia, were mistreated by their employers or fired without cause in violation of their contracts. Although the law protects domestic workers who file a complaint with the labor ministry from being deported until their cases have been adjudicated, NGOs reported that many women did not complain to authorities out of fear of deportation.

Strong health and safety legislation applies to places of work in all economic activities and was enforced by the Ministry of Labor inspectors. Factory inspectors processed complaints and inspected businesses to ensure that occupational safety laws were observed. Their inspections were supported by close government cooperation with employer/employee organizations. However, the law does not apply to private residences (households) where persons were employed as domestic servants. Workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, and the authorities effectively enforced this right.

THE AREA ADMINISTERED BY TURKISH CYPRIOTS

Since 1974, the northern part of Cyprus, with a population of approximately 250 thousand persons, has been governed by a Turkish Cypriot administration that proclaimed itself the "Turkish Republic of Northern Cyprus (TRNC)" in 1983. The United States does not recognize the "TRNC," nor does any country other than Turkey. Mehmet Ali Talat was elected "president" on April 17 in free and fair elections. "Parliamentary" elections in February were free and fair and resulted in the formation of a coalition government. The "TRNC constitution" is the basis for the laws that govern the area administered by Turkish Cypriots. Police and security forces were ultimately under the operational command of the Turkish military, per transitional article 10 of the "TRNC constitution" which cedes responsibility for public security and defense "temporarily" to Turkey.

Authorities generally respected the human rights of citizens living under their control; however, there were problems in some areas. The following human rights problems were reported:

- police abuse of detainees
- arbitrary arrest and detention
- restrictions on citizens' privacy rights
- restrictions on asylum seekers
- trafficking in persons

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances. The autonomous, tripartite (UN, Greek Cypriot, Turkish Cypriot) Committee on Missing Persons in Cyprus (CMP) continued its work to account for persons who remained missing after the intercommunal violence beginning in 1963–64 and the events beginning in 1974.

During the year the "TRNC" unilaterally exhumed approximately 50 sets of remains from a construction site; the CMP verified the number of exhumations. The remains were stored in a basement of a "government" office building along with 25 that the CMP exhumed. The identities of the remains had not been determined at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that police abused detainees.

During the year there were two complaints filed regarding police abuse. In August a Turkish Cypriot security forces sergeant reported that police beat him at a police station after his arrest on assault charges. The alleged victim filed a complaint but the "attorney general's" office found no evidence of abuse and closed the case.

In September a man filed a complaint saying that three police officers beat him in detention after having been arrested. The investigation was ongoing at year's end.

Unlike in previous years, police did not prevent any demonstrations.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, although there were some problems. Inmates complained of overcrowding at the prison. In May press reports quoted the prison director as saying that overcrowding was a problem, and that some inmates occasionally abused sedatives prescribed for them by the Nicosia psychiatric hospital. The press also quoted a "member of parliament" as saying that weapons were easily smuggled into the prison and that the prison administration should maintain tighter control. The "Ministry of Interior's" director of prisons stated in November that the prison's total capacity was 207 but that the total number of prisoners was 283. Approximately 67 percent of prisoners were foreigners, and 50 percent of prisoners were awaiting trial.

Juveniles were not held separately from adults.

Authorities permitted prison visits by independent human rights observers, although no such visits occurred during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—Police are responsible for law enforcement. The chief of police reports to the Turkish Cypriot general holding the "security portfolio," and the general is nominally under the supervision of the "prime ministry." The police and security forces are ultimately under the operational command of the Turkish military; however, per transitional article 10 of the "TRNC constitution" which cedes responsibility for public security and defense "temporarily" to Turkey. Some politicians called for the police to be brought under the control of the "TRNC government," but there were no changes during the year. Despite this, security forces were generally cooperative with civilian authorities and effective in matters of law enforcement. The police are divided into eight functional divisions and five geographic divisions.

The "attorney general's" office acknowledged that there were cases of corruption and bribery within the police related to narcotics trafficking. In September two police officers on suspension for charges of writing bad checks were arrested in connection with alleged narcotics trafficking. The two were released on bail, but the investigation of all charges against them was ongoing, and they remained on suspension at year's end. In December the police chief in Iskele was arrested for collecting gambling debts for a criminal syndicate suspected of illegal involvement with casinos and betting houses. The chief was released on bail while awaiting trial. The office of the "attorney general" continued to work in conjunction with the inspection division (or occasionally the criminal investigative division) to conduct investigations into allegations of police misconduct. During the year no investigations resulted in the prosecution of officers for the abuse of detainees.

Arrest and Detention.—Judicially issued arrest warrants were required to arrest a person. No person could be detained for more than 24 hours without referral of the case to the courts for extension of the period of detention. The authorities respected this right effectively in practice. Also detainees were promptly informed of charges against them. However, for a serious crime a person could be held without being charged. Most periods of investigative detention did not exceed 8 to 10 days before formal charges were filed. Bail was permitted and routinely used. Detainees were usually allowed prompt access to family members and a lawyer of their choice. Authorities provided lawyers to those who could not afford one only in cases of serious crimes. Particularly at the time of arrest, police sometimes did not observe legal protections. Some suspects were not permitted to have their lawyers present when testimony was taken, in contravention of the law. Suspects who demanded the presence of a lawyer were sometimes threatened with stiffer charges or physically intimidated.

There were no reports of political detainees.

After arrest, suspects must appear before a judge within 24 hours to avoid lengthy detention at police stations. Judges may order that suspects be held for investigative detention for up to 10 days before formal charges are filed. The law provides that pretrial detention for those accused of serious crimes cannot exceed three months; the prison director reported that in practice the average length of pretrial detention is approximately six weeks, but that it can be longer if the court's conditions for release are not met (unpaid bail, lack of guarantors). In November 50 percent of the prison population was awaiting trial.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and authorities generally respected this provision in practice.

Most criminal and civil cases begin in district courts, from which appeals are made to supreme courts. There were no special courts for security or political offenses.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The "TRNC constitution" guarantees public trials, the defendant's right to be present, and the defendant's right to consult with an attorney in a timely manner. An attorney is provided for those who cannot afford one, and defendants are allowed the right to question witnesses against them and present evidence or witnesses on their behalf. The law also guarantees that defendants and their attorneys have access to "government"-held evidence related to their cases. Defendants enjoy a presumption of innocence and have a right of appeal. The authorities generally respected these rights in practice.

Political Prisoners.—There were no reports of political prisoners.

Property Restitution.—During the year Greek Cypriots continued to pursue property suits against the Turkish government in the ECHR for the loss of property located in the area administered by Turkish Cypriots since 1974. Under ECHR rules, an appellant does not have standing to bring a case before the ECHR until that appellant exhausts all local remedies—unless no adequate local remedy exists. In the landmark Xenides-Arestis case the ECHR determined that the Turkish Cypriot committee set up in 2003 to adjudicate claims by Greek Cypriots with land in the area administered by Turkish Cypriots, did not constitute an effective local remedy. This allowed for the direct appeal of the Xenides-Arestis case to the ECHR without having exhausted local remedies.

On December 19, the "TRNC" passed new legislation aimed at bringing the property commission in line with ECHR standards. On December 22, the ECHR ruled against Turkey in the Xenides-Arestis case, but gave the government of Turkey six months in which to provide an effective domestic remedy to deal with property claims. Until then, the court has postponed further consideration of the approximately 1,400 similar cases that Greek Cypriots have filed against Turkey at the ECHR.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, there were reports that police subjected Greek Cypriots and Maronites living in the area administered by Turkish Cypriots to surveillance (see section 5). The Turkish military occupied houses in two of the four Maronite villages.

The press reported that in August a Turkish Cypriot man hung a flag of the Republic of Cyprus outside his home to mark the 45th anniversary of the Republic of Cyprus. Police arrived at his house, arrested him, and confiscated the flag, which is banned in the area administered by Turkish Cypriots. The man told newspapers that he planned to sue the police in the ECHR for compensation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and authorities generally respected these rights in practice; however, authorities continued to pursue criminal charges against a number of journalists.

At year's end, authorities had not yet dropped criminal charges filed in 2003 against five journalists with the daily newspapers Kibris and Ortam for insulting the army in their reports about police actions against demonstrators in the village of Doganci.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly and the authorities generally respected this right in practice.

At year's end authorities had not yet dropped charges against organizers of the 2003 demonstration in the village of Doganci.

Freedom of Association.—The law provides for freedom of assembly and association, and the authorities generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion and prohibits religious discrimination, and authorities generally respected these rights in practice.

The law permits the Turkish Cypriot religious trust, the Evkaf (the Muslim institution that regulates religious activity for Turkish Cypriots), to regulate and administer its internal affairs and property in accordance with Evkaf laws and principles.

Greek Cypriots and Maronites were still prohibited from visiting religious sites located in military zones. Greek Cypriots and Maronites were required to apply for permission to conduct church services anywhere other than the seven churches designated by authorities.

In March authorities approved the name of a second Greek Orthodox priest to serve the Greek Cypriot enclaved community in the Karpas peninsula, but the priest could not go for personal reasons. In April the Greek Cypriot submitted an-

other name but Turkish Cypriot authorities rejected the individual for unspecified "security reasons." At the end of the year, only one priest served the area.

In June authorities permitted Greek Cypriots to hold liturgical services at the St. Barnabas church in Famagusta for the first time since 1974.

In July authorities approved a church service at a Maronite church in Agia Marina for the first time since 1974 but later withdrew this permission. The road to the church crossed a Turkish military facility and military commanders reportedly refused permission for the services.

In September authorities again permitted a group of worshippers to attend a religious ceremony at Agias Mamas Church in Morphou.

Missionaries have the legal right to proselytize, but authorities closely monitored missionary activities.

Societal Abuses and Discrimination.—During the September religious ceremony at Agias Mamas Church in Morphou, two cars owned by Greek Cypriots caught fire in the parking lot. Turkish Cypriot police determined that the cause of the fire was a short circuit in one of the car's electrical system, but the Greek Cypriot press reported that forensic examiners determined that the cause of the fire was arson. The Turkish Cypriot "government" offered to ensure that insurance companies would pay the Greek Cypriots' claims.

No suspects were ever identified or charged with the 2004 bombing inside the Agias Mamas Church that was allegedly orchestrated by Turkish Cypriot nationalists.

Greek Cypriots reported that vacant Orthodox churches had been vandalized and religious icons removed; there were no reported investigations of these incidents.

There were no reports of anti-Semitic acts. The Jewish community in the area administered by Turkish Cypriots is very small and composed primarily of non-resident businesspeople.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and authorities generally respected them in practice.

In September authorities opened one additional checkpoint to facilitate travel across the green line.

Greek Cypriots and Turkish Cypriots were required to show identification cards when crossing the green line. In addition Greek Cypriots and foreigners crossing into the area administered by Turkish Cypriots were required to fill out a "visa" form. Some Greek Cypriots refused to do this and therefore did not cross. Authorities announced limitations on the length of time Greek Cypriots could stay in the area administered by Turkish Cypriots when the green line first opened in 2003, but in practice these limitations were not enforced during the year. Members of each community were required to obtain insurance coverage in the community where they planned to drive their vehicles.

Authorities maintained restrictions on the 403 Greek Cypriots and 140 Maronites living in enclaves in the area administered by Turkish Cypriots. Authorities limited overnight stays by child relatives of enclaved Greek Cypriots and Maronites to a "reasonable period," with extensions possible. Immediate relatives of enclaved Greek Cypriots were exempt from the requirement that they stay at a hotel and instead could stay with their relatives. During the year two residents of enclaved Maronite communities were not allowed to return to their homes after reportedly visiting the government-controlled area. Turkish and Turkish Cypriot forces continued to operate a checkpoint adjacent to the Greek Cypriot village of Strovilia and the British eastern Sovereign Base Area that restricted UNFICYP movement.

Turkish Cypriots had difficulty traveling to most countries because only Turkey recognizes travel documents issued by the "TRNC." Some Turkish Cypriots used Turkish travel documents, but many have now obtained Republic of Cyprus passports from the government.

The law prohibits forced exile, and the authorities did not employ it.

Internally Displaced Persons (IDPs).—Although they would fall under the UN definition of IDPs, Turkish Cypriots consider those displaced as a result of the division of the island to be refugees. These persons and their descendants number approximately 90 thousand to 100 thousand.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and authorities have not established a system for providing protection to refugees. In practice authorities did not provide protection against *refoulement*, the return of persons to a country where they feared persecu-

tion. The authorities did not grant refugee status or asylum. Individuals who requested asylum were supposed to be directed to the UNHCR; however, there were reports that not all individuals who wished to seek asylum were permitted to do so.

Authorities' cooperation with the UNHCR was uneven. During the year, working with the assistance of a local NGO, the UNHCR examined the asylum claims of fewer than five persons who entered the area administered by Turkish Cypriots in accordance with "TRNC" procedures. Their cases remained pending at year's end. Authorities refused entry to approximately two thousand persons who arrived with or without proper documentation at ports of entry, denying them the opportunity to apply for asylum through the UNHCR.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides Turkish Cypriots the right to change their government peacefully, and they exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Turkish Cypriots choose a leader and a representative body every five years or less. In the February "parliamentary" elections, which were free and fair, parties favoring a solution to the division of the island based on the Annan plan emerged with a near majority of seats. A coalition "government" formed thereafter and elevated Ferdi Sabit Soyer, one of the leading figures of the area administered by Turkish Cypriot's largest pro-settlement party, to the position of "prime minister."

Greek Cypriots and Maronite residents were prohibited from participating in Turkish Cypriot elections; they were eligible to vote in Greek Cypriot elections but had to travel to the government-controlled areas to exercise that right. Officials in the area administered by Turkish Cypriots representing Greek Cypriots and Maronites were appointed by the Republic of Cyprus and were not recognized by Turkish Cypriot authorities.

There were no government restrictions on the political opposition and membership or non-membership in the dominant party did not confer formal advantages or disadvantages.

There were 3 women in the 50-seat "parliament".

There were no minorities represented in the "parliament."

Government Corruption and Transparency.—Corruption, cronyism, and lack of transparency were perceived to be serious problems in the legislative and executive branches. In August press reports indicated that the previous "minister of economy and tourism," who resigned in 2004, had been forced to quit because she sought to close a casino in the area administered by Turkish Cypriots that was allegedly evading taxes.

By September the new "government" closed its investigations of three cases of the previous "government's" alleged practice of distributing land and bogus "citizenships" in an attempt to sway election results, as well as an investigation of the previous "government's" role in a banking sector bankruptcy case. All charges were dropped, however the new "government" did cancel land titles and bogus "citizenships" that were identifiable.

Unlike in 2003, there were no reports that parties in power before the December election had misused public resources in support of their campaigns.

The "constitution" provides for the right of free access to government information; however, there are no specific laws that assure public access. Civil servants were not allowed to give access to government documents without first obtaining permission from their directors or minister. However, there were no reported cases of persons being denied access to government information during the year.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without restriction from the authorities, investigating and publishing their findings on human rights cases. Officials generally were cooperative and responsive to their views.

Human rights groups were generally concerned almost exclusively with alleged violations of Turkish Cypriot rights by Greek Cypriots. NGOs with a broader human rights-related mission included groups promoting awareness of domestic violence and women's rights. These groups were numerous, but had little impact on public opinion or specific legislation. A few international NGOs were active in the area administered by Turkish Cypriots, but many were hesitant to operate there due to political sensitivities related to working in the unrecognized "TRNC."

The UN, through the autonomous tripartite CMP, continued its efforts to account for persons who remained missing after the intercommunal violence beginning in 1963–64 and the events beginning in 1974 (see section 1.b.).

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally effectively enforced it; however, violence against women, trafficking in persons, and discrimination against Greek Cypriots and Maronites were problems.

Women.—Violence against women, including spousal abuse, was a problem. The law prohibits domestic violence; however, no cases of domestic violence were tried during the year, as claims were typically considered a family matter and settled out of court. Additionally, authorities only considered a case credible if there was at least one witness in addition to the victim.

The law provides for no minimum sentence for individuals convicted of rape, including spousal rape; the maximum sentence is life imprisonment. The authorities and police effectively handled and prosecuted rape cases, including cases of spousal rape. There were no NGOs to support rape victims. The press reported only one rape during the year; a taxi driver allegedly raped a female passenger in June. The police investigation was ongoing at year's end.

The law does not specifically prohibit prostitution, but procurement for prostitution is a misdemeanor. A law designed to regulate the hiring of women in nightclubs provides penalties for women and employers who engage in prostitution. Turkish military forces frequent nightclubs and cabarets.

There were a few reports that women were trafficked to the area administered by Turkish Cypriots for the purposes of sexual exploitation (see section 5, Trafficking).

The law contains no provision specific to sexual harassment; however, victims could pursue such cases under other sections of the law. Sexual harassment was not discussed widely and any such incidents largely were unreported. It was reportedly a serious problem.

Women generally have the same legal status as men under property law, family law, and in the judicial system. Laws requiring equal pay for men and women performing the same work were enforced effectively at the white-collar level; however, women working in the agricultural and textile sectors were routinely paid less than their male counterparts. There were several NGOs, but no "government" agencies that worked to protect women's rights.

Children.—Authorities were strongly committed to children's rights and welfare.

Education through the age of 15 was free and compulsory. Approximately 90 percent of children attended school up to the secondary level. Approximately 70 percent completed some kind of post-secondary education.

Authorities screened all textbooks sent to the Greek Cypriot Rizokarpasso Gymnasium, a primary and middle school in the enclaved communities that authorities reopened in 2004, the screening caused lengthy delays in their distribution and shortages of up-to-date textbooks. In September the press reported that students began classes without textbooks when authorities determined that the books contained offensive language. The authorities reportedly submitted a report to the UN on the books; the books were later released to the school. The school announced in October that it is expected to expand grade levels to include grades seven through nine; there are reports that two additional teachers were needed at the school but that the authorities had not approved them at year's end.

Boys and girls had equal access to publicly funded health care; however, patients faced long waits for services in public medical facilities. In November an NGO reported that children of unregistered (illegal) workers were allowed free but only basic medical treatment. Long-term treatment was not provided.

There were no reported cases of child abuse; however, as with domestic violence, there were social and cultural disincentives to seek legal remedies for such problems.

Trafficking in Persons.—The law does not specifically prohibit trafficking, and there were some reports that women were trafficked to and within the area administered by Turkish Cypriots for the purpose of sexual exploitation.

Procurement for prostitution is a misdemeanor, and a law designed to regulate the hiring of women in nightclubs provides penalties for women and employers who engage in prostitution. The "TRNC" does not extradite its "citizens"; however, the police reported that they had assisted international trafficking investigations through Turkey.

Turkish Cypriot authorities issue *artiste* visas to women, primarily from Eastern Europe, permitting their entry into the area administered by Turkish Cypriots to work in nightclubs. There were credible reports that many of these women engaged in prostitution and that some women were coerced. Authorities acknowledged the existence of trafficking; however, they often confused it with human smuggling or illegal immigration.

In September two victims of trafficking contacted Turkish Cypriot authorities for help, and the authorities reported the cases to the police. Authorities later reported that the two cases represented in fact a single incident and that the woman's employer had sent her back to her country of origin in an effort to avoid problems with the police.

The "Interior Ministry" reported that there were 378 women working at 45 night clubs and 10 pubs in the area administered by Turkish Cypriots at year's end. At a conference sponsored by an NGO and the Swedish embassy in October, a sociologist and pollster presented a research project on the women working in nightclubs and cabarets in the area administered by Turkish Cypriots. During interviews the women and their employers allegedly told representatives from the sociologist's organization that 90 percent of the women came to Cyprus on six-month contracts and that during that time they earned up to $6 thousand (Turkish new lira 7,974). The women also reportedly said that many of them came via modeling agencies or were sold by agencies that had advertised for babysitters or caregivers for the elderly. The organization stated that large casinos had offered women as gifts to their "richest customers" and that boys as young as 16 regularly visited the night clubs.

There were no NGOs available to provide assistance to trafficking victims.

During the summer the "ministry of health" began collecting questionnaires on working and living conditions from nightclub employees at their mandatory health checks. In December the "ministry" hired a Russian-speaking staff member to begin interviewing these women in private.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and in practice the government effectively enforced these provisions. In December a local NGO expressed concern over the need for improvements to special education and life-long rehabilitation opportunities and employment for people over age 18. The "state" employed approximately 280 people with disabilities and provided financial aid to 2,650 of the 3,500 people with disabilities in the area administered by Turkish Cypriots. The law does not mandate access to public buildings and other facilities for persons with disabilities, and the above NGO reported that this remains the single greatest problem for persons with disabilities in the area administered by Turkish Cypriots.

National/Racial/Ethnic Minorities.—The law prohibits discrimination, and the 1975 Vienna III Agreement remains the legal source of authority regarding the treatment of Greek Cypriots and Maronites; however, the authorities' noncompliance with some of the agreement's provisions made daily life difficult for the 403 Greek Cypriots and 140 Maronites residents.

Greek Cypriots and Maronites in the area administered by Turkish Cypriots alleged that they were routinely subject to surveillance. Representatives of both communities complained that their phones were tapped and that Turkish Cypriot authorities occasionally broke into their homes.

UNFICYP access to Greek Cypriots and Maronites remained limited. Although the Vienna III Agreement provides for medical care by a doctor from the Greek Cypriot community, only care provided by Turkish Cypriot doctors registered with authorities was permitted. Greek Cypriots and Maronites were able to take possession of some of their properties but were still unable to leave any of their properties to heirs residing in the South. In December authorities announced that Maronites living in two of the four Maronite villages in the area administered by Turkish Cypriots could bequeath property to children living in the government-controlled area. However, in practice there were reports that this was not allowed. Authorities allowed the enclaved to make improvements to their homes and to apply for permission to build new structures on their property. Maronites living in the government-controlled area could use their properties only if they were not under the control of the Turkish military or allocated to Turkish Cypriots.

A majority of foreign workers in the area administered by Turkish Cypriots were Turkish. One NGO reported that the public at large often made them the scapegoats for criminality, adding that Turkish workers were often the targets of police raids aimed at finding the culprits of petty crime. The NGO reported that many Turkish workers lived within the walled city of Nicosia, with up to 20 persons sleeping in one room, often in derelict buildings. Those working in agriculture or on construc-

tion sites reportedly have been forced to sleep on the ground and those working in restaurants have been seen sleeping after hours on chairs in the establishments where they worked. The NGO also reported research that indicated that the population generally resented Turkish workers because of the perceived threat they posed to job prospects.

Other Societal Abuses and Discrimination.—The law criminalizes homosexuality in the area administered by Turkish Cypriots. Homosexuality is socially highly proscribed and rarely discussed. There were no reports of discrimination against persons with HIV/AIDS.

Incitement to Acts of Discrimination.—The Government of Cyprus complained that language used in Turkish Cypriot textbooks is derogatory of Greek Cypriots. However, "TRNC" school "authorities" continued to use textbooks at the primary and secondary levels that included such language. The "Ministry of Education" introduced a revised history syllabus and textbooks in schools after concluding in 2004 that the existing text encouraged students to view Greek Cypriots as enemies and the EU as a "rotten apple." Students in Greek Cypriot enclaved communities began classes without textbooks during the year when authorities determined that the books contained offensive language.

Section 6. Worker Rights

a. The Right of Association.—All workers, except members of the police and military forces, have the legal right to form and join unions of their own choosing without prior authorization, and workers did so in practice. Approximately 1 percent of private sector workers, 60 to 70 percent of semi-public sector workers, and nearly all public-sector workers belonged to labor unions.

Some companies had company-led unions and pressured workers to join them. Officials of independent labor unions stated that authorities created rival public sector unions to weaken the independent unions.

The law does not prohibit antiunion discrimination, and union leaders claimed that private sector employers were able to discourage union activity because the enforcement of labor regulations was sporadic and penalties—such as reassignment to and undesirable location or denial of promotion—for antiunion practices were nominal.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government generally protected this right in practice. The law provides for collective bargaining, and workers exercised this right in practice; however, collective bargaining agreements were not legally enforceable. The "Ministry of Economy" and union officials estimated that 98 percent of workers in the public sector, 60 to 70 percent of workers in the semi-public sector (such as the state university), and 1 percent of workers in the private sector were unionized. Public and semi-public employees made up approximately 30 to 35 percent of the work force and benefited from collective bargaining agreements. Although the law provides for the right to strike, employers have an unrestricted right to hire replacement workers in the event of a strike, which limited the effectiveness of the right. The law does not ensure due process for essential service workers and in fact states that members of the armed forces, law officers, judges, members of the police, and civil defense personnel have no right to strike. Authorities have the power to curtail strikes in "essential services," although this power was used rarely in practice.

There are no special laws or exemptions from regular labor laws in the export processing zone in the port of Famagusta.

c. Prohibition of Forced or Compulsory Labor.—The authorities prohibited forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5). Legal and illegal migrant workers were subject to the nonpayment of wages, reduced payment of wages, beatings, and the threat of deportation (see section 6.e.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively enforced the laws and policies to protect children from exploitation in the workplace.

The minimum age for employment in an "industrial undertaking" is 16 years, and children may be employed in apprentice positions at the age of 15. Although there were labor inspectors who enforced the law effectively, it was common in family-run shops for children to work after school and children as young as age 11 worked in orchards during school holidays.

e. Acceptable Conditions of Work.—The minimum wage of $447 (Turkish new lira 594) per month did not provide a decent standard of living for a worker and family. Migrant workers were often offered substandard accommodation as part of their

compensation, or were made to pay a certain amount from their salaries for accommodation. The "Ministry of Labor and Social Security" is responsible for enforcing the minimum wage, and it was generally enforced. One NGO reported that legal foreign workers in general were paid below the minimum wage.

The legal maximum workweek was 38 hours in the winter and 36 hours in the summer. Labor inspectors effectively enforced these laws, except in the case of migrant workers, who worked irregular hours and at times reportedly were required by their employers to work up to 14 hours per day, 7 days a week. The law requires overtime pay, but it was not uniformly enforced.

As part of an overall scheme to better regulate legal foreign workers, the "Ministry of Labor" and police officers routinely checked restaurants, hotels, nightclubs, casinos and construction sites to make sure that workers had valid work visas, that workers had signed a contract with their employer, and that working conditions were safe and sanitary.

The authorities enforced occupational safety and health regulations sporadically. Although factory inspectors processed complaints and inspected businesses to ensure that occupational safety laws were observed, workers who filed complaints did not receive satisfactory legal protection and could face dismissal. Workers did not have the legal right to remove themselves from situations that endangered health or safety without endangering their continued employment.

CZECH REPUBLIC

The Czech Republic is a constitutional democracy of approximately 10.2 million persons. The bicameral parliament elects as head of state a president, who then appoints a prime minister as head of government. Free and fair elections held in 2002 resulted in a coalition government led by the Social Democratic Party. Although civilian authorities generally maintained effective control of the security services, some members of the security forces committed human rights abuses.

The government generally respected and protected the human rights of its citizens; however, the following human rights problems were reported:

- occasional violence and use of excessive force by the police
- lengthy pretrial delays
- widespread corruption at all levels of government
- violence and discrimination against women and children
- trafficking in persons
- violence and discrimination against the Romani minority

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that police occasionally used excessive force. Unlike in previous years, there were no reports that police mistreated Roma.

The office for the documentation and investigation of the crimes of communism (UDV) continued to investigate actions taken by government authorities and Communist Party members during the 1948–1989 Communist regime. According to the office, 25 former Communist-era secret police (StB) officers were prosecuted for their participation in antidissident raids in the Asanace operation (a concerted campaign of harassment, torture, and abuse directed at opponents of the Communist regime during the 1970s and 1980s). Eighteen former secret policemen were sentenced to prison, with two additional sentences still pending; five other cases were still under investigation. Since 1989 the government has convicted 90 former StB officials and sentenced 26 to prison.

In September two former secret police agents were charged with the torture and persecution of dissidents during the 1970s. The trial was pending at year's end.

There were no developments in the case of police brutality alleged by a Briton and a New Zealander in April 2004. At year's end no action had been taken on their appeal of the decision to dismiss the case for lack of evidence.

The police reportedly used excessive force against concert attendees in July (see section 2.b.).

In January two police officers, Marek Vrastil and Karel Berousek, were convicted of assaulting a Romani family in their home in Popovice u Jicina in 2003. One officer received a 20-month suspended sentence and 4 years' probation; the other received a 1-year suspended sentence and 3 years' probation. The judge stated at the sentencing that the prosecution had not adequately proven racial motives for the attack. In 2004 the three other police officers tried for the attack were found not guilty by the district court in Jicin.

The government increased awareness among police and prosecutors of racially and ethnically motivated crimes by integrating Roma-specific issues into training programs; gathering data on victimization rates; and researching anti-extremist strategies. Police and prosecutors showed greater awareness of the seriousness of crimes with racial and ethnic motivations, but observers nevertheless criticized the effectiveness and timeliness with which such crimes were investigated (see section 5).

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and overcrowding decreased during the year. The government permitted visits by independent human rights observers.

A July 2004 amendment to the law requiring half of an inmate's earnings from prison work to be returned to the government as reimbursement for damages, prison costs, or court costs spurred protest by roughly one-third of the one thousand inmates at Vinarice prison.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The national police are responsible for enforcing the law and maintaining order and were generally effective in doing so. The internal security service, an intelligence and information gathering service with no powers of arrest, reports to parliament and to the prime minister. Police corruption was a problem. The Ministry of Interior oversees the police, and the ministry's inspectorate is responsible for investigating allegations of police misconduct. The government continued to implement police reforms that included oversight measures, improved methods for reporting corruption, and better education and training for police.

According to Ministry of Justice records, the government conducted 115 bribery investigations during the year and convicted 89 public officials of abuse of authority. Of the 107 officials convicted for all corruption-related offenses, only 8 were sentenced unconditionally, with sentences of up to 5 years in prison. Many observers were dissatisfied with the minor cases of corruption often pursued by investigators, and with the generally ineffective investigations and prosecutions of larger-scale malfeasance.

During the year the government continued efforts to recruit Roma to serve in law enforcement and to improve police relations with the Romani community (see section 5).

Arrest and Detention.—Persons suspected of crimes were apprehended openly, with warrants based on sufficient evidence and issued by a prosecutor, and brought before an independent judiciary. Police may detain persons without charge for up to 48 hours, during which time they have the right to counsel at government expense, although they may not contact family members. After 48 hours, police must have determination from a judge and prosecutor that the suspect will be charged before they can detain the suspect further. When the judge and prosecutor decide to charge the suspect, the suspect may contact family members. In some instances a judge may allow a person to be detained for up to 90 days before charges are formally filed to allow further criminal investigation ("investigative detention"). The law provides for bail except for certain serious crimes or to prevent witness tampering.

Lengthy pretrial detention was a problem. Under the law except for "exceptionally grave" offenses, pretrial detention may last no longer than two years. In practice the average length of pretrial detention during the year rose to 147 days, compared with 145 days in 2004. Thirty-five pretrial detainees were held for longer than 2 years, approximately 1.2 percent of all pretrial detainees. A suspect may petition investigating authorities at any time for release from detention.

Amnesty.—During the year the president granted 51 amnesties for persons released from prisons or detention centers.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision; however, judicial effectiveness was hampered by political influence, structural and procedural deficiencies,

and a lack of training and resources. There were allegations of judicial corruption, particularly surrounding bankruptcy and commercial courts. In April Usti nad Labem regional court judge Jiri Berka was arrested and charged with criminal conspiracy and other acts. The pretrial investigation was ongoing at year's end.

The court system consists of district, regional, and high courts. The Supreme Court is the highest court of appeal, but a separate Constitutional Court adjudicates the constitutionality of legislation. Judges are nominated by the minister of justice and appointed for life by the president. The senate confirms Constitutional Court judges. Defendants may appeal the decisions of the district courts through several judicial layers to the Supreme Court. Noncriminal cases are handled by the administrative court system, of which the highest court is the supreme administrative court.

During the year several events occurred that damaged public perception of the judiciary's independence from improper political influence. In September long-time Chief State Prosecutor Marie Benesova was removed from her position following a series of disputes with Justice Minister Pavel Nemec. Benesova was widely respected for her tough stand against corruption, and her removal led to concern that future prosecutors may be insufficiently insulated from political pressures.

In August the government extradited a member of the Qatari royal family who had been a long-time resident of Prague and who had been convicted of four counts of sexual abuse of minors. The government did so despite concerns that he would not face serious punishment in Qatar, and many observers questioned the ability of victims to seek legal redress through the court system.

In January 2004 the Ministry of Justice established a new hotline for citizens to report suspected judicial corruption. Through October the hotline received and reviewed 57 calls during the year, compared with 263 in all of 2004. An additional 47 written complaints were received, compared with 137 in 2004. Of all corruption complaints received, 56 percent concerned judges, 9 percent involved prosecutors, and 19 percent concerned other officials. The ministry resolved 68 percent of all reports through a direct response; 17 percent were forwarded to the corruption police for further investigation.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Trials are public, but juries are not used. Instead, a panel of judges rules on guilt or innocence in serious cases, with all other cases heard by a single judge. Defendants have the right to be present and to consult with an attorney in a timely manner and at state expense. Defendants may confront or question witnesses against them, and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants are presumed innocent and have a right of appeal. The law extends these rights to all citizens.

There is a significant backlog of cases. During the year the European Court for Human Rights (ECHR) received approximately one thousand complaints from Czech citizens, most related to the extended length of court proceedings.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. However, there were reports of local governments using various methods to evict Romani residents. The government continued to investigate allegations of the forced sterilization of Romani women and prosecute accused perpetrators (see section 5).

Several cases involving the alleged involuntary sterilizations of Romani women proceeded in the courts. In September 2004 the European Roma Rights Center (ERRC) accused the government of continuing the forced sterilization policies of the former Communist regime. The ERRC and its partners asserted that this practice continued well after the fall of the regime and argued that often the victim's consent was either not obtained at all or was obtained under circumstances that rendered informed consent impossible.

Over the last 30 years a total of 78 women (10 of whom were non-Roma) have complained about forced sterilizations to the office of the ombudsman for human rights. During the year the ombudsman referred five cases against health systems workers and administrators for further criminal investigation and possible prosecution. Investigations were ongoing at year's end.

In November the district court in Ostrava ordered the Ostrava hospital to apologize to Helena Ferencikova, a Romani women sterilized in 2001 following the birth of her second child. Ferencikova appealed the decision in order to seek monetary damages. The appeal was pending at year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. In October the NGO Reporters Without Borders issued a report citing the country for its strong protection of press freedoms.

The law mandates prison sentences between six months and three years for persons who deny Communist crimes or the Nazi Holocaust. Speech inciting hatred based on race, religion, class, nationality, or other group affiliation is also illegal and carries a sentence of up to three years in prison.

The government can enforce legislation banning hate speech by stopping unauthorized concerts, gatherings, or activities (see section 2.b.). In two separate incidents in July and November, police halted neo-Nazi concerts in Zlata Olesnice and Libovske Udoli, respectively.

Denis Gerasimov, who was charged by police in January 2004 for having Nazi propaganda in his bag, was first found innocent in October 2004. His second trial concluded in April and resulted in another acquittal.

The independent media were active and expressed a wide variety of views without restrictions.

Observers criticized the December decision of Cesky Televise (the publicly funded, government-owned television station) to cancel Bez Obalu, a popular program of political satire. The cancellation immediately followed criticism of the show by Prime Minister Paroubek, who had been frequently satirized on the program. Although the station cited the cost of producing the show as a factor in the decision, it also stated that it had applied the same standard of political balance that is used for news broadcasts.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice; however, the government may legally restrict meetings that promote hatred and intolerance, advocate the suppression of individual or political rights, or jeopardize the safety of participants. Permits normally are required for demonstrations, but police did not interfere with spontaneous, peaceful demonstrations during the year.

The government may enforce legislation banning hate speech by stopping unauthorized concerts, gatherings, or activities (see section 2.a.). In July several hundred police in the western town of Mlynec forcefully dispersed individuals at an annual outdoor techno concert called "CzechTek" because the concert had not been adequately registered. Many nongovernmental organizations (NGOs) and observers alleged that police used excessive force in breaking up the concert. Dozens of injuries among both concertgoers and police resulted, and many fans were arrested. Following an outcry by media and human rights groups, the interior ministry initiated an investigation into the incident and cleared the police leadership of wrongdoing, although individual officers may face prosecution or disciplinary action at the conclusion of the investigation, which was ongoing at year's end. Two of the 18 concertgoers detained by police were formally charged with acts of violence against police. Their cases were pending at year's end.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. Organizations, associations, foundations, and political parties were required to register with local officials or the interior ministry. The law prohibits political party activities on university campuses but students are permitted to form their own political groups.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

All religious groups officially registered with the culture ministry are eligible to receive limited tax benefits and government subsidies. In order to qualify for first-tier status, which provides tax exemption, groups must have 300 adult permanent resident members. If a group wishes to attain the second-tier registration level, which confers specific additional rights (such as teaching religion in state schools, delegating persons to perform clerical activities in the military, qualifying for government financial subsidies, and being entitled to perform marriages and establish church schools), the group is required to have been registered for 10 years and to obtain signatures equal to 1 per every 1,000 citizens based on the last census, or approximately 10,200 persons. Very few smaller or less-established religions were able to obtain the required signatures to obtain second-tier registration. Several unregistered religious groups have criticized the law as discriminatory against smaller religions. Religious organizations also have the option to register as a civic association rather than go through the tiered registration process. Religious groups reg-

istered prior to 1991, such as the small Jewish community, are not required to meet these conditions for registration. There are 26 officially recognized religious groups.

Unregistered religious groups may not legally own communal property, so they often formed civic-interest associations for this purpose. Unregistered religious groups otherwise were free to assemble and worship as they chose, and their members issued publications without interference.

There were no developments in the 2004 plans to construct mosques in Teplice and Orlova.

In January the supreme administrative court upheld the culture ministry's 2002 decision to abolish the state office that had administered confiscated Catholic Church lands since the late 1700s. According to Catholic Church officials, this point of contention with the government, along with several other issues, slowed progress in the resolution of restitution claims. Although the government was committed to the restitution of Jewish and Catholic property seized under Nazi or Communist governments, the restitution of Catholic property was extremely slow and contentious in practice.

Societal Abuses and Discrimination.—The country had a Jewish population of several thousand persons. There were a few anti-Semitic incidents during the year.

For example, in April vandals destroyed several tombstones in the Jewish cemetery in Hroznetin. Police investigation of the crime resulted in no arrests.

In February following charges of anti-Semitism by the Israeli ambassador, the local company Mountfield canceled a series of television advertisements featuring a derogatory and stereotypical portrayal of an orthodox Jew.

Following parliament's February 2004 approval of a law designating a Holocaust Remembrance Day, ceremonies were held on January 27 in Prague.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 78 persons during the year.

Current law establishes a list of "safe countries of origin" from which applicants are unlikely to be granted refugee status, but it does not automatically bar such applications. Applicants whose cases were denied could appeal to the appropriate regional court. In May parliament amended the law to require regional court decisions to be reviewed by a five-judge panel, which refers cases requiring further attention to the supreme administrative court. The amended law also stipulates that only exceptional cases may be appealed to the supreme administrative court following a rejection by the regional court. During the year over 4,000 persons applied for asylum, approximately 1,500 fewer than in 2004, continuing a downward trend that experts attributed to EU rules for applying for asylum. The government granted asylum to 251 persons, according to the interior ministry.

In August the Constitutional Court issued a decision that either asylum hearings be conducted in a language comprehensible to the applicant, or that the government provide an interpreter. This ruling was prompted by the appeal of Vasyl Petriv, who had been denied asylum in 2003 but asserted that he had not understood the proceedings, which were conducted in the Czech language. Petriv received asylum after the Constitutional Court ruling.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The most recent national elections were held in November 2004 for the senate, and were considered free and fair. Individuals and parties could freely declare their candidacy and stand for election.

In March the Romani Democratic Social Party was established to become involved in the coordination of government programs targeting Roma. In March the party announced its intention to field candidates in the 2006 general legislative elections.

Women and ethnic minorities were generally underrepresented in politics and government. There were 33 women in the 200-seat chamber of deputies and 10 women in the 81-seat senate. There were 2 women in the 20-member cabinet.

There were no members of minorities in the 200-seat chamber of deputies, the 81-seat senate, or the 20-member cabinet. One justice on the Constitutional Court was an ethnic Slovak. Of the estimated 150 thousand to 175 thousand Roma in the country, few were integrated into political life (see section 5). Few Roma served in local government, although some were appointed to advisory positions in government ministries, and each region appoints a Romani coordinator to monitor and mediate problems affecting the Romani community.

Government Corruption and Transparency.—Throughout the year corruption and abuse of office remained major problems.

Numerous polls highlighted public concern with corruption and low levels of public trust in the integrity and honesty of both government officials and political parties. The perception of widespread corruption and official abuse has fostered an environment of public mistrust of mainstream political parties. Transparency International reported that current procurement statutes were complicated and vulnerable to manipulation, that oversight mechanisms were weak, and that conflict of interest laws were generally ineffective. Biannual governance and anticorruption studies compiled by the World Bank have charted substantial and steady deterioration in the country since 1996 in indices of "government effectiveness," "regulatory quality," "rule of law," and "control of corruption."

On April 27, Prime Minister Stanislav Gross resigned in the midst of a corruption scandal over his ownership of a luxury apartment in Prague in spite of earning a modest government salary. During the subsequent controversy additional questions surfaced regarding other financial and business activities of both Gross and his family. Gross was replaced by Regional Development Minister Jiri Paroubek. The decision by police in December to close the case for lack of evidence was met with widespread public outcry.

In January the media reported that Gross, while serving as interior minister in 2002, had formed a special police unit that reported only to him and whose existence was concealed from parliament, the public, and other government entities. The unit operated in secrecy for two years, reportedly gathering information on political and business figures until its dissolution by the interior ministry.

In August Prime Minister Paroubek dismissed his chief aide, Jiri Dolezel, over allegations of corruption involving the privatization of the Unipetrol group. The aide reportedly solicited a $200 thousand (approximately 5 million CZK) bribe during the sale of Unipetrol to a Polish company. In October Paroubek reluctantly authorized a parliamentary inquiry into the Unipetrol privatization. The investigation was ongoing at year's end.

During the year the media exposed several appointees or associates of Gross and Paroubek as alleged or confirmed members of the former Communist secret police. These individuals held office despite a lustration (vetting) law prohibiting certain former Communist Party officials, People's Militia members, and suspected secret police officials from holding a wide range of elected and appointed positions.

In October Marian Kus, a member of the ruling Social Democratic party executive committee, was forced to temporarily step down from his position during an investigation into charges that he had forged his lustration certificate, a document certifying that a person has been vetted by the government and (usually) cleared of cooperation with the Communist secret police.

A 2004 allegation that an opposition member of parliament had attempted to bribe another parliamentarian prior to a confidence vote in the government was investigated by police and dismissed for lack of evidence, with no action taken against either party.

In April 2004 18 customs officials working at the Moravia border were accused of accepting bribes of between $6 and $12 (151 to 302 CZK) from truck drivers seeking expedited inspections at the border. Their trial began in June and was ongoing at year's end.

Seven government ministries (justice, interior, agriculture, finance, transport, and regional development) have hotlines for citizens to report instances of corruption and malfeasance by ministry employees. Three other agencies have set up email addresses specifically for the public to report corruption.

The Ministry of Interior received 6,019 emails and 450 calls to its hotline (compared to 6,334 emails and 480 calls in 2004); most were requests for information on corruption. Only 35 of these calls and emails reported corruption; 5 of these alleged police corruption, and 30 concerned officials in other ministries. The ministry forwarded these 35 to the corruption police for further investigation.

The law provides for public access to government information. The government provided such access in practice for citizens and noncitizens, including foreign media. No prohibitive fees were used, and applicants may appeal a decision about information release within 15 days of a decision or if the time limit for processing a request is exceeded.

Section 4. Government Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

In August the chamber of deputies expanded the powers of the government ombudsman, whose functions include the protection of human rights, including in cases involving people in jails, asylum institutions, and health and social institutions. The ombudsman can recommend, but not initiate, cases for prosecution or redress to other authorities.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, societal discrimination against women and Roma persisted, and trafficking in persons was a problem.

Women.—The extent of violence against women was difficult to assess, but recent studies indicated that the problem was more widespread than reflected in official statistics. A 2003 Czech Academy of Science poll indicated that 59 percent of female respondents had experienced violence at least once in their lives and that most of these assaults were unreported. Approximately 23 percent of these victims had told no one of the attack. The few women who did report the incidents credited police with recommending that they seek specialized treatment and legal advice in addition to filing a police report.

The law recognizes domestic violence as a distinct crime, and those who commit acts of violence against relatives or domestic partners may receive sentences of up to three years in prison and longer under aggravated circumstances. Government efforts to investigate and prosecute cases of domestic violence improved dramatically during the year. Police investigated 421 cases of domestic violence, resulting in 134 convictions. Unconditional sentences were handed down for 26 offenders; the rest received suspended sentences or other penalties, including fines. In 2004 108 cases were investigated, with only one conviction resulting. Police reported that investigations continued to be hampered by the reluctance of many victims to report domestic violence or to testify against their partners.

The law prohibits rape, including spousal rape, and the government effectively enforced these provisions in practice. The law provides penalties for rape of 2 to 15 years in prison.

Many experts consider rape dramatically underreported. In the first 6 months of the year, there were 257 reported rapes, all of which were investigated. Police investigated 422 alleged rapes, resulting in 157 convictions. Unconditional sentences were handed down to 94 offenders, 48 of whom received sentences of 5 to 15 years' imprisonment. Although the number of investigations and convictions declined slightly from 2004, experts noted an upward trend in the number of rape convictions since 2001, which they attributed to improved police training, public awareness campaigns, and greater interaction and cooperation of police with NGOs, all of which have gradually facilitated victims' willingness to report the crime and to testify in court.

Police continued to train a few specialized personnel in handling cases of domestic violence and working with social service agencies. The government provided police and other professionals with training materials to better identify cases of domestic violence and sexual abuse. Koordona, an association of 13 NGOs, issued materials for victims to inform them of their rights and options. NGOs continued to distribute a specialized training manual for health care workers.

Victims of rape and domestic abuse could seek psychological counseling through a number of hotlines and crisis centers. NGOs reported that 107 government-supported shelters for such victims were located in most major cities and towns. NGOs

also provided medical and social assistance to women on a local level. NGOs reported that there were not enough spaces available in shelters to meet the demand.

There were allegations during the year that forced sterilization of Romani women had taken place in previous years (see section 1.f.).

The law does not specifically prohibit prostitution, but it may be banned, limited, or regulated by local governments. Pimping is specifically prohibited. Prostitution was widespread in border areas and major cities throughout the country. NGOs reported that sex tourism was a problem and involved both female and male prostitutes, some of them juveniles.

Trafficking in women was a problem (see section 5, Trafficking).

The law prohibits sexual harassment; however, the government did not effectively enforce this provision in practice, and sexual harassment remained a problem. In August a survey commissioned by the labor and social affairs ministry found that 28 percent of women and 22 percent of men had experienced sexual harassment in the workplace. The report also indicated that sexually suggestive behavior was common in the workplace and often not considered harassment. A March 1 amendment to the law places the burden of proof on the person accused of sexual harassment. Those found guilty of sexual harassment can be fined up to approximately $2,750 (70,000 CZK), dismissed from work, or sentenced to prison.

Women and men are equal under the law, including under family law, property law, and in the judicial system. Although women constituted approximately half of the labor force, they were more likely than men to be employed in professions with a lower median salary. According to recent statistics, women's median wages lagged behind those of men by almost 25 percent. The unemployment rate for women exceeded that for men, and a disproportionately small number of women held senior positions. The council for equal opportunities for men and women monitored gender issues and advised the government on its efforts to enforce equal gender rights.

Children.—The government is committed to children's right and welfare. The government provides free and compulsory education through age 15. The UN Children's Fund (UNICEF) reported a primary school enrollment rate of 90 percent from 2000 to 2004. Most children continued through secondary school. There were no statistics available on Romani attendance rates.

Girls and boys enjoyed equal access to government-provided health care and education at all levels.

Romani children were enrolled at disproportionately high rates in the remedial education system. However, the government continued taking steps to address the problem during the year. In May the ECHR heard a case brought by the ERRC on behalf of Romani students in Ostrava and other communities who were placed in remedial schools. The ECHR was unlikely to return a verdict following the government's announcement in January that it would abolish remedial schools. The government began closing certain remedial schools and integrating others by transferring slower students into new, "special" classes. NGOs reported mixed results with some regions effectively carrying out the new policy, while others suffered from an exodus of non-Romani Czechs.

Child abuse was a common problem. The law prohibits family violence, physical restraint, sexual abuse, and other forms of abuse of minors. During the year police investigated 643 cases, resulting in 845 offenders being prosecuted and 442 convicted under child negligence laws. In 2004 676 cases were investigated, resulting in 555 convictions. In 2004 676 cases were investigated, resulting in 555 convictions under child abandonment and endangerment laws. NGOs estimated that approximately 50 children died annually from domestic violence.

Although there were some reports that members of the Romani community married before reaching the legal age of 18, underage marriage was not a significant problem in the country.

The commercial sexual exploitation and trafficking of children was a problem (see section 5, Trafficking).

Children were engaged in prostitution for survival without third party involvement. NGOs have reported that many teenage prostitutes were either runaways or products of orphanages and the foster care system. Some NGOs asserted that orphanages did not prepare young teens adequately to be self-sufficient upon reaching legal adulthood. A special police team was formed in 2004 specifically to deal with the sexual exploitation of children in Cheb, a town on the German border where sex tourism was a problem.

Male adolescents, some as young as 13 years old, engaged in prostitution for survival. NGOs that worked with these children attributed the problem to a dysfunctional foster care system that failed to provide adequate job skills for a modern economy while preventing unwanted children from being adopted by capable parents.

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking to, from, and, to a smaller extent, within the country for sexual exploitation and forced labor was a problem.

Amendments passed in 2004 criminalize all forms of trafficking, including both internal and cross-border trafficking. Penalties for trafficking, including for the purpose of forced labor, include prison terms of 2 to 15 years and are generally commensurate with those for rape and sexual assault. Traffickers may also be prosecuted for organized prostitution and pimping, which are punishable by a prison term of up to 12 years if the victim is under the age of 15; however, penalties were significantly lower in practice.

The security policy department of the Ministry of Interior and the organized crime division of the national police had primary responsibility for combating trafficking, and worked to enhance coordination and cooperation with local and city police as well. The former first deputy of minister of the interior was assigned to be the national coordinator for trafficking issues. The security policy department was charged with collecting, analyzing, and reporting on all information relating to trafficking; monitoring the implementation of the national antitrafficking strategy; and overseeing all aspects of the model of support and protection of victims of trafficking in persons.

Although the government investigated and prosecuted cases of trafficking in persons, conviction rates were low. During the year police investigated 18 trafficking cases. Twelve of these cases were prosecuted, resulting in 20 convictions under the trafficking statute. Eight offenders received unconditional sentences of 1 to 5 years in prison, and 12 received suspended sentences. The authorities successfully prosecuted 12 traffickers in 2004, although only 3 of the convictions resulted in prison sentences of more than 1 year. During 2004 over 200 persons were charged with pimping, with 69 convictions resulting. Pimping charges were often used to prosecute traffickers because of the complexity of the trafficking statute.

The organized crime unit within the national police had a special department dedicated and specifically trained to combat trafficking in persons. The unit worked closely with its counterparts in Interpol and Europol, and also cooperated extensively with the European Union and other foreign countries in the investigation and prosecution of trafficking cases.

The country was increasingly a transit and destination country rather than a source country for trafficking victims. The majority of women trafficked into and through the country were from Ukraine, Russia, Belarus, Moldova, Lithuania, Romania, Bulgaria, Slovakia, China, and Vietnam; many were destined for the sex trade. They were usually trafficked onward into Western Europe and elsewhere, including the United States, sometimes via third countries. Czech women were trafficked into Western Europe (primarily Germany, Austria and the Netherlands) to work as prostitutes, though there have been cases of Czech victims as far away as Japan and Mexico. A small number of Czech women were trafficked to the United States. Foreign and Czech women and children were also trafficked within the country, often from areas of low employment, to Prague and the border regions with Germany and Austria and were occasionally sold from one organized trafficking unit to another. Small numbers of Czech men were trafficked to the United States for coerced labor.

Local sex trafficking victims were generally young women between 18 and 29 years of age from areas of high unemployment. Romani women were at the highest risk of being trafficked internally, often by a friend or relative. Girls raised in state-run homes, such as orphanages, were also at particular risk. According to government authorities, women already working as prostitutes were also particularly vulnerable to traffickers. Trafficked women were frequently offered jobs as models, maids, waitresses, and dancers through employment agencies and then forced into prostitution. Once in a destination country, traffickers ensured victims' compliance by confiscating their travel documents and using isolation, drug and alcohol dependence, violence, threats of violence toward the victim or her family, and the threat of arrest and deportation. Police reported that traffickers increasingly relied on violence to secure their victims' cooperation.

Labor trafficking remained a significant issue; the interior ministry reported that it was the most common form of trafficking in the country. The International Organization for Migration (IOM) and the NGO La Strada released a study during the year documenting victims from a wide variety of countries, including the former Soviet Union, South Asia, China, and Vietnam. Victims were both male and female and varied widely in age and in social and educational status. Local employers ranged from single families to local subsidiaries of major multinational European retail chains. The study carefully documented the highly sophisticated and organized nature of the organized crime syndicates that conducted trafficking oper-

ations. Although there were no available estimates of the numbers of victims trafficked into the country for labor, both government and NGO sources conceded that the problem was widespread.

Most traffickers were members of organized crime groups, often from Russia, Bulgaria, Ukraine, the former Yugoslavia, and East Asia, and worked in cooperation with local citizens. Domestic traffickers often served as a link between those in Russia and Ukraine and those in Western Europe.

There was no direct evidence of government complicity in, or tolerance of, trafficking in persons; however, NGOs suspected individual members of the border police of assisting illegal border crossings related to trafficking.

The government cooperated with IOM and NGOs to provide services to trafficking victims and to train police and investigators in how to handle trafficking cases.

The government provided psychological and social assistance to victims for 30 days; the victim had to decide within this period whether or not to cooperate with authorities. Victims who chose not to assist police with prosecution were offered voluntary return to their home countries; victims choosing to cooperate were eligible for residency visas for the duration of the criminal proceedings. Victims who cooperated with police were eligible at the end of criminal proceedings to apply for permanent residency on humanitarian grounds. By the end of the year 35 women had entered the model program and had contributed testimony or information against trafficking organizations.

Observers criticized the fact that trafficking victims who cooperated with investigations had limited opportunities to obtain permanent residency. NGOs pointed out that recent changes in the law made it much more difficult for trafficking victims to apply for asylum, which granted them legal status to remain until a ruling was made on their asylum case (which can take years), rather than to cooperate with authorities under the program and generally be returned to their home countries once proceedings were concluded. Though victims may apply for permanent residency at the conclusion of their cooperation with the police, it was not automatically granted; only a few victims had been awarded such residency. During the year the government improved police training on recognizing victims for referral to the program.

Because of the stigma attached to trafficking, victims were frequently hesitant to return to their families or seek social service providers.

The crime prevention division of the interior ministry continued to implement a national strategy against trafficking. The Ministry of Justice organized several training sessions in trafficking issues for judges and prosecutors, and the Ministry of Interior continued offering training to police.

The interior ministry worked with the IOM to produce a demand-reduction campaign targeted at consumers of sexually exploited women and children in the areas along the country's border with Germany. The progress of the project was slowed by the difficulty of collecting such sensitive information from clients of sexual services. The NGO Caritas visited schools and asylum and reception centers to conduct awareness campaigns among potential victims about the risks of trafficking and the entrapment and coercion strategies used by traffickers. Other NGOs which also received government funding, such as La Strada and Rozkos Bez Rizika (Pleasure Without Risk), conducted seminars and published and distributed literature about the dangers of trafficking.

In September the government created the interdisciplinary committee on trafficking, which includes representatives from various ministries and NGOs. The committee met for the first time in November to begin coordinating the implementation of various requirements of the national antitrafficking strategy.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services, and the government generally enforced these provisions effectively; however, persons with disabilities were unemployed at disproportionately higher rates.

The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. Although access improved during the year, many buildings and modes of public transportation remained inaccessible. In Prague 26 of the 50 subway stations were wheelchair accessible; however, the majority of stations in the city center remained inaccessible. A growing number of bus lines and municipal tram lines were accessible to persons with disabilities. Most public schools lacked barrier-free access for students, although there was at least one barrier-free school in each district.

Following heavy international criticism from governments and NGOs for the use of caged beds in psychiatric facilities, the government decided in July 2004 to remove caged and netted beds from its mental health institutions by the end of that

year. However, the ban was not fully implemented in practice because the government did not fully fund the transition, and cage and netted beds were only replaced as more modern means of restraint were brought into service. By the end of the year all caged beds had been eliminated from health care facilities, but a small number of netted beds still remained. In May an amendment to the law was passed to severely limit the use of such beds, pending their replacement and removal from the system. The beds may only be used to protect the patient or others from injury, and institutions must carefully document their use and immediately notify the patient's legal representative. Although the new amendment established much stricter guidelines regarding the conditions and use of restraints, NGOs criticized the law for not specifying which forms of restraint were appropriate for psychiatric patients. Netted beds remained legal for use in long-term care facilities for adults and children. There were no official statistics as to the number of beds in use during the year. In 2004 the government reported that of 9,657 beds in the country's psychiatric facilities, approximately 20 were cage beds and 100 were netted beds.

In August the government approved a national plan to aid persons with disabilities. The plan was drafted with the participation of the government council for disabled citizens, a permanent advisory body responsible for protecting the rights of persons with disabilities. The government's initial efforts to implement the plan focused on improving the quality and responsiveness of social programs serving persons with disabilities.

National/Racial/Ethnic Minorities.—After ethnic Slovaks, the largest minority was the Romani population, estimated at between 150 thousand and 175 thousand persons. Roma faced disproportionately high levels of poverty, unemployment, interethnic violence, and illiteracy. Despite constitutional prohibitions against discrimination, there was no framework to implement those provisions in the civil or criminal law. Roma continued to face discrimination from potential employers and local and school officials, with only incremental improvements in recent years.

During the year latent societal discrimination against Roma often manifested itself in incidents of violence. Members and sympathizers of skinhead organizations were the most frequent perpetrators of interethnic violence, particularly against Roma and other "dark-skinned" persons. An estimated seven thousand skinheads were active in the country, although some observers believed the actual figure was higher.

Unlike in previous years, there were no incidents of police violence against Roma.

In September three men attacked a Romani couple in Prague. The victims were treated at a local hospital; the perpetrators were arrested and charged with assault and with the suppression of human rights and freedoms. The case was still pending at year's end.

In May a Prague court awarded a Romani student approximately $4 thousand (100 thousand CZK) as compensation for the brutal 2002 attack against him at a tram stop by four non-Romani youths.

There were no developments in the cases of assaults on Roma in Ostrava, Broumov, and Krnov in 2004.

The law prohibits employment discrimination based on ethnicity; however, Roma continued to face discrimination in both employment and education. Precise figures for unemployment among Roma were unavailable, but the rate was disproportionately high. Some employers refused to hire Roma and asked local labor offices not to send Romani applicants for advertised positions.

Continuing a trend from previous years, Roma were increasingly able to find redress in court in cases of employment discrimination. For example, in March a Prague court found the Scorpion Club fashion boutique guilty of racial discrimination for not considering a Romani applicant for an advertised job opening. The boutique had been videotaped refusing to consider Vera Dunkova for the position and, minutes later, offering job information to a non-Romani applicant. The court awarded Dunkova approximately $1 thousand (25 thousand CZK) and ordered an apology from the boutique.

Roma also faced discrimination in housing and other areas of everyday life. Police responded to complaints that some restaurants, bars, and other public places refused service to Roma and posted signs prohibiting their entry. Human rights groups reported that some municipalities attempted to force Romani families to leave, employing such tactics as evicting them from municipally-owned homes for alleged lapses in rent payments or coercing them to sign agreements that they did not understand that were then used to curtail existing housing contracts. While the human rights commissioner publicly criticized these evictions, the law affords municipalities substantial autonomy in such actions.

In October the Bohomin mayor and local officials attempted to evict dozens of families (most of whom were Romani) from their apartments following the munic-

ipal purchase of their low-income hostel from its private owner. According to numerous NGOs, there were no provisions for adequate housing for the displaced families. When the action was challenged in the courts, several families were ultimately allowed to stay for the duration of the court case, but the town employed several coercive measures, such as shutting off the tenants' utilities and using private security guards to restrict access to the remaining families. Police did not intervene in the case. The issue was ultimately resolved when a compromise was brokered through NGOs to allow the relocation of the remaining families. At year's end, the town was seeking to collect payment from the families for the security guards the town employed at the site.

In March a regional court in Ostrava ordered the owner of a club that refused service to three Romani patrons to pay a $1,200 (approximately 30,000 CZK) fine and apologize to the trio for lowering their human dignity. A waitress involved in the incident was also fined.

There were allegations during the year that forced sterilization of Romani women had taken place in previous years (see section 1.f.).

The interministerial commission for Roma community affairs, which included 12 government and 14 Romani representatives, as well as the commissioner for human rights and his deputy, continued to take an active role in resolving disputes between Romani communities and their non-Romani neighbors. The commission also promoted antidiscrimination initiatives in housing and education. The Roma affairs coordinator of the Ministry of Foreign Affairs continued to function as the ministry's liaison with Romani groups, NGOs, and the diplomatic community.

Other Societal Abuses and Discrimination.—Homosexuals face occasional incidents of violence, usually in Prague where they are more visible. The government took a few steps to address prejudice against gays. In December the lower house of parliament passed a law that recognizes the legal validity of gay civil partnerships.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers with the right to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 20 percent of the workforce was unionized, and the trend of steady decline in union membership continued. Most union members belonged to unions affiliated with the Czech-Moravian Chamber of Trade Unions, a national umbrella organization.

The law prohibits antiunion discrimination; however, the government did not effectively enforce this provision, and union discrimination occurred. Common discriminatory practices included firing union leaders, denying union members entry to meetings between employees and management, refusing to provide office space for unions, forcing members to cancel their memberships, offering financial incentives to dissolve union organization within a company, disparaging unions in statements to employees, monitoring union members, and refusing to withhold union dues. If found guilty of antiunion discrimination, employers are required to reinstate workers fired for union activity, although the court procedure was generally slow.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for collective bargaining, which generally was carried out by unions and employers on a company basis. The scope for collective bargaining was more limited for civil servants, whose wages were regulated by law. However, the International Confederation of Free Trade Unions reported in 2004 that some employers attempted to prevent workers from organizing by means of direct and indirect pressure and attempted to render collective agreements null and void.

Workers have the legal right to strike if mediation efforts fail, with the exception of those in critical sectors such as health care, nuclear energy, oil and gas pipelines, air traffic control, firefighting, and telecommunications; workers in these industries have access to mediation. The law requires unions to provide employers with a list of strikers at least one day before a strike. There were no major strikes during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5). According to the labor ministry, approximately 300 North Korean women worked in extremely harsh conditions in garment and leather factories in several locations throughout the country. The women were kept in tightly controlled environments, and their earnings were deposited into an account controlled by the North Korean embassy. The labor ministry investigated their situa-

tion and concluded that although the situation was "troubling" in several aspects, the women were working voluntarily.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively enforced laws and policies to protect children from exploitation in the workplace. The law stipulates a minimum working age of 15 years, although children with disabilities who completed special schools could work at the age of 14 years. Employment conditions for children aged 15 to 18 were subject to strict safety standards. The Ministry of Labor and Social Affairs effectively enforced these regulations in practice.

The commercial sexual exploitation and trafficking of children was a problem (see section 5).

e. Acceptable Conditions of Work.—The labor ministry sets and enforces minimum wage standards. The national minimum wage was approximately $287 (7,185 CZK) per month and provided a decent standard of living for a worker and family.

The law provides for a 40-hour workweek with at least 2 days of rest, and requires a paid break of at least 30 minutes during the standard 8-hour workday. Employers may establish up to eight hours per week of mandatory overtime, subject to the consent of the employee (in the form of the collective bargaining agreement or contract stipulating overtime), although the local employment office may permit additional mandatory overtime. Premium pay for overtime was dictated by the provisions of the employee's contract. The labor ministry effectively enforced standards for working hours and breaks.

The office of labor safety effectively enforced health and safety standards. Workers have the right to refuse work endangering their life or health without risking the loss of their employment, and they exercised this right in practice.

DENMARK

Denmark, with a population of approximately 5.4 million, is a constitutional monarchy with democratic parliamentary rule. Queen Margrethe II is head of state. The cabinet, which is accountable to the unicameral Folketing (parliament), heads the government. The minority center-right coalition government led by the Liberal Party won a plurality of seats in the February 8 elections, which were deemed free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. The following human rights problems were reported:

- domestic violence against women
- trafficking in women and children

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

In 2004 military authorities charged one active reserve member of its armed forces with dereliction of duty related to her allegedly improper interrogation of detainees. Military authorities also charged the commanding officer and three other soldiers in connection with the case. Court proceedings were ongoing at year's end.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers.

Pretrial detainees were often held with convicted criminals.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The national police, under the Ministry of Justice, have sole policing authority in the country. There are 54 police districts (plus the Faroe Islands and Greenland) and a national commissioner's office. The minister of justice, with the approval of parliament, appoints the police chiefs

of each district and the national commissioner. Corruption was not a problem. There was increased police training in recognition, reporting, and investigation of racially motivated cases during the year.

Arrest and Detention.—A criminal action is initiated by the police, who are by law allowed to begin an investigation or make an arrest based upon visual evidence and do not need a warrant, or by charges or indictments filed by public prosecutors with the courts. The court may either summon the accused to appear or order that police arrest the accused based upon an application filed by a public prosecutor. If an individual is taken into custody, the law provides for an initial appearance before a judge within 24 hours, however, noncitizens may be detained for up to 72 hours before being given a court appearance. Authorities generally respected the right to a prompt judicial determination. The country does not have a bail system, rather, a judge decides within the first 24 hours of detention, either to release the detainee on his or her own recognizance or if deemed a risk to keep the detainee in jail until a trial is held. Arrestees have the right to counsel at the initial hearing, and the government provided counsel for those who could not afford representation. The law does not allow any visitors during the first 24 hours of detention except for legal counsel. However, depending upon the charges, the police generally did not restrict visitor access in practice.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judicial system consists of local courts, which hear cases in the first instance, regional courts which address appeals, and the Supreme Court, which is the highest and final court of appeal.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public. Juries are required for criminal cases in which the maximum penalty is greater than four years' imprisonment. The law provides for defendants' right to timely consultation with an attorney, at public expense if needed. Defendants and their attorneys have access to government evidence relevant to their case. Defendants have the right to question witnesses against them and to present their own witnesses; they are presumed innocent until proven guilty; and the right of appeal encompasses both procedural matters and sentences imposed.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The Evangelical Lutheran Church, which was subsidized by the government, was the official state church and enjoyed some privileges not available to other faiths. While the government does not require that religious groups be licensed, the government's permission is required for religious ceremonies, such as weddings, to have civil validity.

Religious history, with special emphasis on the Evangelical Lutheran faith, was taught in public schools, but students may withdraw from religious classes with parental consent.

Societal Abuses and Discrimination.—The law provides protection against discrimination against religious minorities; however, societal discrimination against religious minorities was difficult to distinguish from discrimination against ethnic minorities. There were isolated incidents of anti-immigrant (mainly Muslim and African) graffiti, desecration of ethnic minority gravesites and low-level assaults as well as some denial of service and hiring on racial grounds. The government criticized the incidents, investigated several, and brought some cases to trial.

In January nearly 100 Muslim graves were desecrated in Venstre Kirkegaard (Cemetery) in Copenhagen. Nearly 50 headstones were pushed over and unknown vandals smashed another 50. The vandals only targeted Muslim headstones, leaving the Christian headstones in the cemetery untouched. The police investigated the scene but could not find enough evidence to pursue charges.

The Jewish population is estimated at seven thousand persons. There were isolated incidents of anti-Semitism, primarily by immigrants. Most involved vandalism, such as graffiti, or nonviolent verbal assaults.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to certain individuals who fall outside the definition of the 1951 UN convention and the 1967 protocol and provided protection to approximately 315 persons during the year.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The territories of Greenland (whose population is primarily Inuit) and the Faroe Islands (whose inhabitants have their own Norse language) have democratically elected home-rule governments whose powers encompass all matters, except foreign and national security affairs, police services, the judiciary, and monetary matters. Greenlanders and Faroese are citizens with the same rights as those in the rest of the country. Each territory elects two representatives to the parliament.

Elections and Political Participation.—Prime Minister Anders Fogh Rasmussen, leader of the Liberal Party, was re-elected in February in free and fair elections.

On November 15, free and fair municipal elections were held following the implementation of a structural reform, which reduced the number of municipalities from 271 to 98. Five regional councils replaced the former local governance structure, which had been made up of 14 counties. The number of municipal newly elected council members from ethnic minority backgrounds showed a significant increase.

There were 65 women in the 179-seat parliament, and 5 women in the 19-seat cabinet. Women also accounted for 44 percent of the newly elected public council board and committee members.

There were 3 members of minorities in the 179-seat parliament. There were no members of minorities in the 19-seat cabinet.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year.

The law provides for public access to government information, and the government provided access in practice for citizens and noncitizens, including foreign media.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, violence against women and trafficking in persons were problems.

Women.—Violence against women, including spousal abuse, remained a problem. In 2004 the Institute for Public Health estimated that at least 64 thousand women were exposed to domestic violence in 2003 and that domestic violence affected 30 thousand children. The National Organization of Shelters for Battered Women and their Children reported that in 2004 shelters provided a safe haven for 3,512 women and children; 30 percent of the women supported were not citizens.

Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted those accused of such crimes. There were 562 reported rapes resulting in 386 official charges for rape in 2004, and there were 361 during the first nine months of the year.

Prostitution was legal, but subject to restrictions; pimping, coercion into prostitution, solicitation of prostitution from a minor, and trafficking were illegal. According to an April report published by the Ministry for Social Welfare and Gender Equality, an estimated 3,750 persons worked in legal prostitution in 2004, while an unknown number participated in illegal prostitution including streetwalking

Trafficking in women was a problem (see section 5, Trafficking).

The law prohibits sexual harassment and provides for awards of monetary compensation for victims of sexual harassment. The government effectively enforced the law, and there were few reported cases during the year.

Women had the same legal status as men, including under family law, property law, and in the judicial system. The law requires equal pay for equal work but, in practice, female workers earned approximately 14 percent less than their male counterparts. Women held positions of authority throughout society, although they were underrepresented in senior business positions and as university professors. The government's interagency gender-mainstreaming project promoted gender equality in government agencies through an interagency steering committee of managers which oversaw gender mainstreaming initiatives. It also provided administrators with education and tools related to gender mainstreaming and published individual ministry projects on the ministry of gender equality's Web site.

Children.—The government was strongly committed to children's rights and welfare. Education was compulsory through the ninth grade and free through the university level; school attendance was nearly universal. Slightly more women than men completed postsecondary education.

Medical care was free and boys and girls had equal access.

In October the UN's Committee of the Rights of the Child published its concluding observations on the country's implementation of provisions of the Convention on the Rights of the Child. Among other observations the committee expressed its concern regarding de facto discrimination against, and racist attitudes toward, children of ethnic minorities and migrant families as well as refugee and asylum-seeking families.

There were some reports of child abuse.

Trafficking in children was a problem (see section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to the country. The law criminalizes trafficking and provides for a maximum prison term of eight years for those convicted of trafficking in persons. During the first 9 months of the year there was 1 conviction under the trafficking in person's law, while another 23 cases against pimping have been initiated in connection with trafficking cases.

A Ukrainian woman was serving a one-year prison sentence for a 2004 trafficking in persons conviction.

The national commissioner for police maintained an internal task force on trafficking in persons, assisted local police constabularies with investigations, and trained its officers to recognize and investigate trafficking cases. The government cooperated with international investigations of trafficking and exchanged information with neighboring countries.

The country was both a destination and a transit point for women and children who were trafficked from the former Soviet Union, Eastern Europe, Thailand, and Africa for the purposes of sexual exploitation and occasionally to work as thieves.

Traffickers lured victims with the prospect of higher wages and a better life, then forced them into prostitution, often withholding their passports. Authorities suspected traffickers had ties to organized crime, specifically in Russia and the Baltic countries, and subjected them to police investigations and prosecutions.

According to the national police, trafficking victims generally returned voluntarily to their home countries with nongovernmental organization (NGO) support and were not officially deported nor prosecuted for immigration violations.

In September the Ministry of Social Affairs and Gender Equality officially added trafficking in children as an appendix to the government's action plan to combat

trafficking in women, published in 2002. The initiatives of the appendix are divided into two areas, support for victims and prevention of child trafficking.

The government funded three NGOs that provided social, medical, and legal services to trafficking victims. Government funding was also used for NGO outreach programs as well as hotlines to support victims, prevent trafficking, and gather data on the extent of the problem. The ministry of social affairs and gender equality conducted an antitrafficking advertising campaign in all major newspapers, subsidized a hotline and website, and funded an NGO program to identify trafficking victims and provide them with information on how they can get help.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced it in practice. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. The responsibility for protection of the rights of persons with disabilities is shared by all government ministries. The Danish Disability Council, a government-funded organization, monitored the status of persons with disabilities in the country and advised the government and the parliament on issues relating to disability policy. The Equal Opportunities Center for Disabled Persons is a government-funded entity, which alerts the government to and documents, inequalities in society related to persons with disabilities.

National/Racial/Ethnic Minorities.—According to the Police Intelligence Service, during the year there were 48 cases of racial discrimination or racially motivated violence reported to the authorities; however, some incidents went unreported. Reported cases involved graffiti, vandalism, theft, and racist Internet and written messages. The victims were Jews and "people of an ethnic origin other than Danish" (usually meaning Muslims or Africans). Minority group members were also sometimes the perpetrators of the incidents. The government effectively investigated and dealt with cases of racially motivated violence.

The inflow of ethnically and racially diverse refugees and immigrants (mostly Iraqis, Palestinians, Pakistanis, Sri Lankans, Somalis, and refugees from the former Yugoslavia) caused some tension between citizens and immigrants, which was reflected in press reports on the failure of the immigrants to integrate and on the correlation between immigration and crime levels.

Indigenous People.—The law protects the rights of the inhabitants of Greenland and the Faroe Islands. Greenland's legal system seeks to accommodate Inuit customs, and it provides for the use of lay persons as judges and sentences most prisoners to holding centers (rather than to prisons) where they were encouraged to work, hunt, or fish during the day. Education in Greenland is provided to the native population in both the Greenlandic and Danish languages.

Section 6. Worker Rights

a. The Right of Association.—The law states that all workers, including military personnel and the police, may form or join unions of their choosing. Approximately 78 percent of wage earners belonged to unions that were independent of the government and political parties.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference and the government protected this right in practice. Collective bargaining is protected in law and was freely practiced. Approximately 83 percent of the workforce was covered by collective bargaining agreements. These collective bargaining agreements also indirectly influence wages and working conditions for the remaining percentage of the workforce. The law provides for the right to strike, and workers exercised this right by conducting legal strikes. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Laws and policies prohibit the exploitation of children in the workplace, and the government effectively enforced these laws and policies in practice.

The minimum legal age for full-time employment is 15 years. The law sets a minimum age for part-time employment of 13 years; however, school-age children are limited to less strenuous tasks. The law contains provisions that limit work hours and sets occupational health and safety restrictions for children. Trafficking in children occurred (see section 5). The law is enforced by the Danish Working Environment Service (DWES), an autonomous arm of the Ministry of Labor.

e. Acceptable Conditions of Work.—The law does not mandate a national minimum wage; however, the average net wage including pension benefits of adult workers in 2004 was $29 (177 Danish Kroner) per hour, which was sufficient to provide a decent standard of living for a worker and family.

Workers generally worked a 37-hour workweek, which was established by contract, not by law. Workers were not subjected to compulsory overtime, and received premium pay for overtime. Working hours are decided by collective bargaining agreements, which adhere to the European Union directive that stipulates that an average work week not exceed 48 hours.

The law also prescribes conditions of work, including safety and health; the DWES ensured compliance with labor legislation. During the year the DWES conducted approximately 58 thousand company screenings and inspections, which resulted in 23,500 notices of varying severity for required improvements. Workers may remove themselves from hazardous situations without jeopardizing their employment, and authorities effectively enforced this right in practice. Similar work conditions were found in Greenland and the Faroes, except that the workweek was established by contract at 40 hours.

ESTONIA

Estonia, with a population of 1.4 million, is a constitutional parliamentary democracy with a unicameral legislature (parliament), a prime minister as head of government, and a president as head of state. Free and fair parliamentary elections were held in March 2003. In March Prime Minister Juhan Parts resigned and in April a coalition government, consisting of the Center, Reform, and People's Union parties with a new prime minister, Andrus Ansip, took office. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of citizens and the large ethnic Russian noncitizen community; however, there were problems in some areas. The following human rights problems were reported:

- police abuse of detainees
- poor prison conditions
- domestic violence
- child abuse

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that police used excessive physical force and verbal abuse during the arrest and questioning of suspects. In September a retired individual accused local police officers of using excessive force on him. The police initiated an official investigation, which determined that the police officers had acted according to the rules.

In August 2004 three suspects claimed they were abused upon arrest by police officers. The suspects sought criminal charges against the officers, but following an investigation the case was closed when it was determined that no criminal act had taken place.

In 2003 the court brought charges against two police officers for use of excessive force. In the spring the Jarva rural court found the police officers guilty and sentenced them to two years' probation. In June the Tallinn district court reversed the Jarva rural court's decision.

In June the Tallinn district court sentenced three former police officers to probation with terms ranging from six months to three and a half years for the use of excessive force on several occasions in 2001.

In December a murder suspect accused police officers in the media of the use of excessive force at the time of his arrest. The police had initiated an official investigation at year's end.

There were 15 pending investigations related to the use of excessive force by police officers at year's end.

Prison and Detention Center Conditions.—Prison conditions remained poor and overcrowding continued in the majority of prisons for men. However, the government established school facilities for underage pretrial detainees at Tartu prison and renovated facilities at the Viljandi prison during the year.

In November the Legal Chancellor-Ombudsman drew officials' attention not only to the poor and unsanitary conditions of the detention houses in North-East Estonia, but also to the degrading treatment of detainees there. The detention houses were overcrowded, and adults and juveniles were not separated.

The government permitted prison visits by independent human rights observers; however, no visits occurred during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The national police, security police, tax and customs board, and national border guard have responsibility for law enforcement and maintenance of order. The police, security police and national border guard are subordinate to the Ministry of Internal Affairs. The tax and customs board is subordinate to the Ministry of Finance. Prison personnel are subordinate to the Ministry of Justice. The army is responsible for external security but also has domestic security responsibilities in case of threat to the constitutional order of the country. The police board is the central and supervisory authority, which manages, directs, and coordinates the activities of police agencies under its administration. There are three police agencies and four regional police prefectures. Corruption was generally not a problem, but there were reports of corruption among the traffic police. The state prosecutor's office was investigating cases in which 26 traffic police officers had been involved with taking bribes. Impunity was generally not a problem. When an allegation of police abuse is made, the internal control department of the police investigates and reports its findings. If the allegations are substantiated, the police initiate disciplinary procedures against the responsible officer, such as suspension. If warranted, prosecutors initiate criminal proceedings against the officer.

Arrest and Detention.—Under the law, warrants issued by a court are required to make arrests. Detainees must be informed promptly of the grounds for the arrest. There is a functioning bail system. A person may be held for 48 hours without being charged formally; further detention requires a court order. Police rarely violated these limits. Detainees must be given immediate access to legal counsel, and if indigent, the government pays for legal counsel. A person may be held in pretrial detention for 2 months, which may be extended for a total of 12 months by court order.

There were no reports of political detainees.

Lengthy pretrial detention was a concern. Approximately 23 percent of the prison population was in pretrial detention and the average length of pretrial detention was 7 months.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary operates through a three-tier court system: rural and city courts, district courts, and the Supreme Court. The district courts and Supreme Court are also courts for "constitutional supervision."

Trial Procedures.—Trials are public and a judge and public assessors are used. Defendants have the right to be present and to consult with an attorney in a timely manner. An attorney is provided for indigents at public expense. Defendants can confront or question witnesses against them and/or present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and have a right of appeal. The law extends the above rights to all residents, whether or not they are citizens.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

Freedom of Assembly.—The authorities had wide discretion to prohibit public gatherings on public safety grounds but seldom did so.

Freedom of Association.—Noncitizens are prohibited from joining political parties; although they may form social groups (see section 3).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The law regulates the activities of religious associations, and the statutes of churches, congregations, and unions of congregations are registered at the city courts. To be registered, the law requires all religious organizations to have at least 12 members. Leaders of religious organizations must be citizens with at least five years' residence in the country.

Relations between the various religious communities generally were amicable; however, differences over the disposition of Orthodox Church property continued between the Estonian Apostolic Orthodox Church and the Estonian Orthodox Church under the Moscow Patriarchy.

Societal Abuses and Discrimination.—Two graveyards were vandalized during the year. In March a vandal knocked down three tombstones and damaged one in a Johvi cemetery. Authorities initiated misdemeanor proceedings. In May two vandals knocked down 35 stone crosses in a German War cemetery in Narva. The vandals were caught and they pled guilty; the prosecutors have requested probation for one year. The case was pending at year's end. In July a drunken minor broke five stained glass windows of Viljandi St. Paul's Church and was fined. In April a fire was set to the library of Tartu St. Paul's Church as a result of which many valuable volumes of church literature were destroyed. The police took a suspect into custody. A police investigation was ongoing at year's end.

In June a district court convicted and fined a person guilty of publicly incited social hatred on the basis of national origin, race, or religion because he wrote an essay in 1995 that called for destroying all Christians, Jews, and churches. His appeal to the Supreme Court was pending at year's end.

There is a 2,500 person Jewish community. There were no reports of anti-Semitic acts during the year.

In August a city court fined a person for making anti-Semitic comments over the Internet. In September a district court let the decision stand, and in December the Supreme Court also let it stand.

The government continued to observe the annual Holocaust and Other Crimes against Humanity Victims' Memorial Day. The country is a liaison member of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research. During the year the government provided more than 200 schools with a 30-minute film about Holocaust history. In August the government, together with the task force, supported a seminar for history teachers to discuss best practices for teaching the Holocaust in schools.

For a more detailed discussion, see the *International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The government did not restrict the right of noncitizen residents—persons who are citizens of another country or stateless persons—to foreign travel, emigration, or repatriation, although some noncitizens complained of delays in obtaining travel documents. The Legal Chancellor-Ombudsman received such complaints during the year (see section 4).

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum during the year, because no applicants qualified in accordance with the 1951 UN convention or 1967 protocol.

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 protocol and provided it to one person during the year.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The country has a "safe country of origin or transit" policy.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Parliamentary elections, last held in 2003, were free and fair and led to the formation of a three-party coalition government comprised of the Res Publica, Reform, and People's Union parties. The coalition dissolved in April, ostensibly over a dispute concerning anticorruption policies being pursued by the then minister of justice. Under the constitution the president appointed a new candidate for prime minister who formed a new coalition. The new coalition government, formed by the Center, Reform and People's Union parties, then took office. Only citizens may vote in parliamentary elections and be members of political parties. However, resident noncitizens and those who have lived permanently in the area for at least five years preceding the election may vote in local elections, although they may not run for office.

There were 20 women in the 101-seat parliament. There were 2 women in the 13-member cabinet.

There were 9 members of ethnic minorities in the 101-seat parliament.

Government Corruption and Transparency.—There were isolated reports of government corruption during the reporting period. For example, in March a county governor was fined for concluding agreements with two foundations and a nongovernmental organization (NGO) on whose boards he was sitting. In September a former information technology (IT) department chief of a government ministry was convicted for taking bribes from persons whose companies were later able to win state tenders and other offers concerning IT equipment for the ministry. He was given a suspended sentence of six months, with three years' probation. He also was required to return the funds he illicitly obtained to the government.

The law provides the public access to government information and allows for monitoring of the public sector's performance. The government provided access for citizens in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to their views.

The Human Rights Institute, which received a small amount of government funding, monitored human rights and provided information to the international community. It investigated reports of human rights violations, such as allegations of police abuse and the inhumane treatment of detainees. The institute operated an information center in Johvi, in the northeastern part of the country where the Russian speaking community is in the majority.

A presidentially established roundtable, composed of representatives from parliament, the Union of Estonian National Minorities, and the Russian-speaking population's Representative Assembly, discussed and made recommendations on social integration issues, as did an analogous but independent roundtable that met monthly. The roundtable made recommendations, for example, to the Integration Foundation, which took these recommendations into account in the 2000–2007 integration program. However, not all of the roundtable's recommendations were implemented. In some cases the roundtable served to highlight general policy concerns that can be addressed only over a period of time. The Legal Chancellor-Ombudsman, who also operated a branch office in the heavily ethnic Russian northeastern town of Narva, handled complaints by private citizens against state institutions.

All residents, whether citizens or not, could file a complaint directly to the Chancellor-Ombudsman about alleged violations of human or constitutional rights. Complaints against government agencies, officials, and local authorities concerned property reform and restitution, education, transportation, court findings, and the right to employment, as well as social and housing rights. If the Chancellor-Ombudsman finds that particular legislation is in conflict with the constitution, the body responsible for passage of said legislation may be required to bring it into conformity with the constitution within 20 days. The Legal Chancellor-Ombudsman generally acted

on cases by proposing changes in legislation and developing proposals to eliminate violations of law. The Legal Chancellor-Ombudsman proposes changes to legislation, but he cannot initiate legislation. He has proposed legislation ranging from campaign advertising reform to health care issues.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination for any reason, and the government generally enforced it. However, violence against women and child abuse were problems.

Women.—Violence against women, including spousal abuse, was a problem. The law prohibits physical abuse but does not differentiate between acts committed against men, women, or children. The police reported more than 3 thousand cases of domestic violence during the year. According to NGOs one in five women suffered from physical, sexual, or emotional domestic violence, and NGOs consider domestic violence a serious problem. Domestic violence is punishable by a fine or up to three years' imprisonment, if it was longstanding and unremitting violence, up to five years' imprisonment. In more than 700 cases persons were convicted for domestic violence during the year. Victims of domestic violence may obtain help, counseling and legal assistance from local social workers and specialized NGOs.

Rape, including spousal rape, is illegal and was prosecuted under the law. The sentence for rape is up to 15 years' imprisonment. During the year, police reported 137 rapes and 22 attempted rapes. By year's end 46 persons were convicted of rape.

Prostitution is not illegal and was common, but pimping is illegal.

There were reports that women were trafficked for purposes of sexual exploitation (see section 5, trafficking).

The law prohibits sexual harassment. Sexual harassment in the workplace occurred but was not considered a serious problem. According to the law, disputes are to be resolved in court, in an administrative hearing by the Legal Chancellor-Ombudsman, or by the Gender Equality Commissioner. An injured party may demand compensation for damage and termination of the harmful activity.

Although women have the same legal rights as men under the law and are entitled to equal pay for equal work, this was not the case in practice. While women's average educational level was higher than that of men, their average pay was generally lower, and there continued to be female- and male-dominated professions.

In September the government opened the gender equality office. During August and September 300 civil servants from various ministries and state agencies took part in gender equality training provided by the government.

Children.—The government was committed to children's rights and welfare.

Under the law, school attendance is mandatory and free from the age of 7 until students complete basic education, generally nine years total or until they reach 17 years of age. Approximately 98.7 percent of school-age children attended school. According to the government's Statistical Office, the highest level of education achieved by most students was high school, plus two years of higher education.

The government provided free medical care for children and subsidized school meals. Boys and girls had equal access.

Child abuse was a problem. Police reported 781 cases of violence against children, including domestic violence, and 123 cases of school violence during the year.

During the year there were 70 reports of rape and 7 attempted rapes committed against minors. The police registered 131 cases of sexual abuse committed against persons less than 18 years of age, which included 53 cases involving victims below the age of 14. By year's end 49 persons were convicted of different sexual assaults of minors.

There were reports of child prostitution.

Trafficking of children for sexual exploitation was a problem (see section 5, Trafficking).

Trafficking in Persons.—There were reports that the country was a source, transit point, and destination for a small number of internationally and domestically trafficked women and children.

Although there is no specific law criminalizing all forms of trafficking, traffickers can be prosecuted under the law prohibiting enslavement and abduction. The maximum penalty is 12 years' imprisonment. In February the government prosecuted its first antitrafficking case under the enslavement statute, convicting four traffickers and sentencing them to from two years' probation to four years' imprisonment. The courts convicted five remaining persons involved in the case under other statutes such as forcing minors into prostitution and pimping, and sentenced them to conditional probation. Law enforcement investigated an additional 10 trafficking-related cases during the year. The ministries of interior, of social affairs, of foreign affairs, and of justice are responsible for combating trafficking. The government par-

ticipated in the work of the Nordic and Baltic Task Force on trafficking in persons. The government actively participated in antitrafficking activities within the European Union, the Organization of Security and Cooperation in Europe, CBSS, Nordic Council of Ministers, and the Council of Europe.

A recent study carried out by the International Organization for Migration (IOM) in which more than 160 domestic and international sources (including EUROPOL, INTERPOL, law enforcement, NGOs, IOM, and governmental ministries from the region) participated, estimates that the number of women and children trafficked into, through, and from the country between 2001 and 2004 was below 100. Women and minors were trafficked from the country to Nordic countries and Western Europe or in or to Estonia for sexual exploitation.

The trafficking pattern appeared to be unchanged from recent years. Travel-friendly regulations, short distances, low travel costs, and the draw of legitimate employment make the Nordic and EU countries easier destination points for traffickers. The traffickers were individuals, small groups, and organized criminals who ran the prostitution industry and mainly lured victims with the promise of legitimate employment and/or the opportunity to live and study abroad. The traffickers tended to befriend the victims or attempted to pass themselves off as legitimate job mediators. Due to fairly liberal travel regulations around the region, false documentation was not always necessary.

The law provides protection as well as legal and medical compensation rights to victims of all crimes, including trafficking; but there was no evidence that this occurred for trafficking victims in practice. Each county had an assigned victim assistant who was able to provide trafficking and other victims access to the public assistance system. These assistants received trafficking in persons-specific training during the reporting period.

A trafficking hotline operated by one NGO generated over 400 calls. Of the callers, 24 percent wanted to learn how to find a job abroad and 1 percent about studying possibilities abroad; 16 percent wanted to know whether job mediation companies offering overseas employment were licensed; 8 percent asked about issues in the mass media; 8 percent asked informational questions; 1 percent asked about marriages with foreigners; 4 percent about divorce with a foreigner; 1 percent how to get a residence permit abroad; 1 percent about domestic violence; and 1 percent had to do with private travel abroad. Three percent of the calls came from relatives; 16 percent were repeat calls; 7 percent of the calls came from governmental organizations and other NGOs; and the remainder was classified as "other".

The Ministry of Social Affairs conducted a series of lectures for state officials, local governments, members of the Defense Forces serving as peace keepers abroad, employees unions, social workers, women's organizations, journalists, and victim assistance workers on prostitution and trafficking. In April the Ministry of Foreign Affairs organized consular officer training specifically tailored to teach consuls how to assist trafficking in persons victims who had been trafficked abroad. Over 100 teachers, school counselors, school psychologists, youth social workers, and career counselors participated in five training courses designed to address the prevention of youth trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services and the government generally enforced these provisions. The law does not mandate access to buildings for persons with disabilities; older buildings were inaccessible in practice, although new or renovated buildings were generally accessible. During the year, the government increased rehabilitation services and technical equipment support for persons with disabilities. The Ministry of Social Affairs was responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—Non-ethnic Estonians, predominantly ethic Russians, made up less than one-third of the population. Approximately 40 percent of non-ethnic Estonian residents were born in the country.

A court case, which involved Internet comments by a private citizen that publicly incited hatred and violence and were anti-Semitic, ended with a fine (see section 2.c.).

The police have started an investigation involving remarks in the media publicly inciting hatred on the basis of nationality.

The law provides for the protection of cultures of minority group citizens; however, some noncitizens alleged that it is discriminatory because it restricts cultural autonomy only to citizens. In districts where more than one-half of the population speaks a language other than Estonian, the law entitles inhabitants to receive official information in that language.

The law requiring knowledge of the Estonian language prior to citizenship mandates that all public servants and public sector employees, service personnel, medical professionals, and sole proprietors must use the Estonian language, with actual proficiency determined through examination. Nonethnic Estonian residents who have obtained at least primary education proficiency in the Estonian language are exempted from the requirement to pass a language examination. Some noncitizen residents, particularly ethnic Russians, continued to allege job and salary discrimination because of the language requirements.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right for workers to form and join a union or employee association, although some workers found it difficult to exercise this right in practice. Approximately 10 percent of the total workforce belonged to trade unions. The law prohibits antiunion discrimination; however, the Confederation of Estonian Trade Unions (EAKL) continued to report antiunion behavior in the private sector. The journalists' union reported antiunion discrimination in the media sector during the year.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference and the government protected this right in practice. Collective bargaining is protected by law and was freely practiced. The contracts covered approximately 15 percent of workers, including some nonunion members. The law provides for the right to strike, and workers exercised this right in practice. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively enforced laws and policies to protect children from exploitation in the workplace.

The law sets the minimum age for employment at 18 years, although children age 15 to 17 may work with the consent of a parent or guardian, and children age 13 to 15 may work with the consent of a parent or guardian and a labor inspector. Children under the age of 18 may not perform hazardous or dangerous work. The law limits the hours that children can work and prohibits overtime or night work. The labor inspectorate was responsible for enforcing these laws, and did so in practice. There were no separate inspections regarding the age of child workers.

e. Acceptable Conditions of Work.—The national monthly minimum wage of approximately $218 (2,690 EEK) did not provide a decent standard of living for a worker and family; however, approximately 94 percent of the workforce earned above the minimum wage.

The standard workweek is 40 hours, and there is a mandatory 24-hour rest period per week for those working in shifts. Reduced working time is required for minors and for employees who perform underground work, work that poses a health hazard, or work of an otherwise special nature. Work hours, including overtime, may not exceed an average of 48 hours per week. Overtime pay shall not be less than 150 percent of the hourly wage rate of the employee. These requirements were effectively enforced.

The government set occupational health and safety standards. The labor inspectorate, health protection inspectorate, and technical inspectorate were responsible for enforcement of these standards and enforced them effectively. Workers have the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment, and they exercised this right in practice. Labor inspectors cited employers 2,812 times during the first 9 months of year. Two thirds of the citations were given for violations of requirements regarding occupational health and safety and one third for violating labor relations. Compliance with these citations was mandatory for employers. The labor inspectorate carried out two-week campaigns in June and in September-October for construction workers to draw attention to different risks at construction sites in order to reduce the number of accidents.

FINLAND

Finland is a constitutional republic of 5.2 million persons with a directly elected head of state (president), a parliament, a head of government (prime minister), and an independent judiciary. The March 2003 elections to the 200-seat parliament were

free and fair and resulted in the formation of a new coalition government led by the Center Party. Civilian authorities generally maintained effective control of all military and security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. The following human rights problems were reported:

- anti-Semitic incidents
- violence against women
- trafficking in persons
- discrimination against immigrants and Roma

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

There were reports of police discrimination against immigrants (see section 5).

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers.

Overpopulation of prison facilities complicated efforts to deal with the drug problem. Of the nearly four thousand inmates in the country's prisons, 70 percent were estimated by the government to be drug addicts and in need of rehabilitation.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The national police force is centralized under the control of the Ministry of the Interior, which also controls various other law enforcement organizations such as the frontier guards, customs and immigration agencies, the national bureau for investigation (NBI), and the security police. These organizations carried out their responsibilities for law enforcement and maintenance of order, but chronic underfunding sometimes compromised their effectiveness. Law enforcement organizations maintained internal investigation units that examined allegations of police abuse or misconduct. Corruption was not a problem during the year.

Arrest and Detention.—A warrant issued by a prosecutor is required for an arrest. If an individual is arrested while committing a crime, a warrant must be obtained within three days. Once arrested, the accused must receive a court hearing within three days. Detainees were promptly informed of the charges against them, and lawyers were provided for the indigent. These legal provisions were generally enforced in practice. There is no system of bail, but most defendants awaiting trial were eligible for conditional release based on personal recognizance. Criminal detainees were allowed prompt access to counsel and family. There were no reports of preventive detention, which was allowed only in exceptional circumstances, such as during a declared state of war, or for narrowly defined offenses, including treason, mutiny, and large-scale arms trafficking.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary consists of the supreme court, the supreme administrative court, and a system of lower courts. The president appoints supreme court justices, who in turn appoint the lower court judges. Rulings of the 61 district courts can normally be appealed to the 6 appellate courts, which are courts of first instance in matters of treason and certain offenses of public office. The supreme court rules on the appeals of appellate court decisions. A system of administrative courts provides oversight of decisions made by local and state authorities. Four specialized courts review market, labor, insurance, and impeachment matters, respectively.

Trial Procedures.—The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. Local courts may conduct closed trials in juvenile and guardianship cases, divorce proceedings, or when publicity would offend morality or endanger the security of the state.

Defendants are presumed innocent until proven guilty, and they have the right to appeal adverse judgments. The law does not provide for juries to be used in trials. Defendants have the right to be present and to consult with an attorney in a timely manner, and attorneys are provided at public expense if defendants faced serious criminal charges. Defendants can confront and question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases.

The law extends these rights to all citizens and legal residents. Illegal immigrants enjoy the same rights but may be removed from the country or deported in a separate process.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The government recognizes the Evangelical Lutheran Church of Finland and the Orthodox Church as state churches. Over 80 percent of the population belonged to the Lutheran Church. Nontraditional religious groups practiced their religion freely. There was a small but growing Muslim population and a small Jewish community. Any organization with more than 20 members could register as a religious community as long as its primary mission was spiritual.

All citizens who belonged to one of the two state churches paid a church tax as part of their income tax. However, citizens may opt out of paying this tax by officially disassociating from the church. Nontraditional religious groups were eligible for tax relief as long as the government had registered and recognized them as legitimate religious communities.

Although religious instruction in Lutheran or Orthodox doctrine was part of the standard curriculum in public schools, students could substitute philosophy or world religion courses. In some urban communities where Islam is the second-largest religion, students may choose to receive Islamic religious instruction.

Societal Abuses and Discrimination.—The country's Jewish community was relatively small. There were a few reports of anti-Semitic incidents, chiefly graffiti such as swastikas and anti-Semitic slogans being spray-painted in public locations. The government condemned such acts and removed the graffiti when it was discovered. Critiques of Israeli policy occasionally took on anti-Semitic features. In 2004 the justice ministry ruled that the distributor of an anti-Semitic book, *The Protocols of the Elders of Zion*, was liable under the country's "hate speech" provisions and ordered the distributor to pay a fine and remove the book from circulation.

The government criticized anti-Semitism, principally through public remarks made by senior officials, including the president and minister of justice. In June 2004 the parliament and a local nongovernmental organization (NGO) cosponsored a conference in Helsinki on anti-Semitism, and officials played an active role in international conferences on anti-Semitism.

The Muslim population numbered approximately 20 thousand. Despite isolated reports of fights between non-Muslim and Muslim youths, there was no pattern of societal violence against Muslims. In June the Ministry for Foreign Affairs created an office for Muslim outreach, but no domestic activities were planned by the end of the year.

The Ministry of Education continued to integrate tolerance and antidiscrimination education into the public school curricula.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government automatically denied asylum to anyone who had already been rejected by another EU state.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 protocol. The government included the number of persons who received temporary protection in overall asylum statistics.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

There were some reports of discrimination against immigrants, including refugees and asylum seekers (see section 5).

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Free and fair parliamentary elections held in March 2003 resulted in the formation of a coalition government led by the Center Party.

There were 76 women in the 200-seat parliament. There were 8 women in the 18-member cabinet. The president was a woman.

There were 10 members of minorities in the parliament and 2 minorities in the cabinet. The indigenous Sami (Lapp) minority enjoys semiautonomous status and has its own legislative body.

Government Corruption and Transparency.—There were no reports of government corruption during the year. An anticorruption network in the Ministry of Justice met several times to address transnational bribery.

The law provides for public access to government information, except for information classified for national security, or when release of documents would constitute a violation of privacy laws, and the government provided such access in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; violence against women, trafficking in persons, and discrimination against immigrants and Roma were problems.

Women.—Violence against women, including spousal abuse, continued to be a problem. Although police statistics reported approximately 10 thousand cases of domestic violence annually, most researchers believed the actual number was higher since many cases went unreported. The government reported that up to 30 women died from domestic violence. Domestic abuse may be prosecuted as a variety of different crimes, including rape, assault and battery, harassment, and disturbing the peace. It was not possible to determine how many convictions in each category constituted domestic abuse cases.

The law criminalizes rape, including spousal rape, and the government enforced the law effectively. Through September, 488 rapes had been reported to the police, which were 8 more than in the corresponding period in 2004. Police believed the true number of rapes during the year to be higher than those actually reported, attributing this underreporting to the social stigma encountered by rape victims. Researchers believed that 75 percent of these rapes were committed by a known assailant.

The government encouraged women to report domestic violence and abuse to the police. The government provided counseling and support services to victims of domestic violence and rape and operated a network of shelters for victims. The government provided funding to NGOs that provide additional services, including a tele-

phone hot line and crisis center. According to researchers, most women seeking shelter from violence were between the ages of 25 and 35 who were either married or in a cohabiting relationship; nearly one-third were immigrants. Immigrants without proficiency in either Finnish or English experienced some difficulty accessing domestic violence services.

Prostitution is legal, but the purchase of sexual services is a civil offense. Prostitution was generally limited to private apartments and certain nightclubs in larger cities. At year's end the parliament had not yet voted on a government proposal to criminalize the purchase of sexual services.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment is prohibited by law, and the government generally enforced the law in practice. The office of the prosecutor general was responsible for investigating sexual harassment cases. Employers who fail to protect employees from harassment are subject to fines or a maximum of six months' imprisonment.

Women and men have identical legal rights under family and property law and in the judicial system. The government placed a high priority on gender equality and maintained three primary government organizations devoted to gender equality issues: the ombudsman for equality, the gender equality unit, and the council for equality.

In practice there was still economic discrimination against women. Women's average earnings were 82 percent of men's. Women were overrepresented in lower paying occupations, and men tended to dominate the upper ranks in industry and finance, and some government ministries.

In April parliament passed a law amending existing legislation to increase gender equality in the workplace and to promote the principle of equal pay for equal work. At year's end no determination had been made about which government agencies would have primary responsibility for implementing the law's provisions. Employers found to be in violation of the law are required to compensate women for lost wages. The new law, which took effect on June 1, extended compensation eligibility to a greater number of women. The government's equality ombudsman received hundreds of complaints during the year, and generally determined approximately 20 percent of them to be violations of the law.

In August the Ministry of Social Affairs and Health, in cooperation with the Ministry of Labor and the Monika Naiset Women's Resource Center, published a guidebook to help social workers who work with immigrant populations to identify cases of violence, such as honor-related violence, forced marriages, and genital mutilation.

Children.—The government was strongly committed to children's rights and welfare. Public education and health care systems were well funded. Education was free and compulsory for all children ages 7 to 16, more than 99 percent of whom attended school. Most children attended school until graduation from high school. Education at universities and trade schools was also free.

The government offered free medical care for children through a comprehensive public health care system. Boys and girls had equal access to health care services

There were isolated reports of child abuse.

There were reports of trafficking of children for sexual exploitation (see section 5, Trafficking).

During the summer parliament passed legislation creating the country's first ombudsman for children's issues. The ombudsman took office on September 1.Paying particular attention to children's living conditions, the ombudsman monitored legislation and assessed its impact on children's welfare.

Trafficking in Persons.—The law prohibits trafficking in persons, but there were reports that persons were trafficked to and through the country. There are also related laws that can be used to convict traffickers, including organized prostitution; the dissemination of child pornography; the coordination of illegal entry into the country; and the marketing of sexual services. The maximum penalty for trafficking is seven years in prison, but there were no convictions for trafficking during the year. Police and prosecutors were hampered in their enforcement efforts by a lack of experience and training in trafficking cases.

The ministries for foreign affairs, interior, justice, labor, education, and social welfare were all involved in combating trafficking, and each was represented on the interagency antitrafficking working group. The parliamentary human rights caucus, the NBI, frontier guards, customs and immigration, and various municipal police were also involved in antitrafficking efforts.

The government participated in multilateral and regional efforts to combat trafficking, through organizations such as the Council of Baltic Sea States, Nordic Council of Ministers, and the Barents Euro-Arctic Council.

The country was a destination and transit point for trafficked persons. The actual incidence of trafficking was unknown since no studies have been done about the problem.

Most trafficking involved women and girls from Russia, although Estonian, Latvian, Lithuanian, Ukrainian, and Belarusian women were also trafficked for sexual exploitation. Increasing numbers of Asian women, most of whom were believed to be Chinese and Thai, were trafficked through the country to other parts of Europe.

Some persons were trafficked for labor, and most of these cases involved persons coerced into restaurant work, in construction, and as maids. They were often forced to work long hours for low pay, and were often reluctant to approach authorities due to the cultural gap and fear of deportation or confinement.

The government and NGOs believed Russian organized crime syndicates to be the principle traffickers of women and girls into the country. Although traffickers led some of the women to believe that they would be employed as domestic servants or waitresses, most were aware that they would be prostitutes. Economic incentives for poor women seemed to play a larger role in trafficking than physical coercion. Most trafficking victims entered the country with valid visas obtained at Finnish consulates abroad. The Schengen Treaty, which allows travelers already within EU borders to travel to any other EU country without inspection, facilitated the transit of trafficked persons from Russia and the Baltics to Western Europe. In some cases traffickers confiscated victims' passports and used violence or the threat of violence to ensure their compliance.

In March border guards at the Finnish-Russian border put a busload of Georgian women into protective custody for several days to determine whether they were trafficking victims. Although none of the women wanted to remain in the country, officials detained the women at a refugee-asylum center and interviewed them over the course of several days, rather than allowing them to return immediately to Russia. Media questioned whether the government responded appropriately by detaining the women.

Although there were no NGOs specifically dedicated to assisting trafficking victims, several focused on women's rights and general victim assistance issues, which included aid to trafficking victims. NGOs and government facilities operated by the Ministry of Labor provided victims with shelter, subsistence, medical services, and psychological counseling.

The parliamentary human rights caucus organized briefings on trafficking in the Nordic-Baltic region and lobbied for increased victim assistance and protection measures.

Law enforcement and prosecutorial officials received training in antitrafficking measures.

On August 25, the government adopted a comprehensive national action plan to combat human trafficking. Based on the final report of an inter-agency working group appointed by the Ministry for Foreign Affairs, the plan called for a victim-centered approach to trafficking, including strengthened victim protection measures, an end to quick deportation of foreign victims, increased social and economic assistance for victims, and aggressive prosecution of traffickers. By year's end the government had begun implementing each of these measures, although no trafficking prosecutions had yet occurred.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, and discrimination was not a problem. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. Many older buildings, however, remained inaccessible. Most forms of public transportation were accessible, but problems remained in some areas. For example, a few geographically isolated areas lacked adequate ramps for wheelchairs. The Ministry for Social Affairs and the Ministry for Labor were responsible for protecting the rights of persons with disabilities. In November the government submitted to parliament proposed legislation on protections and allowances for persons with disabilities. The chairperson of the parliamentary human rights caucus organized several events focused on empowering persons with disabilities.

National/Racial/Ethnic Minorities.—Immigrants numbered approximately 108,350, or 2 percent of the population at the end of 2004. The chief ethnic immigrant groups were Russians (24 thousand), Estonians (14 thousand), Swedes (8.2 thousand), Somalis (4.7 thousand) and Serbs and Montenegrins (4 thousand).

Although tension between citizens and immigrant groups was not overt, most racist and xenophobic incidents involved racial epithets directed toward immigrants in public. There were occasional reports of fights between native youth and immigrant

youth. African and Middle Eastern immigrants were typically the targets. There were also reports of fighting between rival immigrant groups. Some immigrants reported being denied entry to restaurants, although these claims could not be independently verified. Approximately 70 percent of immigrants who reported experiencing racism did not report it to police, explaining that they had experienced police discrimination. Immigrants alleged that police did not take their claims of discrimination and unfair treatment seriously.

The government strongly encouraged tolerance and respect for minority groups and established an ombudsman for minorities to protect minority interests. All government ministries included antiracism provisions in their educational information, personnel policy, and training programs. The government also monitored police, border guards, and teachers regarding their treatment of immigrants and nonnative groups.

The minority ombudsman criticized the slow police response on July 30 when local youths assaulted the owners of a Kajaani restaurant and vandalized the property. The police acknowledged their delayed response, but attributed it to a limited staff. They claimed that the only available officers had been investigating a separate incident and arrived at the restaurant as quickly as possible. The case attracted significant media attention, leading to calls for an end to violence directed at immigrants. The prosecutions of 10 youths involved in the incident were underway at year's end.

The NGO Finnish League for Human Rights accused authorities of ignoring discrimination against Roma. The group conducted a study to test whether there was discrimination against Roma by sending Romani groups to several Helsinki restaurants. Many restaurants refused them entry, offering the Roma's own safety as justification. The human rights group criticized the government's slow response to their complaints.

Indigenous People.—Sami (Lapps) constituted less than 0.1 percent of the population. The law provides for the protection of Sami language and culture, and the government financially supported these protections. Sami enjoyed full political and civil rights as citizens, as well as a measure of autonomy in their own civil and administrative affairs. Sami had the right to use their language in dealings with administrative and judicial authorities and in schools, media, economic and commercial life, and cultural activities. Sami communities received subsidies to continue their traditional way of life. There were no reports of any discrimination against Sami in employment, education, housing, health services, or land rights.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice and workers exercised this right in practice. Approximately 79 percent of the workforce was unionized.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively, and the government protected this right in practice. Collective bargaining agreements usually were based on tripartite wage policy agreements among employees, employers, and the government. All unionized workers were covered under the collective bargaining agreements. Employers of nonunionized workers were required to compensate their employees at a wage equal to that stipulated by existing collective bargaining agreements.

The law grants employees the right to strike, with some exceptions for public sector employees who provide essential services. An official dispute board can make non-binding recommendations to the cabinet on ending or limiting the duration of strikes when national security is threatened. Employees prohibited from striking can use arbitration to ensure due process in the resolution of their concerns. A strike is legal when an employment contract is not in effect and the action is pursuant to new contract negotiations. Strikes are considered illegal after a contract agreed to by all parties is in effect. Fines may be imposed for illegal strikes. Workers exercised this right in practice; there were 167 strikes in the first 6 months of the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government has implemented laws and practices to protect children from exploitation in the workplace. The law prohibits children under 16 years of age from working more than 6 hours a day and from working at night. The law sets occupational health and safety restrictions for children, and the government implemented these provisions effectively.

The labor ministry enforces child labor regulations; no complaints about the exploitation of children in the work force arose.

e. Acceptable Conditions of Work.—Although no legislated minimum wage exists, the law requires all employers, including nonunionized ones, to meet the minimum wages agreed to in collective bargaining agreements in each sector of the workforce. Almost all workers were covered under such arrangements. These negotiated minimum wages provided a decent standard of living for workers and their families.

The legal workweek consists of 5 days not exceeding 40 hours. Employees working shifts or during the weekend are entitled to a 24-hour rest period per week. Workers are entitled to premium pay for overtime work. The law limited a worker to 250 hours of overtime per year and to 138 overtime hours in any 4-month period. Foreign workers were also protected by these laws, which the government effectively enforced.

The government sets occupational health and safety standards, and the labor ministry effectively enforced them. Workers have the right to refuse dangerous work situations without penalty, and the government enforced this right in practice.

FRANCE

France, with a population of approximately 62.9 million, is a multiparty constitutional democracy. The Union for a Popular Movement is the ruling party and Jacques Chirac is the president. The most recent national elections took place in 2002 and were considered free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- excessive use of force by law enforcement officers
- overcrowded prisons
- lengthy pretrial detention
- protracted trial proceedings
- anti-Muslim incidents
- anti-Semitic incidents
- societal violence against women
- child abuse and child marriage
- trafficking in persons
- discrimination based on ethnic origin

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, the Ministry of Defense officially confirmed that French soldiers deployed to the Ivory Coast under UN peacekeeping auspices were to blame for the May 13 suffocation of Ivorian national Firmin Mahe. At year's end a senior warrant officer was in custody for the killing, an army colonel was under investigation by a military tribunal for suspicion of ordering the killing, and two other solders were under investigation for not preventing it. General Henri Poncet, the former commander of French peacekeepers in the Ivory Coast, and his deputy, Renaud de Malaussene, were each given an official warning and relieved of their commands for failing to report French involvement in the death. Poncet was under investigation for his role in the death at year's end.

In February six individuals filed a lawsuit claiming that French soldiers were guilty of "complicity in genocide" and "crimes against humanity" while deployed to Rwanda during the 1994 genocide. In December a military tribunal opened an investigation into accusations of two of the plaintiffs, which included allegations that French soldiers stood by passively and permitted massacres to occur and that military personnel participated. French military authorities have denied that French troops aided or directed forces involved in the genocide, and a 1998 parliamentary panel absolved the military of responsibility in the genocide.

At year's end the National Commission on the Conduct of Police and Security Forces (NCCPSF) and the Human Rights League (HRL) had not released their find-

ings regarding the January 2004 use of tear gas by police and the subsequent death of a man.

There were no reported developments in any reported 2003 killings by police.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were occasional reports that law enforcement officers used excessive force, including during the civil unrest that occurred in October and November. There were reports that security forces abused detainees. Authorities investigated reports of abuse by officials and punished those responsible when the reports were substantiated.

However, an April Amnesty International (AI) report claimed that the government's continued failure to address abuses has led to a climate of effective impunity for law enforcement officials, resulting in a lack of public confidence that law enforcement officials always operate under the rule of law and are held accountable for their actions. In its annual report for 2004 released on April 16, the NCCPSF cited "significant breaches" by those involved in public security and an increase in complaints of police abuse and violence. The number of cases submitted to court increased from 70 in 2003 to 107 in 2004.

Police officers were videotaped striking a young man during the unrest in early November (see section 5).

The investigation of the February 2004 case of three police officers who allegedly beat and sodomized a driver and a fourth officer who allegedly destroyed evidence was ongoing at year's end.

On July 13, the NCCPSF issued a decision in the April 2004 case of Sukhwinder Singh, an Indian asylum seeker who alleged a police officer beat him and stole his money while apprehending him for illegally operating as a street vendor. The NCCPSF found that the actions of the police officer involved were not only against the code of conduct for security forces but subject to criminal prosecution. The NCCPSF did not present specific recommendations on the case because the officer involved had already been fired and was under criminal investigation.

Two of three Lille police officers who allegedly raped a prostitute in 2003 were released under strict judicial control and charges were dropped against the third. The case had not gone to court by year's end.

Separatist-related violence in Corsica, aimed at both immigrant populations and government authorities, continued to concern the government, which took steps to address the problem (see section 5).

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however, credible nongovernmental organizations (NGOs) reported overcrowding and unacceptable hygiene conditions in some prisons. The government continued to replace old prisons and construct new facilities. According to the Ministry of Justice, there were 57,163 persons in custody on October 1, in facilities designed to hold 51,144 persons, an overpopulation rate of 112 percent.

Although there were no known deaths in prison due to mistreatment or adverse conditions during the year, prison suicides have been a problem in recent years. According to the Ministry of Justice there were 53 suicides in the first six months of the year, compared to 115 in all of 2004.

On October 20, the International Observatory of Prisons released a report that criticized prisons for being overcrowded and unsanitary. The report also indicated that drug use in prison was rising and that inmates appeared increasingly to be in need of psychiatric and other medical care, but that the prison staff was unable to diagnose and treat such needs.

The government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, lengthy pretrial detention was a problem.

Role of the Police and Security Apparatus.—The civilian force of 118 thousand national police, under the direction of the Ministry of Interior, and the military force of 90 thousand national gendarmes, under the direction of the Ministry of Interior in coordination with the Ministry of Defense, ensure internal security. The police and gendarmes were considered generally effective.

Despite criticisms by some human rights observers such as AI, impunity generally was not a problem. The Inspector General of the National Police and the Office of Judicial Police investigated and prosecuted allegations of police brutality. The independent NCCPSF investigated and reported to the prime minister and parliament on cases of misconduct by national and municipal police, gendarmes, and private security forces. The National Consultative Commission on Human Rights (NCCHR)

also monitored police conduct. Corruption was generally not a problem. The government actively investigated and prosecuted allegations of police corruption.

Arrest and Detention.—Police are required by law to obtain warrants prior to taking persons into custody. Persons are apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. The law provides a person in detention with the right to a prompt judicial determination of the legality of the detention, and authorities respected this right in practice. Detainees are promptly informed of charges against them. There is a system of bail, and it is used. Detainees generally have prompt access to lawyers; however, in cases involving terrorism or other major crimes, suspects may be held up to 96 hours without access to a lawyer. If detainees are indigent, they are provided a lawyer by the state.

There were no reports of political detainees.

Long delays in bringing cases to trial and lengthy pretrial detention were problems. Pretrial detention is generally allowed only if there is a possibility that the suspect would be sentenced to more than three years in prison for crimes against persons and to more than five years in prison for crimes against property; however, a few suspects spend many years in detention before trial, which government officials blamed on insufficient government resources for the investigation and trial process. In July 35 percent of those held in jails and prisons were awaiting trial.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The court system includes local courts, 35 regional courts of appeal, and the highest criminal court, the Court of Cassation, which considers appeals on procedural grounds only.

In cases of serious crimes, investigating judges detain suspects while they conduct the investigation against them. The chamber of accusation reviews the judge's investigation to determine the appropriateness of the charges lodged against the accused. The court of assizes investigates and decides cases involving serious criminal offenses.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public and held before a judge or tribunal of judges. In instances where the sentence is potentially more than 10 years' imprisonment, a combination of professional and lay judges hear the case. Defendants are able to question the testimony of prosecution witnesses against them and present witnesses and evidence in their own defense. Defendants and their attorneys have access to government-held evidence relative to their cases. Defendants enjoy a presumption of innocence and have the right to appeal.

The Tribunal of the Armies is a military court that exists to judge crimes committed outside of the country by members of the armed forces, issuing approximately 300 to 350 judgments annually. This tribunal was investigating both the death of Mahe and allegations regarding military actions during the Rwanda genocide (see section 1.a.). The tribunal abides by most of the rules of civil courts; however, the prosecutor seeks the advice of the military authorities before most proceedings, and difficulties have been reported in obtaining documents from military authorities that are classified as "secret." A former prosecutor has criticized the influence of the military on the tribunal and has questioned whether it should continue to exist.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

On November 9, a court convicted 6 of the 12 individuals accused of having illegally listened to telephone conversations of nearly 150 persons between 1983 and 1986. Those convicted were given suspended sentences of up to eight months and fines of up to $6 thousand (5 thousand euros). The court placed the ultimate responsibility on former president Francois Mitterand, noting that the decision to create the group responsible for the wiretaps originated with him and that the wiretaps were carried out with his knowledge.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, an 1881 press law that may be used to restrict freedom of expression by prohibiting speech that insults heads of state remained in force.

In 2004, in response to sermons from several Muslim clerics determined to have threatened public order by inciting violence, parliament passed a law stating that a foreigner can be deported for publicly proclaiming deliberate and explicit acts of

provocation proposing discrimination, hatred, or violence against any specific person or group of persons.

On December 22, the European Court of Human Rights (ECHR) ruled that the government had violated the freedom of expression of Christian Paturel, author of a 1996 book titled *Sects, Religions and Public Freedoms* in which he attacked antisect organizations which received government funding, particularly the National Union of Associations for the Protection of the Family and the Individual (UNADFI). UNADFI brought suit against the author, and in 1997 Paturel and the publisher were found guilty of defamation, a ruling that was upheld on appeal by French courts. Reversing the French courts' decisions, the ECHR ruled that organizations like UNADFI were in the public domain and "ought to show a higher degree of tolerance to criticism of their aims by opponents." The ECHR also found that the combination of fines and awards to UNADFI had not been justified in the circumstances. The ECHR awarded Paturel $8,280 (6,900 euros) in damages and $9,384 (7,820 euros) in costs and expenses.

The independent media were active and expressed a wide variety of views without restriction.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. A 1905 law on the separation of religion and state prohibits discrimination on the basis of faith. Under the law, religious groups must apply to the local prefecture for recognition as an association of worship and disclose certain management and financial information in order to receive tax-exempt status or gain official recognition.

The government has modified the manner in which it encourages public caution toward some minority religious groups that it considers to be cults. A 1996 parliamentary commission identified 173 groups as so-called cults. These included the Jehovah's Witnesses, the Theological Institute of Nimes (an evangelical Christian Bible college), and the Church of Scientology. In May former prime minister Jean-Pierre Raffarin issued a circular indicating that the parliamentary list should no longer be used to identify sects, and authorities should instead focus their efforts on those sects that represent the greatest threat, notably those "small, fluid" groups that are "less easily identifiable" and use the Internet for recruitment. Some religious groups hailed the move as a step forward but called for Ministry of Justice circulars emphasizing repressive measures against minority religions to be rescinded.

The interministerial monitoring mission against sectarian abuses (MIVILUDES) is charged with observing and analyzing sect/cult movements that could constitute a threat to public order or violate the law, coordinating the appropriate response, informing the public about potential risks, and helping victims to receive aid. In January MIVILUDES published a guide for public servants instructing them how to spot and combat "dangerous" sects. There are several instances where the law regarding the right of patients to refuse medical treatment is noted, as well as subsequent court decisions. Some groups expressed concern that the guide would be misused by overzealous public servants against legitimate religious organizations.

There was continuing concern about the 2001 About-Picard law. Although provisions of the law that permit the dissolution of groups have never been applied, in November 2004 Arnaud Mussy, the founder and spiritual head of the group Neo-Phare, was convicted of fraudulent abuse of the state of ignorance and the weakness of four followers. Mussy claimed to be the reincarnation of Christ and made several predictions in 2000 regarding the pending apocalypse; one of his adherents killed himself and two other followers attempted suicide allegedly because of the state of mind brought on by Mussy's manipulation. His appeal of the decision was ongoing at year's end.

In March 2004, on the recommendation of an interministerial commission established by the president to study secularism, integration, and the place of religion in the country, the government passed a law prohibiting the wearing of "conspicuous" religious symbols—including Muslim headscarves, Jewish skullcaps, and large crosses—by employees and students in public schools. In June 2004 the ECHR ruled that the law did not violate the freedom of religion and was implemented in September 2004. Some Christian, Jewish, Muslim, and Sikh leaders, human rights groups, and foreign governments voiced concerns about the law's potential to restrict religious freedom. At the end of the school year, the Ministry of Education reported that 44 Muslim girls and 3 Sikh boys had been expelled from public school for vio-

lating this law; all had reportedly enrolled in private schools, distance education courses, or schools abroad. One Muslim group indicated that the law has adversely affected 806 Muslim girls by causing them to seek alternative educational options or requiring them to remove their veil. Media reports estimate that of 13 million schoolchildren, approximately 12 hundred Muslim school age girls wore veils. The Sikh community reported that of the approximately 200 school age Sikh boys, 84 percent were affected by the legislation.

In September UN Special Rapporteur for Freedom of Religion or Belief Adma Jahangir conducted a fact-finding mission in the country. In comments made at the conclusion of her visit, Ms. Jahangir characterized the controversial law banning religious symbols from school as "double-edged" and noted that veiled women appeared to suffer from discrimination. She also expressed cautious optimism for minority religions, calling MIVILUDES "more balanced" than its predecessor. The rapporteur's report to the UN, including recommendations for the country, was expected in early 2006.

Societal Abuses and Discrimination.—Members of the Arab/Muslim community experienced incidents of harassment and vandalism (see section 5), particularly on the island of Corsica. The government was investigating at least 26 anti-Islamic Web sites for links to anti-Muslim attacks.

On November 11, a mosque in near Lyon was attacked with little damage reported. On November 13 and 14, two firebomb attacks were attempted against the Grand Mosque of Lyon. On November 20, a mosque in the eastern town of Fougeres was hit with two firebombs, but no one was injured, and the main prayer room was not damaged. Political and religious leaders condemned the attacks, and authorities actively investigated the incidents. Many suspect the attacks may have been committed by right-wing militants in response to the social unrest occurring nightly at the time.

Representatives of the Church of Scientology continued to report cases of societal discrimination, frivolous lawsuits, and prosecution for allegedly fraudulent activity. Church of Scientology representatives reported that a case filed by a parent whose child attended an "Applied Scholastics"-based school was resolved when the young woman, previously prevented by the government from leaving the country to attend the school abroad, decided she would wait until she reached the age of 18 and could legally make the choice herself.

On December 14, a Paris court rejected a lawsuit brought by a collective of associations asking for the dissolution of the National Union of Associations for the Defense of the Family (UNADFI). The organizations accused UNADFI, a state-subsidized NGO "specializing in information about sects," of regularly overstepping its informative role and acting against religious freedom. Instead, the court ruled that the suit constituted an "abusive procedure" and ordered the plaintiffs to pay UNADFI $18 thousand (15 thousand euros) in damage and court costs, and ordered the plaintiffs to print the decision in 8 newspapers. The plaintiffs planned to appeal the decision.

On February 25, the 2004 Jehovah's Witnesses tax case was submitted to the ECHR and was ongoing at year's end. Members of Jehovah's Witnesses claimed that they were selected for discriminatory and punitive auditing because of their classification as a cult. Jehovah's Witnesses in the Vosges Department reported difficulty gaining permission to build a house of worship in the town of Deyvilliers; despite official requests presented to authorities on January 13 and March 4, the Jehovah's Witnesses reported having received no reply or acknowledgement of their requests. Jehovah's Witnesses also reported several acts of vandalism against houses of worship. On December 1, the Paris Court of Appeal overturned a 2001 decision and ordered the Ministry of Interior to turn over to the Jehovah's Witnesses documents relating to the 1996 parliamentary report and to pay $1,800 (1,500 euros) for costs.

In a March annual report to the prime minister, the NCCHR indicated that there were 1,565 racist and anti-Semitic incidents in 2004, nearly double the 833 recorded in 2003. The number of anti-Semitic incidents, including physical assaults, attacks against property, cemetery desecrations, threats, and reported insults, increased from 601 in 2003 to 970 in 2004, and the number of incidents occurring in schools nearly tripled. There have been no reported deaths due to anti-Semitic violence since 1995, but 36 persons were injured in anti-Semitic attacks in 2004.

The Jewish community in France was estimated at 600 thousand persons. According to the Ministry of Interior, police recorded 504 anti-Semitic incidents during the year, as opposed to 974 during 2004, a decrease of 48 percent. There were 98 attacks against persons or property during the year as opposed to 200 in 2004, and 406 threats as opposed to 774 in 2004. There were 40 persons arrested for committing anti-Semitic crimes. The government attributed the decreases to better dialogue with the Jewish community, more focus on the problem by the internal security

forces, and a decrease in Israeli-Palestinian tensions. Authorities continued to condemn forcefully anti-Semitism, provided increased protection at Jewish institutions, investigated all attacks, and arrested and prosecuted perpetrators when there was sufficient evidence.

The Representative Council of Jewish Institutions in France (CRIF) operated a hot line to register allegations of threats. Based on its own information and that of the Jewish Community Protection Service (CSPCJ), the CRIF registered 95 anti-Semitic incidents during the first 6 months of the year as opposed to 590 for the entire year in 2004. The CRIF stated in the NCCHR report that its figures do not always correspond to those of the government, as victims do not always report their attacks to both the police and the CRIF.

In April the CRIF condemned the alleged sale of anti-Semitic cassettes by the Committee for the Well-being and Rescue of Palestinians (CBSP) at the annual meeting of the Union of Islamic Organizations in France (UOIF).

In July three students from a different school threw bottles of acid into the courtyard of a Jewish school. No injuries were reported. The three minors were released into judicial custody and their trial remained ongoing at year's end.

On May 18, the government approved a ministry of interior decision to disband the neo-Nazi group Elsass Korps. The dissolution would prevent the group from meeting publicly and punish individuals found to be reconstituting the group under a different name.

In May a Versailles court of appeals found the authors and publisher of a 2002 article entitled "Israel-Palestine: The Cancer" guilty of "racial defamation" for anti-Semitic content. Journalists Edgar Morin, Daniele Sallenave, and Sami Nair, as well as editor Jean-Marie Colombani have been ordered to pay the legal fees of the prosecuting groups and $1.20 (1 euro) each in damages. The publishing newspaper, *Le Monde*, was ordered to print the court decision, which ran July 8. The decision has been controversial, particularly as one of the authors, Edgar Morin, is Jewish. A judge dismissed the initial complaint, ruling that any reasonable reader would not equate criticism of Israeli Prime Minister Sharon and his supporters as an attack on all Jews, but an appeals court found that three sentences in the article violated a 1990 antiracism law. *Le Monde* and the authors of the article appealed the decision, and a ruling was expected in early 2006.

On June 13, a Paris court ordered French Internet service providers to block the Web site of the revisionist Holocaust-denying organization, the Association of Former Connoisseurs of War and Holocaust Stories, to French users.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

The law requires those who exercise an itinerant activity and who have a fixed domicile to sign a declaration, which is renewable periodically. Persons having no domicile or fixed abode must be in possession of travel documents, one type of which must be renewed every three months, and must choose a commune for administrative purposes. Members of the Roma community, who make up the majority of those who require travel documents, have protested the requirement and indicated that they often experience discriminatory treatment from officials when renewing the documents.

The law also requires municipalities with more than 5 thousand residents to provide an "encampment" where people may reside temporarily. However, members of the Roma community indicated that only one in four municipalities required to provide a designated encampment actually do so in practice, and that many encampments do not meet the legal requirements of infrastructure provision and environmental adequacy. Roma groups have asserted that some municipal leaders prefer to pay the fines rather than provide encampments. The law also designates some towns where encampment is prohibited. Compounding problems created by a lack of encampments is a law that makes it illegal to set up residency outside of designated areas.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

Even if it does not grant asylum to an individual, the government generally did not deport individuals with children.

The government cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

On September 2, the National Association for Assisting Foreigners at Borders (ANAFE) released a statement citing a decline in the number of foreigners detained in the waiting areas of airports and ports, noting there were 14,291 individuals not admitted in 2004, as opposed to 15,498 in 2003 and 20,800 in 2002. However, it expressed concern that the government was focusing on combating illegal immigration to the detriment of the protection and welcome offered foreigners, especially asylum seekers. ANAFE noted that there were allegations of abuse against foreigners in waiting areas, particularly during attempts to re-embark them on aircraft. ANAFE also criticized incidents of unaccompanied foreign minors without proper documentation being detained in waiting areas at airports rather than admitted to the country without exception, a position recommended by UNAFE and NCCHR.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Individuals without a fixed domicile and who must carry travel documents were permitted to vote in municipal elections only after a three-year period of "attachment" to a municipality. Roma groups asserted that this was discriminatory since other citizens, including the homeless, were able to vote after an attachment period of only six months.

Elections and Political Participation.—The most recent national legislative and presidential elections took place in 2002 and were free and fair.

The citizens of the collective territory of Mayotte and the territories of French Polynesia, Wallis and Futuna, and New Caledonia determine their legal and political relationships to France by means of referendums and, along with the overseas departments, elected deputies and senators to the French parliament.

In February new elections were held for 37 of the 57 seats in the Polynesian national assembly and were considered generally free and fair; the state council in November 2004 annulled the May 2004 elections because of irregularities.

There were 129 women in the 2 bodies of the 908-seat legislature and 6 women ministers in the 32-member cabinet. Women made up 48 percent of municipal councils, but held only 6.7 percent of mayoral positions. Political parties are required to present equal numbers of male and female candidates, within two percentage points; however, a March report by the Observatory for Parity Between Men and Women indicated that the three major political parties were fined for failing to fulfill this requirement in the 2002 elections.

The law prohibits the government from holding information about the racial or ethnic background of its citizens; therefore, no statistics on minority participation in the government were available. However, minorities generally appeared significantly underrepresented in the government.

Government Corruption and Transparency.—On May 13, an agreement was signed between the Union for a Popular Movement (UMP) political party and the Mayor of Paris' office whereby the UMP agreed to repay the city for salaries paid to a number of individuals who were in fact working for the UMP's predecessor party, Rally for the Republic Party (RPR), led by then mayor of Paris Jacques Chirac. The UMP was to reimburse the city approximately $1.07 million (890 thousand euros) for the fictitious salaries, legal expenses, and interest.

On May 30, the Paris Public Prosecutor's office opened an investigation into 11 French nationals suspected of involvement in corruption related to the UN "Oil-for-Food" program. Among the investigated were former interior minister Charles Pasqua and two former diplomats.

On October 26, a Paris court convicted three individuals on corruption charges stemming from a kickback scheme that took place in the early 1990s whereby companies involved in the construction of Paris-area high schools funneled 2 percent of their revenue to political parties, including the now defunct RPR, the Socialist Party (PS), and the now defunct Republican Party. The greatest part of the monies, totaling an estimated $84 million (70 million euros), went to the RPR, which was then headed by Jacques Chirac.

Corruption charges remained pending against President Chirac; however, as long as he remains in office, the president is immune from prosecution.

The law provides for public access to government information and the government provided access in practice for citizens and noncitizens, including foreign media.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights organizations generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these prohibitions. However, violence against women and children, child marriage, trafficking in persons, and ethnic discrimination were problems.

Women.—While not common, violence against women was a problem. The law prohibits violence against women, including spousal abuse, and the government generally enforced it. In 2003 and 2004, there were 164 women whose deaths were attributed to spousal abuse. The penalties for domestic violence vary according to the type of crime and range from 3 years' imprisonment and a fine of approximately $54 thousand (45 thousand euros) to 20 years' imprisonment. The government sponsored and funded programs for women who were victims of violence, including shelters, counseling, and hot lines. Numerous NGOs also assisted abused women.

Rape, including spousal rape, is illegal, and the government generally enforced the law effectively. Rape occurred rarely. The Ministry of Interior reported that the number of sexual assaults fell by 9.3 percent. According to the Ministry of Interior, there were 4,412 rapes, 4,743 instances of sexual aggression, and 16,859 reports of sexual assault during the year. However, the Ministry of Interior statistics did not specify the gender of the victim. The penalty for rape is 15 years' imprisonment, which may be increased due to other circumstances (such as the age of the victim or the nature of the relationship of the rapist to the victim). The government and NGOs provided shelters, counseling, and hot lines for victims of rape. Press reports and NGOs reported that a "repressive atmosphere" existed in some suburbs of Paris dominated by immigrants from North African countries, causing women in these neighborhoods to feel intimidated. Some men in these suburbs reportedly intimidated women whom they perceived as violating social norms. This abuse ranged from verbal abuse to physical assault and rape.

In 2003 the High Council on Integration (HCI) published a report indicating that approximately 35 thousand women were victims of female genital mutilation (FGM), the majority of whom were immigrants from Africa, Asia, and the Middle East. The practice is illegal and may be punished by up to 20 years' imprisonment; however, in most cases the FGM occurred outside of the country. Cases were seldom reported to the authorities, and most were discovered in routine school medical examinations. Several NGOs existed to prevent FGM and worked with the government to educate women about their rights.

Prostitution is legal; however, the law prohibits procuring, including aiding, assisting, maintaining, or profiting from the prostitution of another. Public solicitation is illegal. Enforcement of these laws varied, and prostitution remained a problem. In 2004 there were 943 arrests and 1,719 convictions for procuring. The higher conviction number was due to the fact that a person could be convicted outside of the calendar year in which they were arrested, and a person could be convicted of multiple procuring charges.

In March the Central Office on the Treatment of Human Beings (OCRETH) conducted a nationwide dragnet for pimps, arresting 72 persons over a 5-day period. Five were sentenced to prison terms within days of the arrests, while others were still being questioned. Preliminary interior ministry statistics show that police arrested 897 persons on procuring charges from January through October.

Authorities cited a drop in the number of prostitutes resulting from the implementation of the law on internal security; however, NGOs charged that the changes in the law had succeeded only in moving the prostitutes to different areas at later times rather than reducing the real number of prostitutes.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking). A government agency, OCRETH, addresses trafficking in women, prostitution, and procuring.

Sex tourism to other countries was a problem, which the government took steps to address. The law includes extraterritorial provisions that apply French law to sexual depredations committed abroad by citizens or residents.

On October 20, Tourism Minister Bertrand launched an initiative at a European Union (EU) tourism ministers' meeting to give new impetus to the EU's fight against child sex tourism. The government proposed increasing the voluntary commitments made by travel industry professionals to fight the problem (by means of a charter along the lines of the country's model); setting up an informal group and a Web site on child sex tourism to facilitate exchange of best practices between EU member states; and sharing information and planning joint actions with the countries plagued by child sex tourism.

In May 20 leading tourism companies signed a charter with Tourism Minister Bertrand pledging to increase their efforts against child sex tourism. Under the charter, the companies agree to conduct several actions to aid in the fight. The government started a review of the actions in November, and they were to be evaluated annually.

The law prohibits sex-based job discrimination and sexual harassment from superiors but not peers in the workplace. Sexual harassment was not widely considered a problem in the workplace. The laws prohibiting it were well publicized by both the government and NGOs and effectively enforced.

Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The Ministry of Parity and Equality ensured the legal rights of women.

The law requires that women receive equal pay for equal work; however, this standard often was not met in practice. Reports by various governmental organizations and NGOs have indicated that men continued to earn more than women and that unemployment rates continued to be higher for women than for men. According to a study by INSEE, the government's statistical agency, less than 20 percent of executives in the private sector were women, and although they made up 57 percent of the public workforce, women were underrepresented in managerial jobs and positions of responsibility.

Children.—The government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. The Ministry for Family Affairs oversees implementation of the government's programs for children.

Public schooling is provided free through the age of 18, and education is compulsory for citizens and noncitizens between the ages 6 to 16. However, after the October unrest, the prime minister proposed that some youth be allowed to leave school at age 14 to enter into apprenticeships. Although not compulsory, preschool and kindergarten for children under age six is free and widely available. According to INSEE, during the school year 2003–2004, the percentage of school age children who attended school was 100 percent for ages 3 to 13; but the percentage dropped to 99.6, 98.6, and 97.3 percent for ages 14, 15, and 16, respectively. Most children completed the equivalent of high school. There was no evidence of significant differences between the attendance of girls and boys at the primary, secondary, and postsecondary levels.

The government provided universal health care to all residents, and boys and girls had equal access.

Although not common, child abuse was a problem. There are strict laws against child abuse, particularly when committed by a parent or guardian, and the government generally effectively enforced the law and prosecuted abusers; however, a 2003 report by a rapporteur for the UN Commission on Human Rights (UNCHR) criticized the justice system and a government-chartered doctors' group over their handling of child sex abuse cases.

In October authorities arrested 15 persons and rescued 7 babies in connection with the baby trafficking ring discovered in 2004, and five persons were arrested. A Roma family in Bulgaria headed the network, which sold babies to other Roma families for approximately $6 thousand to $7,200 (5 thousand to 6 thousand euros). OCRETH continued to work with Bulgarian authorities on the investigation. The head of the ring was to be prosecuted under a 2003 trafficking in person's law.

According to the Interior Ministry, there were 14,713 incidents of rape, sexual harassment, or sexual attacks against minors during the year as opposed to 16,791 acts recorded in 2004. There were 12,404 cases of abuse, poor treatment, or negligence reported during the year as opposed to 11,283 incidents in 2004. The government provided counseling, financial aid, foster homes, and orphanages for victims, depending on the extent of the problem. Various NGOs also helped minors seek justice in cases of mistreatment by parents.

In the country's largest-ever criminal case involving pedophilia, in July a court in the department of Maine and Loire sentenced the principal defendants. Of a total of 65 defendants (39 men and 26 women), 23 to 73 years of age, 63 were convicted of crimes ranging from prostitution, rape, and sexual assault of 45 children, in many

cases their own, between January 1999 and February 2002. The children varied in age from a few months to 12 years. The penalties were from several months' suspended sentence to 28 years' imprisonment. The court also gave a social services worker a 12-month sentence, with 6 months suspended, for having failed to report 4 sexual assaults, in which 2 of the victims were her own children.

Child marriage was a problem, which primarily took place outside of the country and which authorities took steps to address. In 2003 the HCI published a report that approximately 70 thousand girls in the country between 10 and 18 years old, primarily from North Africa, sub-Saharan Africa, and Turkey, were threatened with forced marriages. Women and girls may seek refuge at shelters if they are threatened with forced marriages, and parents can be prosecuted for forcing their children into marriage. The government offered some education programs to inform young women of their rights, and the HCI said it was important to distinguish between arranged and forced marriages. Both houses of parliament have passed legislation to harmonize the age of marriage for boys and girls at 18; a final reading is expected at the end of January 2006.

Trafficking in girls was a problem (see section 5, Trafficking).

Trafficking in Persons.—The law prohibits the trafficking of persons; however, trafficking in women and children for sexual exploitation, forced domestic labor, and petty crime was a problem (see sections 6.c. and 6.d.).

Trafficking in persons is punishable by up to 7 years' imprisonment and a fine of $180 thousand (150 thousand euros). Persons convicted of organizing a criminal network that exploits children and forces them to beg face a prison sentence of 3 to 10 years' imprisonment and a fine of $54 thousand. Penalties for soliciting child prostitutes range up to 10 years' imprisonment. However, under the trafficking-related sentencing guidelines, sentences for some types of convictions, such as for rape, were light. The exploitation of foreign labor and exposing laborers to inhumane conditions are criminal offenses under other statutes punishable by up to three years' imprisonment or substantial fines.

In 2004 the special antitrafficking police arrested 717 individuals on trafficking-related charges. Foreigners were a little more than 54.7 percent of those arrested. During the year 47 trafficking networks were dismantled, a one-third increase over the number dismantled in 2004. Government efforts were considered increasingly effective.

In February police arrested a man and three accomplices for organizing a prostitution network that brought in transvestite prostitutes from Brazil.

In 2003 police arrested 67 adults in a Roma encampment outside Paris and charged them with organizing sexual enslavement of Roma children who were kidnapped from Romania, brought to the country, raped to make them obey, and sent out on the streets of Paris and its suburbs to steal and prostitute themselves. According to press reports, the children were forced to earn $240 (200 euros) a day or face severe physical punishment. The child-traffickers remained in jail awaiting trial at the end of the year.

Several law enforcement agencies were involved in the effort to combat trafficking. The government regularly cooperated on a bilateral basis or with international institutions such as the European Police Agency (Europol) to investigate, track, and dismantle trafficking rings. Authorities worked with officials in other countries, especially source countries, to counter human trafficking. For example, in September the foreign affairs ministry led a delegation of officials and NGOs to Romania to share best practices and increase cooperation. OCRETH had an officer serving in the French Embassy in Bulgaria. Police from local jurisdictions also worked with their counterparts in source countries, particularly in Eastern Europe.

The country was a destination for trafficking victims, primarily women from Eastern Europe, the Balkans, the former Soviet Union, and West Africa—and to a lesser extent, South and Central America—for the purposes of sexual exploitation and domestic servitude. Trafficking of Brazilian women and girls into sexual exploitation in French Guiana was a problem. The country was also a destination for trafficked Romanian children, many of Romani descent.

Police estimated that 90 percent of the 15 thousand to 18 thousand female prostitutes working in the country were trafficking victims, and that 3 thousand to 8 thousand children were forced into prostitution and labor, including begging. In a 2003 report the UNCHR rapporteur criticized the government for "continuing to deny the existence and the scale of sexual cruelty against children" with regard to trafficked children and called for the NCCHR to further investigate the situation. Of the 900 victims questioned in the 2003 UNHCR report, 50 were children, mostly citizens and Eastern Europeans. Preliminary ministry of interior statistics for the year indicated nine children were questioned as possible trafficking victims.

Principal traffickers were small, organized criminal networks.

Traffickers used various methods to recruit and retain victims including force, fraud, confiscating the victim's identification papers, isolating him or her culturally, and abusing him or her physically or psychologically. Some victims came to the country willing to work as prostitutes, not knowing they were going to become trafficking victims. Traffickers kidnapped or "bought" some women and girls and sold them to Balkans-based prostitution networks, which smuggled the victims into the country. NGOs and police characterized the bulk of traffickers in the country as "micro-trafficking networks" that included both citizens and foreigners.

Traffickers of the Romanian children of Romani descent have traditionally used the children as beggars and thieves, but many of the children have increasingly turned to or been forced into prostitution.

Under the government protection program established in 2003 to aid trafficking victims who chose to cooperate with police and judicial authorities, the government granted 204 women temporary residence; 11 obtained one-year renewable permits. Victims who declined to cooperate with the authorities were processed as illegal immigrants and were sometimes, but not often, detained, jailed, or deported.

The government continued to screen and refer victims to counseling centers and safe houses for comprehensive services. The government offered victims three to six months' renewable temporary residency according to their need and cooperation with police. The government assumed child victims to be in danger and provided immediate shelter while assessing the child's best interests.

Numerous NGOs dealt with trafficking in persons and prostitution. Social Aid to Children (ASE), the national social services branch for child care, was responsible for caring for and assisting victims under the age of 22.

Persons with Disabilities.—The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions.

The law requires new public buildings to be accessible to persons with disabilities; however, many older buildings and public transportation were not accessible. On September 1 a Poitiers court of appeal upheld a $12 thousand (10 thousand euros) fine stemming from a 2003 court case charging a cinema with lacking access for persons with disabilities. The 2 wheelchair-bound plaintiffs were awarded $2,400(2 thousand euros) each, plus interest. A second case from 2003, which remained ongoing at year's end, charged the Ministry of Justice with noncompliance with the law on accessibility.

Nearly 28 percent of persons with disabilities were unemployed, roughly 3 times the national rate of unemployment. A 1987 law requires companies of more than 20 employees to ensure that 6 percent of their workforce is composed of persons with disabilities or the company must pay fines to an association that assists persons with disabilities in finding work. However, many companies admitted to being unaware of their legal obligations, and the average employment rate of persons with disabilities for those companies subject to the law was approximately 4 percent.

On February 11, parliament passed a law to benefit persons with disabilities. The stated purpose of the law is to compensate for the consequences of disability, to promote participation in social life as a whole by guaranteeing the accessibility of buildings and access to education and employment, and to involve persons with disabilities in the decision making process regarding provisions concerning them. The law increases fines for those companies not in accordance with the law on employing those with disabilities, forcing those who have not made significant effort to meet their legal obligations within 3 years to pay a penalty of 1,500 times the minimum wage. Additionally, centers will be set up in each department to assist person with disabilities with receiving compensation and employment assistance. Many of the benefits were to enter into force starting January 1, 2006.

National/Racial/Ethnic Minorities.—Anti-immigrant sentiments led to some incidents of violence and discrimination, including occasional attacks on members of the large Arab/Muslim and black African communities. Ministry of Interior statistics indicated that there was a decrease in racist and xenophobic attacks during the year. There were 470 acts reported during the year, a 21 percent drop from the 600 incidents reported in 2004.

According to the NCCHR, there were 595 racist acts recorded in 2004, up sharply from the 232 committed in 2003. Far-right extremists were responsible for 18 percent in 2003; however, 2004 marked a resurgence in extreme-right activity, which was cited as the motivating factor in 30 percent of the racist and anti-immigrant incidents. The NCCHR noted a shift, remarking that right-wing elements seemed to target individuals of Arab-Muslim background (292 acts) more often than those of Jewish origin (169 acts).

On February 15, the Council of Europe's European Commission against Racism and Intolerance noted in a report that Roma in the country may be particularly vulnerable to problems of racism, intolerance, and discrimination.

In June the prime minister created a junior ministerial position for the Promotion of Equal Opportunity and named as its first head Azouz Begag, a novelist and university professor who grew up the son of North African immigrants in a poor suburb of Lyon. Begag listed fighting discrimination and providing members of minorities' better access to education and jobs as among his top priorities. He recommended circumventing the constitutional ban on collecting data based on race or religion by including questions on the census asking the place of birth and citizenship of the respondent's parents and grandparents, with the goal of giving companies and universities an accurate reflection of the population so they might better reflect that diversity in their composition.

On October 27, two young boys were electrocuted and a third seriously injured when they hid in a power substation, believing police were pursuing them. The incident triggered three weeks of social unrest that began in the suburbs of Paris where there are large concentrations of immigrant and minority populations, plagued by poor housing conditions and high unemployment, and spread to nearly 300 communities across the country. In all, approximately 10,346 vehicles were burned in the unrest, and 233 public buildings and 74 private buildings were damaged or destroyed by young men. Many, including political leaders, pointed to decades of poor integration of immigrant populations and societal discrimination for fueling the frustration of those responsible for the violence.

In general, law enforcement responded professionally and with restraint during the October/November unrest (see section 5), and there were no deaths directly attributable to their actions. At its peak, 11,500 law enforcement officers were deployed to combat the nightly violence. However, 8 police officers were suspended for the November 7 beating of a 19-year-old youth involved in the unrest in the suburbs of Paris. At year's end, two of the officers were being investigated for using "illegal violence" in attempting to apprehend the youth, who was throwing bottles at the police. The other six officers were considered possible witnesses to the incident.

Violence against immigrants continued to be a problem, particularly on the island of Corsica. The government condemned the incidents and took steps to address the problem. The attacks have caused some families to move to the mainland or return to their countries of origin.

Immigrant advocacy groups continued to criticize a 2003 law aimed to restrict illegal immigration and to ensure illegal immigrants are deported for being too harsh and encouraging discrimination against foreigners.

On August 2, Joel Damman sentenced to 25 years' imprisonment for the 2002 killing of a 17-year-old youth of Moroccan origin admitted at the trial, "At the time, I was a racist."

Discrimination against minorities was a problem, which the government sought to address. Some NGOs alleged that racist hiring practices prevented minorities from Africa, North Africa, the Middle East, and Asia from equal access to the workplace and worked to sensitize the public to this problem. The president tacitly acknowledged this discrimination when, in a November 14 address to the nation amidst the unrest, he asked, "How many resumes end up in the trash because of the name or address of the applicant?" One study reported that resumes sent by someone with a North African-sounding name are five times less likely to be called for an interview than one sent by someone with a more traditionally French name.

A report submitted to the labor minister in September by a government-appointed commission concluded that job discrimination is "widely practiced with impunity," mainly against individuals from sub-Saharan and North Africa. The panel found that ethnic origin, whether revealed by name, physical appearance, or even address, is often the basis for hiring discrimination, notwithstanding the applicant's educational or other qualifications. Laws against discrimination have not improved the situation, the report noted.

In June the government created the independent High Authority for the Fight against Discrimination and for Equality (HALDE), to which citizens can report cases of discrimination. The organization can demand inquiries on the practices of a particular agency and bring court cases on behalf of citizens against companies found to be exercising discriminatory practices.

The 2004 discrimination trial against 11 Lyon nightclub bouncers was ongoing at year's end.

The Ministry of Labor and the NGO Group for Study and Combat of Discrimination offered a free hot line to report discrimination. Government programs attempted to combat racism and discrimination by promoting public awareness and

bringing together local officials, police, and citizen groups. There also were anti-discrimination educational programs in some public school systems.

Other Societal Abuses and Discrimination.—Although there were isolated incidents of violence against homosexuals, the authorities pursued and punished offenders.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Approximately 7 percent of the work force was unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provided for the right to collective bargaining, and workers exercised this right freely. Approximately 90 percent of workers operated under such agreements. Workers, including civil servants, have the right to strike except when a strike threatens public safety. Workers exercised this right by conducting legal strikes. There are no special laws or exceptions from regular labor laws in the three export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

There were press reports of substandard pay and working conditions, often within the immigrant community, suffered by undetermined numbers of undocumented immigrants. However, sweatshop conditions were rare due to effective labor law enforcement. In practice abuses were limited to the informal economy.

Forced or compulsory child labor occurred. Police estimated that three thousand to eight thousand children were forced into prostitution and labor, including begging.

There are strict laws combating trafficking in persons related to domestic slavery, and the committee against modern slavery (CAMS) brought cases of domestic and modern slavery to the authorities for prosecution.

In May the ECHR found that, in contravention of its responsibilities under the European convention of human rights, the government had failed to provide specific and effective protection against forced servitude for a Togolese national living in Paris. The judgment against the government was for $31,200 (26 thousand euros). The 27-years-old woman was brought to Paris as a 15-year-old by a Frenchwoman of Togolese origin in January 1994. From October 1994 until mid-1998, the girl, whose papers had been confiscated, worked for a French couple without pay for 15 hours a day, with no days off (except for periodic permission to go to Mass), and slept on a mattress on the floor of the couple's nursery. In July 1998 the girl confided in a neighbor, who informed the CAMS, which reported the matter to prosecuting authorities. The ECHR noted that the government has since strengthened the law.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively implemented laws and policies designed to protect children from exploitation in the workplace. With a few exceptions for those enrolled in certain apprenticeship programs or working in the entertainment industry, children under the age of 16 may not be employed. In general, minors are prohibited from performing work considered arduous, or work between the hours of 10 p.m. and 5 a.m.

Laws prohibiting child employment were generally enforced effectively through periodic checks by labor inspectors, who have the authority to take employers to court for noncompliance with the law.

Trafficking in children was a problem (see section 5).

e. Acceptable Conditions of Work.—The national minimum wage was $9.64 (8.03 euros) per hour, which provided a decent standard of living for a worker and family. The Employment Ministry was responsible for enforcing the minimum wage.

The official workweek was 35 hours; however, in certain industries, the government allowed a greater number of overtime hours that could result in a de facto 39-hour workweek. Overtime was limited to 180 hours annually. Maximum hours of work were fixed at 10 hours per day, 48 hours per week, and an average of 44 hours per week over a 12-week work period. Employees were guaranteed a daily rest of at least 11 hours and a weekly break of 24 hours, not including the daily rest period. Employers must accord workers a 20-minute break for a 6-hour workday. Premium pay was required for overtime. These standards were effectively enforced.

The law sets basic occupational health and safety standards. The Ministry of Social Affairs, Labor, and Solidarity was responsible for enforcing the laws and did so effectively. Workers have the right to remove themselves from situations that endangered their health or safety without jeopardy to their employment, and the government effectively enforced this right.

GEORGIA

The constitution of the Georgian republic provides for a strong executive branch that reports to the president, a unicameral parliament, and an independent judiciary; the country had a population of approximately 4.4 million. In November 2003 former president Shevardnadze resigned, culminating what became known as the Rose Revolution. In January 2004 Mikheil Saakashvili won the presidency by over 90 percent in elections; his National Movement Party won a majority of seats in the parliament in March 2004. International observers determined that the January presidential elections and the March parliamentary elections represented significant progress over previous elections and brought the country closer to meeting international standards, although several irregularities were noted. The civilian authorities generally maintained effective control of the security forces.

De facto authorities in the separatist Abkhazia and South Ossetia regions remained outside the control of the central government; ceasefires were in effect in both areas, although incidents of violence, including deaths, occurred in both areas.

The government's human rights record improved in some areas in during the year, although serious problems remained. The following human rights problems were reported:

- law enforcement officers tortured, beat, and otherwise abused detainees
- inhumane and life-threatening prison conditions
- corruption and impunity in law enforcement
- arbitrary arrest and detention
- lack of judicial independence
- interference with citizens' right to privacy
- government pressure on the media
- discrimination and harassment against some religious minorities
- violence and discrimination against women
- trafficking in persons

During the year the government took steps to improve the human rights situation. The activities of a monitoring council, amendments to the law, and increased investigation and prosecution of alleged abusers reduced the amount of abuse and ill-treatment in pretrial detention facilities. The status of religious freedom improved through increased investigation and prosecution of harassers of nontraditional faiths.

During the year de facto authorities in the separatist region of Abkhazia restricted the rights of citizens to vote and to participate in the political process by introducing a new citizenship law that forced ethnic Georgians to give up their Georgian citizenship. They also failed to set up a human rights office in Gali. In both Abkhazia and separatist South Ossetia, deprivation of life, arbitrary arrest, and detention were problems.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings. There were reports of arbitrary and unlawful killings in the separatist areas of South Ossetia and Abkhazia, areas not under government control.

In December 2004 police officer Roland Minadze's conviction on charges of falsification and fabrication of evidence in connection with the beating and subsequent death of Khvicha Kvirikashvili was overturned and returned to court for reinvestigation. The prosecutor's office resubmitted the case to the court, seeking a higher sentence due to aggravating circumstances.

Despite ceasefires, killings were committed by elements on both sides of the separatist conflict in South Ossetia. In May four Ossetians and one Georgian police offi-

cer were killed in a shootout near the village of Tamareshini. In December the remains of four Georgian men kidnapped from their village on June 6 were returned to Georgia from South Ossetia. In October Givi Chukhrukhidze died from gunshot wounds suffered when armed men attacked his home in the conflict zone. None of these deaths were investigated, prosecuted, or punished by the de facto authorities.

Partisan violence continued in Abkhazia. Early in the year an armed group attacked the village of Ganmukhir near the Abkhaz-Georgian administrative zone and also killed a Georgian policeman at a checkpoint in the zone. In March an armed gang attacked a family in the village of Otobaia and killed Meri Jalagonia and beat the rest of the family. In April near the village of Gumurishi, Lasha Rigvava was killed in an incident involving Russian peacekeeping forces. In May near the village of Dikhazurga, Abkhaz militants killed Tsiuri Margania.

Both government and Abkhaz forces laid tens of thousands of landmines during the 1992–93 fighting. In November two separate antitank landmine incidents at a mandarin plantation in the Abhaz-Georgian conflict zone resulted in one death and four injuries. An investigation by the UN Observer Mission in Georgia (UNOMIG) concluded that the mines were recently laid to deter workers and disrupt the harvest. Abkhaz police subsequently arrested Vakhtang Dzandzava on suspicion of planting a mine. In June in South Ossetia, a mine explosion injured a Russian peacekeeper and two Georgian police officers searching for Gogi Kakhniashvili, a missing Georgian who was also believed to have died in a mine explosion.

b. Disappearance.—There were no reports of politically motivated disappearances perpetrated by the government. However, conflict-related disappearances and kidnappings occurred during the year in the separatist regions (see section 1.g.) of both Abkhazia and South Ossetia, and were frequent. In May in the South Ossetian village of Avnevi, armed men detained two observers of the Organization for Security and Cooperation in Europe (OSCE) mission who were later released. In July Gocha Djaremlishvili was kidnapped from Artsevi village; his whereabouts remained unknown at year's end.

In May Abkhaz militants kidnapped three men from Nabakevi village who were later released. At least a dozen other kidnappings for ransoms were reported in Abkhazia by year's end.

The Abkhaz began forcefully conscripting young male ethnic Georgians living in the Gali region of Abkhazia into the army. More than 50 were reportedly forcefully taken. The local military authority was reportedly accepting $100 (180 GEL) to "delay" conscription and $1,500 (2,700 GEL) for return of those already taken.

Kidnapping for ransom decreased significantly elsewhere in the country. The Ministry of Internal Affairs (MOIA) reported 88 cases of kidnapping during the year and stated that investigations had resulted in charges in 84 of these cases.

Government and Abkhaz commissions on missing persons reported that more than one thousand Georgians and several hundred Abkhaz remained missing as a result of the 1992–94 war in Abkhazia (see section 1.g.). The International Committee of the Red Cross (ICRC) assisted joint official efforts to fulfill the country's obligations under international humanitarian law to provide answers to the families of missing persons. This included the determination of gravesite locations, the exhumation, identification, and repatriation of remains to the families. No repatriations occurred during the year.

At year's end the whereabouts of Chechen refugee Adam Talalov, who disappeared in 2003 from the Pankisi Gorge, remained unknown, and no developments were expected in the case.

The investigation into the kidnapping and release of three UN military observers in 2003 in the Kodori Valley in Abkhazia continued at year's end. No developments were expected in the investigation.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, although they occurred.

The government took significant actions during the year to address torture and ill treatment. Positive steps included: extensive monitoring of pretrial detention facilities in Tbilisi and nongovernmental organizations (NGO) monitoring of police stations; amendments to the law to bring the definition of torture in line with international standards, providing longer imprisonment and suspension from public office for abuse by officials; amendments to the criminal procedure code to discourage abuse (the new law requires that confessions given by detainees during their detention must be ratified in court before being admissible as evidence); and increased general prosecutor activity to investigate and prosecute abusers (see section 1.d.). Serious abuses and police misconduct, such as the fabrication or planting of evidence, reportedly decreased.

The general prosecutor was in charge of investigations into allegations of torture and ill treatment. Prosecutors were required to investigate police use of force when a detainee with injuries sustained during arrest was registered. If they concluded that charges were not warranted, the decision could be appealed to a higher level of the general prosecutor's office. NGOs reported that investigations usually substantiated the reasonable use of force by police. Any person subjected to abuse was able to pursue a civil action against the abuser in a civil action.

According to the NGO Former Political Prisoners for Human Rights (FPPHR), however, the government failed to address hundreds of allegations of abuse stemming from 2004. The prosecutor general's office reported it launched investigations into some of these allegations, but asserted that the list of alleged abuses submitted by the NGO often lacked sufficient detail to launch investigations.

NGOs reported law enforcement officers continued to beat, torture, and otherwise abuse detainees during the year. According to information released by the Ministry of Justice (MOJ), in the first 6 months of the year, 23 percent of convicts had undergone physical violence at the hands of law enforcement officials, a 3 percent rise in comparison to the same period in 2004. Over a 10-day period in January, monitoring in pretrial detention facilities by the ombudsman's council confirmed that police violence against detainees was at a very high level; the council reported 15 cases of police physically abusing detainees in that period.

According to statistics from the MOIA's Human Rights Protection and Monitoring Division, of the approximately 8 thousand detainees held during the year, 1,360 (17 percent) were registered with injuries, 90 of whom claimed to have been beaten by police. According to the ombudsman's office, the monitoring group recorded 192 cases involving physical abuse between January and August.

In December 2004 the government created a monitoring council under the MOIA to visit detention facilities under the ministry's jurisdiction; members were NGO volunteers who work on torture chosen by the ombudsman's office. To address concerns about abuse in pretrial detention facilities, in April, the MOIA's Human Rights Protection and Monitoring Division was given oversight over all 67 pretrial detention facilities, and authorities created a new registration process for detainees brought to pretrial detention facilities. The registration process required that any indication of physical abuse be noted pursuant to a mandatory physical exam upon the detainee's arrival. Medical exams were also required, and any signs of abuse noted, anytime a detainee was moved to and from facilities. The MOIA's monitoring division was required to investigate all abuse cases. According to the head of the monitoring division, police were not permitted to enter pretrial detention facilities unless they obtained permission from him.

As of November all law enforcement officers and representatives of the prosecutor's office, except for officers of the special police unit, were required to wear identity badges during meetings with detainees and prisoners; the special police unit was exempted to protect members' anonymity. NGOs believed this prevented accountability for any abuse by the unit.

Human rights advocates reported that due to unannounced and random monitoring of police stations, allegations of abuse by law enforcement officials at police stations decreased substantially over the course of the year. NGOs agreed that monitoring effectively reduced abuse in pretrial detention facilities—since January the number of cases of abuse in the pretrial facilities decreased—although they reported a considerable increase in the number of detainees registered with signs of abuse upon arrival at police stations or pretrial facilities. Amnesty International (AI), other NGOs, and the ombudsman's office reported a large number of cases in which a detainee reportedly sustained injuries resulting from police ill treatment during arrest. The police claimed injuries were either preexisting or the result of detainee resistance.

Detainees were reportedly tortured or abused in cars while being taken to a place of detention, in police stations, and in the MOIA. One detainee alleged he was abused during a remand hearing. There were also allegations that several people were attacked on the street by plainclothes security service agents or taken to unpopulated places such as cemeteries or forests and abused.

During the year there were several cases of police officers brought to trial, dismissed, or demoted for abuses; however, impunity remained a problem, particularly in outlying regions (see section 1.d.). NGOs claimed that close ties between the prosecutor general's office and the police hindered their ability to substantiate police misconduct, and believed the continuing lack of professionalism and independence of the judiciary made it unresponsive to torture allegations. As a result, despite positive reforms, NGOs claimed law enforcement officials could still resort to torture or ill treatment with limited risk of exposure or punishment. NGOs also believed

a lack of adequate training for law enforcement, as well as low public awareness of the new protections afforded citizens, impeded improvements.

There were still significant obstacles to bringing all cases of torture and ill treatment to light. NGOs reported victims often did not report abuse, fearing police retribution against them or their families. According to AI, the ombudsman's office was aware of several cases of apparent abuse, but detainees—who had visible injuries—later refused to report abuse or withdrew their earlier complaint. In May representatives from the ombudsman's monitoring group were present when an individual arrived at a pretrial detention facility with injuries. The representatives interviewed him, made a record of his injuries, and forwarded the case to the general prosecutor's office for investigation. According to his lawyer, the man then refused to cooperate in the investigation, fearing there would be retaliation against his family.

In April prisoner Eldar Konenishvili was held in Prison No.1 and then taken to Gurdzhani police station where police beat and threatened him. Konenishvili could identify all his attackers, but a police officer accused of abusing Konenishvili was not suspended from duty. An investigation continued at year's end.

The investigation into the April 2004 alleged torture of Sulkhan Molashvili while in pretrial detention continued at year's end. In September Molashvili was sentenced to nine years' imprisonment for abuse of power and misappropriation of money; an appeal was pending at year's end. A filing by Molashvili's attorneys at the European Court of Human Rights in Strasbourg alleging the case against Molashivili was politically motivated was also still pending. Citing fear of retribution to his family, Molashvili did not report his alleged torture until July 2004. After a press conference by Nana Kakabadze of the FPPHR regarding Molashvili's treatment, he was transferred to a cell which the Council of Europe reported lacked light or functioning sanitary facilities.

No charges were brought against suspects in the investigation into allegations that police subjected Irakli Tushishvili to electric shock in MOIA custody. Tushishvili was reportedly released in 2003.

There were no known developments in the criminal proceedings against two police officers for extortion and physical abuse of 15-year-old D. Asaturov and his family.

Criminal agents within the prison population allegedly committed abuses against prisoners in pretrial detention facilities.

In November in the village of Pichori in the Gali region, Abkhaz police detained and then abused Temuri and Giorgi Morogoshias; they were later released.

Prison and Detention Center Conditions.—The ombudsman and NGOs agreed that prison conditions remained poor, did not meet international standards, and may have worsened during the year. The UN, the ICRC, and many NGOs, including Human Rights Watch (HRW) continued to report inhumane and life-threatening prison conditions, including poor facilities, overcrowding, inadequate nutrition and health care, and the influence of criminal gangs. Most prison facilities lacked basic utilities and sanitary facilities. Abuse and extortion of prisoners and detainees by prison staff continued.

The December transfer of some of the prison population to a new 1,500 inmate prison in Kutaisi eased overcrowding in the region's prisons. A riot broke out among those prisoners transferred to the new prison, however, because water and electricity were not functioning when the prison opened. Services were operational within a week.

Conditions at pretrial detention facilities remained poor. During the year, however, the MOIA refurbished a facility in Tbilisi, installing new electric and heating systems.

A June parliamentary committee visit to Batumi Prison No. 3 found it at double its capacity. In one instance, 37 prisoners shared a cell intended for 12. Prisoners suffering from tuberculosis or hepatitis-C shared cells with healthy inmates.

The Thieves-in-Law, a powerful network of organized crime gangs, was prevalent in all prisons and routinely extorted payments called *obshiak* from fellow prisoners that were in turn used to bribe prison officials and judges. In the Gugeti prison colonies, prison officials refused to patrol at night for fear of assault from the Thieves. NGOs reported that many prisoners sought placement in punishment isolation cells in spite of their deplorable conditions, to evade the Thieves' influence. According to the ombudsman's office, refusal to cooperate with gangs provoked physical and psychological intimidation.

Payment of guards and prison staff salaries became more regular during the year, which reportedly decreased corruption. However, in June mounting NGO and ombudsman pressure culminated in the criminal investigation of Shota Kopadze, director of the penitentiary department of the MOJ, for alleged collaboration with the Thieves to extort and abuse prisoners; the ombudsman's office accused Kopadze of extorting over $166 thousand (300 thousand GEL) *obshiak* from prisoners monthly.

The ministry refused to dismiss Kopadze, although two prison administrators were subsequently arrested—one for extorting a bribe from a detainee's relative, and the other following an incident in which ombudsman and general prosecutor officials were harassed during a monitoring visit to the detention facility under his supervision. On December 22, President Saakashvili fired and replaced Kopadze with Deputy Public Defender Bacho Akhalaia.

NGOs reported violence among prisoners continued during the year.

The prison mortality rate reportedly improved, although human rights NGOs reported authorities kept official rates artificially low by releasing terminally ill prisoners or hospitalizing dying prisoners. Observers claimed deaths of prisoners without families usually went unreported. During the year there were 44 registered deaths in prison. In July Albert Zasaev committed suicide in Geguti prison. In October Zurab Tsintsadze committed suicide in Jail No. 9 in Khoni. In November the body of Paata Mamulia was found in the basement of Jail No. 1; another inmate was accused of killing Mamulia in a fight.

Attempted suicides and self-mutilation occurred in prisons as protests against declining prison conditions and human rights violations. There were also sporadic hunger strikes by prisoners to protest poor conditions, visitor limitations, and the perceived arbitrary parole policy of the government.

The MOJ penitentiary system monitoring council condemned the return of inmates from hospitals to prisons without required medical checks and requested investigations.

Following the September deaths of two inmates from airborne meningitis, NGOs and inmates' families expressed concern about the spread of the disease. Prison doctors claimed the prisoners were infected with a progressive neurological infection rather than meningitis. Local NGO Liberty Institute reported one of the inmates was transferred out of the hospital due to lack of resources for treatment; his family was prepared to cover costs but was uninformed of his transfer. An investigation into the incident continued at year's end.

After the deaths, 55 hospitalized inmates were transferred back to their prisons. However, NGO and media involvement resulted in the return of 25 inmates to the hospital. The ombudsman's office submitted a complaint with the general prosecutor's office regarding this incident.

The MOIA reported that no deaths occurred in pretrial detention facilities during the year. NGOs, however, reported that Giorgi Jhvania attempted suicide by hitting his head with a heavy object while being held in Zugdidi.

Juveniles were held in separate facilities; however, juveniles were rarely separated from other inmates in MOIA temporary detention facilities. Pretrial detainees were often kept with convicted prisoners due to overcrowding. For example the UN International Children's Fund (UNICEF) reported the pretrial detention of 17-year-old Aleko Kamushadze, who was held for eight months in cell with 30 men-among them convicted murderers and rapists.

NGOs reported that at least four prisoners were held in prison longer than their sentence required.

The ICRC had full access to detention facilities, including those in Abkhazia and South Ossetia, and the OSCE reported no serious problems in obtaining access to prisoners or detainees. The prosecutor office's human rights unit enjoyed free access to prisons to monitor conditions. Local human rights groups and members of the prison monitoring council reported sporadic difficulty in visiting detainees, particularly in cases with political overtones.

In November the justice minister announced the abolition of the monitoring board of civil society and NGO representatives. Board members called this action illegal and continued working through year's end. Board members had the right to pay unannounced visits to any prison facility. Only about 4 or 5 of the 20 monitoring board members were reportedly active, and prisoners were reluctant to speak with the monitors for fear of retribution. Monitors were not allowed to bring audio or video equipment with them to prisons to document prisoner injuries or specific objectionable prison conditions. An NGO monitoring board member noted that, in contrast to monitoring at police stations during initial questioning and detention, the monitoring of prisons was ineffective.

The UN expressed concern over the conditions of pretrial detainees and convicted prisoners in Abkhazia, including female prisoners, and especially the conditions on death row. In South Ossetia, the UN expressed concerns about detention conditions after visits to Tskhinvali Prison and the detention facility of the de facto Ministry of Interior.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government did not always observe these prohibitions.

Role of the Police and Security Apparatus.—The Ministry of Police and Public Order (MPPO) had primary responsibility for law enforcement. Since its creation out of a merger of ministries in December 2004, the MPPO continued to be commonly referred to as the Ministry of Internal Affairs (MOIA). During times of internal disorder the government may call on the MOIA or the military. The ministry controls the police, which are divided into functional departments as well as a separate, independently funded police protection department that provides security and protection to private businesses. During the year the MOIA abandoned its plan to reorganize the remaining three thousand lightly armed internal troops into a gendarmerie.

Public confidence in the police continued to increase during the year due to a reduction in corruption. A significant rise in the salary of police officers as well as regular payment of these salaries provided an incentive to police officers to refrain from ill treatment or abuse of detainees so as to not jeopardize their jobs. In April the patrol police, which was reformed in 2004, expanded its training.

Police officers were arrested or administratively disciplined in high-profile cases of physical abuse or deaths in custody. However, NGOs believed that the failure of the MOIA and the general prosecutor's office to systematically conduct investigations and pursue convictions of alleged abusers continued to foster a long-standing culture of impunity, particularly in regions outside Tbilisi.

In general officers were held accountable for abuses only in extreme cases, and the law limited detainees' ability to substantiate claims of such abuses (see section 1.e.). Many observers claimed that prosecutors were frequently reluctant to open a criminal case against police or they closed a case for lack of evidence. Human rights NGOs also believed that many instances of abuse went unreported by victims due to fear of reprisals or lack of confidence in the system.

According to the General Prosecutor's Office's Human Rights Protection Unit as of November, 188 criminal cases concerned with alleged ill treatment, abuse, or torture by law enforcement officers had been opened. Charges were brought against 25 law enforcement officers. At year's end 10 officers were serving prison terms for convictions made since the Rose Revolution.

The General Prosecutor's Office's Human Rights Protection Unit began issuing updates on the status of cases, trials, and investigations of human rights violations.

On May 5, Sergo Chachibaia, the former head of the Samgrelo criminal police, and Merab Tsaava, senior inspector of the Samgrelo organized crime unit, as well as three Samgrelo police officers, Rozman Gogenia, Ruben Kalandia, and Jemal Isoria, were convicted on various charges including repeated abuse of authority with the use of violence or a weapon, degradation of the personal dignity of a victim, and intentional unlawful arrest or detention. Chachibaia was sentenced to seven years, Tsaava to four years, and the three police officers each to three years' imprisonment.

On May 27, Senior Inspector K. Kesauri was sentenced to five years' imprisonment after being convicted for abuse of authority and intentional injury. On May 26, three police officers were convicted of repeated abuse of authority with the use of a weapon, degradation of personal dignity of a victim, and intentional injury; Gogi Kharebava was sentenced to five years' imprisonment. Ilia Nachkebia and Paata Jgharkava were sentenced to four years' imprisonment.

On May 31, Levan Levidze, the senior inspector in the MOIA criminal search agency was found guilty of abuse of authority and forgery and sentenced to six years' imprisonment. The prosecutor appealed the case and requested that Levidze be sentenced to eight years in prison.

Arrest and Detention.—Under new legislation adopted in April, a person can only be arrested upon sufficient evidence and with a warrant. Judges issued warrants and detention orders; they could be obtained post facto and usually were. In practice police continued to detain people without warrants and to plant drugs or weapons in order to make an arrest. The prosecutor's office is the only body authorized to engage directly with the courts; previously, the MOIA could pressure judges into granting applications for wiretaps, search warrants, and arrest warrants.

The law provides for detainees to be charged within 72 hours, and those not charged within this period must be released; these rights were not fully observed in practice.

Under the April legislation, bail was introduced and is now preferred to pretrial detention. Before April bail was rarely used due to fear by judges of being subject to bribery accusations.

A detainee has the right to demand immediate access to a lawyer and the right to refuse to make a statement in the absence of counsel; an indigent defendant has the right to counsel provided at public expense. According to the law, the defendant's attorney is appointed by the judge, although the defendant may move for a

change in counsel. In reality the attorney selected to represent a defendant reportedly often only represented the state's interests. Also, prosecutors have more input into the process than they were legally allowed. Local police authorities limited lawyers' access to detainees. In practice there were not enough attorneys for the indigent (see section 1.e.). Due to supply and demand, defendants did not always receive an attorney. A pilot project set up two public defender's offices in the country. Attorneys were provided at public expense in these areas, which included Tbilisi.

Officers must notify detainees' families of their location as soon as possible; these rights were not fully observed in practice, and authorities frequently did not permit detainees to contact their families.

Monitoring by the ombudsman revealed that many detainees out of a group interviewed in August were not informed of their rights.

On August 15, the Shida Kartli regional police and prosecutor's office detained 12 individuals suspected of illegal firearms possession for 12 hours and prevented access by lawyers and an ombudsman representative. NGO intervention resulted in the release of six although the police only officially registered four of the detainees.

There were no reports of political detainees.

Pretrial detention and house arrest are among six possible preventive measures to ensure suspects will appear at trial. Before new legislation was passed in April, three-month pretrial detention was always imposed, which could have been extended by three-month intervals up to nine months. In practice suspects were detained in pretrial detention much longer than legally permitted. The maximum pretrial detention period was also reduced by the new legislation from nine to four months. Decisions to remand or to prolong any pretrial detention must be appealed to a higher court. Under the new legislation, the overall maximum time period for trial and exhaustion of appeals to be completed was reduced from 30 to 12 months.

The UN noted that early in the year courts and prosecutors almost exclusively resorted to long pretrial detention regardless of the gravity of accused offense.

Abuse during pretrial detention decreased, while incidents of police abuse inflicted during arrest reportedly increased (see section 1.c.). In regions outside Tbilisi, abuse in pretrial detention facilities continued due to less frequent monitoring of pretrial detention facilities.

Abkhazian militia arrested at least a dozen Georgians in the administrative border region on charges of illegal woodcutting. Abkhaz authorities reportedly demanded $5 thousand each (9 thousand GEL) in return for their release. The men were still in custody at year's end.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, but the executive branch and powerful outside interests continued to pressure judicial authorities. Many NGOs complained that judicial authorities increasingly acted as a rubber stamp for prosecutors' decisions and that the executive branch exerted undue influence. NGOs expressed concerns that recent judicial appointees lacked experience and training to act independently. Moreover, the presence of presidential and executive branch appointees, as well as the prosecutor general, on the High Council of Justice (HCOJ), which among other things has the power to initiate disciplinary actions against a judge, had a crippling effect on judicial independence. 2004 constitutional amendments empowered the president to appoint or dismiss judges without parliamentary or other confirmation, severely limiting the independence of an already weak judiciary.

Reports of prosecutors directing investigations, supervising some judicial functions, and exerting disproportionate influence over judicial decisions decreased, although prosecutors continued to pressure judges for favorable rulings. According to April legislation, all defendants must now confirm in court any statements given while in pretrial detention; otherwise, the statements will not be accepted as evidence. NGOs reported that the amendment had little impact, due to either a detainee's fear of reprisal if a confession was not ratified in court or to the lack of public awareness of this protection.

Detainees were physically pressured in order to force them to extract information incriminating others.

In August Irakli Sioridze, a court officer of the MOJ, was detained on charges of exceeding authority. During an hour-long interrogation, several law enforcement officers reportedly beat and kicked him severely in order to force him to give incriminating evidence against Giorgi Usupashvili. According to Sioridze, the officers wanted him to sign a statement saying that Usupashvili had misappropriated $111 thousand (200 thousand GEL). An investigation was opened into the abuse allegations. At year's end Sioridze was held in pretrial detention awaiting trial.

A July amendment to the criminal code increased the vulnerability of witnesses to improper police pressure. The amendment proscribes penalties of up to five years in prison for witnesses who change or retract their original statements to police.

NGOs believed this made witnesses less likely to amend initial statements provided under police pressure to suit the police's interests.

According to law, the HCOJ is a self-governing body representing the judiciary that acts as an advisory body to the president, addressing issues affecting the judiciary's ability to function and administer justice efficiently. The council had 12 members, 4 chosen from within each branch of government. In December an amendment was adopted (for implementation in 2006) to increase HCOJ membership from 12 to 18 members.

The HCOJ administered a three-tiered court system comprised of regional/city courts, appellate courts, supreme courts of autonomous republics (which serve as appellate courts in the relevant territorial units), and the Supreme Court. The system was reorganized pursuant to a July amendment to the law. At the lowest level are regional/city courts, which hear routine criminal, civil, and administrative law cases. At the next level are three appellate courts, which unlike their predecessors serve a purely appellate function. The Supreme Court acts as the court of final instance (or as a court of cassation); it no longer served additional functions.

A separate constitutional court arbitrates disputes between branches of government and rules on individual human rights violation claims; it generally demonstrated judicial independence. The power of constitutional review is vested solely in the constitutional court. The court interpreted its function in human rights cases narrowly, agreeing to rule only in cases in which human rights were violated as a result of specific articles of law.

Trial Procedures.—Defendants have the right to a public trial, but juries were not used. The new criminal procedure code will introduce jury trials for the first time for certain grave crimes in 2006.

Defendants have the right to be present at their trial and to consult with an attorney, although the right to consult with an attorney was limited in practice. When a person is detained and not formally charged (a suspect), the right of attorney consultation is limited to one hour. After a person is formally charged with a crime (a defendant), the right is not limited in this manner.

The state-controlled bar association went unfunded and was defunct at year's end, effectively eliminating the provision of attorneys for detainees unable to afford counsel (the association previously assigned attorneys to indigent defendants based on the prosecutor's office recommendation). NGOs reported that in serious cases in which the law required the accused to be represented by counsel, prosecutors have pooled their personal money to pay for a defense attorney in order to move the case along. In practice the prosecutor's office not only had control over state-appointed lawyers, but it also influenced whether to grant a defendant's request to change lawyers.

Defendants may question and confront witnesses against them and present witnesses and evidence on their own behalf at trial. Defendants and their attorneys have access to the prosecution's evidence relevant to their cases. In practice the prosecution may not provide the defense with information until the day before trial. Defendants are presumed innocent and have the right to appeal.

Under some provisions, defendants could be tried in absentia.

Many of these rights were not enforced effectively due to the lack of judicial independence and prosecutor pressure.

Defense counsel is not required to be present at pretrial hearings, and defendants and their attorneys regularly complained that they were not notified of scheduled hearings.

An April briefing paper issued by HRW criticized the new plea bargaining system, noting it allowed law enforcement officers to cover up allegations of torture. Defendants agreed to officials' versions of events in allegations of police abuse, in exchange for promises of a lighter penalty. Officials also allegedly negotiated liberty for cash payments. While the law instructs judges to ensure that plea bargain arrangements are not coerced, both NGOs and the HRW report note that judges have confirmed plea bargain agreements that effectively eliminated the possibility of pursuing torture allegations. Members of the diplomatic community, local lawyers, and NGOs criticized the system, noting the opportunities for abuse afforded by a lack of checks and balances in the justice system. In response to the April HRW briefing paper and a subsequent October open letter, the parliament was reviewing two amendments to the criminal procedure code. The first would void any plea agreement infringing on the right of a person in any case of torture, inhumane, or degrading treatment, and the second would require the courts to confirm there was no such treatment by the police.

Political Prisoners.—The parliamentary human rights committee and ombudsman claimed that there were no official political prisoners in the country; however, many

individuals, including several high-ranking officials from the previous government, considered themselves political prisoners. International and local human rights organizations varied on estimates of how many political prisoners there were, reporting from none to 20.

Members of the former paramilitary group Mkhendrioni and the Zviadists were reportedly no longer being held. The remaining Zviadists were released pursuant to a routine pardoning commission recommendation and presidential approval.

The government permitted international human rights and domestic organizations to visit those claiming to be political prisoners, and some organizations did so during the year.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Legislation prohibits such actions without court approval or legal necessity and also prohibits police from searching a residence or conducting undercover or monitoring operations without a warrant. NGOs reported that in practice police conducted searches and occasionally monitored private telephone conversations without first obtaining court orders; the police often obtained the necessary warrant after the fact. NGOs reported that most people were unaware of their right to postpone a search of their home by one hour in order to summon an objective third party witness for the search. The government stated that security police and tax authorities entered homes and workplaces without prior legal sanction.

In Abkhazia teenage boys were frequently taken from their homes allegedly for forced conscription in the Abhaz military. Some parents claimed that their sons were younger than 18 and thus too young for military service, while others claimed they paid ransoms for the release of their sons.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Separatist conflicts in the regions of Abkhazia and South Ossetia remained unresolved, although ceasefires were in effect. Commonwealth of Independent States peacekeeping forces (in effect Russian peacekeepers) were present in Abkhazia. Russian, Ossetian, and Georgian forces participated in a Joint Peace Keeping Force in South Ossetia. Incidents of violence occurred in both Abkhazia, particularly in the Gali region, and in South Ossetia. These conflicts and the problems associated with the approximately 230 thousand internally displaced persons (IDPs) from Abkhazia, 12,200 from South Ossetia, and 2,600 refugees from Chechnya posed a continued threat to national stability.

The government had no effective control over Abkhazia or South Ossetia during the year.

In September artillery shells were fired at an apartment building in Tskhinvali, South Ossetia, injuring 10 people; both sides denied responsibility, and a joint peacekeeping force investigation was inconclusive.

There was limited information on the human rights situation in Abkhazia and South Ossetia due to limited access to these regions. A human rights commission established by the unrecognized South Ossetian government was abolished in 2004 and replaced by a Plenipotentiary on Human Rights. Abkhaz de facto authorities continued to resist the establishment of a UNOMIG human rights office in Gali.

The situation in the Gali region of Abkhazia, where many ethnic Georgians live, remained tense as a result of incidents of kidnapping, arbitrary arrest, and deaths in custody. Systemic problems in the criminal justice system, in particular the failure to conduct impartial investigations and to bring alleged perpetrators to trial, sustained a climate of impunity. Partisan groups active in Abkhazia engaged in criminal activity and frequently took hostages to exchange for captured compatriots or ransom.

The new Abkhaz law on citizenship, which excludes the possibility of dual Abkhaz-Georgian citizenship, limited the rights of the ethnic Georgian population in Abkhazia.

In South Ossetia kidnapping was used reciprocally both as a way to secure release for captured compatriots and for ransom. In one instance, an ethnic Georgian child was kidnapped within the conflict zone and released after 99 days of captivity. A bounty was offered but went uncollected.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, there were some incidents of government obstruction.

In 2004 parliament adopted a law on freedom of speech and expression providing greater protection for journalists, including the right to protect sources, protection of whistleblowers, the right to conscientious abstention from story assignments, and the corresponding protection from persecution from their employing media establishment if a journalist declined to take an assignment. Additionally defamation as a

criminal offence was officially abolished. Journalists were also legally able to tape using hidden microphones.

There were approximately 200 independent newspapers in circulation. During the year the print media frequently criticized senior government officials; however, few editorially independent newspapers were commercially viable. Typically newspapers were subsidized by and subject to the influence of patrons in politics and business. In addition lack of financial resources limited their circulation. In August the government unveiled an anticorruption action plan which called for an end of all direct and covert subsidies to the media; by year's end no action was taken on the plan.

Following the 2004 privatizations, there were seven independent television stations in Tbilisi, three with national coverage—Public TV, Rustavi-2, and Imedi. An international NGO estimated that there were more than 45 regional television stations outside of Tbilisi, 17 of which offered daily news. A lack of advertising revenue often forced regional television to depend on local government officials for support.

Throughout the year newspapers continued to be critical of the government while broadcast media tended to avoid criticism of the government on high profile issues such as judicial reform, in order to protect their business interests. Some NGOs and independent analysts accused the government of pressuring the media to avoid broadcasting material critical of the government, especially regarding controversial or high profile issues.

Economic and political pressure on the media, in part encouraged by the general low profitability of media outlets, particularly of print media, resulted in decreased diversity of opinions and more coverage favorable to the government.

In June 79 domestic print and broadcast organizations issued an open letter addressed to the government and international community, which complained of government pressure on the media, especially television stations.

The international media were allowed to operate freely.

Despite new comprehensive laws providing for media freedom and journalist protection, journalists did not avail themselves of these protections and often were uninformed about them. NGOs believed that lack of experience and professionalism explained the media's apparent aversion to asserting their legal rights.

In July Mze TV canceled *Archevanis Zgvarze* (*On the Verge of Choice*), a popular television show often critical of government policy. The cancellation occurred shortly after an influential parliamentarian appeared on the show and criticized comments made by the program host. The government denied any connection with the cancellation.

In contrast to the previous year's absence of physical attacks, there were a number of physical attacks on media representatives, journalists, or their property.

In April a journalist from the newspaper *Imedi* in Kakheti alleged that Mikhail Kakalishvili, a member of the National Movement, assaulted her and forcefully destroyed a cassette. The journalist had earlier published stories critical of Member of Parliament (MP) Guram Kakalashvili, the brother of the alleged assailant. An investigation into the incident was pending at year's end.

In April journalist Saba Tsitsikashvili accused Mikheil Kareli, governor of the Shida Kartli region, of verbally and physically abusing him as he attempted to enter the village of Uplistsike to take photos of flood damage. On December 30, Tsitsikashvili filed suit against Kareli alleging illegal interference with the professional activities of a journalist. In a separate incident on September 6, Tsitsikashvili was attacked in Gori; he claimed the attack was retaliation for critical articles he wrote about the mayor of Gori. Police subsequently arrested the assailant, whom Tsitsikashvili identified in a line-up as a relative of one of the mayor's bodyguards.

Spektr, a newspaper in eastern Kakheti, alleged that copies of its newspapers disappeared from stores in April after it published articles critical of the local government; Kakheti officials denied any involvement. In June the editor of *Spektr*, Gela Mtivlishvili, accused Tengiz Benzhanishvili, the mayor of Signagi and the subject of a of series articles on corruption, of threatening her and her children.

In July unknown assailants threw a hand grenade that exploded in the yard of the newspaper *Spektr* editor. In November another grenade exploded in Mtivlishvili's yard. Local police closed an investigation into the harassment due to Mtivlishvili's reported unwillingness to cooperate with investigators.

In August hidden cameras captured Shalva Ramishvili accepting $30 thousand (54 thousand GEL) from Koba Bekauri, an MP and National Movement party member. Ramishvili was the co-owner and general director of Television Station 202, as well as host of *Debates*, the last remaining politically focused talk show at that time that was willing to feature figures that criticized the government. Police said Ramishvili was accused of extorting a total of $100 thousand (180 thousand GEL) from Bekauri in exchange for not broadcasting a compromising film about the MP. Ramishvili and 202 co-owner David Kokhreidze were both jailed; they claimed the

incident was a "sting operation" and part of a report on Bekauri's business dealings. The government hailed the arrests as part of its crackdown on corruption; a trial was pending at year's end.

On December 1, the governor of Imereti, Akaki Bobokhidze, reportedly severely beat journalist Irakli Imnaishvili after a televised debate. On December 7, a group of national journalists issued an appeal to the international community to persuade the government to open an investigation, which the prosecutor's office did by year's end. Bobkhidze submitted a letter of resignation but remained in office.

In December 2004 the State Monopoly Service of Georgia asked television stations Imedi and Kavkasia to suspend community announcements against the use of torture, sponsored by the European Commission and the FPPHR, a move allegedly to restrict public debate about police use of torture. The stations suspended the advertisements until late January, when, after meetings between all parties involved, the NGO received a letter from the monopoly service clarifying it did not ban the announcements, but recommended they not be aired. The community announcements were re-aired.

Self-censorship was still common as journalists feared losing their jobs.

A few journalists claimed they were denied access to public briefings. Radio Liberty's local bureau reported trouble interacting with the defense ministry. In September Koba Liklikadze, a defense affairs reporter for Radio Liberty, said he was denied an interview with a defense ministry official. According to Likikadze, defense ministry press secretary Nana Intskerveli said he was a "problematic journalist" and was no longer welcome at the defense ministry. Military expert and journalist Irakly Aladashvili also was denied access to the defense ministry. Liklikadze and Aldashvili were also both denied access to defense ministry press events hosted by foreign embassies. Journalists complained that it was difficult to obtain information from the MOIA as well as from state energy distribution companies.

Unlike the previous year, the government did not use financial pressure to influence media and there were no reports of harassment from state tax authorities.

Media in the separatist regions of South Ossetia and Abkhazia remained tightly restricted by their respective de facto governments.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the police were blamed in at least four instances for forcefully dispersing a peaceful protest.

The law requires political parties and other organizations to give prior notice and obtain permission from local authorities to assemble on a public thoroughfare. Most permits for assemblies were granted although the government has the legal right to disperse any assembly that is "a disruption of the public order;" no mechanism is designated to determine what constitutes such a disruption.

In February a protest by students objecting to the detention of the rector of the university in Akhaltsike was forcefully dispersed by law enforcement. Police detained the leaders of the protest. Later, the police declined to punish the protesters after the ombudsman's office intervened, declaring the government should be more patient towards peaceful meetings and assemblies.

On March 14, police dispersed a demonstration of medical students protesting the new law on higher education. Although students complained of excessive force, no injuries were reported.

On June 30, special forces disbursed a street demonstration in protest of a district court decision to put two well-known wrestlers accused of extortion into pretrial detention; opposition leaders in the crowd claimed injuries at the hands of special forces.

In August the patrol police used force to disperse a protest by residents of the western village of Chiatura who were seeking compensation for mining-related damage to their homes.

Reports indicated that activists beaten and apprehended in the 2004 protest of Zaza Ambroladze's detention served administrative detention and were subsequently released.

Reports indicated that all 11 persons violently beaten and detained by police in the 2004 Batumi central market protest served administrative detention and were released.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. Authorities granted permits for registration of associations without arbitrary restriction or discrimination.

c. Freedom of Religion.—The law provides for freedom of religion; however, in practice local authorities sometimes restricted or were hostile to the rights of members of nontraditional religious minority groups.

The law recognizes the special role of the Georgian Orthodox Church (GOC) in the country's history but stipulates the separation of church and state. A constitutional agreement (Concordat) signed by the president and the Georgian Orthodox patriarch gives the GOC legal status and states that, with the consent of the GOC, the government can issue permits or licenses for the use of official symbols and terminology of the GOC, as well as for the production, import, and distribution of worship articles. The tax code grants tax exemptions only for the GOC.

In December numerous MPs objected strongly to a report by the ombudsman calling for equal recognition under the law for all religions. The MPs stated that the historical position of the GOC justified its privileged position.

Before a registration process for religious groups was established by parliament in April, religious groups were required to register as public entities, but the law provided no mechanism for such registration and stipulated a fine for any unregistered religion. Religious groups may now register as local associations ("unions") or foundations. An association is based on membership (a minimum of 5 members is required), while a foundation involves one or more founders establishing a fund for furtherance of a certain cause for the benefit of the particular group or the general public. In both cases, registration is granted by the MOJ. Registration must be granted or denied within 15 days of application. Refusal may be appealed in court.

The MOJ approved the first applications filed under the new registration process. Both the Foundation of the Church of Jesus Christ of Latter Day Saints and the Seventh Day Adventists received their approvals in less time than the period allowed by law. Some religious communities were dissatisfied with the status that registering under the law provided. The Catholic Church and Armenian Apostolic Church as well as Muslims opposed registering, short of registering as a religious body, and continued to object to the GOC's preferred status.

In some cases local authorities declined to recognize the validity of building permits for minority religions.

While less harassment was reported during the year, representatives of minority religion continued to report intimidation from local government authorities and obstructions to constructing worship halls. The Catholic Church, True Orthodox Church, Baptists, Armenian Apostolic Church, and other Protestant denominations had difficulty in building churches during the year.

Reports of violence against minority religious groups continued to decrease, but several groups reported intimidation by local authorities as well as by citizens. They reported that the government, particularly law enforcement personnel, failed to respond adequately and sometimes even cooperated in attacks, which consequently became more aggressive. Investigations into attacks on followers of minority religions were not pursued vigorously.

In August a large and vocal protest at the Vatican embassy by a GOC parents group objecting to perceived proselytizing by the Catholic Church continued for two days. Police did not disperse the protesters even when objects were thrown at the embassy.

A law separating state schools and religious teaching was also adopted in April. This narrows the interpretation of the GOC Concordat regarding teaching Orthodoxy as an elective part of the school curriculum. The new law stated that such Orthodox teaching may only take place after school hours and cannot be controlled by the school or teachers. Also, outsiders, including clergy, cannot regularly attend or direct student extracurricular activities, student clubs, or their meetings. Such classes were taught by lay theologians rather than priests.

The Ministry of Education (MOE) offered students the opportunity to take a "Religion and Culture" class, which covered the history of major religions. Many parents complained teachers focused solely on the GOC. The GOC has a consultative role in all curriculum development, although there was no textbook for "Religion and Culture."

Religious minorities broadly welcomed the changes to school religious education, although they observed along with NGOs that practice did not always keep pace with the law.

On January 22, the MOE and the GOC patriarchate signed a joint memorandum reaffirming their cooperation in the field of education. The memorandum created a joint working group to develop curriculum, choose teachers, and publish material for teaching Orthodox Christianity. The MOE offered to assist the church financially in its education projects and institutions and to include the church in the development of new material for religious education. No other religious groups were afforded these privileges. This education was not part of school programs or extracurricular

activities, but was offered only upon request outside of schools, similar to "Sunday school."

The Roman Catholic Church and the Armenian Apostolic Church were unable to secure the return of churches closed or given to the GOC during the Soviet period. The Jewish community also experienced delays in the return of property confiscated during Soviet rule, including a former synagogue that a 2001 supreme court ruling instructed the government to return.

Societal Abuses and Discrimination.—Judaism is practiced in a number of communities throughout the country, particularly in the largest cities, Tbilisi and Kutaisi. There were approximately four thousand Jews remaining in the country; many emigrated in the early 1970s and during *perestroyka* in the late 1980s. The Jewish communities reported they encountered few societal problems. There was no historical pattern of anti-Semitism in the country, nor were there any reported incidents of harassment during the year.

Despite a general tolerance toward minority religious groups traditional to the country—including Catholics, Armenian Apostolic Christians, Jews, and Muslims—citizens remained very apprehensive towards Protestants and other nontraditional religions, which were seen as taking advantage of the populace's economic hardships by gaining membership through providing economic assistance to converts. Some members of the GOC and the public viewed non-Orthodox religious groups, particularly nontraditional groups or sects, as a threat to the national church and the country's cultural values and argued that foreign Christian missionaries should confine their activities to non-Christian areas. Reputable and repeated public opinion polls indicated that a majority of citizens believed minority or nontraditional religious groups were detrimental to the country and that prohibition and outright violence against such groups would be acceptable to control them.

On January 31, defrocked Orthodox priest Father Basil Mkalavishvili was sentenced to six years' imprisonment on a number of counts related to his inciting and conducting religiously motivated violence. His deputy Petre Ivanidze and follower Merab Koroshinadze were given four- and one-year prison terms, respectively; four others received suspended sentences. The criminal case against Mkalavishvili, whose followers engaged in a number of violent attacks on nontraditional religious minorities, had been under way since 2000.

The conservative Orthodox group Society of David the Builder became active in harassing liberal activists within the GOC.

In March neighbors of a Seventh-Day Adventists' worship hall in Rustavi threatened to burn it down if the Adventists held a planned conference. Police only agreed to prevent disruptions to the conference after NGO involvement. During the conference, however, a woman entered the church and verbally harassed the congregation. In a televised report about the incident, GOC priest Zurab Tskhovrebadze warned against Adventists and implied that the religion was un-Christian.

On April 1, members of the Jehovah's Witnesses requested permission to use the Tbilisi Sports Palace for a two-day religious convention for up to five thousand persons. On April 18, the management of the Sports Palace responded that they would only be willing to accommodate such a convention if Jehovah's Witnesses obtained a guarantee from the state to provide security. Private companies usually provide security for such events, and representatives of the Jehovah's Witnesses complained it was a discriminatory demand. Instead, the Jehovah's Witnesses held the conference on their own property in Marneuli without disturbance.

The Russian-language congregation led by Pentecostal pastor Nikolai Kalutsky was subject to many mob attacks, most recently blockades of attempted church services at his home in April. The police did little to protect his church or prosecute those responsible for the attacks. In May the constitutional court ruled that Kalutsky's rights to practice his faith freely were violated by attacks. The MOJ and ombudsman agreed to assist the congregation in finding a new building for services.

Also in May Gaioz Shvangiradze and Ia Bagatelia, leaders of a Pentecostal church that meets in a private home in Orsantia village in Zugdidi district, were summoned by the head of the village administration, Murman Khazalia. Khazalia demanded to see their identity documents and proof of their right to hold services (no such official document exists or is required). He banned services until they could produce the documents and threatened to call in the police and representatives of the GOC. When Khazalia stepped down from his position for health reasons, the services resumed.

In June renovations to a Jehovah's Witnesses' meeting house in Kutaisi were halted due to attacks by angry neighbors. Victims in the attacks filed criminal complaints with authorities. Police were initially unresponsive to calls from the Jehovah's Witnesses reporting the attack, but an investigation was under way and pending at year's end. These attacks were accompanied by specific verbal threats against

the Jehovah's Witnesses. Renovations to the meeting house were still halted at year's end. At about the same time as the attacks at the renovation site, the Jehovah's Witnesses were able to conduct a regular congress in the city without incident.

In October the prosecutor's office's monthly report on promoting human rights noted 11 investigations based on religiously motivated attacks, 3 of which were related to the June incidents in Kutaisi. One indictment was submitted to court.

Regular and reliable information about South Ossetia and Abkhazia was difficult to obtain. Former Abkhaz president Vladislav Ardzinba's 1995 decree banning Jehovah's Witnesses in the region remained in effect, but was not enforced. Although Baptists, Lutherans, and Catholics also reported they were allowed to operate in Abkhazia, the GOC reported it was not able to operate. The GOC patriarchate expressed concern over Russian Orthodox Church (ROC) support of separatism in the region by subsidizing Web sites that encourage secessionist sentiments. The GOC patriarchate also complained that despite the fact that the ROC recognizes Abkhazia as part of Georgia, the Moscow Theological Seminary trained Abkhaz priests and the ROC sent in priests loyal to Moscow, under the pretext of setting up indigenous Abkhaz churches.

Several property disputes between the GOC and the Armenian Apostolic Church continued at year's end.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Freedom of movement was restricted by the de facto authorities in the separatist regions of Abkhazia and South Ossetia. Police checkpoints often obstructed citizens' internal movement in these regions.

A new Abkhaz citizenship law allowed dual Russian-Abkhaz citizenship but not dual Georgian-Abkhaz citizenship. As a result, ethnic Georgians in the separatist region must relinquish their Georgian passport to vote or participate in the political process. If they want to travel abroad, ethnic Georgians then must obtain a Russian passport.

The law prohibits forced exile, and the government did not employ it.

In 1999 a presidential decree was issued to repatriate and rehabilitate approximately 275 thousand Meskhetian Turks relocated during the Soviet period. A governmental commission set up in March by the president worked to determine the exact number of displaced Meskhetians and consider potential places for repatriation in the country. The commission's chairman visited Armenian-populated areas in the Samaske-Javakheti region where most Meskhetians historically resided, although the Armenian community there opposed Meskhetian repatriation. There were no new repatriations during the year.

Abkhaz militia conducted searches of local populations and erected border checkpoints in the villages of Kvemo Bargebi in June, Nabakevi in November, and Zemo Bargebi in December. Money and valuables were extorted from ethnic Georgians on the pretext that they violated identity document requirements.

Internally Displaced Persons (IDPs).—There were approximately 245 thousand persons displaced at year's end due to conflicts in the separatist regions of Abkhazia and South Ossetia, as well as hostilities in Chechnya. IDPs occupied collective centers in hotels, hospitals, and other civil buildings in Tbilisi, or lived in private homes with relatives or friends throughout the country, particularly concentrated in Tbilisi, Zugdidi, and Gori. The UN High Commissioner for Refugees (UNHCR) reported that collective centers were not well adapted to serve as homes. In October the government provided housing vouchers based on the average market value of homes in the area to 126 IDPs housed in a Kutaisi hospital's tuberculosis ward in close proximity with patients. During the year a fire at a collective center killed one IDP.

The Abkhaz separatist regime continued to prevent repatriation of the approximately 230 thousand IDPs previously driven from the region, despite a 1994 agreement between itself, Georgia, Russian, and the UNHCR. Also, the Abkhaz de facto authorities did not allow the opening of a human rights office in Gali which would help build confidence for refugee return, despite an agreement to do so. The de facto South Ossetian authorities continued to obstruct repatriation of 12,767 ethnic Georgians to the region.

Protection of Refugees.—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided some protection

against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

There were over two thousand registered refugees from Chechnya in the country. Chechen refugees settled in the Pankisi Valley in the eastern part of the country. International humanitarian organizations assistance to refugees in the Pankisi Valley was sporadic. Chechen refugees remained vulnerable to abuse, including police harassment and threats of *refoulement*.

The majority of the Chechen refugees lived with the local Kist (ethnic Chechens from Georgia) population; only 15 percent were sheltered in communal centers. In December one hundred Chechen refugees returned to Chechnya.

According to the ombudsman's office, in March two Kists, both Russian citizens, went to the Ministry of Refugees and Housing in Tbilisi seeking asylum. The MOIA arrested them and transported them to the Azerbaijani border, where authorities reportedly refused them entry unless they agreed to return to Russia. The men spent several weeks in the neutral zone between the Georgian and Azerbaijani borders before returning to Georgia. The Ministry of Refugees and Housing eventually gave the two Kists asylum status.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections, held on the basis of universal suffrage. Irregularities in the November 2003 parliamentary elections led to peaceful mass protests, which resulted in former president Shevardnadze's resignation in November 2003. The supreme court subsequently annulled the results of the November 2003 parliamentary contests. In January 2004 Mikheil Saakashvili was elected president in the constitutionally mandated presidential election, and parliamentary elections were held in March of that year.

According to international observers and civil society groups, the February 2004 constitutional amendments that strengthened the power of the executive did so at the expense of the parliament and the judiciary.

A new Abkhaz citizenship law adopted in the fall did not allow dual Georgian-Abkhaz citizenship. As a result ethnic Georgians in the separatist region had to relinquish their Georgian passport to vote or participate in the political process. If they wanted to travel abroad, ethnic Georgians had to obtain a Russian passport.

Elections and Political Participation.—The OSCE reported that the January 2004 presidential election demonstrated notable progress, although time constraints limited administrative improvements since previous elections. The OSCE noted a continued lack of separation between state administration and political party structures and the tendency to misuse state administration resources. The voter register also continued to be incomplete and sometimes inaccurate. While the OSCE reported the voting process itself was excellent in the majority of regions, there were significant irregularities in Kvemo Kartli, and the worst irregularities were recorded in Ajara, where no pre-election registration was conducted and little to no campaigning occurred.

International observers deemed the March 2004 parliamentary elections the most democratic since independence, with voter registration procedures further improved, including the addition of a consolidated computerized database; however, there continued to be a lack of political balance and independence in election commissions. During the election, international observers noticed a number of irregularities, including campaign material on display in several polling stations, implausible voter turnout in certain regions, and an unusually high percentage of invalid votes. Significant voting irregularities again took place in Kvemo Kartli.

On October 1, parliamentary by-elections for five open seats were held and the ruling National Movement party won all five seats. Local NGOs, including the International Society for Fair Elections and Democracy (ISFED) (which had observers at all polling stations), considered the by-elections to be generally fair, despite continuing problems including inaccurate voter lists and a lack of tamper proof ballot boxes.

In April the government adopted a new law to address criticisms surrounding the composition of the Central Election Commission (CEC), the goal of which was to replace politically appointed CEC members with professionals. Previously, the CEC was staffed with political party members by quota, which led to its politicization. However, the new law does not define professionalism, how candidates will be screened, nor how a selection committee will be formed. NGOs and opposition groups criticized the law for purportedly consolidating power over the election proc-

ess in the hands of the president, who, according to the new law, appoints all members of the CEC selection commission. In June the new CEC chairman and members were confirmed by parliament. ISFED criticized the lack of transparency in the selection process and the ambiguity of the selection criteria. ISFED also noted that the government did little to publicize the competition for CEC members, rushed the selection process, and failed to define the criteria by which candidates were narrowed down or how many candidates were presented to the president. According to the law, the selection commission presents the president with two to five candidates for each vacant position. The president then chooses two candidates to nominate, after which parliament confirms one. Under the new law, only a simple majority is needed to confirm the CEC chairperson, as well as the other CEC members.

International organizations, including the UN and the OSCE, as well as the government did not recognize the October 2004 Abkhaz presidential elections or the repeat presidential elections in January.

There were no government restrictions on political party formation beyond registration requirements; according to the MOJ Registration and Licensing Department, there were 185 registered political parties. The government denied the Republican Party's registration to participate in the October by-elections. The party claimed the CEC had improperly prevented the party's participation in the by-elections, while the CEC claimed the Republican Party failed to properly complete the registration process. The CEC further noted that all other opposition parties had complied with the registration process.

An investigation into a July violent attack on opposition MP Valeri Gelashvili in Tbilisi continued. Armed and masked men attacked Gelashvili's car as he, his bodyguard, and a business associate were traveling on a main street during a weekday afternoon. Gelashvili was severely beaten in the face and head with gunstocks; the other two people in car were struck but did not require hospitalization. Opposition leaders and the media immediately speculated that the attack was politically motivated, since Gelashvili had been involved in a long running dispute with the government over being paid for work his construction company did on a new presidential residence; no valuables from the victims, nor the car itself, were taken to indicate robbery was a motivation.

There were 21 women in the 235-seat parliament. The speaker of parliament, Nino Burjanadze, was a woman. The majority head of parliament was also a woman, and women held important committee chairmanships.

There were 8 members of minority groups (5 Armenians and 3 Azeris) in the parliament.

Government Corruption and Transparency.—Government corruption continued to decrease in the executive branch, but remained widespread in the judicial branch and in some law enforcement agencies. During the year most government officials continued to receive salaries in a timely manner, reducing corruption significantly.

On June 28, the head of the Tbilisi city tax department and seven other officials were arrested on corruption charges. Minister of Finance Valeri Chechelashvili subsequently resigned on June 30 amid criticism from the president for weak oversight and control. In a 6-month period during the year, over 60 police officers were charged with corruption, in addition to 3 mayors and 6 prosecutors. The government fired 15 judges who were caught on videotape accepting bribes.

In August the State Minister for Reforms Coordination unveiled an anticorruption action plan, requiring elected officials to disclose their financial holdings; the action plan was not yet implemented by the end of the year.

The law provides for public access to government meetings and documents; however, the government usually did not provide access. The government often failed to register freedom of information act requests. Although the law states that a public agency shall release public information immediately or no later than 10 days from request, the release of requested information could be delayed indefinitely, and requests were sometimes ignored.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. While some NGOs enjoyed free access and close cooperation with the government, others complained of discrimination from government members.

The government maintained a constructive relationship with several NGOs, although it restricted government access to others.

A pre-Rose Revolution law providing for the Ministry of Finance to access the funding records of international NGOs was not adopted; no NGOs complained of the government implementing this provision.

The UNHCR and the OSCE operated sporadically in the separatist conflict areas due to poor security conditions but provided periodic findings, reports, and recommendations.

NGOs viewed the Office of the Public Defender, or ombudsman, as the most objective of the government's human rights bodies. The constitutionally mandated office monitored human rights conditions and investigated allegations of abuses. The parliamentary Committee on Human Rights and Civil Integration, the MOIA's human rights division, as well as the national security council's human rights advisor, also had a mandate to investigate claims of abuse. The prosecutor general office's human rights unit focused on curbing pretrial detention abuses and trafficking in persons. By statute the prosecutor general is charged with protection of human rights and fundamental freedoms—the human rights protection unit is the reporting and monitoring arm of the legal department and has no independent investigative powers.

In June an ombudsman official visited Prison No. 7 to interview a detainee who alleged abuse by prison administrators, accompanied by a general prosecutor representative, as is customary. During the visit, police forcibly confiscated a video camera, assaulted and locked both officials in a room, and damaged police property in an attempt to create evidence to show a provocation on the part of the ombudsman representative. As a result of a criminal case opened by the prosecutor general, the deputy director of the prison was arrested and the director of the prison was held in pretrial detention in his own prison. NGOs reported he still actively served as director, returning to his cell only when visitors were present.

The FPPHR was denied access to detention facilities. In December 2004 community announcements about police torture prepared by FPPHR were pulled from all television channels. Television representatives claimed that the advertisements were removed on the order of the Ministry of Security. The ministry claimed it merely gave a recommendation and left the choice to the channels (see section 2.a.).

The UNCHR office in Sukhumi continued to monitor the human rights climate in Abkhazia and to visit detention facilities in the region. Despite increasing concerns about the deteriorating situation in Gali, the de facto Abkhaz authorities continued to resist opening a UNOMIG human rights branch office in that area. In addition the de facto authorities still failed to implement UNOMIG's recommendations endorsed by the UN Security Council to permit education of local youth in their native Georgian language and to permit deployment of UNOMIG civilian police officers in the Gali area.

Section 5. Discrimination, Societal Abuse, and Trafficking in Persons

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not always enforce these provisions effectively.

Women.—Violence against women was a problem. There are no laws that specifically criminalize domestic violence. Domestic violence was reportedly one of the leading causes of divorce but was rarely reported or punished because of social taboos and because it is not illegal. In 2003, 795 crimes were registered against women. A local NGO operated a shelter for abused women, although services were limited due to a lack of facilities. The government operated a hot line for abused women but did not provide other services.

Rape, including spousal rape, is illegal. A first time offender may be imprisoned for up to 7 years; a repeat offender or perpetrator against multiple victims may receive up to 10 years; factors such as if the victim was pregnant, contracted HIV/AIDS, or subjected to extreme violence, demand up to 15 years; and if the victim was a minor, up to 20 years. The MOIA reported 141 cases of rape and attempted rape during the year. Observers believed many instances of rape went underreported due to social stigmas for victims. Police did not always investigate reports of rape. There was a hotline for victims.

The kidnapping of women for marriage occurred, particularly in rural areas, although the practice continued to decline. Such kidnappings often were arranged elopements; however, at times abductions occurred against the will of the intended bride and involved rape. Police rarely took action in these cases even though the law criminalizes kidnapping.

Prostitution is a criminal offense but was widespread, especially in Tbilisi. Several NGOs claimed that prostitution increased during the year due to continuing poor economic conditions.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment and violence against women in the workplace was a problem. The law prohibits sexual harassment; however, the government did not effectively enforce the law, and complaints were rarely investigated.

The law provides for the equality of men and women; however, in practice this was not enforced. NGOs reported that discrimination against women in the workplace exists but instances were never reported. The speaker of parliament set up a Gender Equity Council including MPs, as well as representatives from the executive branch, the ombudsman's office, and NGOs. A government commission on gender equality was established under the prime minister to implement relevant policies.

Women's access to the labor market improved; however, women remained primarily confined to low-paying and low-skilled positions, regardless of professional and academic qualifications, and salaries for women lagged behind those for men. As a result, many women sought employment abroad. According to the UN Development Program (UNDP), employers frequently withheld benefits connected to pregnancy and childbirth. Five servicewomen claimed they were discharged from the armed forces while on maternity leave, despite a law that prohibits dismissal from employment of pregnant women and women with children under the age of three. A lawsuit was filed in April and was pending at year's end.

Children.—The law provides for the protection of children's rights and welfare, although funding shortages limited government services.

Primary and basic education is compulsory from age 6 or 7 to age 14, and provided up to age 16 (a total of 11 years). UNICEF estimated primary school enrollment at 91 percent in 2003 and secondary school enrollment at 79 percent in 2002, and most children attended school. Education was officially free through high school, but in practice a lack of resources inhibited schools functioning continually and affected the quality of education in some areas. School facilities were inadequate and lacked heating, libraries, and blackboards. Most parents were obliged to pay some form of tuition or teachers' salaries, which otherwise went unpaid. However, many parents were unable to afford books and school supplies, and in some cases students were forced to drop out due to an inability or unwillingness to pay "tuition."

In June the MOE implemented a series of examinations to determine eligibility to enter university, in an effort to combat endemic bribery previously necessary to ensure acceptances, recommendations, and good grades. Officials believed up to $30 million (54 million GEL) were spent on bribes annually, more than the country's entire education budget. The exams were uniformly praised for eliminating rampant corruption in the university enrollment process. Parent-teacher supervisory boards were established at secondary schools, providing better oversight of school management.

Free health care was available for children up to age four.

There were some reports of child abuse, particularly of street children, although there was no societal pattern of such abuse. Child abuse other than sexual abuse is not specifically criminalized.

Incidents of sexual exploitation of children, especially among girls, were reported. Child prostitution and pornography are punishable by up to three years' imprisonment. The MOIA sponsored a center for the rehabilitation of minors, which regularly provided medical and psychological assistance to child and adolescent victims of prostitution before returning them to guardians.

There were unconfirmed reports of trafficking in children (see section 5, Trafficking). Street children and children living in orphanages were reportedly particularly vulnerable to trafficking.

Difficult economic conditions broke up some families and increased the number of street children. NGOs estimated that there were approximately 1,500 street children between 3 and 15 years old in the country, with 1,200 concentrated in Tbilisi, due to the inability of orphanages and the government to provide support. The private voluntary organization Child and Environment and the MOE each operated a shelter in Tbilisi; however, the two shelters could accommodate only a small number of street children. The government took little other action to assist street children. There were unconfirmed reports of police violence against street children, but the patrol police routinely transferred street children to a 24-hour care center or orphanage.

Orphanages were unable to provide adequate food, clothing, education, and medical care; facilities lacked heat, water, and electricity. Staff wages, which had been poor and often many months in arrears, were increased and paid on a more regular basis. Due to reported mismanagement of resources, staff members often diverted money and supplies provided to the orphanages for personal use.

In August the ombudsman's office reported that corrupt practices led to unsanitary conditions at the Gldani orphanage in Tbilisi. Management reportedly purchased inferior products and skimmed from employee salaries. Children lacked clothes, food, toothbrushes, blankets, and other necessities, and the first floor of the

orphanage was flooded due to plumbing problems. By year's end the orphanage had been repaired, but reports of financial mismanagement persisted.

Ongoing conflicts in Abkhazia and South Ossetia displaced thousands of children. In these regions UNICEF reported that health services were scant, immunization rates were lower than elsewhere in the country, schools were deteriorating, and malnutrition was a serious problem.

Trafficking in Persons.—Although the law prohibits trafficking in persons, the country was a source, transit point, and destination for trafficked persons. There was evidence that local officials facilitated trafficking.

The law prohibits trafficking in persons, including minors, for the purposes of sexual, labor, and other forms of exploitation. The basic penalty is from 5 to 12 years' imprisonment, with maximum penalties of 20 years for aggravated circumstances. A memorandum of understanding between the prosecutor general's office and the Ministry of State Security allowed greater cooperation, joint operations, and a number of arrests and charges under trafficking statutes. During the year there were 24 criminal investigations on trafficking in persons; charges were pressed in 11 cases. Eight cases were brought to trial resulting in six convictions.

On January 3, a new antitrafficking and illegal migration unit (ATIM) was created within the MOIA. In its first year of existence, the ATIM made arrests in five trafficking cases, one of which included a government official.

In January the new ATIM arrested Georgian members of an international trafficking operation, involving Georgia, Turkey, and Azerbaijan, which had actively recruited impoverished women. Women were sent to Azerbaijan where they were confined, injected with drugs, and sexually abused before being trafficked back through Georgia to Turkey for forced prostitution. Victims were eventually returned to Tbilisi after their Turkish tourist visas expired. The local leader of the operation was incarcerated pending prosecution, and the case continued at year's end.

Also in January the ATIM arrested an individual in connection with the internal trafficking and enslavement of Giorgi Brevadze. Brevadze, an engineer by education, was held by the Chikadua family in Svaneti for approximately a year and a half for forced labor and then sold to a cousin for $200 (360 GEL).

During the year MOIA representatives from the Department for Combating Trafficking and Illegal Migration detained Ivlita Djavakhishvili and Nanuli Kendadze, a maternity hospital employee, on charges of child trafficking. In Kutaisi, MOIA representatives detained Laura Obladze, Liana Kovzadze, and Zaira Areladze—also employees of local maternity hospitals—on charges of child trafficking. Investigations by the general prosecutor's office in both cases were under way at year's end.

Ashot Hovhannesian, charged in 2004 with organizing a trafficking network and seeking to traffic 14 Uzbek women to Dubai, was sentenced to five years' imprisonment. The sentence was suspended due to many victims' unwillingness to testify.

On February 1, President Saakashvili established an Interagency Commission against Trafficking (ICAT) under the auspices of the NSC. International organizations and NGOs were also invited to participate. The human rights unit of the NSC was responsible for monitoring the overall trafficking situation in the country. On November 29, the president appointed the prosecutor general to be ICAT chairman. The prosecutor's office has the responsibility to monitor trafficking cases.

The country cooperated with other countries in the region to uncover trafficking rings and assisted in the repatriation of trafficked persons discovered in transit through the country.

The extent of trafficking was not large, and the country was primarily a transit country, country of origin, and very rarely a destination, for trafficked persons. Women were trafficked from the country to Turkey, Greece, the United Arab Emirates, the US, and Western Europe to work in hotels, bars, restaurants, or as domestic help. Many worked in the adult entertainment sector or as prostitutes. There also was evidence that Ukrainian and Uzbek women, as well as women from other countries of the former Soviet Union, were trafficked through the country to Turkey, sometimes using fraudulently obtained passports. Georgian victims most likely came directly from Tbilisi or the impoverished former industrial centers of Poti, Kutaisi, and Rustavi. Local NGOs reported that men were trafficked to Russia, Greece, Spain, Portugal, and other destinations to work in construction, agriculture, and manual labor. Children were seldom trafficking victims, although street children and children living in orphanages were allegedly particularly vulnerable. During the year trafficking cases indicated IDPs were a particular target for traffickers. Conditions for trafficked laborers and prostitutes were extremely poor.

Traffickers were largely freelance domestic operators with connections abroad, as well as some small international operations.

Traffickers often used offers of employment from friends and families to lure potential victims. Overseas jobs offered through tourism firms or employment agencies

were also methods, but during the year it did not appear that employment agencies were aware that they were fronting for traffickers.

There was evidence of certain individual government officials' involvement in trafficking. In February two government officials, David Kobakhidze and Giorgi Amilakhvair, heads of the Ambrolauri and Zestponi passport agencies, were arrested and charged with misuse of authority, fraud, and facilitation of trafficking; an investigation continued at year's end.

The MOIA made numerous public statements that victims of trafficking would not be held liable for their crimes associated with having been trafficked, such as illegal border crossing, if they provided significant information about the crime of trafficking. No victims were prosecuted for violations committed while they were trafficked.

There were no government programs to help victims; however, the government referred victims to several NGOs that provided assistance to victims. The government also provided manpower and facilities to NGOs, although it did not contribute financial resources to victim assistance. The IOM provided repatriation assistance. One internationally funded NGO operated a trafficking hot line that offered psychological support and assistance, although only a small percentage of the callers identified themselves as trafficking victims. The IOM operated three hot lines.

The government did not conduct any large-scale public awareness campaigns during the year, although it cooperated with multiple NGOs which continued to provide informational brochures and local television public announcement campaigns.

A government action plan incorporated educational and informational activities, informational materials for the public on legitimate overseas employment, special training for target groups (including social workers, law enforcement officials, and judges), and a civic education curriculum.

Persons with Disabilities.—The law prohibited discrimination against persons with disabilities, although in practice the issue was a low priority for the government. Discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services was a problem, and societal discrimination against persons with disabilities existed. There is no law or official provision mandating access to buildings for persons with disabilities and very few, if any, public facilities or buildings were accessible.

In June a group of disabled children in wheelchairs were refused entry to a restaurant in Mtskheta. The children were offered admission to the restaurant after the intervention of the president's representative to the region (a position similar to a de facto governor or mayor). The general prosecutor and MOIA announced an investigation of the incident. NGOs reported no one was held accountable.

A report issued jointly by the ombudsman and the health minister found that conditions at the Gldani psychiatric hospital were substandard. The report's primary concerns included lack of proper equipment, medicine, and heat.

National/Racial/Ethnic Minorities.—The government generally respected the rights of ethnic minorities in nonconflict areas but limited self-government. The law stipulates that Georgian is the state language. Ethnic Armenians, Azeris, Greeks, Abkhaz, Ossetians, and Russians usually communicated in their native languages or in Russian. New requirements for serving on the CEC mandated that a candidate must speak Georgian, thereby effectively excluding many citizens who do not speak the language. Some government materials distributed to the public were only available in the Georgian language.

Ethnic Georgians living in the Gali region of Abkhazia had no access to education in the Georgian language.

In March in the Tsalka region, ethnic tensions flared after a violent attack upon a Greek family. The family claimed that police were unresponsive to the incident. Tsalka Greeks in general complained of persecution by Georgians resettled from Svaneti and Ajara, mostly manifested in robberies; while there was an ethnic dimension to the situation, it was difficult to ascertain whether ethnic or criminal factors were the key motivations behind these acts. Observers also noted that a lack of resources for adequate policing in the region contributed to the problem.

Other Societal Abuses and Discrimination.—The law expressly prohibits discrimination on the basis of HIV/AIDS status; however, there is no penalty for violating this prohibition. NGOs reported societal stigmas that resulted in individuals avoiding testing or obtaining health care for fear of discrimination. Some health care providers, especially dentists, often refused to provide services to HIV-positive persons. Individuals often concealed their HIV-positive status from employers for fear of losing their jobs. The MOIA conducted mandatory testing on all job applicants.

Section 6. Worker Rights

a. The Right of Association.—The law allows all workers, including government employees, to form and to join unions of their choice, and they did so in practice. However, there are certain restrictions with regard to law enforcement agencies and employees of the general prosecutor's office.

The principal union was the Georgian Trade Union Amalgamation (GTUA), which was the successor to the official Soviet labor union. The GTUA consisted of 31 sector unions and over 259 thousand unionized workers, 14 percent of the total workforce (1.8 million). There were two additional unions: the Free Trade Union of Teachers of Georgia Solidarity and the Independent Trade Union of Metropolitan Employees.

The GTUA inherited substantial real estate and other assets unrelated to the essential functions of a labor federation from its Soviet-era predecessor. During the year GTUA leaders claimed the government threatened them with prosecution to force a transfer of GTUA property to the government. The GTUA deputy claimed he was arrested and held without charge, but then was released when GTUA transferred its property to the government. Officially the transfer took place in compliance with the law, as it was based on the decision of the supervisory board. GTUA filed a complaint with the International Labor Organization (ILO). In response the ILO Committee on Freedom of Association invited the ILO Governing Body to approve a number of recommendations, including a request that the government return seized property to the trade unions, take measures to ensure the GTUA's appeal regarding its assets is heard, refrain from any interference in workers' organizations to elect their representation freely, and drop criminal charges against GTUA head Irakli Tugushi. The ILO Governing Body noted these recommendations at its session in November.

The law prohibits discrimination by employers against union members, and employers may be prosecuted for antiunion discrimination and forced to reinstate employees and pay back wages. Despite this provision the GTUA and its national unions reported frequent cases of management warning staff not to organize trade unions. Some workers, including teachers, employees of various mining, winemaking, pipeline, and port facilities, and the Tbilisi municipal government reportedly complained of being intimidated or threatened by employers—including their public sector employers—for union organizing activity. Observers also claimed that employers failed to transfer compulsory union dues, deducted from wages, to union bank accounts. The Ministry of Labor investigated some complaints but took no action against any employers.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference. Collective bargaining is recognized by law, and the law provides punitive measures against those who refuse to take part in negotiations. However, the government did not always protect this right in practice. The practice of collective bargaining was not widespread. The GTUA administered approximately 1,600 collective bargaining agreements. Prior poor management and leadership, plus a general unfamiliarity with the collective bargaining process, limited the scope of collective bargaining.

The law provides for the right to strike with some restrictions on certain agencies, and on strikes that could pose a threat to life. In general workers exercised their right to strike in accordance with the labor code; strikes must be sanctioned by the employer based on written notification provided three days in advance and a one-hour warning strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

In Abkhazia in August, the head of the village of Achigvara forced ethnic Georgians to work in the nut harvest. Bajuli Jgerenaia was severely beaten for protesting this forced labor. The head of Repi village in the Gali region of Abkhazia required villagers to pay him a tribute of 150 kg of nuts per family from their harvest. In Sheshleti village in Gali, the head of the village required inhabitants to pay him 1 kg of nuts per tree.

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace, but the government was not able to implement them effectively. The Ministry of Health, Social Service, and Labor is responsible for enforcing laws regulating child labor. The actual enforcement of these laws was questionable, although child labor was not considered a serious problem.

According to the law, the minimum age for employment of children is age 16. In exceptional cases, children may work with parental consent at ages 14 and 15. Chil-

dren under age 18 may not engage in unhealthy or underground work, and children 15 and over are subject to reduced working hours. The Labor Inspection Department at the Ministry of Health and Social Security was the only mechanism for monitoring enforcement of the minimum age requirement; however, the department was dissolved during the year. At year's end a small group of labor inspectors ensured compliance with the law by checking personnel records at organizations, because problems were not likely to be documented in official company records. The only organizations believed to strictly follow minimum age rules were the railroad and aviation departments.

Children were trafficked for sexual exploitation (see section 5).

e. Acceptable Conditions of Work.—The national minimum wage for public employees grew to $63.88 (115 GEL) a month, an increase stemming from reforms in tax and revenue collection, government downsizing, and anticorruption actions. However, the minimum wage still did not provide a decent standard of living for a worker and family. The official minimum subsistence level for a single person was $83.33 (150 GEL) and for a family of four $145.55 (262 GEL). The mandated minimum wage for private sector workers was $11.11 (20 GEL). The average wage in private enterprises was $81.66 (147 GEL) monthly; in state enterprises, $82.77 (149 GEL). Minimum monthly pensions doubled from $7.77 (14 GEL) to $15.55 (28 GEL). Unreported trade activities, assistance from family and friends, and the sale of homegrown agricultural products often supplemented salaries. The Ministry of Health and Social Security, previously called the Ministry of Health, Social Security and Labor, was responsible for enforcing the minimum wage. The GTUA had its own inspector to monitor compliance.

The old Soviet labor code, still in effect with some amendments, provides for a 41-hour workweek and for a weekly 24-hour rest period. Overtime work, as a rule, is not permitted, and can be applied only in exceptional cases; premium pay for overtime is required. Standards were not effectively observed.

The government set occupational health and safety standards. The Ministry of Health and Social Security is charged with monitoring implementation of health and safety standards. Enforcement was a problem; however, as the labor inspection department was dissolved. The law permits higher wages for hazardous work, and the law provides workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment. In practice these protections were rarely, if ever, enforced.

GERMANY

Germany is a constitutional parliamentary democracy with a population of approximately 82 million. Citizens periodically choose their representatives in free and fair multiparty elections; a national parliamentary election took place on September 18, resulting in almost equal representation for the two largest parties, the Christian Democratic Union/Christian Social Union and the Social Democratic Party of Germany, which agreed to form a grand coalition government. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- instances of ill-treatment of prisoners and detainees by police
- limits on freedom of speech, press, assembly, and association aimed at neo-Nazi groups
- government and societal discrimination against minority religious groups
- violence against women, instances of "honor" killings and forced marriages
- trafficking in persons
- harassment of foreigners and racial minorities

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

In the August 2004 case of a man who died shortly after arrest in Berlin, an investigation determined that death resulted from a ruptured spleen due to hepatitis. Both the Interior Committee of the Berlin State legislature and the Berlin Public

Prosecutor's Office determined that the Special Unit Commandos had performed their duties correctly.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and these prohibitions were generally followed. The government investigated a number of abuses committed in previous years and prosecuted police who mistreated persons in custody.

The investigation of abuse of a kidnapping suspect in 2004 by three Baden-Wuerttemberg police officers continued, with no new information reported. There were no known developments in the 2003 case of a Cologne police headquarters employee who struck a detainee or in the 2003 beating of Andre Heech in Frankfurt am Main.

There were the following developments in the 2004 case of mistreatment of army recruits in Coesfeld: Two Bundeswehr trainers were dismissed in March. In December a criminal division of the Muenster Regional Court found there was not sufficient evidence for opening a trial against 9 of the 18 Bundeswehr instructors indicted the previous June by the Muenster public prosecutor on charges of "maltreatment or degrading treatment of subordinates" during military training exercises. The court also ruled that the charge of degrading treatment be dropped against the remaining nine Bundeswehr instructors, whose trial was pending at year's end.

There were a number of violent attacks by right-wing groups on members of minority groups, foreigners, and political opponents (see section 5).

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers.

In January a detainee, who was an asylum seeker from Sierra Leone, died in a Saxon-Anhalt jail-cell fire. Police had placed ankle and wrist restraints on the man who appeared to be under the influence of alcohol and drugs and placed him in a holding cell "for his own safety." When the fire broke out, wardens failed to take action in time to save the detainee's life. A state investigation was pending at year's end.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The police forces are organized at the state level. The Federal Criminal Investigative Service has responsibilities regarding counterterrorism and international organized crime, coordinates crime suppression at the national and international level, and investigates certain limited cases of international crime as mandated by the law or the public prosecutor. Police forces in general were trained to a high professional level, disciplined, and mindful of citizens' rights. The government investigated abuses and prosecuted police who mistreated persons in custody. Allegations of corruption were rare.

Arrest and Detention.—An individual may be arrested only on the basis of a warrant issued by a competent judicial authority, unless the suspect is caught in the act of committing a crime or the police have strong reason to believe that the individual intends to commit a crime. Detainees should be allowed prompt access to lawyers and, if indigent, to one provided by the state. If there is evidence that a suspect might flee the country, police may detain that person for up to 24 hours pending a formal charge. An individual detained by police must be brought before a judge and charged within 24 hours of the arrest. The court then must issue an arrest warrant stating the grounds for detention or order the individual's release. These rights were generally respected.

Police may detain known or suspected radicals for brief periods when they believed such individuals intended to participate in illegal or unauthorized demonstrations (see section 2.b.). The rules governing this type of detention differ by state, with authorized periods of detention ranging from 1 to 14 days, provided judicial concurrence is given within 24 hours of initial detention. There were no reports of such detention during the year.

Although criminals cannot be punished twice for the same crime, the law allows "retroactive preventive detention" in cases involving such crimes as rape, homicide, or manslaughter, which permits courts to order that detention be continued after the sentence has been served. Such preventive detention requires a court finding that the convicted person could pose a danger to the public, based on at least one expert opinion. The detention could last indefinitely.

Bail exists but was employed infrequently; detainees usually were released unless there was clear danger of flight outside the country, in which case a person may be detained for the duration of the investigation and subsequent trial. Such deci-

sions are subject to regular judicial review, and time spent in investigative custody applies toward the sentence. In cases of acquittal, the government must compensate the individual.

There were no reports of political detainees.

In August the Federal Statistical Office reported that approximately 19 percent of prisoners were in pretrial detention. Statistics for 2003 in the former West German states and Berlin indicated that just under 20 percent of pretrial detainees had been held 6 months or more, while 32 percent had been held 1 month or less.

In September the Constitutional Court ruled that the right to a speedy trial had been violated in the case of a criminal suspect who had been in "investigative detention" since 1997. The man was suspected of having caused a gas explosion that killed six residents of an apartment building. The court ruled that the man should not have been detained because the state had no concrete evidence against him.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

Ordinary courts have jurisdiction in criminal and civil matters. There are three levels of such courts (local courts, regional courts, and the Federal Court of Justice), with appeals possible from lower to higher levels. In addition to the ordinary courts, there are four types of specialized courts: administrative, labor, social, and fiscal, each with an appellate process.

In addition the Federal Constitutional Court, the country's supreme court, reviews laws to ensure their compatibility with the constitution and adjudicates disputes between different branches of government on questions of competency. It may also hear and decide cases concerning the infringement of a person's basic constitutional rights by a public authority.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Court proceedings at times were delayed because of heavy caseloads. For simple or less serious cases, procedures exist for an accelerated hearing and summary punishment at the local court level. The maximum sentence for such cases is limited to one year. Generally, a one-year sentence was suspended with the individual placed on probation.

Trials are public and juries are not used. Cases are heard either by one judge, a panel of professional judges, or a mixed panel of professional and lay judges, depending on the severity of the charges. Defendants are required to be present and have the right to consult with an attorney in a timely manner. An attorney is provided at public expense if defendants demonstrate financial need. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. In addition defendants and their attorneys have access to government-held evidence relevant to their cases. They also enjoy a presumption of innocence and have a right of appeal.

There are no military, security, or other judicial systems.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and government authorities generally respected these prohibitions in practice; however, federal and state offices for the protection of the constitution (OPCs) may have infringed on the privacy of members of organizations under observation (see sections 2.b. and 2.c.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; while the government generally respected these rights, it did impose some limits.

In June the district court of Rotenburg (Wuemme) in Lower Saxony fined a Hamburg lawyer $1,920 (1,600 euros) for making inflammatory threats to a political opponent.

After six-and-a-half-years of proceedings, the district court in Stralsund sentenced the federal chairman of the National Democratic Party of Germany, Udo Voigt, to two years' probation after his conviction for sedition, arising from a 1998 campaign event at which he incited hatred against "established politicians."

Distribution of the propaganda of proscribed organizations is illegal, as are statements inciting racial hatred, endorsing Nazism, and denying the Holocaust. Apart from these limitations, an active independent media expressed a wide variety of views without government restriction.

According to media reports, in October then minister of the interior Otto Schily authorized a raid of offices of the periodical *Cicero* to search for classified government documents that allegedly had been leaked to the magazine. Authorities also searched the author's home, allegedly seizing files and documents that were beyond

the scope of the search warrant. Schily defended the raid in testimony to the Interior Committee, stating that freedom of the press did not extend as far as violation of laws protecting state secrets. The Interior Committee took no further action. *Cicero* magazine's appeal against the Potsdam court decision that authorized the raid was pending at year's end.

The law bans access to prohibited material (for example, child pornography and Nazi propaganda) on the Internet, and authorities sought to block Internet material considered dangerous. There were no further developments in the 2004 case regarding appeals in North-Rhine Westphalia of ordinances requiring Internet providers to block access to certain Web sites promoting right-wing extremism.

There were no government restrictions on academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice; however, outlawed organizations were not permitted to hold public assemblies. Permits must be obtained for open-air public rallies and marches, and state and local officials have the authority to deny such permits when public safety concerns arise or when outlawed organizations attempt to hold public assemblies.

Pursuant to newly implemented legislation that forbids the glorification of National Socialism, authorities banned the "traditional" August neo-Nazi march in Wunsiedel, honoring Rudolf Hess.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice; however, the law permits the banning of organizations whose activities are found to be illegal or opposed to the constitutional democratic order. While the Federal Constitutional Court is the only body that can outlaw political parties on these grounds, federal or state governments may do so for other organizations, which have the right to appeal. Banned organizations included a number of groups that authorities generally classified as extremist or criminal in nature.

Federal and state OPCs charged with examining possible threats to the constitutional democratic system maintained observation of several hundred organizations. Observation generally consisted of collecting information from written materials and firsthand accounts in order to assess the possible threat; OPCs could employ more intrusive methods, such as the use of undercover agents, subject to legal checks. While OPC monitoring by law may not interfere with the continued activities of any organization, the state OPCs published lists of organizations they monitored, which could affect activities of those organizations (see section 2.c.).

The Islamische Religionsgemeinschaft Hessen (IRH), Hesse State's largest Muslim umbrella organization, protested its listing in the Hesse OPC report. The Hesse interior ministry claimed that IRH activities, such as limiting female student participation and promoting Shari'a (Islamic law), contradicted basic constitutional principles.

In April the Flensburg district court in Schleswig-Holstein imposed sentences on members of suspected neo-Nazi groups who had been arrested in 2003 and tried on charges of coercion, extortionate robbery, and production of illegal propaganda material. The sentences included three probation terms ranging from 12 to 21 months. In addition the court fined one defendant $900 (750 euros) for causing bodily injury; a fifth defendant was acquitted.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, some religious minorities continued to experience discrimination.

Religious organizations are not required to register, although many did so and were treated as nonprofit associations with tax-exempt status. The state confers certain further advantages upon religious communities that obtain the status of "corporation under public law," which entitles the communities to levy taxes on their members that the government collects on their behalf. No state has granted any Muslim group public law corporation status, because no Muslim organization has been able to show that it meets the necessary criteria.

The government does not recognize several belief systems, such as Scientology, as religions; however, it does not prevent them from engaging in public and private religious activities. Federal and state authorities classified Scientology as a potential threat to democratic order, a status that led to employment and commercial discrimination against Scientologists in both the public and private sectors. Jehovah's Witnesses' efforts to obtain public corporate status remain unresolved. In March the Berlin administrative court ruled for a second time that there was no proof of the allegation that Jehovah's Witnesses' loyalty to a democratic state was questionable, and the court ordered the senate to grant the status. The senate appealed the deci-

sion to the federal administrative court in Leipzig, and the case was pending at year's end.

The states' treatment of the Church of Scientology varied widely. Most states did not monitor Scientology, but Bavaria and Baden-Wuerttemburg continued to do so. In April the superior court of Saarland ruled that the state could no longer clandestinely observe the Church of Scientology. A Scientologist appeal of the Cologne administrative court's November 2004 ruling that observation on a federal level was legal remained pending at year's end.

In November the Federal Employment Office stated that it does not use the *S* notation or other designation for companies with a connection to Scientology and that it had not used any such designation "for years." Private sector firms frequently screened for Scientology affiliations, citing OPC observation of Scientology as a justification for discrimination.

There were no new developments in the Unification Church's case against the government's entry ban on Unification Church founder Reverend Sun Myung Moon and his wife.

Laws enacted by several states ban the wearing of headscarves by teachers in public schools, which led to dismissals of teachers. In April the Bremen education ministry denied an applicant a trainee teacher position after she refused to sign a commitment to abstain from wearing a headscarf in class. The applicant obtained a preliminary injunction from the Bremen Administrative Court, but in August the Bremen Higher Administrative Court ruled that the state could refuse her traineeship because her headscarf would "seriously jeopardize school peace."

On August 22, teacher Nuray Arioz was fired for wearing a headscarf during working hours in the public kindergarten of Ebersbach, Baden-Wuerttemberg. The city's administration defended its ban on wearing religious symbols in public kindergartens on the basis of the state's headscarf law, although kindergartens were not considered schools and were not directly covered by the law.

Fereshta Ludin, who was denied a teaching position in 2004, did not appeal the Leipzig Federal Administrative Court ruling upholding the Baden-Wuerttemberg headscarf law. Doris Graber, who was suspended from teaching in 2004, returned to teaching at a public school in Stuttgart after agreeing not to wear a headscarf during classroom hours.

Societal Abuses and Discrimination.—There were reports of societal discrimination, including anti-Semitism, against members of religious groups, which federal and state governments sought to combat.

The Lutheran Church employed "sect commissioners" to warn the public about supposed dangers posed by Scientology, as well as by the Unification Church, Bhagwan-Osho, and Transcendental Meditation. The Lutheran Church also characterized as "sects" (but in less negative terms) the Church of Jesus Christ of Latter-day Saints (Mormons), the Jehovah's Witnesses, the Church of Christ, Christian Scientists, the New Apostolic Church, and the Johannish Church.

Many branches of Islam were represented in the country. There remained areas where the law conflicted with Islamic practices or raised religious freedom issues, notably the wearing of headscarves. The authorities continued surveillance of some mosques, ostensibly to prevent Islamic extremist terrorism. Some Muslim organizations claimed that regular incidents of unjustified police checks at mosques in which mosque attendees were sometimes not allowed to leave until all identities had been verified, created a general atmosphere of suspicion against all Muslims. Large antiterrorism operations involving raids on mosques and Islamic centers took place in Bavaria and Baden-Wuerttemberg in January and throughout the country in April. The Muslim community criticized these raids as hindering their freedom to practice their religion and stigmatizing them.

Much societal discrimination was directed against particular ethnic groups, which are also primarily Muslim, especially Turks. While there were no statistics specifically documenting discrimination, an April study by the Center for Turkish Studies stated that one-third of an estimated three million Turks in the country lived below the poverty level; a further third lived just above the poverty level. Only 5 percent of Turkish students attend a *gymnasium*, a top-tier secondary school, necessary to enter university (see section 5).

There were an estimated 120 thousand members in the Jewish Community. The federal OPC's 2004 report registered 1,316 anti-Semitic crimes, compared with 1,199 in 2003. Among these the number of violent crimes increased from 35 to 37, but reported desecrations of Jewish cemeteries, synagogues, and memorials decreased from 113 to 100.

There were no developments in the 2004 case of Jewish cemetery desecrations in Neunkirchen.

In January following criticisms from a member of parliament, the Hesse criminal office began investigating virulently anti-Semitic reporting by the Istanbul-based newspaper *Vakit*. In January the interior minister banned the newspaper and its publisher. In August prosecutors concluded they could not charge the editors since the articles were written abroad.

On March 3, the radio station SWR 4 withdrew its invitation to singer Christian Anders to perform at an event, after Anders' holocaust denial on his private Web site was publicized. Anders had also re-edited and published an anti-Semitic song.

On August 15, the Electoral Alternative for Social Justice Party in Trier expelled its county chairman, Wolfgang Schmitt, for using anti-Semitic rhetoric.

Authorities ran a variety of tolerance-education programs, many focusing on anti-Semitism and xenophobia. Government agencies cooperated with nongovernmental organizations (NGOs) in the formulation and administration of these programs.

For a more detailed discussion, see the *2005 International Religious Freedom report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

For ethnic Germans from Eastern Europe and the former Soviet Union, the law provides both for citizenship immediately upon application and for legal residence without restrictions.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government generally provided protection against *refoulement*, the return of persons to a country where the feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol and provided it to 1,956 persons during the year. Almost 4 percent of the processed applicants whose asylum applications were rejected received temporary residence permits on the grounds that they would be endangered if returned to their home country; they were expected to leave when conditions in their home country allowed their safe return.

In a May agreement with the UN Interim Mission in Kosovo, the government began a repatriation program for 10 thousand of the estimated 59 thousand technically deportable Kosovar refugees remaining in the country.

The government also approved repatriation of an estimated 16 thousand Afghan refugees. The decision met with criticism from human rights groups who maintained that conditions in Afghanistan were not sufficiently secure to permit refugee return. In September Hamburg officials began deportation proceedings for resident Afghans.

Both the federal and state governments cooperated with the Office of UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

The government continued to assert that individuals who attempted to enter the country via a "safe country of transit" (a member state of the European Union or a country adhering to the Geneva Convention on Refugees) were ineligible for asylum and could be turned back at the border or, if they had managed to enter the country, returned to that "safe country of transit."

Individuals whose applications for asylum were rejected had up to two weeks to appeal the decision. Individuals who arrived at an international airport and who were deemed to have come from a "safe country of origin" could be detained at an airport holding facility. In these cases the Federal Office for the Recognition of Foreign Refugees was required to make a decision on an asylum application within 48 hours or allow the person to enter the country. The applicant could appeal a negative decision to an administrative court within 3 days, and the court was required to rule within 14 days or allow the individual to enter the country. Local NGOs continued to criticize these periods as insufficient to allow applicants to prepare for hearings. Although stays in the airport facility were limited to 19 days, applicants whose claims were rejected, but who could not be deported immediately, allegedly were held at the airport for months, a practice which refugee assistance groups and human rights advocates continued to criticize.

In November 2004 authorities expelled a refugee family, including a pregnant mother and her infant child, from the refugee shelter at Frankfurt airport. The parents, a Pakistani Muslim and an Indonesian Buddhist, alleged they could face the death penalty in Pakistan because of their mixed religious relationship. Although

the case was taken to the appeals commission of the Bundestag, the state of Hesse deported the family couple before the commission reached a decision.

Discrimination against and of abuse of refugees and asylum seekers was not uncommon. There were multiple reports of attacks on shelters for asylum seekers by right-wing extremist groups including incidents in the states of Saxony-Anhalt, Brandenburg, and Rhineland-Pfalz (see sections 1.c. and 5).

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Free and fair elections for members of the parliament's Federal Assembly or Bundestag took place on September 18. There are no direct elections for the parliament's Federal Council or Bundesrat, which comprises delegations from state governments.

The Federal Constitutional Court is empowered to outlaw political parties that actively work to undermine the liberal democratic order (see section 2.b.).

The chancellor was a woman, and there were 195 women in the 613-seat Bundestag. There were 4 women in the 15-member cabinet; 4 of the 16 Federal Constitutional Court judges were women.

There were 5 members of ethnic minorities in the 613-seat Bundestag but none in the cabinet or on the Federal Constitutional Court.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year.

A federal freedom of information law passed in July (effective January 1, 2006) provides for public access to government information. Four states (Berlin, Brandenburg, Schleswig-Holstein, and North Rhine-Westphalia) also have freedom of information laws, which provide for an appeals process. In these states denial of access to information was usually attributable to concern for the protection of business confidentiality.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of international and domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits the denial of access to housing, health care, or education on the basis of race, gender, disability, language, or social status, and the government generally enforced these provisions in practice. Nonetheless, violence against women and children, trafficking in persons, and harassment of racial minorities and foreigners were problems.

The government had not implemented a 2000 European Union (EU) directive establishing a general framework (antidiscrimination act) for equal treatment in employment and occupation.

Women.—The law prohibits violence against women, including spousal abuse; perpetrators can be temporarily denied access to the household, put under a restraining order, and in severe cases prosecuted for assault or rape and required to pay damages. The government enforced the law; nevertheless, violence against women was believed to be widespread. For example, the state of Brandenburg registered 2,457 cases of domestic violence during 2004. Victim-aid organizations estimated that one in four women is the victim of spousal abuse. The government conducted campaigns in schools and through church groups to draw public attention to the existence of such violence and supported numerous projects to combat the problem. There were 380 state government-supported "women's houses," where victims of violence and their children could seek shelter, counseling, and legal and police protection.

On May 22, the German-Turkish Health Foundation, the Turkish newspaper *Hurriyet* and the Hesse social ministry launched an anti-violence campaign in Frankfurt. A *Hurriyet* editor reported that 50 percent of Muslim women in the country had been victims of domestic violence.

The law criminalizes rape, including spousal rape, and provides penalties up to 10 years in prison. The government effectively enforced the law. In 2004 national police criminal statistics recorded 8,831 cases of rape and serious sexual coercion. The government supported numerous projects in conjunction with the states and

NGOs to deal with violence against women, both to prevent violence and to give victims greater access to medical care and legal recourse.

Forced marriages are illegal and invalid, and the act of coercing another person into a marriage through force or threat of force or other negative consequences is punishable with up to three years' imprisonment. While there are no conclusive statistics regarding the actual number of forced marriages in the country, evidence indicated that the problem was common. Lawyer and author Seyran Ates, among others, estimated that half of the young Turkish women living in the country were forced into marriages arranged by her parents and in-laws, a situation that often led to violence. Forced marriages affected not only young women living in the country for whom the family brings a husband into the country, but young women sent back to their native countries against their will to be married.

Unlike the previous year, there were reports of honor killings. On April 11, the youth chamber of a Stuttgart court sentenced a 19-year-old Turkish man to 9 years' imprisonment for the murder of his sister's boyfriend, whom he reportedly killed to restore the honor of the family.

On June 13, a 22-year-old Turkish woman was shot to death in Wiesbaden-Dotzheim. The victim's older brother confessed to the crime; police stated that he committed the "honor killing" because the woman had a German boyfriend.

In September three Turkish brothers were tried on charges of killing their sister, Hatun Surucu, in February. The brothers allegedly were motivated by their sister's immoderate lifestyle. She was living apart from her husband of an arranged marriage while raising a young child and had begun seeing another man whom the brothers allegedly found objectionable. The trial remained ongoing at year's end.

Prostitution is legal and fairly widespread, although communities have the authority to exclude it from specified areas, such as residential neighborhoods.

Trafficking in women was a problem (see section 5, Trafficking).

Sexual harassment of women was a recognized problem. The law prohibits sexual harassment and requires employers to protect their employees from sexual harassment. Various disciplinary measures against offenders are possible, up to and including dismissal. An employer's failure to take appropriate measures is considered a breach of contract, and the affected employee has the right not to work (while still receiving pay) until the situation was rectified. There were press reports of sexual harassment in the workplace and in public facilities. Unions, churches, government agencies, and NGOs ran a variety of support programs for women who experienced sexual harassment and sponsored seminars and training to prevent it.

The law provides women the same rights as men, including equal pay for equal work. The Federal Ministry for Family, Seniors, Women and Youth primarily maintained oversight of women's rights issues. Women generally were not discriminated against in terms of compensation, although they were underrepresented in well-paid managerial positions and overrepresented in some lower-wage occupations; their average monthly incomes were lower than those of men.

Children.—The government maintained its strong commitment to children's rights and welfare. Public education is provided free of charge through the university level, and education is compulsory through the age of 16; almost all children attended school.

The government funded medical care for children, and boys and girls had equal access.

Child abuse was a problem that received widespread media attention. In 2004 there were 15,255 cases of sexual abuse of children and 199 cases of serious sexual abuse of children for the purpose of producing and publishing pornographic material. There were 4,819 cases of possession or distribution of child pornography reported in 2004, a 60 percent increase from 2003, which police attributed to the filing of more complaints due to better information and increasing popular awareness. The law provides for the protection of children against pornography and sexual abuse. The maximum sentence is one year's imprisonment for possession of child pornography and five years in prison for distribution. The law makes the sexual abuse of children by citizens abroad punishable even if the action is not illegal in the child's own country. The government effectively enforced these laws.

Forced marriage among various immigrant groups gained increasing public attention. This phenomenon affected both young adult women and minor girls (see section 5, Women).

Although there were no reports of abuse of street children, the life of these children often involved violence and abuse. Often these children were fleeing violent and abusive homes. Street children frequently turned to prostitution for income.

Approximately 5 percent of reported trafficking victims were under the age of 18 (see section 5, Trafficking).

The government amply funded programs to combat the sale of children, child prostitution, child pornography, trafficking of children, and child-sex tourism.

Trafficking in Persons.—The law prohibits trafficking in persons, but there were reports that persons were trafficked to and through the country.

The law criminalizes trafficking in persons and provides penalties of up to 10 years' imprisonment. In February legislation went into effect strengthening criminal provisions on human trafficking by extending the definition of trafficking to include trafficking for both sex and labor purposes. Trafficking crimes were prosecuted at the state level.

According to a report covering 2003, the number of sex trafficking investigations was 431, an increase of 20 percent compared with 2002. The number of reported trafficking victims increased by 37 percent, a rise attributable to an increase in the number of investigations.

The countertrafficking office of the Federal Criminal Investigative Service (BKA) cooperated with Europol and Interpol law enforcement authorities. Federal ministries coordinated countertrafficking efforts on the international, national, and state levels. A bilateral countertrafficking working group operated control points near the country's border with the Czech Republic.

The country was both a destination and transit country for trafficked persons. The BKA reported in their annual report on trafficking in persons that the numbers of known and registered victims in 2003 was 1,235, and the percentage of registered victims under age 18 continued to be in the 5 percent range. Of the registered victims, 80 percent came from Eastern Europe and the countries of the former Soviet Union, primarily Russia, Poland, Ukraine, Moldova, Lithuania, Slovakia, Latvia, Bulgaria, and the Czech Republic. Non-European victims came mostly from Africa and Asia. The BKA reported that most trafficking victims were women and girls between the ages of 16 and 25 who were forced to work as prostitutes.

Traffickers used a range of intimidation techniques to ensure the compliance of victims, including threats to "sell" the victim, threats of deportation, misrepresentation of victims' legal rights and status, physical violence, and withholding travel and identification documents.

There were no reports that trafficking victims were prosecuted for immigration or prostitution violations.

Police were required to notify a counseling center of trafficking victims and to inform the victims of their rights and options for seeking assistance. The centers provided shelter, counseling, interpreting services, and legal assistance.

Eight of the 16 states had cooperation agreements between the police, state welfare agencies, and NGOs to strengthen the delivery of welfare services to victims. The federal and state governments worked with NGOs and local women's shelters to identify and assist victims, funding more than 30 NGO counseling centers for victims of trafficking.

The government paid the basic cost of repatriation of trafficking victims under the Reintegration and Emigration Program for Asylum-Seekers in Germany (REAG). The International Organization for Migration administered REAG and facilitated assistance to returning victims.

The government sought to educate potential trafficking victims before they entered the country. Embassies and consulates as well as NGOs distributed brochures that provided information on residency and work permit requirements as well as warnings about trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions.

The government set guidelines for barrier-free public buildings and for modifications of streets and pedestrian traffic walks to accommodate persons with disabilities. All 16 states incorporated the federal guidelines into their building codes, and 98 percent of federal public buildings complied with the guidelines for a barrier-free environment.

National/Racial/Ethnic Minorities.—Harassment, including beatings, of foreigners and racial minorities, remained a problem throughout the country. Although there are no statistics specifically on incidents directed against these groups, media and official reports indicated that several such incidents occurred each week. For example, in June a gang of 13 young men in Munich harassed and physically assaulted a 20-year-old Iraqi and his pregnant friend in the subway; the perpetrators were arrested. In September three neo-Nazis in Berlin assaulted and injured a Ghanaian; the three men were arrested, fingerprinted, and released. Also in June three

unidentified men set fire to a Turkish store in Hamburg. Shelters for asylum seekers were attacked in several cities.

There were no new developments in the May 2004 case of a 20-year-old foreigner who applied for an apprenticeship as a technician for the city of Kaiserslautern and allegedly received a racist response from the city administration's human resources department.

The BKA defines "politically motivated crimes" (PMCs) as crimes involving motives related to the victims' ideology, nationality, ethnicity, race, skin color, religion, world-view, ancestry, sexual orientation, disability status, appearance, or social status. In 2004 the federal OPC recorded 12,051 right-wing PMCs, including 8,337 propaganda crimes, 2,578 "incitement of racial hatred" crimes, 243 property crimes, 97 criminal threats, and 20 grave desecrations. In 2004 there were 776 violent right-wing extremist PMCs, almost half of which were perpetrated against foreigners and one-third against political opponents. The OPC report listed 168 right-wing extremist organizations and groups.

The government protected and fostered the languages and cultures of national and ethnic minorities native to the country (Sorbs, Danes, Frisians, Roma, and Sinti).

Critics contended that the Sinti/Romani minority was the only officially recognized national minority without unique legal protection, political privileges, or reserved representation in certain public institutions. In July the state of Rheinland-Pfalz signed an agreement with the National Association of German Sinti and Roma to recognize Sinti and Roma as official national minorities entitled to promotion of their culture and language as well as protection from discrimination. Moreover the state government undertook to foster the Romani language and provide additional support for Romani and Sinti children in schools.

Resident foreigners and minority groups continued to voice credible concerns about societal and job-related discrimination (see section 6.c.).

Other Societal Abuses and Discrimination.—Despite increasing public awareness, media and reports from other sources indicated that societal and job-related discrimination against homosexuals occurred.

Discrimination against persons with HIV/AIDS does exist primarily due to lack of understanding of the disease. The government worked with NGOs, religious groups and business to educate the public both regarding prevention, and facts about HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The Basic Law provides for the right of employees to form and join unions of their choice without excessive requirements or previous authorization, and workers exercised this right. Approximately 28 percent of the workforce was organized into unions. The overwhelming majority of organized workers belong to eight unions largely grouped by industry or service sector and affiliated with the German Trade Union Federation, the country's main trade union confederation.

b. The Right to Organize and Bargain Collectively.—The law permits unions to conduct their activities without interference, and the government generally protected this right in practice. The law protects the right to collective bargaining, which was freely practiced. Collective bargaining agreements covered approximately 74 percent of the labor force. The law provides for the right to strike, except for civil servants (including teachers) and personnel in sensitive or essential positions, such as members of the armed forces. Collective bargaining agreements reached for public service workers who did have this right were usually extended by legislation to those who do not, although such extensions did not always include all of the provisions of those agreements. Workers not allowed to strike also have legal recourse through the courts to protect their rights. Workers conducted legal strikes during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively enforced laws and policies to protect children from exploitation in the workplace. The law prohibits the employment of children under the age of 15, with a few exceptions: those 13 or 14 years of age may do farm work for up to 3 hours per day or may deliver newspapers for up to 2 hours per day; and those 3 to 14 years of age may take part in cultural performances, albeit under stringent curbs on the kinds of activity, number of hours, and time of day. Abusive child labor

is not a serious problem, although violations did occur, mainly in small, often family-owned businesses such as pubs, restaurants, and grocery stores.

Trafficking of children was a problem (see section 5).

The Federal Economics and Labor Ministry effectively enforced the law through its Factory Inspection Bureau.

e. Acceptable Conditions of Work.—There was no legislated or administratively determined minimum wage. Collective bargaining agreements set minimum pay rates and were enforceable by law for an estimated 80 to 90 percent of all wage and salary earners; the remaining workers were covered by either individual contracts or company-level contracts. The wages established by these processes provided a decent standard of living for a worker and family.

Federal regulations limit the workweek to a maximum of 48 hours, but collective bargaining agreements may supersede them. Contracts that directly or indirectly affected 80 percent of the working population regulate the number of hours of work per week. The average workweek was 39.9 hours nationwide (OECD data for 2004); rest periods for lunch are accepted practices. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement.

An extensive set of laws and regulations govern occupational safety and health. A comprehensive system of worker insurance carriers enforced safety requirements in the workplace. The Economics and Labor Ministry and its counterparts in the states effectively enforced occupational safety and health standards through a network of government bodies, including the Federal Institute for Work Safety. At the local level professional and trade associations—self-governing public corporations with delegates both from the employers and from the unions—oversee worker safety. The law provides for the right to refuse to perform dangerous or unhealthy work without jeopardy to continued employment.

Foreign workers in the country were protected by law and generally worked in conditions equal to that of citizens; however, such workers faced some wage discrimination. For example, foreign teachers in some schools were paid less than their citizen counterparts. In addition seasonal workers from Eastern Europe who came to the country on temporary work permits often received wages below those of citizens. Workers from other EU countries at times were employed at the same wages they would receive in their home country, even if the corresponding citizen worker would receive a higher wage.

GREECE

Greece is a constitutional republic and multiparty parliamentary democracy, with an estimated population of 11 million. In March 2004 the New Democracy Party won the majority of seats in the unicameral Vouli (Parliament) in free and fair elections, and Constantinos Karamanlis became the prime minister. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights abuses were reported:

- abuse by security forces, particularly of illegal immigrants and Roma
- overcrowding and harsh conditions in some prisons
- detention of undocumented migrants in squalid conditions
- limits on the freedom of association of ethnic minorities
- restrictions on freedom of speech
- restrictions and administrative obstacles faced by members of non-Orthodox religions
- detention and deportation of unaccompanied or separated immigrant minors, including asylum seekers
- domestic violence against women
- trafficking in persons
- discrimination against ethnic minorities and Roma
- substandard living conditions for Roma
- inadequate access to schools for Romani children
- child exploitation in nontraditional labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

At year's end authorities had taken no action in the August 2004 killing of an Albanian immigrant beaten to death by a person whom witnesses identified as a policeman. Likewise, no trial date had been set for two police officers charged for the 2003 killing of a person who failed to stop at a routine automobile checkpoint in Crete.

In March an appeals court suspended the 13-year sentence of a police officer for the 2001 homicide of a Romani man who had not stopped for a routine traffic check. The Romani community protested the suspended sentence, both formally and with demonstrations during which a public bus was destroyed.

The trial of a border policeman charged with felony reckless homicide in the 2003 shooting and killing of an Albanian trying to cross illegally into the country remained pending at year's end. The policeman's original trial, scheduled for February, was cancelled when the court ruled the summons invalid. The Misdemeanor Council reduced the charges to a misdemeanor.

Eight migrants were killed and two others were severely injured during the year in minefields along the border with Turkey.

In December, 15 members of the "17 November" terrorist organization, who were found guilty and sentenced in 2003 for more than 2,500 crimes including homicide, appeared in court to appeal their convictions. At year's end a five-member panel of judges had begun considering the appeals.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture and other inhuman or degrading treatment or punishment; however, security forces abused a few persons, particularly immigrants and Roma (see section 5).

International organizations and human rights nongovernmental organizations (NGOs) repeatedly alleged that illegal immigrants and refugees were subjected to violence by border guards and coast guard officers when caught entering the country illegally. Violence also occurred as immigration officials tried to prevent illegal immigrants from leaving the country en route to other European Union (EU) countries.

At year's end no results had been released concerning the investigation of a case of two civilians who alleged in August 2004 that police beat them in Pyrgos, Peloponnese, during a routine identity check. Similarly, no results had been announced regarding allegations that 3 armed forces officers abused and beat 10 illegal immigrants on an islet in the Aegean Sea in September 2004.

At year's end no date had been set for the trial of two police officers charged with subjecting a group of Afghan asylum seekers in December 2004 to interrogation techniques that allegedly included torture. There were no developments in either the civil lawsuit against three officers or the police investigation of allegations by two Kalamata high school students that police beat them during a routine identity check in 2003. Likewise, there were no developments in the 2003 cases of two British citizens who alleged that police beat them or of three migrants who alleged police tortured them when they attempted to return to Albania.

In a letter to the Ministry of Public Order (MPO) made public in January, the deputy ombudsman for human rights noted numerous procedural and substantive shortcomings in the investigation concerning the alleged police torture in 2002 of Nigerian citizen Joseph Okeke and the alleged 2002 beating and torture of Yannis Papacostas in a police station near Athens. The deputy ombudsman called the police to re-evaluate its report on Okeke, arguing that the procedure suffered from gross errors concerning the evaluation and appraisal of the available evidence. At year's end an application based on this case was pending with the European Court of Human Rights (ECHR) alleging violation of the article in the European Convention on Human Rights that prohibits torture and inhuman or degrading treatment or punishment.

In December the ECHR ordered the government to pay a fine of $12 thousand (10 thousand euros) to each of 2 Roma men for inhuman and degrading treatment by police in Mesolonghi in 1998. According to forensics reports, police severely beat the men during interrogation after arresting them for allegedly breaking into a kiosk. The country was found to be in violation of the European Convention on Human Rights for failure to conduct an effective investigation into an incident with possible racist motives, a violation of the procedural provision against racial discrimination.

In December 2004 the ECHR ordered the government to pay a fine of $18 thousand (15 thousand euros) for failing to carry out an effective investigation of a 1995 shooting incident in which police officers seriously injured an unarmed person. The ECHR criticized authorities for being unable to identify all the officers involved in shooting and injuring the person.

Police were more likely to abuse Roma than other minority groups. Immigrants, including Albanians, also accused police of abuse (see section 5).

Prison and Detention Center Conditions.—Prison conditions remained harsh due to continued overcrowding and outdated facilities. As of December the Ministry of Justice reported that the total prison population was 9,984, while the total capacity of the prison system was 5,584. Pretrial detainees were held with a few convicted prisoners awaiting trials in Korydallos Prison in central Piraeus.

In an August-September visit, the European Committee for the Prevention of Torture examined the treatment of persons detained by law enforcement authorities, especially focusing on detention facilities for illegal immigrants in the eastern Aegean and Thrace. The delegation visited prisons, police detention centers, police stations, holding facilities for illegal immigrants, and psychiatric hospitals. Its findings had not been made public at year's end.

Conditions in detention centers for illegal immigrants remained harsh, particularly for women at detention centers in Athens (see section 2.d.). The deputy ombudsman for human rights noted in his annual report that detention centers for foreigners awaiting deportation and police detention centers were "an insult to human dignity." Amnesty International (AI) reported in October that conditions of detention for aliens "in some cases amounted to cruel, inhuman, and degrading treatment," and that overcrowding remained a serious problem.

In June a citizen who had been arrested for possession of hashish died in handcuffs in the Ptolemais police holding center in the northern part of the country after he set the mattress in his cell on fire.

Disciplinary actions were initiated in late September against two police officers who allegedly disturbed four jailed Muslims during prayer at the police detention center in Aspropyrgos.

Local and international independent human rights observers reported that the government did not consistently permit them to visit police detention centers, detention centers for illegal immigrants, or prisons. International human rights observers reported fewer problems receiving permission for visits than did local human rights observers, and the International Committee of the Red Cross had a regular program for prison visits. There was insufficient access to detention centers for independent organizations wanting to screen for victims of trafficking in persons.

The Office of the UN High Commissioner for Refugees (UNHCR) reported in June that conditions in reception facilities for registered asylum seekers had improved but suggested increasing capacity beyond the current level of less than 1,200, considering there were more than 5 thousand asylum seekers in the year. UNHCR particularly called for increased capacity and improved conditions, especially for unaccompanied children and children separated from their families. By year's end improvements were observed in reception capacity for unaccompanied minors at NGO centers operating with funding from the European Council on Refugees and the government.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention. However, police conducted large-scale sweeps and temporarily detained large numbers of foreigners, often under crowded and squalid conditions, while determining their residence status. Unlike in the past, there were no reports that foreigners were detained indefinitely without judicial review.

Role of the Police and Security Apparatus.—The police are responsible for law enforcement and maintenance of order within the country and are under the authority of the MPO. The coast guard is responsible for law enforcement in territorial waters and is under the authority of the Ministry of Mercantile Marine. The country's law enforcement agencies were generally effective. However, police did not adequately respond to or prevent attacks by self-styled "anti-imperialist" anarchists, who operated with impunity, particularly in central Athens, and who used crude gas canister bombs and Molotov cocktails to attack property, government offices, targets representing "Western" interests," and the police (see sections 1.e. and 3).

Police corruption was a problem. A police anticorruption unit in the MPO's Bureau of Internal Affairs investigated alleged abuses, but human rights and antitrafficking groups said that anticorruption efforts needed to be given higher priority.

The Bureau of Internal Affairs took several disciplinary measures, including dismissal and suspension, against officers involved in corruption, primarily for forging

documents and taking bribes. In 2004 a total of 325 complaints were filed with the bureau. Most charges against police involved violation of duty, false certificates, abuse of power, corruption, violations with arms and explosives, illegal release of persons in police custody, procuring, and violations related to alien registration. In 2004 the bureau filed lawsuits against 75 police officers, 20 civil servants, and 78 civilians.

In February a police precinct commander in Charilaou, Thessaloniki, was arrested for taking monthly bribes from a restaurant owner. The precinct commander was charged with blackmail, fraud, and illegal possession of firearms; his trial was pending at year's end.

The press and NGOs alleged that penalties for corrupt or abusive police were too weak and discouraged citizens from pressing charges against police. A weak record of prosecution of police misbehavior supported these claims.

The MPO conducted regular training, including on corruption and police abuses, to address these problems.

Arrest and Detention.—The law requires judicial warrants for arrests except when they are made during the commission of a crime, and it prohibits arbitrary arrest orders. Authorities generally respected these provisions in practice. Police must bring persons who are detained or arrested before an examining magistrate within 24 hours. The magistrate must issue a detention warrant or order their release within three days unless special circumstances justify a two-day extension of this limit. Bail is available for defendants detained or arrested on felony charges, unless the judicial officer determines that such incentives would not adequately assure the defendant's appearance at trial or that the defendant is a flight risk or a danger to the community. The judge may apply additional conditions to the granting of bail, such as ordering the defendant to remain at a particular address or restricting the defendant's travel. Bail may be granted by the examining magistrate, with the consent of the prosecutor.

Defendants have the right to legal counsel. In felony cases the bar association provides lawyers to defendants who prove they cannot afford legal counsel.

Defendants brought to court on the day following the alleged commission of a misdemeanor may be tried immediately under expedited procedures. Although legal safeguards, including representation by counsel, apply in expedited procedure cases, the short time period limited defendants' ability to present an adequate defense. Defendants may request a delay to prepare a defense, but the court is not obliged to grant it. Expedited procedures were used in less than 10 percent of applicable cases.

According to a September deputy ombudsman's report, police took citizens to detention centers for arbitrary identity checks, used insulting language and threats of force, and conducted bodily searches in public. The report found that police targeted persons based on their race, color, nationality, or presence in "high-crime" areas (see section 5).

In December the chief prosecutor of the Supreme Court opened investigations into allegations by 28 Pakistanis resident in the country that in July they were abducted, hooded, held for up to 7 days in a secret location, and interrogated by persons who claimed to be police officers. One of the claimants also alleged that he was beaten. The minister of public order reported that up to five thousand foreign national residents were legally questioned in the aftermath of the July London bombings but that no such abuses took place. At year's end the investigation was ongoing.

While members of the Church of Jesus Christ of Latter-day Saints (Mormons) and Jehovah's Witnesses reported having difficulties with harassment and police detention due to antiproselytizing laws, they noted a marked improvement during the year (see section 2.c.).

There were no reports of political detainees.

The law allows pretrial detention for up to 18 months for felonies and 9 months for misdemeanors. Defense lawyers asserted that pretrial detention is excessively long and overused by judges. A panel of judges may release detainees pending trial, with or without bail. Pretrial detainees made up approximately 30 percent of those incarcerated and contributed to overcrowding, according to figures provided by the Ministry of Justice.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The judiciary was subject to influence and was found by the ECHR to be inefficient. During the year a number of judges were under investigation or had been dismissed on corruption-related charges (see section 3). The judiciary acted leniently toward anarchists found guilty of violent acts, such as giving them suspended prison sentences in lieu of prison time or punitive fines (see section 1.d.).

The judicial system consists of three levels of civil courts (first instance, appeals, and supreme), three levels of criminal courts (first instance, divided into misdemeanor and felony divisions; appeals; and supreme), appointed judges, and an examining magistrate system, with trials by judicial panels.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public and juries are used. Defendants have the right to be present and to consult with an attorney in a timely manner. An attorney is provided at public expense if indigent defendants face serious criminal charges. Defendants may confront and question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and have the right to appeal. Defendants who do not speak Greek have the right to a court-appointed interpreter. According to several immigrant associations in Athens, the low fees paid for such work often resulted in poor interpretation. Foreign defendants who used these interpreters frequently complained that they did not understand the proceedings at their trials. Defendants often were not advised of their rights during arrest in a language that they could understand. Several complained that they were not shown the Hellenic Police Informational Bulletin, which contains prisoners' rights in a variety of languages, and that they were forced to sign blank documents later used for their deportation.

In May the ECHR ordered the government to pay $18 thousand (15 thousand euros) for nonpecuniary damages to an applicant for the undue length of a criminal proceeding. The court noted that proceedings in a defamation and insult case had lasted nearly four years and nine months at three levels of jurisdiction, and it found that the trial's length was excessive and failed to comply with the reasonable-time requirement of the European Convention on Human Rights. The court also held unanimously that there had also been a violation of the article calling for the presumption of innocence.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits the invasion of privacy and searches without warrants and permits the monitoring of personal communications only under strict judicial controls; however, these provisions were not always respected in practice.

Turcophone and Slavophone activists complained of continued police surveillance. Police conducted regular raids and searches of Romani neighborhoods for alleged criminal suspects, drugs, and weapons. Local authorities threatened to evict Roma from camps and tent dwellings during the year (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, legal restrictions on free speech remained in force. The law prohibits exposing to danger of disturbance the friendly relations of the state with foreign states, spreading false information and rumors liable to create concern and fear among citizens and cause disturbances in the country's international relations, and inciting citizens to rivalry and division leading to disturbing the peace or acts of violence. However, these prohibitions were very rarely invoked. In most criminal defamation cases, defendants were released on bail pending appeal without serving time in jail.

At year's end the results had not been made public of an inquiry by the Mercantile Marine Ministry into August 2004 allegations made by two foreign journalists that members of the coast guard arrested and beat them when they attempted to film a restricted security area during the Olympic Games.

There were numerous independent newspapers and magazines. Satirical and opposition newspapers routinely criticized state authorities. Members of minority ethnic, religious, and linguistic groups were generally able to publish materials freely, often in their native languages.

The law provides that the government exercise "immediate control" over radio and television and establishes ownership limits on media frequencies. The Ministry of Press and Mass Media has authority over radio and television licensing, while the National Radio and Television Council (ESR) has an advisory role.

Independent radio and television stations were active and expressed a wide variety of views with little government restriction. State-operated stations tended to emphasize the government's views but also reported objectively on other parties' programs and positions. Turkish-language television programs were widely available via satellite in Thrace.

The law allows for seizure, by order of the public prosecutor, of publications that insult the president, offend Christianity "or any other known religion," contain ob-

scene articles, advocate violent overthrow of the political system, or disclose military and defense information. There were no such seizures during the year.

In February an Internet artist who created a satirical Web site entitled "Dirty Works in Greece," which described corruption in the civil service hiring process, was arrested for Internet fraud, and police confiscated his computer, notes, and other materials. The artist was released on bail after three days.

In April an Athens appeals court overturned the six-month suspended sentence for blasphemy given in January to the Austrian author of a comic book translated and sold in the country and deemed by authorities to be insulting to the Christian faith. In 2003 police had confiscated approximately 50 copies of the comic book from bookstores.

In June an art curator of a public gallery was acquitted of blasphemy; in 2003 he allowed the exhibition of Belgian artwork considered insulting to the Orthodox faith.

In August a regional newspaper in the northern part of the country censored an article on the controversy surrounding the Slavophone dialect, referred to as "Macedonian," that was to be published in a regular column. The European Bureau for Lesser Used Languages and the Greek Helsinki Monitor (GHM) expressed concern over the newspaper's refusal to publish the article.

In December the Supreme Court Council of State overturned an ESR decision in November that ordered the closure of FM radio station Best 92.6 for what it considered "low quality programs."

The government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

Freedom of Association.—The law provides for freedom of association; however, the courts continued to place legal restrictions on the names of associations involving ethnic minorities.

In February the Supreme Court announced its rejection of the appeal of the Turkish Union of Xanthi, upholding the 1983 lower court decision to dissolve the association because it used the adjective "Turkish" in its title. The same court rejected the application for registration of the Rodopi Turkish Women's Cultural Association for the same reason. The supreme court ruling ended a 20-year legal struggle for recognition by the Turkish Union, which had normal legal status from 1927 to 1983. The Turkish Union of Xanthi and the Rodopi Cultural Association applied to the ECHR for redress, but at year's end no decision had been reached.

c. Freedom of Religion.—The law provides for freedom of religion; however, non-Orthodox groups at times faced administrative obstacles or legal restrictions on religious practices.

The law establishes the Eastern Orthodox Church of Christ (Greek Orthodoxy) as the "prevailing" religion. The Greek Orthodox Church exercised significant political and economic influence. The government financially supported the Greek Orthodox Church and also paid the salaries and some expenses of the two official Muslim religious leaders in Thrace.

The government, by virtue of the Greek Orthodox Church's status as the prevailing religion, recognizes de facto its canon law. Privileges and legal prerogatives granted to the Orthodox Church are not extended routinely to other recognized religions. Orthodox Church officials refused to enter into dialogue with religious groups that they considered harmful to Orthodox worshippers, and they instructed their members to shun followers of these faiths.

Several religious denominations reported difficulties dealing with authorities on a variety of administrative matters, including gaining recognition as a "known religion," renewing visas of religious workers, opening new houses of worship, and moving a house of worship from one location to another.

No formal mechanism exists to gain recognition as a "known religion." Recognition is granted indirectly by applying for and receiving a "house of prayer" permit from the Ministry of Education and Religion. By law the ministry may base its decision to issue permits on the opinion of the local Orthodox bishop. Some religions had problems obtaining these permits.

According to Ministry of Education and Religion officials, applications for additional places of worship are numerous and are approved routinely once a recognized religion receives a permit; however, members of the Church of Scientology have not been able to register or build a house of prayer. A group that follows the ancient polytheistic Hellenic tradition applied twice in the last three years for a house of prayer permit, but at year's end the group had not received an official response to its applications. Jehovah's Witnesses had three cases pending before the Council of

State on the legality of operating of houses of worship in Halkidiki and Serres. In addition non-Orthodox religious groups must provide separate and lengthy applications to authorities on such matters as gaining permission to move an official house of prayer to a larger facility.

In May 2004 a former Greek Orthodox priest who became a priest of the Macedonian Orthodox Church was issued a three-month prison sentence, later suspended, for holding religious services without a house of prayer permit. He appealed the sentence, but at year's end there was no decision.

Although parliament approved a bill in 2000 allowing construction of the first Islamic cultural center and mosque in the Athens area, no construction had started by year's end. As a result, Muslims in Athens continued congregating in dozens of unofficial prayer rooms and were forced to travel to Thrace for official weddings and funerals because there were no official Muslim clerics outside of Thrace.

Muslims are accorded the status of an official minority in Thrace, and the government selects two official Muslim religious leaders, or *muftis*, there. While part of the community accepted the two officially appointed *muftis*, some Muslims, with support from Turkey, "elected" two different *muftis*. In the past the courts repeatedly convicted one "elected" *mufti* for usurping the authority of the official *mufti*; however, his sentences remained suspended and were pending appeal at year's end.

Non-Orthodox citizens claimed that they faced career limits in the military, police, fire-fighting forces, and civil service due to their religion.

The law specifically prohibits proselytizing and stipulates that religious rites must not disturb public order or offend moral principles. Police conducted arbitrary identity checks and arrested and detained Mormons and members of Jehovah's Witnesses, usually after witnessing or receiving complaints that they were engaged in proselytizing. In most cases police held persons for several hours and then released them without filing charges. Some persons reported that police did not allow them to call their lawyers and verbally abused them for their religious beliefs. However, the proselytizers reported a marked improvement during the year due to increased training and instruction given to police officers.

Several foreign religious groups, including Protestant groups and Mormons, continued to report difficulty renewing the visas of their non-EU citizen ministers and religious workers. The immigration law passed in August provides for some categories of religious worker visas.

Religious instruction is mandatory for all Greek Orthodox students in primary and secondary schools but not for non-Orthodox students. Some government-approved religious textbooks made derogatory statements about non-Greek Orthodox faiths. Since schools did not supervise non-Orthodox children while Greek Orthodox children were taking religious instruction, non-Orthodox parents complained that they were effectively forced to have their children attend Greek Orthodox classes. In Thrace the government subsidized public schools for the Muslim minority and two Koranic schools. Turcophone activists criticized the quality of instruction at the minority schools and the state-sponsored Pedagogical Academy that trains teachers.

Societal Abuses and Discrimination.—Members of non-Orthodox faiths reported incidents of societal discrimination, such as local Greek Orthodox bishops warning parishioners not to visit clergy or members of these faiths and requesting that police arrest missionaries for proselytizing. Some non-Orthodox religious communities encountered difficulty in communicating with officials of the Orthodox Church and claimed that the attitude of the Orthodox Church toward their faiths has increased societal intolerance toward their religions. However, with the exception of the growing Muslim population, most members of non-Orthodox faiths considered themselves satisfactorily integrated into society.

The Orthodox Church has issued a list of religious groups—including Mormons, Jehovah's Witnesses, evangelical Protestants, Scientologists, Baha'is, and others—and practices that it considers sacrilegious.

The Jewish community has approximately five thousand members. Anti-Semitism continued to exist, particularly in the extremist press. The mainstream press and public often did not clearly distinguish between criticism of Israel and comments about Jews. In 2004 the European Commission against Racism and Intolerance (ECRI), the Wiesenthal Center, the Anti-Defamation League, and GHM criticized the press for carrying anti-Semitic stories and cartoons on several occasions.

Vandalism of Jewish monuments decreased. At year's end police had not found the perpetrators of the 2004 desecration of Holocaust memorials in Komotini in Thrace or the 2003 desecration of monuments in Ioannina, and the cases were still open. Extreme right-wing groups, including "Golden Dawn," painted anti-Semitic graffiti along with their symbols and organization names at several locations, for example on the Athens-Corinth highway, near the main Athens Court Complex, in the Athens suburb of Kifissia, and on the island of Tinos. Some schoolbooks carried neg-

ative references to Roman Catholics, Jewish persons, members of Jehovah's Witnesses, and others. Bookstores sold and displayed anti-Semitic literature, including *The Protocols of the Elders of Zion*.

Negotiations continued at year's end between the Jewish community of Thessaloniki and the government to find acceptable restitution for the community's cemetery, expropriated after its destruction during the Holocaust. Aristotle University, a public institution, was built on top of the expropriated cemetery.

Jewish community leaders condemned anti-Semitic broadcasts on small private television stations, but authorities did not brought charges against these largely unlicensed operators.

In October the government again participated in the organization of a seminar on teaching the Holocaust. Held under the auspices of the Ministry of Education, it addressed 150 educators and Athens University education majors and aimed to provide guidance on the teaching of the Holocaust in secondary schools. Also in October a follow-up seminar on teaching the Holocaust was held in Thessaloniki for primary school teachers. In November the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research approved the country's full membership in the organization. It had been a liaison (adjunct) member for several years.

The country observed Holocaust Remembrance Day on January 27 in Thessaloniki, the origin of most of the country's Holocaust victims. The Ministry of Education distributed teaching materials to schools on the history of the Holocaust.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for free movement or residence in the country as well as free entry and exit of citizens and noncitizens. The government generally respected these rights in practice.

The law prohibits forced exile, and the government did not employ it.

The law permits the government to remove citizenship from persons who commit acts contrary to the interests of the country for the benefit of a foreign state. While the law applies to citizens regardless of ethnicity, it has been enforced in all but one case only against persons who identified themselves as members of the "Macedonian minority." The government did not reveal the number of such cases, but it was believed to be low, and there were no reports of new cases during the year. Dual citizens who lost their citizenship under this provision sometimes were prevented from entering the country on the passport of their second nationality. Activists charged that several expatriate "Slavo-Macedonians" whose names appeared on a "black list" were barred from entering the country.

The Ministry of Interior reported to parliament in May that 46,638 Muslims from Thrace and the Dodecanese islands lost their Greek citizenship when they left the country between 1955 and 1998. The law that permitted this divestment of citizenship was repealed in 1998, and the "stateless" residents are eligible to recover their citizenship as long as they live in Greece. According to the Ministry of Foreign Affairs (MFA), there were 64 persons in possession of government-issued identification documents characterizing them as "stateless." At year's end the MFA reported that approximately 55 applications were pending for citizenship through naturalization by these residents. A Muslim minority activist reported that dozens of stateless persons submitted applications during the year for revocation of the administrative order that divested them of citizenship, an alternate and less expensive method to have citizenship restored; at year's end decisions on the applications were pending.

Due to serious bureaucratic problems in the legalization process for immigrants, many aliens were in a semilegal status (had expired permits but had filed for renewal or were entitled to renewal, but a renewal stamp had not yet been placed in their passports) and were subject to deportation without legal process following police sweeps. In August a new immigration law was passed that provides for legalization of undocumented migrants who could prove by a visa stamp or possession of a tax roll number that they entered the country before December 31, 2004. Immigrants and human rights organizations complained that out of an estimated population of 450 thousand undocumented immigrants, only a few thousand immigrants had successfully legalized under the new law by the end of the year because many immigrants did not meet the qualification of legal entry into the country or due to stringent application requirements. The government extended the deadline for filing for legalization to February 28, 2006.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. However, the government largely has not implemented a 1999 presidential decree that brought the law into compliance with the standards

of the UNHCR with regard to asylum procedures. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. Although the UNHCR observed an attempt by the government for a more realistic and humanitarian approach to refugees during the year, together with the Greek Council for Refugees, the ombudsman, and the ECRI, it expressed concern that very few applicants were granted asylum. During the first 10 months of the year, the government granted refugee status to 23 of 7,633 applicants and provided humanitarian status to approximately 35 persons who did not qualify as asylees or refugees under the 1951 convention and the 1967 protocol, an overall recognition status of less than 2 percent.

Although the government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers, the UNHCR and others expressed concern over the country's asylum policy and practices, citing its insufficient reception facilities, underdeveloped systems for providing for refugee welfare, insufficient counseling to assist integration of refugees and asylum seekers, and lack of appropriate treatment for unaccompanied minors who were potential asylum seekers. In June the UNHCR issued a position paper on refugee protection with 25 recommendations for the government regarding improvement of reception capacity and living conditions; provision of legal counseling; and protection for asylum-seeking children, women, and victims of human trafficking. In October the ombudsman pointed out inadequacies in laws for detaining and deporting underage foreign nationals, including asylum seekers, and a lack of infrastructure and services for handling juvenile detainees who tried to enter the country illegally or sought asylum.

At year's end 2 policemen were awaiting trial for allegedly subjecting a group of 40 to 60 Afghan asylum seekers to interrogation techniques that included torture in December 2004.

Conditions for illegal immigrants and asylum seekers detained by authorities were sometimes unsatisfactory. In September the local Red Cross described conditions in the facility on Samos as harsh, due to overcrowding. In October both AI and GHM cited poor conditions at the Chios facility, where detainees lived in metal containers. Human rights groups reported limited provisions and medical care as well as lack of hot water at some facilities. Improvement was noted in some parts of the Evros region, but old warehouses continued to be used to house illegal immigrants.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In the most recent elections, held in March 2004 and considered free and fair, the New Democracy Party won the majority of seats in parliament. Opposition parties functioned freely and had broad access to the media.

Romani representatives reported that local authorities sometimes deprived Roma of the right to vote by refusing to register them. Many Roma had difficulty meeting municipal residency requirements to register to vote. There were a few complaints that the government harassed the Rainbow Party, a small political party that included Slavophone activists, prior to the 2004 elections.

Voting is mandatory for citizens over age 18, according to the law; however, there are many conditions under which citizens may be exempted, and the government did not apply a penalty for not voting.

There were 38 women in the 300-seat parliament and 1 woman in the 19-member cabinet. A quota system requires 30 percent of all local government candidates to be women. At the 3 high courts, there were 14 women out of 61 council of state justices, 28 women out of 59 supreme administrative court justices, and 3 women out of 62 supreme court justices.

There was 1 member of the Muslim minority in the 300-seat parliament. There were no minority members in the cabinet.

A government-appointed regional administrator of Eastern Macedonia and Thrace has statutory responsibility for oversight of rights provided to the Muslim minority in Thrace, but the MFA retains an important advisory role.

Government Corruption and Transparency.—Corruption was a problem. International NGOs and human rights and antitrafficking groups stated that anticorruption efforts needed to be a higher government priority, and opinion polls suggested widespread public perception of corruption in the executive and legislative branches. Mutual accusations of corruption between political parties were a daily staple of political life.

At year's end at least 13 justices had been dismissed, 9 were temporarily suspended from duty, 2 were detained and being prosecuted for money laundering and receiving bribes, 17 were indicted, and disciplinary action had been initiated against 40 for charges related to corruption. In October the deputy minister of the National Economy and Finance Ministry resigned amid corruption allegations.

The constitution establishes the right to collect, receive, and disseminate information and specifically provides the right of access to government-held information. A freedom of information law provides that any interested party, upon written application, may receive access to administrative documents unless the document concerns the private or family life of a third party or there is violation of confidentiality stipulated by special provisions. The administrative authority may refuse to provide the requested document if it refers to the discussions of the Cabinet of Ministers or if providing the document may substantially obstruct the investigation of judicial, police, or military authorities concerning the commission of a crime or an administrative violation. Information is free.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without restriction in the country, investigating and publishing their findings on human rights cases. Cooperation with domestic groups varied; some received government funding, while others received no official or unofficial cooperation. In April government officials accused some NGOs of inflating estimates of human trafficking victims in the country in an attempt to "blackmail the government for higher financing by the MFA." The government provided no official or unofficial estimate of numbers of trafficking victims in the country. The government usually cooperated with international human rights groups and made an effort to be responsive to their views.

The UN Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography, after a November 8–14 visit, called on the government to foster a more efficient and cooperative relationship with NGOs "to make children a recognized priority for the country beyond political, institutional, and ideological disputes"; appoint a focal point on children's issues; improve institutional capacity for protecting unaccompanied minors, street children, and victims of trafficking; and complete the bilateral child repatriation agreement with Albania. He recommended that the state take specific measures to improve the living conditions of Roma and give Roma children alternatives to street work and prostitution as survival strategies. He also recommended the creation of an advisory board of civil society and public authorities to coordinate children's policies as well as the creation of a joint Greek-Albanian Commission to investigate the "disappearances" from a children's institution from 1998 to 2003 (see section 5). He called NGOs an "indispensable asset" in implementing the measures.

On November 29, the government, the International Organization for Migration (IOM), and 12 NGOs signed a memorandum of cooperation on combating trafficking in persons and providing aid to victims, scheduled to be implemented in 2006.

The law provides for an independent ombudsman, whose office provided an effective means for citizens to address human rights and religious freedom problems. The widely recognized office was granted adequate resources to perform its functions: mediating between private individuals and public administration and defending and promoting children's rights. There were five deputy ombudsmen who dealt respectively with human rights, children's rights, citizen-state relations, health and social welfare, and quality of life. The Department of Human Rights received 1,860 complaints in 2004, 681 of which were pending in January. Problems included minority education in Thrace, "stateless" persons (see section 2.d.), and complaints regarding residence and work provisions for immigrants and asylum seekers.

The government-funded National Human Rights Committee is an autonomous human rights body that operates independently of government or party control or influence. The committee is the government's advisory organ on protection of human rights and had adequate resources. It cooperated effectively with the government to promote legislation protecting and enhancing human rights. During the year it produced reports and recommendations on human rights problems, including gender equality and affirmative action and refugee matters. The committee opined in February that the law incorporating EU decisions about the European arrest warrant into domestic legislation contravened constitutional provisions about justice, protection of privacy. There was no government response to the recommendations of the committee.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides that "all persons living within the Greek territory shall enjoy full protection of their life, honor, and liberty irrespective of nationality, race, or language and of religious or political beliefs." The constitution also provides that all citizens are equal before the law and that men and women have equal rights and equal obligations; however, government respect for these rights was inconsistent in practice. Violence against women and children, trafficking in persons, and discrimination against ethnic minorities (particularly Roma) and homosexuals were problems.

Women.—Domestic violence, including spousal abuse, continued to be a problem. The law does not specifically prohibit domestic violence; however, it can be prosecuted under the general assault statute. The General Secretariat for the Equality of the Sexes (GSES), an independent government agency, estimated that only 6 to 10 percent of victims contacted the police, and only a small fraction of those cases reached trial. The GSES claimed that police tended to discourage women from pursuing domestic violence charges, instead encouraging them to undertake reconciliation efforts, and that courts were lenient when dealing with domestic violence cases. The GSES, in cooperation with the MPO, continued courses to train police on ways to deal with domestic violence victims.

The GSES provided counseling and assistance to domestic violence victims. Two GSES shelters for battered women and their children, in Athens and Piraeus, offered services, including legal and psychological help. The GSES operated a 24-hour emergency telephone hot line for abused women. A unit of the Ministry of Health and Welfare also operated a hot line that provided referrals and psychological counseling. There were additional shelters operated by the municipality of Athens, the Orthodox Church, and various NGOs for domestic violence victims.

Nonconsensual sex in any setting is a crime; however, there is no specific spousal rape law. Conviction rates for rape were low for first-time offenders, but sentences were harsh for repeat offenders. There have been no cases of spousal rape before the courts in recent years. According to the MPO, 177 rapes were reported, down from 191 in 2004, as well as 71 attempted rapes, up from 64 in 2004. Researchers estimated that 6 percent of rapes were reported to police, 1 percent came to trial, and approximately 1 in 450 offenders was incarcerated for more than 5 years. Medical, psychological, social, and legal support from the government and NGOs for victims of maltreatment was usually also available to rape victims.

Prostitution is legal at the age of 18. Prostitutes must register at the local prefecture and carry a medical card that is updated every two weeks. It was estimated that fewer than one thousand women were legally employed as prostitutes. Approximately 20 thousand women, most of foreign origin, were engaged in illegal prostitution. According to academics, many illegal prostitutes may have been trafficking victims (see section 5, Trafficking). While there were reports that prostitutes were abused and subjected to violence and harassment, there were no reports that prostitutes were specifically targeted for abuse.

The law prohibits sexual harassment, but penalties are lenient. At year's end the government had not implemented an EU directive on sexual harassment that provides guidelines for sanctions, legal action, and compensation for victims. Labor unions reported that lawsuits for sexual harassment were very rare and that only four women had filed such charges in the past six years. In all four cases, the courts reportedly imposed very lenient civil sentences. The state-operated Research Center for Gender Equality (KETHI) reported that the vast majority of women who experienced sexual harassment in the workplace quit their jobs and did not file charges. KETHI estimated that 30 to 50 percent of working women and 10 percent of working men have experienced sexual harassment at their work place.

The law provides for equal pay for equal work; however, according to official 2004 statistics, women's pay amounted to 75.8 percent of men's pay. Although relatively few occupied senior positions, women continued to enter traditionally male-dominated professions such as law and medicine in larger numbers. Women were underrepresented in labor union leadership. A 2004 central bank report noted that unemployment was much higher among women than men and that women's employment in part-time jobs was 8.1 percent while men's was 2.3 percent.

The GSES operated regional employment offices for women in Thessaloniki and Patras that provided vocational training for unemployed women, programs to reinforce entrepreneurship, subsidies to establish businesses, and information and counseling to unemployed women. It also operated childcare facilities to enable unemployed women to attend training courses and look for jobs.

In February KETHI organized and cosponsored an international conference to raise public awareness of the value of women's participation in politics, the economy, and society in general.

Children.—The government was strongly committed to children's rights and welfare.

The law provides for free and compulsory education for a minimum of nine years. According to the 2001 census, 99.4 percent of school-age children attended school, and most children completed secondary education. However, noncompliance with the compulsory education requirement was a significant problem in the Romani community. Research conducted by the Aghlaia Kyriakou state hospital showed that 63 percent of Romani children did not attend school. There were reports of non-Romani parents withdrawing their children from schools attended by Romani children, and of non-Romani parents attempting to prevent Romani children from studying at the same schools that their children attended. International organizations and NGOs expressed concern over a reported Ministry of Education order issued in May to school directors to not grant year-end certificates to students who were illegal residents.

Boys and girls had equal access to medical care.

Violence against children occurred, particularly against street children. The law prohibits the mistreatment of children and sets penalties for violators, and the government generally enforced these provisions effectively. According to the UN Children's Fund (UNICEF) and local NGOs, the majority of street children (often indigenous Roma or Albanian Roma) were exploited by family members who forced them to work in the streets, usually begging or selling small items.

Child marriage was not common in mainstream society. However, human rights activists, the deputy ombudsman for children's rights, and Romani community representatives reported that underage marriage was a common occurrence among the itinerant half of the estimated 100 thousand to 350 thousand members of the Roma population. Additionally, there were limited numbers of marriages of persons under 18 among the Muslim minority in Thrace and Athens. The state-appointed *muftis*, who may apply Shari'a in family matters, noted that they do not allow marriage of children under age 15. In November the official *mufti* of Komotini reported issuing instruction to imams in Thrace not to conduct underage marriages. In November he refused permission to a 12-year-old girl to marry a 14-year-old boy. The government has youth centers, parent counseling, and programs that address poverty and lack of education, factors which were believed to contribute to child marriage.

Welfare laws provide for preventive and treatment programs for abused and neglected children and seek to ensure the availability of alternative family care or institutional placement. However, children's rights advocacy groups claimed that government residential care centers provided inadequate and low quality protection of children at high risk of abuse due to a lack of coordination between welfare services and the courts, inadequate funding of the welfare system, and poor staffing of the care centers.

In 2004 the UN Committee Against Torture expressed concern that inadequate measures had been taken to protect 502 Albanian children who remained unaccounted for after being picked up by the security police and kept in state custody at the Agia Varvara institution between 1998 and 2003. The prosecutor accepted a criminal complaint submitted by the GHM and an appeal by the UN Committee Against Torture, and in December 2004 it pressed felony charges against members of the administration of the institution relating to the case; however, no action was reported on the case during the year. The UN Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography who visited in November noted a "deficiency in the design of the educational and social methodology" of the Agia Varvara institution.

There were reports that trafficking of children, mainly for forced labor and sexual exploitation, was a problem (see section 5, Trafficking, and section 6.d.). In February and October police dismantled networks dealing in child pornography through the Internet. Six citizens, identified to be members of international networks, were arrested and charged under child pornography statutes. The newly established Internet Crime Police Division arrested 9 persons and filed lawsuits against 19 others for dealing in Internet child pornography during the coordinated EU operation "Purity" in April. The division, which prioritized and aggressively pursued child pornography cases, reported a 600 percent annual increase of crime through the Internet.

In June the government, the UNHCR, and the deputy ombudsman for children's rights announced guidelines for the management of separated children seeking asylum, based on internally agreed upon principles of separated child protection. Among the 11 detailed guidelines is one specifying the appointment of a "special

temporary guardian" as soon as a separated child is identified and if that child is applying for asylum. However, at year's end there remained problems with the implementation of the guidelines, and the UNHCR, Greek Council for Refugees, and deputy ombudsman for children's rights called on the government to improve protection for separated migrant children, notably potential asylum seekers and victims of trafficking, and appoint legal guardians for them.

Trafficking in Persons.—The law prohibits trafficking in persons; however, the country was both a transit and destination country for significant numbers of women, children, and smaller numbers of men trafficked for the purposes of sexual exploitation and forced labor. There were allegations that some police officers were involved in trafficking rings or accepted bribes from traffickers.

The law considers trafficking in persons a criminal offense and provides for imprisonment of up to 10 years and fines of approximately $12 thousand to $60 thousand (10 thousand to 50 thousand euros) for convicted traffickers. Penalties are harsher for traffickers of children.

During the first 6 months of the year, police reported that they charged 162 persons with crimes under the section of law that includes trafficking and located 79 trafficking victims, although there were estimated to be many more such victims during the period. In January a trafficker was convicted in Kavala to more than 12 years' imprisonment and fined $63,150 (52,625 euros); at year's end he had been released from prison on bail.

There is an interministerial committee to coordinate antitrafficking efforts. During the year the government participated in international investigations in cooperation with regional authorities, including the Southeast European Cooperative Initiative.

Major countries of origin for trafficking victims included Nigeria, Ukraine, Russia, Bulgaria, Albania, Moldova, Romania, and Belarus. Women from many other countries were trafficked to the country and in some cases were reportedly trafficked on to Italy and other EU countries as well as to the Middle East.

According to an academic observer, trafficking in women and children for sexual exploitation in the country decreased from approximately 20 thousand victims in 2003 to approximately 10 thousand during the year. Unofficial NGO estimates placed approximately 13 thousand to 14 thousand trafficked persons in the country at any given time.

Trafficking of children was a problem. Most child trafficking victims were Albanian Romani children trafficked for labor exploitation or teenage girls trafficked for commercial sexual exploitation. Albanian children made up the majority of children trafficked for forced labor, begging, and stealing. NGOs reported that the practice of "renting" children had dramatically decreased as it became easier for Albanian parents to emigrate to the country. An NGO working on child-trafficking problems reported that some legalized and illegal Albanian immigrants residing in the country exploited their children.

Problems persisted with police detaining minors trafficked into the country as criminals or repatriating them without ensuring proper reception by their home country authorities.

Women and children arrived as "tourists" or illegal immigrants and were lured into prostitution by club owners who threatened them with deportation. There were reports that traffickers kidnapped victims, including minors, from their homes abroad and smuggled them into the country, where they were sold to local procurers. Traffickers less frequently confined victims to apartments, hotels, and clubs against their will, failed to register them with authorities, and forced them to surrender their passports. Some rescued victims reported being given small stipends, mobile phones, and limited freedoms but nevertheless were coerced, threatened, and abused by their traffickers.

Many antitrafficking activists alleged that some police officers were involved in trafficking rings or accepted bribes from traffickers, including organized crime networks. In December 2004 three police officers were given suspended sentences for their part in a prostitution ring involving underage girls. The MPO's Bureau of Internal Affairs investigated charges of police involvement in trafficking cases.

The lack of an effective screening and referral mechanism meant that probable victims of trafficking were deported without having been identified. Some trafficking victims were prosecuted for immigration violations, sometimes alongside their traffickers. To remedy the situation, during the year parliament passed an immigration law that provided a "reflection period" for trafficking victims facing deportation. A few trafficking victims and NGOs that supported them stated that inadequate police protection for victims who were witnesses in trials meant that those victims lived in constant fear of their traffickers.

During the year the government issued special residence/work permits to trafficking victims; however, anecdotal reports indicated that trafficking victims continued to be deported. The government reported that 22 residence permits had been issued to trafficking victims by October.

A number of domestic NGOs also worked on trafficking problems, but victim protection measures and referral mechanisms remained weak. The government supported a 24-hour hot line for trafficking victims, operated by an NGO.

There were NGO-operated shelters that assisted trafficking victims in Athens, Thessaloniki, and Ioannina, and in October, 2 additional shelters in Athens were opened: a 50-bed shelter funded by the government and operated by the NGO of the Orthodox Church and a 22-bed shelter in premises offered by the Ministry of Health. Several government-operated shelters opened in 2004 but were forced to close temporarily due to budget constraints.

NGOs distributed antitrafficking brochures with funds from the MFA. The MPO published a multilingual "know-your-rights" pamphlet designed to inform persons identified by police as possible trafficking victims of resources at their disposal. The government supported prevention activities in source countries through grants from its MFA.

In December the deputy foreign minister joined the Transnational Action against Child Trafficking project in Albania, committing $600 thousand to the program over 3 years. The program's aim was to raise awareness to prevent child trafficking, provide social and educational assistance to at-risk children and families, assist in voluntary returns, and reintegrate children trafficked to Greece.

Persons with Disabilities.—The law provides that persons with disabilities are entitled to benefit from measures ensuring their self-sufficiency, professional integration, and participation in the social, economic, and political life of the country. There was no systemic discrimination against persons with disabilities in employment, education, access to health care, or the provision of other government services. The law mandates access to buildings for persons with disabilities; however, authorities enforced this law poorly. Only 5 percent of public buildings were fully accessible to persons with disabilities; most buildings with special ramps did not have special elevators and lavatories. The deputy ombudsman for social welfare handled complaints related to persons with special needs, especially related to employment, social security, and transportation.

The Ministry of Welfare estimated that there were 180 thousand to 200 thousand children with special education needs, out of whom only 18,585 were attending school in 2004 due to either lack of special schools in their area or deficient accessibility.

In July the deputy ombudsman reported that nearly 60 percent of persons with disabilities had been barred from the benefits of affirmative action employment to which they were entitled because they were misinformed or inadequately informed about the supporting documents they should provide and because of unclear interpretations of the law itself. The deputy ombudsman stated that unemployment was the greatest social problem for persons with disabilities and recommended that the government prepare new legislation or improve existing laws.

National/Racial/Ethnic Minorities.—Albanian immigrants, who made up approximately 5 percent of the population, faced widespread societal discrimination, although Albanian community representatives said that it was slowly decreasing. Immigrants accused police of physical, verbal, and other mistreatment. They also reported the confiscation and destruction of personal documents, particularly during police sweeps to apprehend illegal immigrants. The media blamed Albanians and immigrants for a reported rise in crime in recent years. AI, GHM, and the deputy ombudsman for human rights alleged that complaints of police ill-treatment of Albanians were rejected as unfounded, although the authenticity of the complaints was supported by documents such as certificates from state hospitals concerning recent injuries and issued shortly after the complainants' release from police stations. Albanian community leaders reported that it was difficult to be granted citizenship, even after all objective citizenship requirements had been met.

A September deputy ombudsman's report on police abuse found that police took citizens to detention centers for arbitrary identity checks, used insulting language and threats of force, conducted bodily searches in public, and did not inform citizens on the progress of internal investigations unless cases were made public through the press. The report found that the police conducted arbitrary identity checks on the basis of stereotypes, targeting persons based on their race, color, nationality, or who happened to be in "high-crime" areas (see section 1.d.).

In contrast with 2004, there was no public debate or mention of "foreign" students carrying the country's flag at National Day parades.

The trial of a person charged with the September 2004 killing of an Albanian immigrant following a soccer game, originally set for November, was postponed. At year's end no new trial date had been set.

A number of citizens identified themselves as Turks, Pomaks, Vlachs, Roma, Arvanites (Orthodox Christians who speak a dialect of Albanian), or "Macedonians" or "Slavomacedonians." While some members of these groups sought to be identified as "minorities," or "linguistic minorities," others did not consider that these identifications made them members of a "minority." The government formally recognized only the "Muslim minority" and did not officially acknowledge the existence of any indigenous ethnic groups, principally Slavophones, under the term "minority." The previous government, however, affirmed an individual right of self-identification. Some individuals who defined themselves as members of a "minority" found it difficult to express their identity freely and maintain their culture. Use of the terms *Tourkos* and *Tourkikos* ("Turk" and "Turkish") is prohibited in titles of organizations, although individuals legally may call themselves *Tourkos* (see section 2.b.). To most Greeks the words *Tourkos* and *Tourkikos* connote Turkish identity or loyalties, and many objected to their use by Greek citizens of Turkish origin.

The government and public opinion considered that minorities were defined exclusively in the Treaty of Lausanne and reacted negatively to any definition of "minorities" based on the mathematical standard of a group being referred to as a "minority" because it does not form a "majority" or a plurality of the total population.

The government did not recognize the Slavic dialect spoken by persons in the northwestern area of the country as "Macedonian," a language distinct from Bulgarian. Most speakers of the dialect referred to themselves as "natives." A small number of Slavic speakers insisted on the use of the term "Macedonian," a designation which generated strong opposition from the ethnic Greek population. These activists claimed that the government pursued a policy designed to discourage use of their language.

On October 20, the ECHR ordered the government to pay $42,294 (35,245 euros) to the Rainbow Party for violations of 2 ECHR articles: the right to a fair hearing and the right to freedom of assembly and association. The ruling faulted police for failing to take measures to prevent, or at least contain, violence during a 1995 demonstration instigated by the town council and local priests, during which Rainbow Party members were assaulted after the group hung a sign written in both Greek and the "Slavomacedonian dialect" outside party headquarters. The ECHR also held that the seven years and one month that authorities took to investigate the case was an excessive and unreasonable amount of time.

Roma continued to face widespread governmental and societal discrimination. In April 2004 the European Roma Rights Center (ERRC) issued a report that claimed Roma were subject to systematic police abuse; mistreatment while in police custody; regular raids and searches of their neighborhoods for criminal suspects, drugs, and weapons; and educational discrimination (see section 1.c.). A 2004 ECRI report noted with concern that the situation of Roma remained serious and that Roma continued to face discrimination and difficulty in the areas of housing, employment, education, and access to public services.

In June the European Committee of Social Rights held that government policies regarding housing and accommodation of Roma infringed the European Social Charter, due to insufficient number of dwellings to meet the needs of settled Roma, insufficient number of stopping places for Roma who follow an itinerant lifestyle, and systemic eviction of Roma from sites or dwellings. The committee also found that the government had failed to take sufficient measures to improve the living conditions of Roma and had not taken measures to constrain or sanction municipalities that were not diligent in selecting appropriate sites or were reluctant to provide the appropriate infrastructure for itinerant Roma. The International Helsinki Federation found in June that approximately half of the Roma lived segregated from non-Roma in substandard housing conditions.

In October AI published a report criticizing the government for its treatment of Roma, pointing to racial discrimination, a pattern of targeting Albanian Roma homes for demolition, and failure to carry out investigations in attacks against the Roma of Riganokampos, among other criticisms.

The law prohibits the encampment of "wandering nomads" without a permit and forces Roma to establish settlements outside inhabited areas and far from permanent housing. There were approximately 70 Romani camps in the country. Local and international NGOs charged that the enforced separation contravened the country's commitments under the International Convention on the Elimination of All Forms of Racial Discrimination.

There were frequent police raids on Romani settlements and harsh police treatment of Roma. Romani families who had lived for decades in settlements near

Olympic venues were evicted and left to find alternate shelter. Local municipalities reportedly did not fulfill their commitment to provide replacement housing with subsidized rent for the families. In 2004 AI and the UN Committee Against Torture expressed concern at instances of ill-treatment of Roma by public officials in situations of forced evictions or relocation.

The UN special rapporteur's statement after his November visit called the housing and sanitation conditions of the Roma settlement he visited unacceptable, highlighting that "access to health and education is limited or lacking and social programs are not providing assistance to the community." He recommended that the state take specific measures to develop and improve living conditions in Romani communities to give Romani children alternatives to street work or prostitution as survival strategies for them and their families.

Local authorities continued to harass and threaten to evict Roma from their camps or other dwellings. In February a Romani house was demolished in Agia Paraskevi, Athens, and two other families were served with eviction orders. The community had been promised relocation to the neighboring municipality of Spata in 2002, but due to resistance of the Spata authorities and the failure to provide housing there, the Romani families continued living in Agia Paraskevi in extremely substandard conditions.

In June eight local and international NGOs, including the ERRC, formally appealed to the government after Romani tent-dwellers in the Riganokampos area outside Patras were threatened with eviction. The ERRC and GHM criticized the demolition in June of 11 makeshift homes of Romani families in Riganokampos and the failure of Greek authorities to investigate the alleged arson attacks in May against the community.

Nine local and international NGOs, including the ERRC, appealed to the mayor of Athens in July over the announced evictions without resettlement provisions of approximately 70 Albanian Romani families from squalid conditions in communities around Votanikos, Athens, to make way for a new soccer stadium. At year's end the evictions were still planned, but no action had been taken.

Roma frequently faced societal discrimination in employment and in housing, particularly when attempting to rent accommodations. The illiteracy rate among Roma was estimated at 80 percent. Poverty, illiteracy, and societal prejudice were most severe among migrant Roma or those who lived in quasi-permanent settlements. Most Romani camps had no running water, electricity, garbage disposal, or sewage treatment. The approximately 400 Romani families in Tyrnavos, Thessaly, lived in tents because authorities refused to include the area in city planning. The municipality of Rachoula in Larissa took action to delay the permanent settlement of Roma in the region on property owned by Roma.

Romani representatives reported that some local authorities have refused to register Roma as residents or that the Roma were unable to satisfy the requirements to be registered. Until registered with a municipality, a citizen cannot vote or exercise other civil rights, such as contribute to social security or obtain an official marriage, commercial, or driver's license. It was estimated that 90 percent of Roma were not insured by the public social security system because they were unable to make the required contributions. Indigent Roma were entitled to free health care provided all citizens; however, their access at times was hindered by the distance between their encampments and public health facilities.

The government considered the Roma to be a "socially excluded" or "sensitive" group, not a "minority." As a result, government policy was to encourage the integration of Roma. The Ministry of Education has instructed school principals to promote integration.

The Ministry of Interior headed an interministerial committee that coordinated projects for the 85 thousand to 120 thousand Roma the government estimated were in the country (unofficial estimates ranged from 250 thousand to 350 thousand). By September 2004 only 30 cities had responded to the Ministry of Interior's 2003 invitation to 75 cities with Romani populations to identify areas in which it could build housing for Roma. Among the program's provisions were very low interest housing loans for Roma, which have had varying success rates in different areas of the country.

The Ministry of Health and Welfare and the MFA continued projects to address the chronic problems of the Romani community, including training courses for civil servants, police, and teachers to increase their sensitivity to Romani problems; the development of teaching materials for Romani children; the establishment of youth centers in areas close to Romani communities; and the deployment of mobile health units and community social workers to address the needs of itinerant Roma. However, Roma community representatives reported that these programs either did not always reach their communities or were of limited effectiveness.

Other Societal Abuses and Discrimination.—The NGO Greek Homosexual Community (EOK) alleged that police often abused and harassed homosexuals and transvestites and subjected them to arbitrary identity checks and bodily searches in public places.

In December 2004 the broadcasting regulator ESR fined a radio station over insulting language used on a radio show presented by a lesbian, and the station subsequently cancelled the show. The Gay and Lesbian Community of Greece and EOK condemned the ESR ruling as homophobic and lodged complaints with the government over what it described as a discriminatory decision. The government took no action regarding the complaints.

Section 6. Worker Rights

a. The Right of Association.—The law provides that all workers, with the exception of members of the military, have the right to form and join unions of their choice, and workers exercised this right. Approximately 26 percent of nonagricultural salaried employees were union members. Unions received most of their funding from the Workers' Hearth, a Ministry of Labor organization, which distributes mandatory contributions from employees and employers. Workers, employers, and the state were represented in equal numbers on the board of directors of the Workers' Hearth. The law prohibits antiunion discrimination by employers, and there were no complaints of such discrimination during the year.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law generally provides for the right to bargain collectively in the private sector and in public corporations, and unions exercised this right freely. All workers are covered by collective bargaining agreements regardless of whether they are members of unions. The law provides for the right to strike, and workers in the private sector and in public corporations exercised this right in practice. Civil servants have the right to organize, to bargain collectively with the Ministry of Public Administration, and to strike. Police have the right to organize and demonstrate but not to strike.

There are some legal restrictions on strikes, including a mandatory notice period of 4 days for public utilities and 24 hours for the private sector. The law mandates a skeleton staff during strikes affecting public services. Courts may declare a strike illegal; however, such decisions were seldom enforced. Unions complained that this judicial power deterred some of their members from participating in strikes. Courts declared some strikes illegal during the year for reasons such as failure of the union to give adequate advance notice of the strike or a union making new demands during the course of the strike, but no workers were prosecuted for striking.

There are no special laws or exemptions from regular labor laws in the country's three free trade zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits all forced or compulsory labor; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively implemented laws and policies to protect children from exploitation in the workplace. However, the government did not adequately protect children who were exploited in nontraditional environments, such as begging on the street.

The minimum age for employment in the industrial sector is 15 years, with higher limits for some activities. The minimum age is 12 years in family businesses, theaters, and the cinema. These limits were enforced by occasional spot checks and were generally observed. However, families engaged in agriculture, food service, and merchandising often had younger family members assisting them at least part time.

Child labor was a problem, although international and local observers agreed that the number of working children had decreased in recent years. A number of children begged or tried to persuade persons to buy small items, such as tissues, in the streets. The government and NGOs reported that the majority of beggars were either indigenous or Albanian Roma.

There were reports that children from Albania were trafficked and forced to beg; however, antitrafficking NGOs reported a decrease in this abuse as more Albanian parents entered the country themselves with their children (see section 5). Some parents forced their children to beg for money or food.

The government provided funding to NGOs such as the Association for the Social Support of Youth (ARSIS), which worked to prevent child trafficking and child exploitation and did street outreach to address child labor on the streets. ARSIS had close cooperation with NGOs in Albania and during the year opened a satellite office in Albania.

The government supported prevention activities in source countries through grants from its MFA.

e. Acceptable Conditions of Work.—The Greek General Confederation of Labor (GSEE) and the Employers' Association determine a national minimum wage through collective bargaining. The Ministry of Labor routinely ratified this minimum wage, which has the force of law and applies to all workers. The minimum wage of approximately $35 (29 euros) daily and $779 (649 euros) monthly provided a decent standard of living for a worker and family.

The maximum legal workweek is 40 hours in the private sector and 37.5 hours in the public sector. The law provides for at least 1 24-hour rest period per week, mandates paid vacation of 1 month per year, and sets limits on overtime.

The law provides for minimum standards of occupational health and safety. The GSEE characterized health and safety laws as satisfactory but stated that enforcement by the labor inspectorate was inadequate. Workers do not have the legal right to remove themselves from situations that they believe endanger their health; however, they have the right to lodge a confidential complaint with the labor inspectorate. Inspectors have the right to close down machinery or a process for up to five days if they see safety or health hazards that they believe represent an imminent danger to the workers.

The law protects foreign workers; however, their wages were lower and they worked longer hours than citizens. Officially, wages should be the same for local and foreign workers, but in practice there were some reports of undocumented foreign workers being exploited by employers, receiving low wages and no social security contributions. Many employers did not make social security contributions for illegal foreign workers, making their legalization impossible.

HUNGARY

Hungary, with a population of approximately 10 million, is a parliamentary democracy with a legislative assembly. Prime Minister Ferenc Gyurscany led a coalition government formed by the Hungarian Socialist Party and the Alliance of Free Democrats after the multiparty elections in 2002, which were considered free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- excessive use of force by police against suspects, particularly Roma
- government interference in editorial and personnel decisions of state-owned media
- anti-Semitic incidents
- violence against women and children
- sexual harassment in the workplace
- trafficking in persons
- societal discrimination against Roma

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

In July 2004 the government charged with manslaughter two police officers who were involved in the June 2004 death of a Bulgarian national.

Family members of a Romani man who died while being arrested by police in July 2004 filed a motion to have criminal charges brought against the officers. In January the office of the minority affairs ombudsman determined that the police investigation into the matter, which found no misconduct, had been carried out satisfactorily.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, police used excessive force, beat, and harassed suspects, particularly Roma. The number of police abuse reports rose slightly, although observers attributed this increase to greater public willingness to report abuse. In the first half of the year 34 police officers were charged with assault and

6 others were charged with "forced interrogations." NGOs estimated that approximately half of the police abuse cases involved Romani victims.

For example, in June police officers in Tolna County severely beat a Romani man after taking him into custody for making threats. Two days later the police went to his brother's home, beat his brother, causing several broken ribs, and threatened his brother's family. The government initiated an investigation into the five police officers involved.

In August a Romani man and his two non-Romani friends reported that a local sheriff of Szany and two of the sheriff's relatives beat them after a complaint that the three youths were making excessive noise. Reportedly, the parents of the Romani boy also suffered physical abuse when they went to the sheriff to inquire about the incident. A hospital report concluded that the father, who suffers from brain cancer and epilepsy, had suffered oxygen deprivation and a rib contusion. Both the county prosecution investigations office and the national Roma self-government were investigating the incident at year's end.

In November the eight police officers accused of the December 2004 beating a Romani man in Kaposvar were acquitted. The investigation into the December 2004 police beating of a Romani couple detained in Szigetvar on suspicion of pickpocketing concluded with no charges filed.

In some cases police were indifferent to foreign victims of crime; police often neglected to investigate reports of theft made by foreigners.

Prison and Detention Center Conditions.—Prisons generally met international standards; however, overcrowding was a serious problem.

During the year prisons and detention centers held an average of 16,410 persons and were at 146 percent of capacity, with one prison at 246 percent of capacity. The government began construction on two new prisons to relieve overcrowding.

In January a modification to a law on detentions went into effect, providing for pretrial detentions (with some exceptions) to be carried out in remand prisons and not police holding cells.

The government permitted visits by independent human rights observers, and such visits occurred during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The Hungarian national police (HNP), under the direction of the Ministry of Interior, has responsibility for law enforcement and the maintenance of order. City police forces and the national border guards also share security responsibilities under the interior ministry's direction. Police corruption was a problem, particularly the soliciting or accepting of bribes in exchange for ignoring traffic violations. The government actively pursued allegations of police abuse. Punishments for abuses committed by police included fines, probation, dismissal, and prison sentences.

Arrest and Detention.—The law requires police to obtain warrants in order to place an individual under arrest. Police must inform suspects upon arrest of the charges against them but may hold detainees for a maximum of 72 hours before filing charges. The law requires that all suspects be allowed access to counsel prior to questioning and throughout all subsequent proceedings, and that the authorities provide counsel for detained suspects, juveniles, the indigent, and the mentally disabled. In actuality, police did not always allow access to counsel, particularly for persons accused of minor crimes. Although a comprehensive bail system existed, it was infrequently used.

In certain circumstances, the law permits police to hold suspects for up to twelve hours. A special type of detention called "public security detention" allows police to detain individuals who do not have identification for up to 24 hours.

There were no reports of political detainees.

The prosecutor general's office reported that the average length of pretrial detention in 2004 was 118.5 days. In the first half of the year 2,481 persons were in pretrial detention for an average period of 126 days, with approximately 14 percent of detainees being held for periods longer than 8 months.

Roma reportedly were kept in pretrial detention more frequently than non-Roma. Pretrial detention sometimes equaled but did not exceed the sentence. In cases of acquittal, the law provides for monetary compensation.

e. Denial of Fair Public Trial.—Under the constitution, the courts are responsible for the administration of justice, with the Supreme Court exercising control over the operations and judicial procedure of all other courts. District courts are the courts of first instance. Regional courts are courts of appeal from district courts and can also function as courts of first instance. Five courts of appeal handle appeals from

regional courts. The Supreme Court functions as the highest judicial body and can review the decisions of lower courts in certain cases.

The Constitutional Court stands apart from the rest of the judicial system and cannot overturn the decisions handed down by other courts. This court is charged with reviewing both the constitutionality of the laws and statutes brought before it as well as international treaties ratified by the government. Citizens may bring appeals directly to the Constitutional Court if they believe that their constitutional rights have been violated. The Constitutional Court is required to address every petition it receives; however, no deadline is specified for the court to render a decision, which has resulted in a considerable backlog of cases. The court received 1,136 complaints during the year. Parliament elects the 11 members of the Constitutional Court, who serve nine-year terms. All four vacancies on the court were filled in November.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally respected this right. Trials are public, but judges may in some cases agree to a closed trial to protect the accused or the victim of a crime. Judicial proceedings generally were investigative rather than adversarial in nature. Defendants are entitled to counsel during all phases of criminal proceedings and are presumed innocent until proven guilty. Counsel is appointed for individuals in need, including indigent clients, but the public defender system generally provided substandard service.

Judicial proceedings varied in length, and delays of several months to a year were common before the commencement of trials. Cases on appeal may remain pending before the courts for indefinite periods, during which time defendants are held in detention. Defendants can challenge or question witnesses against them and present witnesses and evidence on their own behalf, and they have access to government-held evidence relevant to their cases. There is no jury system; judges are the final arbiters.

Many human rights and Romani organizations claimed that Roma received unequal treatment in the judicial process (see section 1.d.).

Military trials follow civil law and may be closed if justified on national security or moral grounds. In all cases, sentencing must take place publicly. The law does not provide for the trial of civilians in military courts.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Roma faced discrimination in housing (see section 5).

According to the Roma Civil Rights Foundation (RCRF), many municipalities employed a variety of techniques to prevent Roma from living in more desirable neighborhoods of their cities. Such techniques included the misappropriation by local governments of social housing designated for the poor by auctioning it off to the highest bidder, as well as the eviction of Roma from areas slated for renovation without providing enough financial compensation for them to move back once renovations were completed. The RCRF also reported that district councils threatened to take children away from Roma families to expedite evictions. On May 2, the parliamentary commissioner for national and ethnic minority rights formally requested that the Minister of Interior open a countrywide investigation into racial discrimination against Roma in the allotment of social housing.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, the government influenced editorial and personnel decisions of state-owned media.

The independent media were active and expressed a wide variety of views without restriction. Interference in state-owned media, however, remained a concern. Several state-owned radio and television stations were governed by a state-appointed public media oversight board, which has proportional political representation. In 2004 the daily newspaper *Nepszava* reported that the president of Hungarian Public Radio (HPR) had been a secret agent during the Communist period, but these allegations were never substantiated and were widely believed to be a politically motivated attempt to discredit her since she had been appointed by the previous government. When her term expired in July, a dispute arose between the chairman and other members of the board of trustees over her interim replacement, and the chairman threatened to withhold government funds from HPR. The house speaker initiated committee inquiries into the legality of the interim leadership. The Hungarian Federation of Electronic Journalists, a professional association, characterized this

parliamentary scrutiny as a threat to public service media. Opposition political parties continued to be critical of the pro-government news coverage in state-owned media.

A 1996 law provides for the creation of nationwide commercial television and radio boards in order to insulate the remaining public service media from government control. The media boards are elected every four years following parliamentary elections. The National Television and Radio Board monitored news broadcasts for equal treatment of all political parties and can fine public and private broadcasters for noncompliance; however, no fines were imposed during the year.

Unlike the previous year, journalists were not convicted for libel. During the year the case of a journalist charged in 2004 with breaching privacy laws went to trial, resulting in his acquittal by the court of first instance. The journalist had written an article that cited a police memorandum about criminal evidence gathered on a member of parliament. The prosecution appealed the court's ruling.

There were no government restrictions on the Internet or academic freedom. There were reports, however, that the mayor of Budapest refused event permits for concerts sponsored by right-wing cultural groups.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly and the government generally respected this right in practice. In January, Blood and Honor, a neo-Nazi group, appealed a December 2004 decision to withdraw its legal status. The court of appeal suspended proceedings in August in order to request the opinion of the Supreme Court on the relationship between the constitutionally guaranteed rights of freedom of assembly and human dignity. When the Supreme Court found no constitutional obstacles, the group was formally disbanded in October and reapplied for registration in November under the name "Pax Hungarica Society."

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. There is no state religion; however, there are four historically recognized religious groups (Roman Catholic, Reformed, Evangelical, and Jewish) as well as 137 other officially recognized denominations. Recognized denominations received tax incentives that unregistered religious groups did not.

At the end of the year there were 770 pending property restitution cases involving religious groups. In September the government passed a resolution calling for all outstanding claims to religious property to be settled by the middle of 2006. In October the government returned a large synagogue located in central Budapest to the Jewish community.

Societal Abuses and Discrimination.—In September a number of anti-Islamic posters appeared in Budapest. Police did not initiate an investigation, citing freedom of speech.

Despite a decrease in anti-Semitic incidents over the past several years, representatives of the Jewish community—which numbers between 80 thousand and 100 thousand—expressed concern over anti-Semitism in some media outlets, in society, and in coded political speech. For example, they criticized certain segments of *Vasarnapi Ujsag*, an ongoing Sunday news program on Hungarian Public Radio, for presenting guests who held anti-Semitic viewpoints. The weekly newspaper *Magyar Demokrata* continued to feature articles by authors who have denied the Holocaust, and to regularly publish anti-Semitic articles regularly.

In the first six months of the year, police reported 89 cases of persons vandalizing gravestones and cemeteries (including one Jewish cemetery), down from 216 cases for all of 2004. In June 130 graves were vandalized at the central Jewish cemetery in Budapest. Because police discovered no overtly anti-Semitic manifestations, they and Jewish leaders suspect motives other than anti-Semitism. The police investigation remained open.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights and the government generally respected them in practice.

The law does not provide for forced exile, and the government did not employ it.

The law permits the government to delay but not deny emigration for those who have significant court-assessed debts or who possess state secrets. During the year there were no known cases of delayed emigration.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for pro-

viding protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared prosecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 protocol and provided it to approximately 95 persons during the year.

The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations assisting refugees and asylum seekers. The UNHCR reported that 1,609 asylum applications were filed during the year. In 2004 the average length of stay in the refugee reception centers was 220 days.

Although police sought the timely deportation of detainees who did not qualify for refugee status, a shortage of funds and the detainees' frequent lack of documentation often resulted in stays of over a year. Although there were no reports of abuse during deportation, NGOs criticized the government's prolonged detention of stateless and sometimes undocumented foreigners pending resolution of their cases.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Parliamentary elections in 2002 were free and fair.

There were 35 women in the 386 seat parliament. There were two women in the cabinet.

There were no figures on the number of minorities in parliament or the cabinet. However, minorities did not appear to be well represented. There were three thousand Romani politicians in the local and national minority self-governments (MSGs), which provided wide cultural autonomy for minorities and handled primarily cultural and educational affairs. The president of each self-government also has the right to speak at and attend local government assemblies. At year's end 970 out of the 1,830 active self-governments were Romani.

Two factors limited the effectiveness of the Romani and other MSGs. The election of non-minorities to the MSGs prevented some minorities from exercising the autonomy the law is intended to promote, and some critics claim that MSGs lack the legal authority and financial resources necessary to effectively address minority issues. On June 13, parliament passed an amendment of the laws on minorities and elections in order to address these concerns. The amendment requires voters for MSGs to register as a minority, and MSG candidates must be endorsed by the appropriate minority NGO. The amendment also provides for a "set-aside" minority seat on the local council and in some cases confers voting power for the minority representative. In June 2004 the president of the republic forwarded the amendment to the Constitutional Court to determine its legality. In September the Constitutional Court found the "set aside" provision unconstitutional and a new version of the amendment was being drafted at year's end.

Government Corruption and Transparency.—There was a widespread perception of corruption in the executive and legislative branches. There were no reported police investigations or prosecutions regarding corruption in government. Low-level corruption among law enforcement officials remained a problem. In July 2004 a dedicated 12-person anticorruption mobile unit within the police force was disbanded as part of a restructuring plan for the national police headquarters. A nine-person anticorruption unit within the national police headquarters investigated corruption within the government, although persons with parliamentary immunity were exempt from its purview. No dedicated unit existed to fight internal corruption, although the protective service of law enforcement agencies, which oversees all law enforcement agencies, can investigate corruption cases.

The law provides for access to government information and the government generally provided it upon request. Many court rulings were unavailable to the public, which critics charged led to legal uncertainty. In July parliament passed the freedom of electronic information law, which obligates public institutions to place information of public interest on the internet. The law had not yet gone into force at year's end.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government was cooperative and responsive to their views.

The 21-member parliamentary committee for human, minority, and religious rights conducted hearings and participated in the law-making process. The committee reviewed legislative proposals, particularly the annual budget and amendments to the laws affecting minority groups. Separate ombudsmen for human rights, data protection, and minority affairs are independent of the government and delivered annual reports to parliament on their activities and findings. Parliament received their reports but was not legally bound to act on them. Parliament elects the ombudsmen for six-year terms. Persons with complaints who have not obtained redress elsewhere may seek the assistance of the ombudsman's office. The ombudsman's office does not have the authority to issue legally binding judgments but may act as a mediator and conduct fact-finding inquiries.

The minority affairs ombudsman played an active role in the investigation of allegations of discrimination against the Romani community in such cases as school segregation, access to housing, and the election of non-Roma to the Romani MSGs.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for individual rights, equality, and protection against discrimination; however, in practice, discrimination persisted, particularly against Roma. Violence against women, child abuse, and trafficking in persons were also problems.

Women.—Domestic violence against women was a problem. Research conducted by an expert in the field indicates that as many as 20 percent of women were threatened or victimized by domestic violence. The law does not specifically prohibit domestic violence or spousal abuse. The charge of battery, which carries a prison term of up to eight years, can be used to prosecute cases. Societal attitudes tend to blame the victim of the abuse, and police were reluctant to punish abusers. Most incidents of domestic violence went unreported, as many victims did not report incidents of domestic violence out of fear and shame.

The Ministry of Youth, Family, Social Affairs, and Equal Opportunities continued to operate a 24-hour hot line for victims of domestic abuse and to set aside beds for them at government-run shelters. NGOs believed the government focused insufficient attention on domestic violence.

Rape, including spousal rape, is illegal, but the crime was often unreported because of the social stigma borne by victims. Penalties for rape range normally from 2 to 8 years, and up to 15 years in aggravated cases. Although the number of rape related investigations was not available, during the first half of the year police investigated 1,094 cases of crimes against sexual morals, which includes rape. A total of 417 convictions for such crimes were registered. Police reportedly were unsympathetic toward victims of sexual abuse, particularly if the victim had been acquainted with her abuser.

Prostitution is legal, but there are legal restrictions on where it may be carried out. Tolerances zones can be established where a significant amount of prostitution can legally occur within a confined area, but no such zones were in effect during the year. Police regularly fined prostitutes for offering their services, and targeted them for physical and verbal abuse. There were approximately 20 thousand prostitutes, many of whom were vulnerable to being forced or coerced into the activity by local pimps who keep most of their earnings. Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

Although the law does not explicitly prohibit sexual harassment in the workplace, general harassment is illegal and the law has a section addressing the right to a secure workplace. Nonetheless, sexual harassment remained a widespread problem. Women's groups reported that there was little government support for the efforts of NGOs and some legislators to criminalize sexual harassment and that sexual harassment was tolerated by women who feared unemployment more than harassment.

Women have the same rights as men under family law, property law, and in the judicial system. However, there was economic discrimination against women in the workplace, particularly against women over age 50 and pregnant women. In January the government established the Equal Treatment Authority (ETA) to investigate discriminatory treatment. During the year the ETA determined that employers had illegally discriminated in nine cases, with most of the victims being women or Roma. The ETA imposed penalties ranging from reprimands to fines.

Children.—The government was committed to children's rights. The law provides for compulsory education, which was free through age 18 for children who were born

after 1997. The Ministry of Education estimated that 95 percent of school-age children were enrolled in school, although the drop-out rate for Romani children was much higher than for the overall student population. NGOs reported that only 10 percent of Romani children complete high school, compared to 80 percent of the general population.

The highest education level achieved by most students was secondary school.

Although education laws forbid the official segregation of children according to ethnicity or nationality, the de facto segregation of Romani children was a problem. Romani children were often placed without cause in remedial classes, effectively separating them from other students. NGOs and government officials estimated that 20 percent of Roma children were in remedial programs and that seven hundred such segregated classes existed. Many schools with a majority of Romani students had substandard buildings and resources, as well as simplified curricula. Furthermore, according to the European Roma Rights Center, Romani students comprised only 20 percent of the country's student population but over 50 percent of the student body in special schools for children with developmental disabilities.

In August an NGO filed a suit against the city of Miskolc, charging that at least three schools in the district relegate Romani and other disadvantaged children to separate, poorly maintained buildings and instruct them in a simplified curriculum. In November the court of first instance found that no discrimination had occurred. The NGO filed an appeal, which had not been ruled on at year's end.

Although the government provided medical care to school aged children, NGOs and Romani activists claimed that Romani children did not have equal access to these and other government services.

Child abuse remained a problem. Some NGOs estimated that 25 percent of girls suffered from physical or sexual abuse by a family member before they reached the age of 12.

During the first half of the year, children were reported as victims of 2,933 crimes; nevertheless, police infrequently enforced laws to protect children. NGOs reported that neglect and abuse occurred in state care facilities such as orphanages.

Child marriages were uncommon; however, the government reported that 1 percent of the men who married, and 4 percent of the women who married, were under the age of 18. A small percentage of rural Roma allowed their female children to cohabit with a future spouse and his family prior to age 14.

Child prostitution was not a common practice, although isolated incidents occurred. Severe penalties existed under the law for those persons convicted of sexually abusing children by engaging in such acts. Although child prostitutes are not criminally prosecuted, they can be remanded to juvenile centers for rehabilitation and to complete school.

Trafficking in children for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking in persons to, from, and primarily through the country remained a problem.

The law provides penalties for trafficking ranging from 1 to 15 years in prison, depending on the circumstances of the case. The trafficking of minors is punishable by up to 10 years in prison. If an organized trafficking ring is involved, however, the sentence can be life imprisonment and the seizure of assets. The law stipulates the immediate deportation of foreign traffickers following the completion of their sentences.

The government agents most directly involved in antitrafficking efforts were the police, border guards, customs authorities, prosecutors, and the justice, interior, and foreign ministries. In principle, the government is willing to extradite foreign nationals charged with trafficking; however, no such extraditions took place. The organized crime task force investigated trafficking cases involving organized crime, and the government cooperated with other countries in joint trafficking investigations.

The country was a source, transit point, and destination for trafficking in persons. The annual number of trafficking victims from the country was estimated at three thousand to four thousand. Those most at risk were orphans who have attained adulthood, young women from the countryside, and young Romani women. Women and children were trafficked for sexual exploitation primarily from countries to the east and south where unemployment is higher (Russia, Romania, Ukraine, Moldova, Bulgaria, and the Balkans). Trafficking victims either remained in the country or proceeded on to Western Europe and the United States. There were no reports of men trafficked to or through the country for forced labor.

Organized crime syndicates transported many of the trafficking victims for forced prostitution either in Budapest, or for transit to Western Europe or North America. Trafficking rings also exploited victims for domestic servitude and manual labor. Russian-speaking organized crime syndicates were active in trafficking women

through the country, primarily from Ukraine and other countries of the former Soviet Union to European Union (EU) countries. Victims were recruited at discos and modeling agencies, through word of mouth, or even through open advertisements in local newspapers and magazines. Reportedly, some victims knew that they were going to work illegally, others believed they were getting foreign visas, and others expected to work but believed their employers were obtaining the appropriate papers and permission. Once at their destination, the victims were forced into prostitution or another form of exploitation. Victims were usually housed in apartments owned by the traffickers or outbuildings on their property. Victims' earnings and travel documents were typically taken by the trafficker.

There was no evidence of government involvement in or tolerance of trafficking, but there were reports that individual border guards were involved with corruption. In 2004 one police officer was arrested for providing prostitutes and was awaiting trial at year's end.

Trafficking victims who cooperated with police and prosecutors were able to gain temporary residency status, short-term relief from deportation, and shelter assistance. In March Hungarian Baptist Aid (HBA) opened a 156-bed shelter for victims of trafficking and domestic abuse in a complex of buildings donated by the government. Other NGOs provided shelter on an informal basis. The 51 local branches of the victims' protection office provided psychological and social support services and legal aid for all types of victims, including trafficking victims. The ministries of youth, family, social affairs, and equal opportunity operated a hot line for victims of trafficking and supported the HBA shelter for victims of trafficking.

The government maintained an inter-ministerial working group on trafficking, which is responsible for developing policy within the government, but no unified national approach to counter-trafficking programs was developed. Government officials cited difficulty in coordinating the three different ministries concerned with trafficking issues (interior, foreign affairs, and equal opportunities). On June 18, the minister of the interior signed a ministry antitrafficking action plan that emphasized police training and victim assistance. The ministry's various departments faced a December 31 deadline to prepare the new regulations required by the plan.

During the year the government created a bilateral working group comprised of representatives from various ministries, NGOs, and other international organizations. Convening for the first time on October 17, the group discussed the government's efforts to combat trafficking, particularly with regard to providing victim assistance, increasing public awareness, and gathering meaningful statistics.

The government continued to increase trafficking awareness and victim identification training for law enforcement and judicial officials by holding training workshops throughout the country.

During the year nearly 450 teachers and social workers took university classes on trafficking, and the government sponsored trafficking awareness programs in public and religious schools. Working with other NGOs, the International Organization for Migration (IOM) continued a program funded by the government and foreign donors to raise awareness of the problem of trafficking and to educate potential victims.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, persons with disabilities faced societal discrimination and prejudice. Government sources estimated that there were between 600 thousand and 1 million persons with disabilities (6 to 10 percent of the population).

Persons with disabilities most commonly face discrimination in employment and access to health care. Approximately 90 percent of persons with mental disabilities who are of working age are not employed. Cases of abuse and neglect have been reported in mental health care facilities. Some residents of government funded homes for the elderly were tied to their chairs and forced to sit all day.

The international NGO Mental Disability Rights International (MDRI) and the local NGO Hungarian Mental Health Interest Forum (PEF) noted that no procedures existed to supervise the treatment and care of persons with disabilities who were under guardianship. This lack of oversight often resulted in the blanket institutionalization of many individuals who did not require it. The MDRI and the PEF reported that cages or cage beds were no longer used in government facilities for persons with mental disabilities.

A government decree requires all companies with more than 20 employees to reserve 5 percent of their jobs for persons with physical or mental disabilities, with fines of up to 75 percent of the average monthly salary for noncompliance. In practice this regulation was not very effective, as employers typically prefer to pay the small fine if caught.

The law mandates access to buildings for persons with disabilities; however, services for persons with disabilities were limited, and most buildings were not wheelchair accessible.

The council for the disabled, under the leadership of the Minister of Social and Family Affairs, served as an advisory board to the government. The council evaluated the government's progress in implementing the disability action plan and identified a number of failures and delays. The council also urged the adoption of amendments to relevant statutes affecting the disabled, mainly regarding the provision of equal access to buildings and support services.

National/Racial/Ethnic Minorities.—Discrimination against Roma remained a problem. Reports of police abuse against Roma were common, but many Roma were fearful of seeking legal remedies or notify NGOs (see section 1.c.).

There were no developments in the trial of police officers in Hajduhadhaz accused of using excessive force against a Romani man in 2003.

Living conditions for Romani communities continued to be significantly worse than for the general population. Roma were significantly less educated and had below average income and life expectancy. The unemployment rate for Roma was estimated at 70 percent, more than 10 times the national average, and most Roma lived in extreme poverty. Widespread discrimination against Roma continued in education, housing, penal institutions, employment and access to public institutions, such as restaurants and pubs.

In July the ETA fined a cafe in Kalocsa because of its denial of entry in April to five Roma because of their ethnicity.

In June the county court in Szabolcs-Szatmar-Bereg ordered a popular disco to pay a fine for denying four Roma entry in April because of their ethnicity.

Predominantly Roma schools were more crowded, more poorly equipped, and in significantly worse condition than those attended by non-Roma (see section 5, Children). A book containing several negative stereotypes of Roma was used in a number of schools even though the government did not authorize it for the list of official school texts.

NGOs reported racial discrimination in adoption and high rates of removal of children from Romani families by child protective services. NGOs claimed that city councils threatened to remove children from Romani families in order to more easily evict those families for nonpayment of public utilities and discriminated against Roma in the distribution of social housing benefits (see section 1.f.).

The office of Roma affairs and the political state secretary for minority affairs worked in the Ministry of Youth, Family, and Social Affairs and Equal Opportunities. By August there were separate commissioners for Romani affairs in each of the three ministries of education, cultural heritage, and economy. The Roma affairs inter-ministerial commission continued to work to support the integration of the Roma and to coordinate the Roma affairs activities of the ministries and the national government offices. Of the 20 county labor affairs centers, 16 have Romani desk officers focusing on the needs of the Romani community. The Ministry of Education introduced financial incentives to encourage schools to integrate Romani and non-Romani children in the same classes, as well as to reintegrate those Roma inappropriately placed in remedial programs. The Ministry of Youth, Family, and Social Affairs and Equal Opportunities operated a program to finance infrastructure development in poor Romani communities. Government and NGO observers claimed that they could have accomplished more were it not for budget limitations and the government restructuring. Nevertheless, the government office of ethnic minorities along with the state secretary of Roma affairs played an active role in establishing the European Roma Forum in Brussels.

The minority affairs ombudsman played an active role in the examination of allegations of discrimination against the Romani community and continued to promote a uniform antidiscrimination law (see section 4). The Ministry of Justice also funded a Roma antidiscrimination legal service network, which provided free legal aid to Roma in cases where they had been discriminated against based on their ethnicity.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions and workers exercised these rights in practice. Approximately 23 percent of the labor force was unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference and the government protected this right in practice. Collective bargaining is protected by law and it was freely practiced. Approximately 38 percent of the workforce was covered by collective bargaining agreements.

With the exception of military personnel and police officers, workers have the right to strike and workers exercised this right in practice. The law permits the unions of military personnel and police officers to seek resolution of grievances in the courts.

There are no export processing zones, but individual foreign companies frequently were granted duty-free zone status for their facilities. There are no exemptions from regular labor laws in the duty-free zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace. The law prohibits labor by children under the age of 16 and regulates temporary labor conditions during school vacations of those aged 14 to 16, including prohibitions on night shifts and hard physical labor. Children may not work overtime. The national labor center enforced these regulations in practice, and there were no reports of any significant violations of this statute.

Trafficking in children occurred (see section 5).

e. Acceptable Conditions of Work.—The minimum monthly wage of $285 (57,000 HUF) did not provide a decent standard of living for a worker and family. The minimum wage was regularly evaluated and raised by the national council for interest reconciliation, a tripartite body of employers, employees, and the government. The council announced that an increase in the minimum wage to $310 (62,000 HUF) would take effect at the beginning of 2006.

The law sets the official workday at eight hours, although it may vary depending upon the nature of the industry. A 48-hour rest period is required during any 7-day period. The regular work week is 40 hours, with premium pay for overtime, and the law prohibits overtime exceeding 200 hours per year. The law applies equally to foreign workers who have received the necessary work permits.

Labor courts and the Hungarian labor inspectorate (HLI) enforced occupational safety standards set by the government, but specific safety conditions were not consistent with internationally accepted standards, and enforcement was not always effective. During the year an HLI survey of over 4,500 construction employers found that over 30 percent had employees working under conditions of serious risk. Under the law workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment, and this right generally was respected in practice.

ICELAND

Iceland, with a population of 300 thousand, is a constitutional republic and a parliamentary democracy; executive authority is vested in the prime minister, the president is head of state, and the unicameral Althingi parliament constitutes the legislative branch. In June 2004 Olafur Ragnar Grimsson was reelected as president in free and fair elections. In September 2004 Foreign Minister Halldor Asgrimsson (Progressive) replaced Prime Minister David Oddsson (Independence) based on a coalition agreement. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. The following human rights problems were reported:

- violence against women
- societal discrimination against minorities and foreigners
- isolated reports of women trafficked to the country

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards.

Following retraining of staff in 2004 on proper procedures for safeguarding prisoner welfare, prison officers' calls to a staff psychiatrist increased, demonstrating greater responsiveness to prisoner needs. However, in a December report the Council of Europe (COE) Commissioner for Human Rights expressed concern that prisoners did not have access to specialized mental health care services. The commissioner urged the authorities to arrange for treatment outside the prison system if necessary to meet individual care requirements.

The government maintained a separate minimum-security prison for women inmates; however, because so few women were incarcerated, some men were also held there. In the rare instances when juvenile offenders were incarcerated, they were held with adults, since there was no separate facility for juveniles. Pretrial detainees were held together with convicted prisoners.

The government permitted visits by independent human rights observers, and from July 4 to 6 the COE Commissioner for Human Rights visited the Reception Center for Asylum-seekers in Njardvik, the police station at Keflavik Airport, the police headquarters and its detention facility in Reykjavik, and the Litla Hraun Prison.

During the year 77 persons placed in custody spent 8.2 days on average in solitary confinement. The total amount of time that they spent in isolation was more than a month in 5 percent of cases. The daily average number of remand prisoners in isolation was 1.7, while the total number of days they spent there was 630 out of a total of 5,884 days in custody. All 11 reported cases of minors placed in custody involved some use of isolation.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The minister of justice heads the police force. The national commissioner of police administers and runs police operations that require centralized coordination among various offices. Various district chiefs of police have responsibility for law enforcement in their areas, investigate criminal offenses, and have prosecution powers. The police force was effective, and corruption was not a problem. Complaints regarding police abuses could be directed to a state prosecutor, which in turn would seek investigative assistance from the national commissioner or, if the national commissioner were the subject of the investigation, the Reykjavik police department.

Arrest and Detention.—Police may make arrests: when they believe a prosecutable offense has been committed; where necessary to prevent further offenses or destruction of evidence; to protect the suspect's safety; or when someone refuses to obey police orders to move. Arrest warrants were not always required. Persons placed under arrest are entitled to legal counsel, which is provided by the government if they are indigent; receive a form for their signature that outlines their rights and options; and within 24 hours of the arrest appear before a judge who rules whether they need to remain in custody during the investigation and may grant conditional release subject to assurances that the accused will appear for trial. In his December report, the COE Commissioner for Human Rights recommended that only judges, rather than police and prosecutors, be permitted to place detainees, especially minors, in solitary confinement. There were no reports of political detainees.

In June the case of three men who alleged they had been wrongfully detained when protesting the official visit of Chinese Premier Jiang Zemin in 2002 was settled out of court for an undisclosed amount. In February Reykjavik district court awarded a fourth man $1,406 (ISK 90 thousand), with interest, for wrongfully arresting him in connection with the same protest.

In November the Supreme Court upheld the April conviction of a police officer for a 2004 incident in which he pulled his police car in front of a speeding motorcycle, causing a crash that injured the motorcyclist; however, the Supreme Court suspended for two years the lower court's imposition on the officer of an approximately $3,200 (ISK 200 thousand) fine.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

There are two levels of courts: district courts, of which there are eight, and the Supreme Court. The minister of justice appoints all judges, who serve for life.

Trial Procedures.—Courts do not use juries, but multijudge panels are common, particularly in the Supreme Court. The courts presume defendants' innocence and generally try them without delay. Defendants receive access to legal counsel of their own choosing. For defendants unable to pay attorneys' fees, the government covers the cost; however, defendants who are found guilty must reimburse the government.

Defendants have the right to be present at their trial, to confront witnesses, and to participate in the proceedings; they and their attorneys have access to government-held evidence relevant to their cases. At the discretion of the courts, prosecutors may introduce evidence that police have obtained illegally. With limited exceptions trials are public and conducted fairly. Defendants have the right to appeal, and the Supreme Court handles appeals expeditiously.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

In order to obtain a permit to stay in the country based on marriage with a citizen or holder of a resident permit, a partner or spouse must be at least 24 years of age. In August and December, the UN Committee on the Elimination of Racial Discrimination (CERD) and the COE Commissioner of Human Rights, respectively, expressed concern about this requirement.

In May 2004 the parliament amended the law to give authorities the power to conduct house searches without a prior court order when there is a significant risk that any delay would jeopardize an investigation of immigration fraud, as well as to request DNA tests in cases where they suspect immigration fraud. Human rights and immigrants' advocates criticized the amendments for infringing on individuals' privacy. In practice neither home searches without warrants nor DNA tests have taken place.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The state financially supported and promoted the official religion, Lutheranism. This adversely affected other religions in that they did not receive equal time or deference in school curricula or comparable subsidies for their faith-based programming.

The law specifies conditions and procedures that religious organizations must follow to be registered by the government. Such recognition was necessary for religious organizations other than the state church to receive a per capita share of church tax funds from the government. The government did not place any restrictions or requirements on unregistered religious organizations, which had the same rights as other groups in society.

All citizens 16 years of age and older must pay an annual church tax of approximately $127 (ISK 7,800) and an annual cemetery tax of approximately $48 (ISK 2,952). For persons who were not registered as belonging to a religious organization, or who belonged to one that was not registered and officially recognized, the tax payment went to the University of Iceland, a secular institution. Atheists and humanists objected to having their fee go to the university, asserting that this was inconsistent with the right of freedom of association.

The law mandates religious instruction in Christianity in the public schools; however, students may be exempted from attending the classes.

Societal Abuses and Discrimination.—There are no official groups representing Jews in the country, and the community numbers under 100 individuals.

There were no reports of physical violence against Jews or acts of violence against, or vandalism of, Jewish community institutions during the year.

The law establishes penalties of fines and up to two years in prison for verbal or physical assault on an individual or group based on their religion. In March a prominent public figure made strongly anti-Semitic comments that were widely reported in the media. Despite numerous calls from human rights advocates for him to face prosecution under the law, authorities did not pursue a case.

In April the government faced media criticism after the prime minister declined to apologize for the country's deportation of Jews to Germany in the period immediately preceding World War II.

In August 2004 a Jewish visitor reported in an online newsmagazine that he and a friend had been harassed by a group of young teenagers who pointed at his yarmulke, gave a "heil Hitler" salute, and then briefly blocked the visitors' exit from

a parking lot and intimidated them. A daily newspaper reported the story, sparking over 30 online comments from correspondents based in the country. Some of the comments were themselves anti-Semitic or xenophobic in tone and content. The visitor also complained about a swastika-like emblem on a prominent Reykjavik building. The emblem was in fact a Thor's hammer, an ancient Icelandic symbol and the logo of a national shipping line headquartered in the building. In May new owners of the building covered the emblem to avoid confusion and offense to those not familiar with its origin.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. The government cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees but had no fixed refugee acceptance requirements.

Processing of asylum cases may take a year or more, during which time asylum seekers were eligible for state-subsidized health care, could enroll their children in public schools and apply for work permits; however, human rights advocates criticized the law for not specifying which "significant human rights reasons" must underpin granting of such permits. The law stipulates that children of asylum seekers have to be in the country for three months before they may attend public schools. Some children of asylum seekers were enrolled in public schools during the year.

In August the CERD expressed concern about reports that asylum requests were not always properly handled by border guards; and encouraged the government to intensify its efforts to provide systematic training to these officials.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The last presidential election was held in June 2004, when Olafur Ragnar Grimsson won 85.6 percent of the valid votes for his third term. While the office of the president is mostly ceremonial, there are no limits on how many times an incumbent may run for office. Elections to the parliament in 2003 were free and fair. Center-right coalitions have governed since 1991.

There were 21 women in the 63-seat parliament and 3 women in the 12-member cabinet. Two of 9 Supreme Court members and 10 of 38 district court judges were women. Foreigners who have resided in the country legally for 5 years (3 years for Scandinavian citizens) may vote in municipal elections. There were no minorities in the legislature.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year. Following an investigation, the state auditor found in June that the prime minister's official participation in the 2001 privatization of the state-owned Bunadarbanki was lawful, despite his personal financial connections with the bank. In September the ombudsman of parliament agreed that there were no grounds for further inquiry (see section 4).

The law provides for public access to government information, and the government provided access in practice for citizens and noncitizens, including foreign media. Appeals against refusals by government authorities to grant access to materials may be referred to the information committee, three persons appointed to four-year terms by the prime minister. Members of the committee may not be permanent employees of government ministries.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on

human rights cases. Government officials were cooperative and responsive to their views.

In November 2004 the parliament eliminated direct government funding for the Icelandic Human Rights Center. Funded primarily by the government, but operated as an nongovernmental organization (NGO), the center had acted as the country's leading human rights organization, vetting government legislation and reporting to international treaty monitoring bodies as well as promoting human rights education and research. The new funding mechanism resulted in the center receiving 28 percent of what had previously been allocated by the government for its operations. NGOs, unions, and the city of Reykjavik assisted the center with funding to remain open. Public figures, human rights advocates, and several of the center's European partner institutes unsuccessfully appealed to the parliament to earmark institutional support for the center, arguing that having to apply to the executive branch for individual project grants undermined its independence and disabled it from criticizing the government. In August the CERD encouraged the government to ensure adequate funding of institutions such as the Human Rights Center. In December the COE Human Right Commissioner urged authorities to ensure that the country would continue to benefit from the services of an independent national human rights institution.

The government cooperated with international organizations and permitted visits by the International Committee of the Red Cross.

An independent ombudsman, elected by parliament, monitors and reports to national and local authorities to ensure equal protection of persons residing in the country, whether citizens or aliens. Individuals may lodge complaints with the ombudsman regarding decisions, procedures, and conduct of public officials and government agencies. The ombudsman may demand official reports, documents, and records; may summon officials to give testimony; and has access to official premises. He has complained that government agencies were slow to respond to requests for information and documents, causing delays in his handling of cases. By year's end the government had not responded. While the ombudsman's conclusions are not binding on authorities, his recommendations generally were followed. There was also a children's ombudsman (see section 5).

Section 5. Discrimination, Societal Abuses and Trafficking in Persons

The constitution provides that everyone shall be equal before the law and enjoy human rights irrespective of gender, race, social status, or language. Various laws implement this principle and the government effectively enforced them.

Women.—The law prohibits domestic violence; however, violence against women continued to be a problem. Police statistics indicated that the incidence of violence against women, including rape and sexual assault, was low; however, the number of women seeking medical and counseling assistance indicated that many incidents went unreported. During the year up to 92 women sought temporary lodging at the country's women's shelter, mainly because of domestic violence, and the shelter offered counseling to approximately 465 clients. Also during the year, some 130 individuals sought assistance at the national hospital's rape crisis center.

Women's rights advocates expressed concern that the law makes no distinction between domestic and stranger violence. The Ministry of Justice committee on criminal law proposed to amend the law to exhort judges to take the perpetrator's and victim's intimate relationship into account at the sentencing stage with enhanced punishments for domestic abusers. New legislation had not yet gone before the legislature at year's end. Neither the Ministry of Justice nor the State Prosecutor's Office maintained statistics on prosecutions and convictions for domestic abuse.

The government helped finance various facilities and organizations that provided assistance to victims of violence. The government, in addition to partially funding such services, provided help to immigrant women in abusive relationships, offering emergency accommodation, counseling, and information on legal rights. Courts could issue restraining orders, but there were complaints that the police were reluctant to recommend them and that the courts granted them only in extreme circumstances. Victims of sexual crimes were entitled to lawyers to advise them of their legal rights and help them pursue cases against the alleged assailants; however, a large majority of victims declined to press charges or chose to forgo trial, in part to avoid unwanted publicity. Some local human rights monitors also attributed underreporting to the fact that convictions are rare due to the heavy burden of proof and traditionally yield light sentences. While sentences for domestic violence were gradually increased, the courts still considered precedent in most cases and, therefore, rarely made full use of available leeway under the law. According to statistics from the women's shelter, 12 percent of their clients pressed charges in 2004, up from 7 percent in 2003.

The law criminalizes rape and establishes a maximum penalty of 16 years in prison for the crime. Spousal rape is not explicitly addressed in the law. Judges typically imposed sentences of one to three years in prison. The sexual violence counseling center in Reykjavik has noted that the rate of increase in complaints of rape during the year was higher than the number of convictions. In March the UN Human Rights Committee expressed concern that a heavy burden of proof for rape complainants was leading to a low conviction rate.

Although there have been no reported cases of female genital mutilation, in May the government banned it by law.

Prostitution was legal but rare. It was illegal to engage in prostitution as a main source of income or to act as an intermediary in the sale or procurement of sex.

There were concerns that some foreign women were trafficked to work as exotic dancers or in massage parlors where sexual services are offered (see section 5, Trafficking).

The law prohibits sexual harassment and stipulates that violations are punishable by fines; however, the law was not effectively enforced in practice. There was no central authority reporting violations and from which to seek redress, and employers had the freedom to decide whether they will make information regarding sexual harassment available to their employees. While gender equality advocates reported receiving several complaints a year, the charges never became court cases, suggesting that victims are unsure how to proceed with their claims and skeptical as to their reception.

Women enjoy the same rights as men, including under family law, property law, and the judicial system. Despite laws that require equal pay for equal work, a pay gap existed between men and women. According to one of the largest labor unions, during the year women on average earned 14 percent less than men. Additionally, in June a respected business college reported that its female graduates went on to earn up to 50 percent less than their male classmates. Some women's rights activists also expressed concern that only 14 percent of the Supreme Court bar and 24 of 148 professors at the national university were women.

In January the Supreme Court ruled against the municipality of Akureyri in a gender wage discrimination case in which a female department head was paid considerably less than a male counterpart. The court ordered the municipality to pay restitution as well as adjust the woman's salary.

The government funded a center for promoting gender equality to administer the Act on Equal Status and Equal Rights of Women and Men. The center also provided gender equality counseling and education to national and municipal authorities, institutions, companies, individuals, and NGOs. The minister of social affairs appoints a Complaints Committee on Equal Status to adjudicate alleged violations of the act; the committee's rulings are nonreviewable. The minister of social affairs also appoints an Equal Status Council, with nine members drawn from national women's organizations, the University of Iceland, and labor and professional groups, which makes recommendations for equalizing the status of men and women in the labor market.

In December a study sponsored by the Ministry of Education concluded that women receive substantially less television airtime than men and that the gap has increased since this issue was last examined in 1999.

In 2004 the Complaints Committee on Equal Status found that there was demonstrable gender bias in the justice minister's 2003 appointment of a Supreme Court justice where the minister did not provide an adequate explanation for appointing a man instead of a woman. The candidate delayed legal action while her application for another Supreme Court seat was under consideration, but, following the appointment in September 2004 of another male to the court, declared her intention to sue unless she could reach a settlement with the government. In December the woman settled her case in return for a paid year-long leave with the possibility of retiring thereafter.

Children.—The government was strongly committed to children's rights and welfare; it funded public education and health care. School attendance is compulsory through the age of 15 and free through public university level. According to the government-funded Agency for Child Protection, approximately 85 percent of students continued to upper secondary education.

The government provided free prenatal and infant medical care, as well as heavily subsidized childcare; girls and boys had equal access.

There were reports of abuse of children during the year. The Agency for Child Protection received 833 reports of abuse cases. While 233 reports were due to emotional abuse, 290 were related to physical abuse and 319 to sexual abuse. The agency operated eight treatment centers and a diagnostic facility for abused and troubled minors. It also coordinated the work of approximately 34 committees throughout the

country that were responsible for managing child protection issues (for example, foster care) in their local areas. The local committees hired professionals knowledgeable about sexual abuse.

In an effort to accelerate prosecution of child sexual abuse cases and lessen trauma to the child, the government maintained a Children's Assessment Center (*Barnahus*). During the year, the center conducted 182 investigative interviews, and 125 children underwent assessment and therapy, while 10 medical examinations were performed. The center was intended to create a safe and secure environment where child victims might feel more comfortable talking about what happened to them. It brought together police, prosecutors, judges, doctors, and officials from child protection services. District court judges did not have to use the center and could hold investigatory interviews in the courthouse instead, a practice that concerned some children's rights advocates.

The children's ombudsman, who is appointed by the prime minister but is independent from the government, fulfilled a mandate to protect children's rights, interests, and welfare by, among other things, exerting influence on legislation, government decisions, and public attitudes. When investigating complaints, typically regarding physical and psychological abuse and inadequate accommodations for illnesses and disabilities, the ombudsman had access to all public and private institutions and associations that house children or otherwise care for them; however, the ombudsman's conclusions were not legally binding on parties to disputes.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were isolated reports that women were trafficked to the country for exploitation.

The law prohibits trafficking in persons with the aim of sexual abuse or forced labor and provides for imprisonment of up to eight years. During the year police did not charge any persons with trafficking; however, a Chinese citizen won a civil judgment of approximately $65 thousand (ISK 4 million) when he sued for unpaid wages at a Kopavogur massage parlor. The ministries of justice, foreign affairs, and social affairs were involved in antitrafficking efforts.

Police, airport authorities, and women's aid groups reported that there was evidence of foreign women trafficked to the country, primarily to work in striptease clubs or massage parlors offering sexual services. The larger municipalities have banned private dancing, believed to serve as a front for prostitution and possibly trafficking, but clubs appeared able to circumvent the regulations with impunity. One club in the Reykjavik suburb of Kopavogur, markets private dances on its Web page and in full-page newspaper advertisements that depicted a semi-nude woman reclining on a bed. The Baltic countries were the main region of origin for women working in such clubs and parlors, with others coming from Central and Eastern Europe and Russia. There were no statistics on the number or origin of women actually trafficked. To work as an exotic dancer, any person from outside the European Economic Area (EEA) must first obtain a work permit, which is typically valid for three months. Social workers suspect that most foreign women working in this field come from within the EEA and are thus impossible to track through work permit applications.

Trafficking victims could seek help at the women's shelter, counseling center, and hospital, all of which received government funding. There were no domestic NGOs dedicated solely to assisting victims of trafficking, nor was there an established government assistance program. Some NGOs provided government-supported counseling and shelter to women and children who were victims of violence or sexual abuse. The Human Rights Center and Intercultural Center were also available to assist with trafficking cases and make referrals.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities, and there was no such official discrimination in employment, education, access to health care, or the provision of other state services. The law also provides that persons with disabilities receive preference for a government job when they are at least as qualified as other applicants; however, advocates asserted that common practice and implementation of the law fell short of full implementation to the extent that such persons constitute a majority of the country's poor.

Building regulations require that public accommodations and government buildings, including elevators, be accessible to persons in wheelchairs; that public property managers reserve 1 percent of parking spaces (a minimum of one space) for persons with disabilities; and that, to the extent possible, sidewalks outside the main entrance of such buildings be kept clear of ice and snow. Violations of these regulations are punishable by a fine or a jail sentence of up to two years; however, the main association for persons with disabilities complained that this regulation was not enforced regularly, and authorities rarely assessed penalties for noncompliance.

Some mental health advocates criticized the government for not devoting sufficient attention and resources to the care of persons with mental disabilities. Although the law safeguards their rights, a large number of persons with mental disabilities remained on waiting lists for housing, education, and employment programs. Advocates alleged that government funding for the care of persons with mental disabilities was generally inadequate and that the government-financed health system funded too few hospital places for acute patients and thus exacerbated a shortage of publicly funded preventative and follow-up mental health care.

The Ministry of Social Affairs is the lead government body responsible for protecting the rights of persons with disabilities. It coordinates the work of six regional offices that provide services and support persons with disabilities and a diagnostic and advisory center in Reykjavik that aims to create conditions to allow persons with disabilities to lead normal lives.

National/Racial/Ethnic Minorities.—While the population remained largely homogeneous, family- and employment-sponsored immigrants were more visible and suffered occasional incidents of harassment based on their race and ethnicity. According to a survey conducted for the country's Red Cross in August, 19 percent of respondents felt immigrants had a positive effect and 5 percent a negative effect.

The minister of social affairs announced in April that the government would establish an Immigrant Council in order to coordinate the work of four ministries and the municipalities on immigrant and refugee issues. The council, set to begin work in early 2006, would be charged with gathering statistical data on immigration; coordinating outreach efforts; distributing information to immigrants; and conducting research on the adaptation process to assist with successful integration.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements; and workers exercised these rights. Labor unions were independent of the government and political parties. Approximately 85 percent of all eligible workers belonged to unions.

The law requires employers to withhold union dues (1 percent of gross pay) from the pay of all employees, whether or not they are union members, to help support disability, strike, and pension funds, and other benefits to which all workers are entitled.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law allows workers to bargain collectively, and workers exercised this right in practice. Nearly 100 percent of the workforce was covered by collective bargaining agreement. Workers had the right to strike and exercised this right in practice.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively implemented laws and policies to protect children from exploitation in the workplace. The law prohibits the employment of children younger than age 16 in factories, on ships, or in other places that are hazardous or require hard labor; this prohibition was observed in practice. Children 14 or 15 years old may be employed part-time or during school vacations in light, nonhazardous occupations. Their work hours must not exceed the ordinary work hours of adults in the same occupation. The administration of occupational safety and health enforced child labor regulations effectively.

e. Acceptable Conditions of Work.—The law does not establish a minimum wage, but the minimum wages negotiated in various collectively bargained agreements applied automatically to all employees in those occupations, regardless of union membership. While the agreements can be either industry- or sector-wide, and in some cases firm-specific, the minimum wage levels are occupation-specific. Labor contracts provided a decent standard of living for a worker and family.

The standard legal workweek was 40 hours, which included nearly 3 hours of paid breaks a week. Work exceeding eight hours in a workday must be compensated as overtime. Workers were entitled to 11 hours of rest within each 24-hour period and to a day off every week. Under defined special circumstances, employers may reduce the 11-hour rest period to no less than 8 hours, but they then must compensate workers with 1.5 hours of rest for every hour of reduction. They may also postpone a worker's day off by a week. The Occupational Safety and Health Administration effectively enforced these regulations.

Labor unions criticized the government for not tightening regulations on employment agencies following the expansion of the EEA agreement in 2004. The expanded agreement has allowed large numbers of foreign workers, particularly in construction, to work in the country through service agreements for very low wages and without official monitoring. The unions argued that the employment agencies regularly disregarded worker rights, failed to observe collective bargaining agreements and labor legislation, and often failed to pay fees and taxes in accordance with the law. In September, to better enforce labor laws for foreign workers, the unions formally urged the government to enact legislation ensuring that employers and employees would have a direct relationship without any role for intermediaries such as employment agencies.

The legislature set health and safety standards, and the Ministry of Social Affairs administered and enforced them through its administration of occupational safety and health, which could close workplaces until they met safety and health standards. Workers had a collective, but not individual, right to refuse to work at a job that did not meet occupational safety and health criteria. It is illegal to fire workers who report unsafe or unhealthy conditions.

IRELAND

The Republic of Ireland is a multiparty parliamentary democracy with an executive branch headed by a prime minister, a bicameral parliament, and a directly elected president. The country's population was approximately four million. Free and fair parliamentary elections were held in 2002. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. The following human rights problems were reported:

- abuse and mistreatment of children
- incidents of violence and discrimination against immigrants, racial minorities, and Travellers (an indigenous migrant community)
- domestic violence

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, there were reports of abuse by police officers.

In 2004 the Police Complaints Board recorded 1,232 complaints, including abuse of authority, discourtesy, neglect, and discreditable conduct of police officers, compared with 1,175 such complaints recorded in 2003. Of these complaints, 31 cases were adjudicated as minor breaches of discipline and referred to the commissioner, and 27 were deemed breaches of discipline and referred to a tribunal.

In several communities there were allegations of incidents of violence against racial minorities and immigrants (see section 5).

Prison and Detention Center Conditions.—While prison conditions generally met international standards, work and sanitation conditions remained poor in some prisons.

Human rights groups continued to condemn the Central Mental Health Hospital in Dundrum, the country's only secure hospital for prisoners with mental disabilities, because of understaffing and poor infrastructure.

In most cases the government permits prison visits by domestic and international human rights observers but requires prior appointments for such visits. There were no visits during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The use of special arrest and detention authority continued, primarily for those involved in paramilitary organizations.

Role of the Police and Security Apparatus.—The national police have primary responsibility for internal security but are generally an unarmed force; therefore, the

army, under the effective civilian control of the minister for defense, may act in support of the police when necessary. There were no known problems of police corruption or impunity. The government continued to monitor closely indigenous paramilitary groups active in the country and in Northern Ireland.

Arrest and Detention.—A person may be arrested without a warrant only when the police, with reasonable cause, suspect that an offense has been committed and that the person is guilty of that offense. Suspects brought to the police station must be promptly informed of the charges against them. The law requires that a detainee must be brought before a district court judge as soon as possible to determine bail status until a hearing; the judge decides whether to release the detainee on bail or continue detention until an appointed court date.

The law allows police to arrest and detain for questioning anyone suspected of committing a "scheduled offense"—crimes involving firearms, explosives, or membership in an unlawful organization. As a result the police have broad arrest and detention powers in any case involving firearms. In these cases the initial period of detention without charge is 24 hours at the direction of a police superintendent, which a judge may extend for another 24 hours.

The law permits detention without charge for up to 7 days in cases involving drug trafficking; however, to hold a suspected drug trafficker for more than 48 hours the police must seek a judge's approval.

Detainees and prisoners are allowed unrestricted access to attorneys. If the detainee does not have an attorney, the court will appoint one; for indigent detainees the government will provide an attorney through the free legal aid program.

There is a functioning bail system, but the law allows a court to refuse bail to a person charged with a serious offense (one that carries a penalty of five years' imprisonment or more) when it is considered reasonably necessary to prevent the commission of another serious offense.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judicial system consists of district courts, circuit courts, the High Court, the Court of Criminal Appeal, and the Supreme Court. The president appoints judges recommended by the Judicial Appointment Board, who choose from a list presented by the government.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

The director of public prosecutions (DPP), an independent government official, prosecutes criminal cases. Jury trials usually are used in criminal cases, and the accused may choose an attorney. Indigent defendants have the right to an attorney at public expense. Defendants enjoy a presumption of innocence and have the right to present evidence, to question witnesses, and to appeal.

The law explicitly allows "special courts" to be created when "ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order." A non-jury "Special Criminal Court" (SCC) tries "scheduled offenses," and any case the DPP certifies that an ordinary court cannot adequately handle. The SCC always sits as a three-judge panel, and its verdicts are by majority vote. Rules of evidence are generally the same as in regular courts, but the sworn statement of a police chief superintendent identifying the accused as a member of an illegal organization is accepted as *prima facie* evidence. SCC sessions generally are public, but judges may exclude certain persons other than journalists. Appeals of SCC decisions are allowed in certain circumstances.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech, and the government generally respected this right in practice.

The law provides for freedom of the press with the qualification that it not "undermine public order or morality or the authority of the state." The constitution prohibits the publication or utterance of "blasphemous, seditious, or indecent matter."

The independent print media were active and expressed a wide variety of views without government restriction.

Broadcasting remained mostly state controlled, but private sector broadcasting continued to grow. There were 54 independent radio stations and an independent

television station. Access to cable and satellite television lessened the relative influence of state-controlled broadcasting.

The law that empowers the government to prohibit the state-owned radio and television network from broadcasting any matter "likely to promote or incite to crime or which would tend to undermine the authority of the State" was not employed during the year.

The Publication Board did not exercise its authority to censor any books or magazines during the year.

The Office of the Film Censor must classify films and videos before they can be shown or sold and cut or ban any film that is "indecent, obscene, or blasphemous," or which tends to "inculcate principles contrary to public morality or subversive of public morality." During the year the film censor did not ban any films but did ban one video, primarily because of its pornographic and violent content.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides generally provides for freedom of assembly, and the government respected this right in practice. The law allows the state to "prevent or control meetings" that are calculated to breach the peace or to be a danger or nuisance to the general public. The government did not employ this authority during the year.

In April seven Dublin police officers accused of using their batons excessively during a Dublin 2002 May Day demonstration were acquitted. During the year police generally restrained their conduct during demonstrations.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. Although approximately 88 percent of the population is Roman Catholic, there is no official state religion.

The government permits but does not require religious instruction in public schools, and parents may exempt their children from such instruction.

Societal Abuses and Discrimination.—During the year there were a series of anti-Semitic attacks. These included repeatedly vandalizing and painting swastikas on synagogues and a Jewish museum. The National Consultative Committee on Racism and Interculturalism, an advisory board to the government, joined with the Jewish Community Watch and the police to monitor the anti-Semitic targeting of property associated with the Jewish community. Government officials publicly condemned the attacks, and in September a judge sentenced a man to 20 months in jail for spray-painting swastikas on 3 Dublin synagogues. A 2002 census estimated that there were 1,790 members of the Jewish community.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. The government also provided temporary protection to individuals who did not qualify as refugees under the 1951 convention and its 1967 protocol and provided it to approximately 75 persons in 2004. In June the government approved an increase of the refugee resettlement quota from approximately 40 persons to 200 persons per year. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Parliamentary elections, considered free and fair, were held in May 2002, and the president was inaugurated for a second seven-year term in November 2004.

There were 23 women in the 166-seat house of representatives and 10 women in the 60-seat senate. The president is a woman, and 3 of the 15 government ministers were women. Three women sat on the 34-member High Court, and 3 of the 8 supreme court judges were female.

There were no members of minorities in the house of representatives, the senate, the government, or the cabinet.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year. For example, an independent investigation of December 2004 allegations of corruption involving a Ministry of Environment, Heritage and Local Government appointment determined that the minister had not behaved improperly.

The law provides for public access to government information and obligates statutory agencies to publish information on their activities and make it available to citizens and noncitizens upon request. The government did not charge prohibitive fees for information requests and provided mechanisms to appeal denials.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination in relation to employment on the basis of eight distinct discriminatory grounds: gender, marital status, family status, sexual orientation, age, disability, race, and membership in the Traveller community. However, discrimination against racial minorities, including immigrants and Travellers, remained a problem.

Women.—Domestic violence, including spousal abuse, was a problem. In July the National Crime Council along with the Economic and Social Research Institute reported that 15 percent of women experienced domestic abuse by a partner, including spousal abuse and that 213 thousand women were affected by domestic violence at some point in their lives; 29 percent of these women reported abuse to police while only 7 percent contacted a help line.

The law prohibits domestic violence, authorizes prosecution of a violent family member, and provides victims two types of protection: safety orders and barring orders. Safety orders prohibit a person from engaging in violent actions or threats but do not require the individual to leave the home, while barring orders prohibit a person from entering the family home for up to three years. The law allows claimants to apply for interim protection while cases are processed in court. Violations of these orders are punishable by a fine of $2,280 (1,900 euros) or 12 years' imprisonment. According to official statistics, in 2004 the courts received 2,611 safety order applications and 3,210 barring applications; in both categories, more than a third of the applications were granted and nearly two-thirds were withdrawn. Of those safety and barring orders granted, more than half were related to the spouse of the applicant.

The government provides for victims of domestic abuse by funding support centers throughout the country.

The law criminalizes rape, including within marriage, and provides for free legal advice to victims of serious sexual assault. The Court Services' *Annual Report* documented a total of 72 rape cases tried in 2004, with most sentences for the 27 persons convicted of rape and other sexual offenses ranging between 5 years and life in prison. At the end of 2004, 89 rape cases were pending.

In rape cases the government brings the case against the accused, with the victim acting as a witness. The law provides for separate legal representation for victims in rape and other serious sexual assault cases where application is made to adduce evidence or to cross-examine the victim about his or her past sexual experience.

In 2004 the Dublin Rape Crisis Center reported receiving 10,944 counseling calls in all categories (child sexual abuse, adult rape, adult sexual assault, sexual harassment), a downward trend in frequency of calls. The center reported that 143 of the 374 rape victims recorded in 2004 reported their attacks to the police, resulting in 13 defendants tried and 9 convicted.

Rape crisis centers, funded in part by the government, provided support by immediate telephone contact and one-on-one counseling. Government programs provided long- and short-term housing options for victims of sexual violence. All police received training on the investigation of cases of domestic violence, rape, and sexual assault.

Although prostitution is not a crime, it is illegal for a person in a street or public place to solicit or importune another person or other persons for the purposes of prostitution. The offense applies equally to a prostitute soliciting a client, a client soliciting a prostitute, or a third party soliciting one on behalf of the other. The same offense and penalties apply to prostitutes, clients, or anyone who solicits in a public place. It is also an offense to solicit or importune another person in order to commit certain sexual offenses, such as sexual offenses with underage persons or to keep or to manage a brothel. Reports of and arrests for prostitution were rare.

There was anecdotal evidence that women were trafficked for sexual exploitation (see section 5, Trafficking).

The law obliges all employers to prevent sexual harassment and prohibits dismissing an employee for making a complaint of sexual harassment. The Equality Authority investigates claims of unfair dismissal and may require an employer charged with unfair dismissal to reinstate the employee or pay the employee up to 104 weeks' pay. In the few reported cases of sexual harassment, the government effectively enforced the law.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. The Equality Tribunal and the Equality Authority are the main statutory bodies that enforce and administer the discrimination laws. Nonetheless, inequalities persisted regarding pay and promotions in both the public and the private sectors. Women constituted 42 percent of the labor force but were underrepresented in senior management positions.

Children.—The government was strongly committed to children's rights and welfare; it amply funded systems of public education and health care. Education is free and compulsory for children from age 6 to 15. The Department of Education reported that approximately 99 percent of children between the ages of 5 and 16 attended school. Most children completed secondary education.

The government makes available to all children a range of health services, including free immunizations and vaccinations and free prescribed drugs and medications. The government covers all health services for residents below a certain income level.

The law establishes strict guidelines for organizations providing services to children to identify and report cases of physical and sexual child abuse. Numerous nongovernmental organizations (NGOs) offered support for victims as well as resources for parents and professionals who work with children.

In 2004 the Dublin Rape Crisis Center reported that 37 percent of calls to its crisis line involved child sexual abuse. Similarly, the 15 member centers of Rape Crisis Network Ireland provided face-to-face support to 2,289 individuals, 54 percent of whom were children. The law requires government health boards to identify and help children who are not receiving adequate care, and it gives the police increased powers to remove children from the family if there is an immediate and serious risk to their health or welfare. In July the president signed into law the Commission to Inquire into Child Abuse (Amendment) Act, which streamlines the investigations of sexual and physical abuse in institutions.

The law prohibits the trafficking and sexual exploitation of children; however, there were reports that such practices occurred (see section 5, Trafficking).

An ombudsman for children investigates complaints from children or persons acting on their behalf against various governmental and nongovernmental bodies and has a role in promoting general child welfare.

Trafficking in Persons.—The law prohibits trafficking in persons, but there were reports that persons were trafficked to the country while NGOs and others offered anecdotal reports of trafficking from and within the country.

The law criminalizes trafficking in children for the purpose of sexual exploitation, with penalties of up to life imprisonment. The law also criminalizes trafficking in illegal immigrants and asylum seekers. No specific legislation addresses trafficking in women for sexual activities; however, laws prohibit the exploitation of prostitutes by means of coercion or fraud. The Police National Immigration Bureau (GNIB) and the Department of Justice are responsible for combating trafficking.

In July the Dublin District Court began the trial of a man charged with trafficking a Mauritius national into the country. The trial remained pending at year's end.

The country might be a destination country on a limited scale for trafficking in women and children. The country may also be a transit point for persons trafficked to or from Northern Ireland. There is anecdotal information that some women were trafficked within the country. Socially disadvantaged non-national women and children were most likely to be trafficking victims.

NGOs reported that women were smuggled or trafficked into the country, primarily for sexual exploitation, and that men may be smuggled or trafficked into the

country for work in the construction industry or agricultural sector. There were no reliable statistics on the number of possible victims of trafficking in the country, but the most credible NGOs reported there were fewer than 15 victims. NGOs also reported that traffickers targeted younger women who were more vulnerable, had little language skill, and no legal status or recourse and placed them in apartments, where activities were easier to hide. NGOs reported that traffickers used the Internet to advertise and solicit victims.

The government trained law enforcement officials on extending protection assistance to potential victims of trafficking. The government funded NGO support for "Return and Reintegration," an initiative to reunite families divided by migration, including by forms of trafficking. Informally, police referred suspected victims of trafficking to NGOs, which provided them with social benefits and access to social and legal counsel.

The ministries of justice and foreign affairs and the GNIB were involved in antitrafficking efforts, and there was coordination between government officials, NGOs, and other elements of civil society on trafficking issues.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, and the provision of other state services, and effectively enforced these provisions. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice.

A National Disability Authority has responsibility for setting disability standards, monitoring the implementation of these standards, and researching and formulating disability policy.

National/Racial/Ethnic Minorities.—Societal discrimination and racial violence against immigrants and ethnic minorities, such as Asians, East Europeans, and Africans continued to be a problem. Racially motivated incidents involved physical violence, intimidation, graffiti, and verbal slurs; the majority of incidents of racist violence took place in public places.

In July the courts sentenced a man to nine months in jail for a racist attack on a Russian national. Also in July the Central Criminal Court sentenced a British man to five years in jail for manslaughter in a racist attack on a Vietnamese national.

Other incidents included reports of an attack on a Polish man for trying to talk to a local girl, a man setting his dog on an Irish Muslim woman, a verbal assault on a Spanish credit union worker, school children attacking a fellow student from Somalia, and an Indian national attacked for wearing a turban.

There were 81 racially motivated incidents reported from January through June. The Police Racial and Intercultural Office trained police on interacting with those of different racial and ethnic backgrounds. In January the government launched the National Action Plan against Racism to combat racism and discrimination and promote an intercultural society.

Indigenous People.—Approximately 25 thousand indigenous nomadic persons regard themselves as a distinct ethnic group called "Travellers," with its own history, culture, and language. Travellers faced societal discrimination and regularly were denied access to premises, goods, facilities, and services; many restaurants and pubs, for example, would not serve them.

Despite national school rules that provide that no child may be refused admission on account of social position, Travellers frequently experienced difficulties enrolling their children in school. Traveller students are not separated in classrooms. Of the estimated 5 thousand Traveller families, approximately 1,200 lived on roadsides or on temporary sites without electricity or sanitary facilities. Many Travellers depended on social welfare for survival and were unable to participate in the mainstream economy because of discrimination and a lack of education.

While the law prohibits discriminating against Travellers, the UN Committee on the Elimination of Racial Discrimination (CERD) reported that Travellers suffered from extensive exclusion, deprivation, and discrimination, and that government expenditures of more than $120 million (euros 100 million) annually for Traveller-specific programs had not produced satisfactory outcomes. Pavee Point, a Traveller community NGO, issued a Shadow Report agreeing with the CERD findings.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers with the right to form and join unions of their choice, and workers exercised this right in practice. Approximately 33 percent of workers in the private sector were union members, compared with 95 percent in the public sector. Police and military personnel may form associa-

tions, but technically not unions, to represent themselves in matters of pay, working conditions, and general welfare.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. Labor unions have the right to engage in collective bargaining, and unions exercised this right in practice. The law provides for the right to strike, and this right was exercised in both the public and private sectors; however, police and military personnel are prohibited from striking. There are no special laws or exemptions from regular labor laws in the export processing zone at Shannon Airport.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, there were anecdotal reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government implemented laws and policies to protect children from exploitation in the workplace. Under the law, employers may not employ children under the age of 16 in a regular, full-time job. Employers may hire 14- or 15-year-olds for light work on school holidays, as part of an approved work experience or educational program, or on a part-time basis during the school year (for children over the age of 15 only). The law sets rest intervals and maximum working hours, prohibits the employment of 18-year-olds for late night work, and requires employers to keep specified records for workers who are under 18 years of age. The Office of the Labor Inspectorate at the Department of Enterprise, Trade and Employment is responsible for enforcement.

There were isolated reports of possible trafficking of children (see section 5).

e. Acceptable Conditions of Work.—The national minimum wage was $9.24(7.65 euros) per hour, which did not provide a decent standard of living for a worker and family; however, low-income families are entitled to benefits such as subsidized housing, medical coverage, and children's allowances. The law was effectively enforced by the Department of Enterprise, Trade and Employment.

The standard workweek is 39 hours. Working hours in the industrial sector are limited to 9 hours per day and 48 hours per week. Overtime work is limited to 2 hours per day, 12 hours per week, and 240 hours per year. The government effectively enforced work hour standards. Although there is no statutory entitlement, premium pay for overtime can be arranged between employer and employee.

The Department of Enterprise, Trade, and Employment is responsible for enforcing the laws dealing with occupational safety, which provide adequate and comprehensive coverage; no significant complaints arose from either labor or management regarding enforcement of these laws. Regulations provide workers with the right to remove themselves from dangerous work situations that present a "serious, imminent and unavoidable risk" without jeopardy to their continued employment.

ITALY

Italy is a multiparty parliamentary democracy with a population of approximately 57.8 million. National parliamentary elections (which determine who will be president and prime minister), last held in 2001, were considered free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; although there were problems in some areas, the law and judiciary provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- overcrowded prisons
- lengthy pretrial detention
- excessively long court proceedings
- violence against women
- child abuse
- trafficking in persons
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, in May a police officer in Turin shot to death a Senegalese immigrant who refused to exit his vehicle during a drug search. The incident was under investigation at year's end.

In January an appeals court sentenced a police officer to 10 years' imprisonment for the shooting death of a teenager who did not stop when directed to do so in 2000. This ruling re-imposed an earlier penalty that the court of cassation annulled in 2004.

In January the appeals court of Naples sentenced a police officer to 10 years imprisonment for killing a 17-year-old boy who tried to escape police custody in 2000.

In December 2003 the leader of the New Red Brigades (Communist Combatant Party) was charged with the March 2003 murder of a police officer. The trial had not begun by the end of the year. However, in July, in a case involving some of the same suspects, the Rome appeals court sentenced three Red Brigade members to life imprisonment and nine others to lesser sentences for the 1999 killing of an academic advisor (D'Antona) to the labor ministry. In March and June, the Rome court sentenced 5 Red Brigade members to life and one to 16 years' imprisonment for the 2002 murder of another labor ministry academic advisor (Biagi).

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that police occasionally used excessive force against persons detained in connection with common criminal offenses or in the course of identity checks. While this behavior affected both citizens and foreigners, Roma and immigrants were at particular risk (see section 5).

In 2003 a Nigerian immigrant accused two policemen in Rome of abuse involving burns to his abdomen while in custody; the incident occurred after the immigrant had attempted to escape. The case was still under investigation at the end of the year. In 2004 a prison guard in Lombardy was charged with raping an Albanian immigrant while in custody. The case remained under investigation at the end of the year.

In April the trial began for 29 police officers, including a number of senior officers, charged with perjury, conspiracy, or assault in connection with a 2001 police raid on a building used by protesters at the G–8 summit in Genoa. In July the courts acquitted two police officers accused of conspiring to manufacture evidence during the raid. In October the trial began for 45 police officers who were indicted for "inhuman or degrading treatment," including assault, during the subsequent detention of those protesters. The case remained under investigation at year's end.

The investigation into an off-duty police officer who shot and injured a 16-year-old boy in 2004 was still ongoing at year's end.

In June a trial began for three police officers who were indicted for using excessive force and causing personal injury to a number of individuals while trying to clear approximately 100 activists from a Milan emergency room waiting area in March 2003. It remained ongoing at year's end. Four of the activists were being investigated for violence against police.

Prison and Detention Center Conditions.—Although prison conditions generally met international standards, overcrowded and antiquated prisons continued to be problems. In June there were 59,100 detainees incarcerated in a prison system designed to hold 42,500. Older facilities lacked outdoor or exercise space; some prisons lacked adequate medical care. Approximately 62 percent of the inmates were serving sentences; the other 38 percent consisted mainly of detainees awaiting trial or the outcome of an appeal.

During the year 91 prisoners died while in custody; 51 of those committed suicide.

The 20 temporary detention centers for illegal immigrants continued to be overcrowded. The government sometimes restricted nongovernmental organization (NGO) access to detention centers. For example, in March almost 1,200 illegal immigrants arrived by boat in Lampedusa within 2 days and were initially sent to a detention center equipped to hold 190 persons. The government moved the detainees to other facilities within a few days and then provided NGO access.

Pretrial detainees were not held separately from convicted prisoners.

The government permitted visits by independent human rights organizations, parliamentarians, and the media. Amnesty International (AI), the UN Human Rights Commission, the UN Committee against Torture, and the UN Special Rapporteur on Torture regularly assessed the country's judicial and prison system. Several mu-

nicipalities appointed independent ombudsmen to promote the rights of detainees and facilitate access to health care and other services.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—Four separate police forces, which report to different ministerial or local authorities, effectively enforced law and order. The national police and the financial police fall under the jurisdiction of the interior and finance ministries, respectively. The Ministry of Defense controls the carabinieri, a military security force; however, the Ministry of Interior assumes control of carabinieri and financial police units when they perform law enforcement functions. Under exceptional circumstances, the government may call on the army to provide security in the form of police duty in certain local areas, thereby freeing the carabinieri and local police to focus on other duties. Allegations of police corruption were rare. In April 12 police officers were charged with corruption, abuse of authority and perjury for their contacts with criminal associations based on information received from wiretaps. The case remained under investigation at year's end.

Both the government and the judiciary investigated abuses and prosecuted police who mistreated persons in custody. In March a trial began for 29 of 31 police officers charged in 2003 with unlawful imprisonment and assault based on evidence of their conduct during protests in Naples in 2001 (see section 1.c.).

Arrest and Detention.—Warrants, issued by a duly authorized official, are required for arrests unless there is a specific and immediate danger to which the police must respond without waiting for a warrant. Within 24 hours of a suspect's detention, the examining magistrate must decide whether there is enough evidence to proceed with an arrest. The investigating judge then has 48 hours in which to confirm the arrest and recommend whether the case goes to trial, and this right to a prompt judicial determination was respected in practice. Under the law detainees are allowed prompt and regular access to lawyers of their choosing and to family members. The state provides a lawyer to indigents. In exceptional circumstances—usually in cases of organized crime figures—where there is danger that attorneys may attempt to tamper with evidence, the investigating judge may take up to five days to interrogate the accused before the accused is allowed to contact an attorney. There is no provision for bail; however, judges may grant provisional liberty to suspects awaiting trial. As a safeguard against unjustified detention, at a detainee's request, panels of judges (liberty tribunals) review cases of persons awaiting trial on a regular basis and rule whether continued detention is warranted.

In July the president signed into law a new antiterrorism decree that: doubles to 24 hours the amount of time police can hold suspects without charge; makes obligatory arrests for crimes involving terrorism; makes it easier to deport persons suspected of terrorist activities without the involvement of magistrates; allows police to take DNA samples from suspects for identification purposes; makes it easier for intelligence services to conduct wiretaps; requires identification to purchase phone cards and a license to operate an Internet cafe; increases penalties for hiding one's identity in public places, and allows the government to deport suspects under investigation without the involvement of the judiciary (suspects can appeal only after the deportation occurs), and expands the reasons for deportation to include whether a person's presence can in any way facilitate terrorist activities or organizations.

There were no reports of political detainees.

Preventive detention can be imposed only as a last resort if there is clear and convincing evidence of a serious offense (such as crimes involving the Mafia or those related to terrorism, drugs, arms, or subversion) with a maximum sentence of not less than four years or if there is a risk of an offense being repeated or of evidence being falsified. In these cases, a maximum of two years of preliminary investigation is permitted. Except in extraordinary situations, preventive custody is not permitted for pregnant women, single parents of children under age 3, persons over age 70, or those who are seriously ill.

Lengthy pretrial detention was a serious problem. No prisoner can be incarcerated for a longer term than the maximum sentence that could be imposed. The maximum term of pretrial incarceration is 2 years for a crime with a maximum penalty of 6 years, 4 years for a crime with a maximum penalty of 20 years, and 6 years for a crime with a maximum penalty of more than 20 years. During the first half of the year, 36 percent of pretrial detainees were awaiting a final sentence; trials had not begun for another 27 percent of them.

In May the court of cassation increased the amount of financial reimbursement awarded by the appeals court in Genoa to an entrepreneur who was charged in 1993 and spent seven and one-half years in prison before being acquitted by an appeals

court in 2001. According to some judicial experts, a few prosecutors used pretrial detention as pressure to obtain confessions.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, most cases involved long trial delays, and the impact of organized crime on the criminal justice system complicated the judicial process.

There are three levels of courts. Either a single judge or a court hears cases at the level of first instance. At the second level, separate courts with juries hear appeals of civil and criminal cases. Decisions of the court of appeals can be appealed to the highest court, the court of cassation (Supreme Court) in Rome, but only for reasons related to law, not to a case's merit. A separate constitutional court hears cases involving possible conflict between laws and the constitution or involving conflicts over the duties or powers of different units of government.

In July the parliament enacted judicial reform after amending an earlier bill that was rejected by the president for being unconstitutional. The reform: changed the career track of professional magistrates (who previously functioned as both prosecutors and trial/appellate judges) to require that they become either prosecutors or judges and conditioned promotion upon examination; allows district prosecutors to determine the priority of cases; and entitles the court of cassation to discipline magistrates who participate in political activities, leak information to the press and others, or otherwise violate judicial rules of procedure. Magistrates went on strike several times during the year to protest these reforms.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public and juries are used. Defendants have access to an attorney in a timely manner to prepare a defense. Defendants can confront and question witnesses against them, and they can present witnesses and evidence on their behalf. Evidence held by prosecutors may be made available to defendants and their attorneys. The law grants defendants the presumption of innocence. Defendants may appeal verdicts to the highest appellate court.

Domestic and European institutions continued to criticize the slow pace of justice in the country. During the year over 800 petitions were pending in the European Court of Human Rights seeking compensation against the government for excessively long proceedings. Observers cited several reasons for delays: the absence of effective limits on the length of pretrial investigations; the large number of minor offenses included in the penal code; unclear and contradictory legal provisions; and insufficient resources, including an inadequate number of judges. In January the chief prosecutor of the cassation court announced that 81 percent of reported crimes went unpunished. In 2004 he reported that the average time to complete a civil trial was eight years and a criminal trial five years.

The courts had significant leeway to determine when the statute of limitations should apply, and defendants often took advantage of the slow pace of justice to delay trials through extensive pleas or appeals (see section 3). In December the parliament approved legislation that reduced the discretionary power of judges to determine the statute of limitations. The new terms are equal to the maximum sentence provided for each crime and cannot be lower than six years; the law does not apply to crimes punished with life sentences and does not affect ongoing judicial cases. The law also increases penalties for Mafia-related crimes, increased sentences by up to one-half for repeat offenders, and allows drug addicts, people aged 70 and over or pregnant women to serve sentences at home. While the legislation will clarify problems related to the statute of limitations, it is not yet clear how it will affect prison overcrowding.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. Searches and electronic monitoring generally could be carried out only under judicial warrant and in carefully defined circumstances; however, the new antiterrorism decree made it easier for intelligence agencies to obtain permission to conduct wiretaps.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. However, the autonomous judiciary was sensitive to investigative leaks and press criticism and imposed fines for defamation.

During the year the president of a Muslim association filed a defamation suit against the writer Oriana Fallaci for the initially ordered the dismissal of the case,

but subsequently a judge sent the case to trial in Bergamo. A hearing was scheduled for June 2006. The book was on sale throughout the country.

There were approximately 80 newspapers, of which 8 had national readership; the Prime Minister Berlusconi's family controlled 2 of them.

Critics charged that Prime Minister Berlusconi directly or indirectly controlled six of the country's seven national broadcast channels. Although Prime Minister Berlusconi through his Finivest company sold 17 percent of his shares during the year, he continued to hold a major interest in Mediaset, which owned three channels, and the state-owned network RAI controlled the other three. RAI's three channels and other networks broadcast a wide range of opinion that reflected the full spectrum of political views in the country, but disputes over partisanship on the airwaves continued to prompt frequent political debate.

The NGO Reporters without Borders and the journalists' union criticized several judicial actions directed against journalists. In May a prosecutor ordered financial police to conduct a search in the office of a national newspaper and interrogate some journalists to ascertain the source of an article on arms trafficking. Neither the newspaper nor the prosecutor took further action on the case. Critics noted the contradiction between separate laws maintaining the sanctity of journalistic sources and another law authorizing magistrates to carry out investigations into journalistic sources.

Politicians and their supporters filed several defamation suits during the year. In February President Ciampi granted a pardon to a 77-year-old journalist and senator who had been sentenced to 29 months' imprisonment for defamation. In April a trial began for three journalists from a national newspaper who were accused of defaming the leader of a political party in 2003. In March a judge dismissed charges filed by five magistrates against a journalist who wrote an article about the alleged political use of turncoat witnesses in connection with legal proceedings against former Prime Minister Andreotti. In July Prime Minister Berlusconi filed a libel suit against a British journalist over allegations in a book of criminal activity and political corruption; Berlusconi is seeking $1.17 million (one million euros) in compensation.

The government generally did not restrict access to the Internet; however, the government could block foreign-based Internet sites if they contravened national laws. The new antiterrorism decree required a license to operate an Internet cafe.

There were no government restrictions on academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

There is no state religion; however, an historic agreement between the Roman Catholic Church and the government, revised in 1984, provides the Church certain privileges. For example, the Church may select Catholic religion teachers, whose earnings are paid by the government. The law authorizes the government to enter into relations with non-Catholic religious groups pursuant to an accord (*intese*), on the basis of which the government can provide support (including financial) to the religion; these accords are voluntary, initiated by religious groups, and do not infringe on the practice of religion. The government has signed accords with several minority religious groups. At year's end the Buddhist Union and Jehovah's Witnesses awaited parliamentary ratification of government accords.

Muslim women are free to wear the veil in public offices and schools; however, there were occasional reports of objections by the government or the public to women wearing a burqah (a garment that completely covers the face and body). The new antiterrorism decree (see section 1.d.) doubled existing penalties, from 6 months' imprisonment and a $600 to $1,200 (500 to 1000 euros) fine to 1 to 2 years' imprisonment and a $1,200 to $2,400 (1,000 to 2,000 euros) fine) for violating an updated 1931 law that prohibits individuals from hiding their identity (by wearing a crash helmet or other garb such as a burqah).

In September the government used the new antiterrorism decree to expel the imam of Turin and the vice president of the Como Muslim Cultural Center from their positions on the grounds that they were preaching hate and violence and recruiting terrorists.

The continuing presence of Catholic symbols, such as crucifixes, in many government offices, courtrooms, and other public buildings has drawn criticism and has been the subject of lawsuits.

Societal Abuses and Discrimination.—The country's approximately 30 thousand Jews maintained synagogues in 21 cities. There were no violent anti-Semitic at-

tacks, but societal prejudices against Judaism continued and swastika graffiti appeared in some cities. The government hosted meetings to increase educational awareness of the Holocaust and to combat anti-Semitism in Europe.

For a more detailed discussion, see the *2005 International Religious Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to 2,352 persons during the year.

The government cooperated with the office of UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees, and provided temporary protection to refugees fleeing hostilities or natural disasters. Such refugees were granted temporary residence permits, which must be renewed periodically but did not ensure future permanent residence.

The majority of illegal immigrants were denied entry at the border. Those who did enter, usually via the sea, were sent to temporary detention centers for processing, and a magistrate determined if an illegal immigrant would be deported (for those whose identity can be determined), issued an order to depart (for those whose identity has not been determined), or accepted for asylum processing. Some NGOs were at times denied entry to the detention facilities to check on asylum processing.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Executive authority is vested in the Council of Ministers, headed by the president of the council (the prime minister). The head of state (president of the republic) nominates the prime minister after consulting with the leaders of all political forces in parliament. National parliamentary elections (which determine who will be president and prime minister) last held in 2001 were considered free and fair.

There were numerous political parties that functioned without government restrictions.

There were 25 women in the 315-seat senate and 63 women in the 630-seat chamber of deputies, and women held 2 of 25 cabinet positions. For the first time, the Ministry of Foreign Affairs promoted two women to the rank of senior ambassador (of 20 actively serving at this rank).

The only legally defined minorities are linguistic—the French-speaking Valdostani and the German-speaking Altoatesini/Suditirolesi. During the year there were 6 members of linguistic minorities in the 315-seat senate and 5 in the 630-seat chamber of deputies. In a largely monolithic society, immigrants represented approximately 4 percent of the population, and less than half of these qualified as ethnic/racial minorities. There were no members of the new immigrant groups in the senate, chamber of deputies, or the cabinet.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year, and the general public believed that politicians were corrupt. According to press reporting, between November 2003 and November 2004 a special court dealing with financial issues issued 154 summonses in response to complaints from private citizens and public officials regarding allegations of bribery or graft in public administration. There was no information on the number of cases referred to a prosecutor for further action.

In July prosecutors sent 148 people to trial for involvement in a 1999 scheme to avoid military service by bribing officials. The trial had not concluded by the end of the year.

The Independent Task Force on Corruption began work in October 2004. It had collected 50 citizen complaints on various corruption charges and began an investigation into the way professors are hired at state universities at year's end.

Defendants often took advantage of the slow pace of justice to delay trials through extensive pleas or appeals. In one high-level case in May, the courts dropped a bribery charged filed against Prime Minister Berlusconi which related to events in the early 1990s surrounding the purchase of a large publishing house; the court ruled the statute of limitations had expired. In October a court in Milan acquitted Prime Minister Berlusconi of charges that one of his companies (Finivest) engaged in falsified accounting between 1989 and 1995; the court ruled that the case exceeded the statute of limitations. In December Prime Minister Berlusconi's former lawyer and ex-Minister of Defense was convicted of corruption and sentenced to five years' imprisonment by an appeals court in a case that involved a judge and the holding company of the prime minister; he is appealing the decision to the court of cassation. In 2001 the Berlusconi government passed a law shortening the statute of limitations for this kind of crime.

The law provides citizens with the right to access government documents and be informed of administrative processes. With some exceptions for security issues, the government and local authorities respected this right in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuse, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender (except with regard to hazardous work), ethnic background, or political opinion, and provides some protection against discrimination based on disability, language, or social status, and the government generally enforced these prohibitions. However, societal discrimination and violence against women, persons with disabilities, minorities, and Roma persisted.

Women.—Violence against women, including spousal abuse, remained a problem. The NGO Telefono Rosa, which provides a hotline through which abused women may obtain legal, medical, and other assistance, reported that 13 percent of the calls it received involved sexual violence, 37 percent involved physical violence in the home, and more than 31 percent of the calls involved psychological violence. Telefono Rosa reported receiving an average of six hundred calls per month. In 2004 the chief prosecutor of the cassation court reported that complaints of sexual violence and exploitation of women increased by 48 percent compared to 2003. Some of this increase was credited to the success of new public awareness campaigns that encouraged greater reporting of these crimes.

Legislation protects women from physical abuse, including by family members, allows for the prosecution of perpetrators of violence against women, and shields women who have been victims of attack from publicity. Law enforcement and judicial authorities were not reluctant to prosecute perpetrators of violence against women, but victims sometimes did not press charges due to fear, shame, or ignorance of the law. According to Telefono Rosa, approximately three out of four women who experienced violence declined to report it to the authorities, and one in five who did report it later withdrew their complaint.

Rape, including spousal rape, is illegal, and the government enforced the law effectively. In 2003 4,526 cases of rape were reported, 3,522 persons were charged, and 1,478 were convicted.

Individual acts of prostitution in private residences are legal. It is legal for adults to solicit or pay money for acts of prostitution. It is illegal to operate a brothel, traffic in human beings, or engage in sex with a minor.

Trafficking of women for sexual exploitation remained a problem (see section 5, Trafficking).

Under the law citizens and noncitizen permanent residents who engaged in sex tourism, even abroad, could be tried and convicted in domestic courts, even if the offense is not a crime in the country in which it occurred. The country also has what is considered a model code of conduct for tourism agencies to help combat sex tourism. In 2003 two individuals were sent to trial for sex tourism; the trials had not concluded by the year's end. Four persons who were accused of organizing tours to Brazil that included the sexual services of girls ages 12 to 17.

Sexual harassment is illegal, and the government effectively enforced the law. In May the government issued a decree that makes emotional abuse based on gender discrimination a crime, and was designed to combat sexual harassment in the workplace.

Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system.

According to the European Commission, the gap between salaries for men and women averaged 6 percent. Women were underrepresented in many fields, such as management, entrepreneurial business, and the professions. According to the superior council of the judiciary, 40 percent of magistrates are women, but only 3 percent of chief justices are women.

A number of government offices worked to ensure women's rights. A woman heads the Ministry for Equal Opportunity, and there is an equal opportunity commission in the office of the prime minister. The labor ministry has a similar commission that focuses on women's rights and discrimination in the workplace. Many NGOs, most of which were affiliated with labor unions or political parties, actively and effectively promoted women's rights.

Children.—The government demonstrated a commitment to children's rights and welfare. Schooling is free and compulsory for children from age 7 to age 18; those unable (or unwilling) to follow the academic curriculum may shift to vocational training at age 15. In 2004 the Ministry of Education reported that 83.2 percent of children age 15 to 18 attended secondary school. There was no difference in the treatment and attendance of girls and boys at the primary, secondary, and post-secondary levels. Completion of secondary school was the highest level achieved by most children.

The country provides free state-provided medical care for all citizens.

Child abuse was a problem; in 2004 the NGO Telefono Azzurro received approximately 376 thousand calls related to child abuse. Approximately 5 percent of cases involved sexual abuse, 14 percent physical violence, and 13 percent psychological exploitation. In 59 percent of the cases, the victims were female; 46 percent were ages 10 or younger. In 2004 the chief prosecutor of the cassation court reported that complaints of sexual violence and exploitation of children increased by 28 percent compared to 2003. In the first 6 months of 2004, judicial authorities registered 349 allegations of sexual abuse against minors and accused 392 persons of abuse. Between 2001 and 2003, the government funded 144 projects carried out by NGOs to improve parent-child relations and combat child abuse.

NGOs estimated that 8 to 10 percent of prostitutes were minors. An independent research center estimated that there were between 1,800 and 3,000 minors who worked as street prostitutes, of whom 1,500 to 2,300 were trafficked into the country and forced into prostitution (see section 5, Trafficking).

In 2002 the government created an inter-ministerial committee to coordinate the fight against pedophilia, which is chaired by the Minister of Equal Opportunity. A special unit of the police monitored 27,200 websites in the first half of the year, investigated 769 people for crimes involving child pornography online and arrested 21 of them.

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in persons; however, persons were trafficked to, from, and within the country. According to government and NGO sources, approximately two thousand new victims were trafficked to and within the country in 2004. The law provides for sentences of 8 to 20 years' imprisonment for trafficking in persons and for enslavement. For convictions in which the victims were minors destined for prostitution, sentences are increased by one-third to one-half. The law applies special prison conditions to traffickers that are designed to limit criminals' ability to continue their operations from jail. The number of persons investigated for trafficking decreased from 2,231 in 2003 to 1,861 in 2004, but arrests increased from 328 to 341; the number of prosecutions increased from 59 to 120 and convictions from 32 to 77 respectively. The government also cooperated with foreign governments, including Nigeria, Ukraine, Bulgaria, and Moldova, to investigate and prosecute trafficking cases.

In March police broke up three trafficking rings in the northern part of the country and arrested 12 Albanians and a Bulgarian for entrapping Romanian students and using violent coercion to sell them to Albanian gangs for prostitution. The case remained under investigation at year's end.

In June police in Calabria, in cooperation with Bulgarian authorities, arrested 25 Italian and Bulgarian individuals and charged them with trafficking in persons, criminal conspiracy, kidnapping, and sexual assault. The traffickers reportedly trafficked up to 70 persons a week into the country, and then forced them into jobs such as shepherding, factory work, and prostitution. The case remained under investigation at year's end.

In December police arrested a Romanian and accused him of exploiting 9 Romani children, ages 6 to 14, by picking them up in a camp every morning and forcing them to beg on the streets.

The following reported 2004 trafficking investigations remained ongoing at year's end: a Romanian father who was selling his 10-year-old child for sex in the outskirts of Milan; two Albanians, one Egyptian, one Pakistani, and one Italian involved in trafficking women from Eastern European countries for prostitution; six Bulgarian men who accompanied Bulgarian women into the country who gave birth to children and then sold the babies to Italian families for $13,500 (10 thousand euros) each; 12 persons, including 2 police officers, who were arrested in Sassari and charged with trafficking for prostitution and falsification of documents; and four persons who were accused of organizing tours to Brazil that included the sexual services of girls ages 12 to 17.

According to the government and an NGO, approximately 2 thousand persons were trafficked in 2003; 8 to 10 percent were believed to be underage.

The country was a destination and transit point for trafficked persons. Trafficking in persons for the purpose of sexual exploitation involved immigrants, mostly from Nigeria, North Africa, Eastern Europe, China, and South America. Press reports estimated that more than 85 percent of prostitutes in the country were immigrants, primarily from Nigeria and Eastern Europe.

Victims of trafficking who were sexually exploited faced the attendant health risks resulting from unsafe or unprotected sex. Trafficking victims in the Tuscany region who worked in sweatshops were possibly exposed to dangerous chemicals in the leather industry.

Organized criminal groups were responsible for most trafficking in the country; prostitution rings routinely moved trafficked persons from city to city to avoid arrest.

Victims of trafficking were usually lured to Western Europe with promises of a job, or sold by relatives, friends, or acquaintances. They were then forced into prostitution, laboring in restaurants or sweatshops, or begging in the street. Their traffickers enforced compliance by taking their documents, beating and raping them, or threatening their families.

Government officials generally did not participate in, facilitate, or condone trafficking.

The law provides temporary residence or work permits to persons who seek to escape their exploiters. Victims were encouraged to file complaints, and there are no legal impediments for them to do so. Prostitutes who qualify as official trafficking victims under law receive numerous benefits, including residence, whether or not they filed a complaint. Illegal immigrants in general face deportation if caught. NGOs alleged that the government did not allow enough time between apprehension and deportation of illegal immigrants to screen for trafficking victims.

The government provided legal and medical assistance once a person was identified as having been trafficked. There were shelters and programs for job training. There also were assistance and incentive programs for those willing to return to their home country; in 2003, 47 victims who chose to go home were repatriated. The domestic NGO Social Service International assisted in repatriating unaccompanied immigrant minors.

The law empowers magistrates to seize convicted traffickers' assets to finance legal assistance, vocational training, and other social integration assistance to trafficking victims.

The government, in conjunction with other governments and NGOs, worked to orchestrate awareness campaigns. The law directs the foreign ministry, together with the equal opportunity ministry, to conclude additional antitrafficking agreements with trafficking source countries.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions; however, there was some societal discrimination. Although the law mandates access to buildings for persons with disabilities, mechanical barriers, particularly in public transport, left such persons at a disadvantage. The Ministry of Labor and Welfare was responsible for protecting the rights of persons with disabilities.

In August the carabinieri closed a private health facility for the mentally ill in Reggio Calabria for structural, health and safety violations.

In June the national airline refused to board a disabled person claiming it would cause delays injurious to other passengers.

Of the 500 thousand workers with disabilities registered at public employment centers, only 4.8 percent found work.

National/Racial/Ethnic Minorities.—Police continued to mistreat young immigrants and Roma. An NGO (Opera Nomadi) reported that there were no cases of abuse directed at Roma, but societal discrimination continued to affect government health and education services and citizenship claims.

Public opinion surveys indicated that the prevalence of negative attitudes toward immigrants was increasing, especially among young persons and in the north of the country. Immigrants believed they were discriminated against in employment (see section 6.e.).

There were no accurate statistics on the number of Roma in the country. NGOs estimated that a population of 120 thousand, up to 80 percent of whom could be citizens, was concentrated on the fringes of urban areas in the central and southern parts of the country, living in camps characterized by poor housing, unhygienic sanitary conditions, limited employment prospects, inadequate educational facilities and the absence of a consistent police presence. Faced with limited income and job opportunities, and suffering from harassment, some Roma turned to begging or petty crime, which led to repressive measures by police and some judicial authorities.

The government's Office to Combat Racial and Ethnic Discrimination in the Ministry of Equal Opportunity provided assistance to victims. On its national hotline it received 298 reported incidents of discrimination against ethnic minorities between December 2004 and August. The majority of complaints related to wage and overtime issues and discrimination in public. The office provided assistance in mediating disputes.

Other Societal Abuses and Discrimination.—There was at least one allegation of official discrimination against homosexuals. In June a trial began for a homosexual who claimed that personnel in the ministries of defense and transport had his drivers' license revoked because of his sexual orientation. The trial was ongoing at year's end.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to establish, join, and carry out union activities in the workplace without previous authorization or excessive requirements, and workers exercised these rights in practice. Unions claimed to represent between 35 and 40 percent of the workforce.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right of workers to organize and bargain collectively, and workers exercised this right in practice. Approximately 35 percent of the workforce worked under a collective bargaining agreement, but nonunion members working alongside union employees also benefited from the same agreements. The law provides for the right to strike, and workers exercised this right by conducting legal strikes. The law restricts strikes affecting essential public services (such as transport, sanitation, and health), requiring longer advance notification and precluding multiple strikes within days of each other. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5). Police periodically discovered clandestine Chinese immigrants working in factories throughout the country, particularly in Tuscany's large Chinese immigrant community.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government implemented laws and policies designed to generally protect children from exploitation in the workplace; however, child labor was a problem. The law prohibits the employment of children under age 15 (with some limited exceptions), and there are specific restrictions on employment in hazardous or unhealthful occupations for men under age 18 and women under age 21, and these laws generally were effectively enforced in practice. However, the enforcement of minimum age or other child protection laws was difficult in the extensive underground economy. During the year an independent research center estimated that approximately 460 thousand children worked at least occasionally, while 70 thousand children worked for at least 4 hours per day. In 2002 the National Institute of Statistics (ISTAT) reported that approximately 31,500 children—age 11 to 14—worked in agriculture (mostly boys) and urban hotels, coffee bars, and restaurants (mostly girls). This child labor occurred primarily within the family, and mistreatment was not a problem. However, ISTAT stated that mistreatment and exploitation were problems for child labor that occurred outside of families, particularly for children of immigrants.

Illegal immigrant child laborers from northern Africa, the Philippines, Albania, and China continued to enter the country in large numbers. Many minor children

worked alongside the rest of their families to produce scarves, purses, and imitations of various brand name products.

Trafficking in children was a problem (see section 5).

The government, employers' associations, and unions continued their tripartite cooperation on child labor. The Ministry of Labor, working with the police and the carabinieri, is responsible for enforcement of child labor laws, but their efforts generally were ineffective. In the first half of the year, the Ministry of Welfare conducted inspections of 2,311 companies and found 2,276 Italians aged 14–18 and 259 foreigners. The ministry fined companies for violations concerning lack of periodical medical check-ups (600 cases), work-hours and leave (158 cases), and minimum age (84 cases of children under 15 being employed).

e. Acceptable Conditions of Work.—The law does not set minimum wages, but they are set through collective bargaining agreements on a sector-by-sector basis. The minimum wage in most industries did provide a decent standard of living for a worker and family. Judges effectively enforced the wages set through collective bargaining agreements.

The legal workweek is 40 hours. Overtime work may not exceed 2 hours per day or an average of 12 hours per week. Unless limited by a collective bargaining agreement, the law sets maximum permissible overtime hours in industrial sector firms at no more than 80 hours per quarter and 250 hours annually. The minimum number of rest periods required was one day per week and 11 hours per day. Premium pay is required for overtime. These standards were effectively enforced.

The law sets basic health and safety standards and guidelines for compensation for on-the-job injuries. Labor inspectors were from the public health service or from the Ministry of Labor, but they were few in number in view of the scope of their responsibilities. Workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment, and the government effectively enforced this right.

KAZAKHSTAN

The Republic of Kazakhstan, with a population of approximately 15 million, has a multiparty parliamentary system dominated by President Nazarbayev's Otan Party. President Nazarbayev was re-elected for a third 7-year term on December 4; observers criticized that election as falling short of a number of international standards. The constitution concentrates power in the presidency, permitting the president to control regional and local governments and to exercise significant influence over the legislature and judiciary, as well as changes or amendments to the constitution require presidential consent. The civilian authorities generally maintained effective control of the security forces, although members of the security forces committed human rights abuses.

The government's human rights record remained poor. Legislation enacted during the year seriously eroded legal protections for human rights and expanded the powers of the executive branch to regulate and control civil society. In particular the extremism law passed in February, election law amendments added in April, and national security amendments enacted in July encroached on political rights, freedom of the press, freedom of religion, and other human rights. The following human rights problems were reported:

- severe limits on citizens' rights to change their government
- instances of military hazing that led to deaths
- abuse and mistreatment of detainees and prisoners
- unhealthy prison conditions
- corruption in law enforcement, the judiciary, and the legal system
- arbitrary arrest and detention, particularly of government opponents
- government infringement of citizens' privacy rights
- selective use of civil and criminal libel cases to punish political opponents
- self-censorship in the media
- harassment of opposition newspapers
- limited freedom of association and assembly
- narrowing of legal protections for freedom of religion
- discrimination and violence against women, including domestic violence
- discrimination against persons with disabilities

- trafficking in persons
- restricted workers' rights, poor workplace safety in heavy industries, and child labor in agricultural areas

The government made significant improvements in combating trafficking in persons and decreasing incidents of hazing and abuse in the military. The Ministry of Justice (MOJ) led an interagency working group on trafficking in persons that drafted a comprehensive set of legislative amendments that was pending full parliamentary and presidential approval at year's end. The Ministry of Defense, in cooperation with international partners, initiated a series of reforms to its non-commissioned officer (NCO) system that resulted in an increase in professional responsibility and training for NCOs, who now earn their rank by merit in areas including protection of the rights of the conscripts in their command.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed any politically motivated killings, although a few conscripts died as a result of military hazing and mistreatment.

Military hazing was a serious problem that not only led to deaths as a result of mistreatment but also resulted in a few conscripts committing suicide (see section 1.c.). The government investigated allegations of conscript hazing and prosecuted soldiers who engaged in this abuse.

The government took steps to address the patterns that contributed to soldier abuse through its reform of the NCO corps and transition towards an all-volunteer military. Previously, non-commissioned ranks were bestowed upon soldiers based upon seniority rather than merit. Reforms placed additional responsibility on NCOs, who are expected to identify and to prevent abuse of conscripts, and provided for additional NCO training, including human rights awareness. Currently, 70 percent of enlisted soldiers were volunteers, compared with 10 percent in 2000.

On April 9, conscript Samat Kapezov received hazing injuries that led to his death. At year's end authorities were investigating reports that an older conscript, Abylair Ospanov, was directly responsible for the abuse, and that the unit's command was culpable for inattention to this abuse.

The chief military procurator's office registered 164 incidents of hazing and 26 suicides within the military during the year. In comparison the government reported close to 100 suicides among conscripts in 2003.

On May 5, a Pavlodar military court convicted a soldier of hazing and sentenced him to two years in jail. The unnamed soldier had engaged in systemic abuse of other conscripts in his detachment that led to the November 2004 suicide of fellow conscript Madiyar Argynbekov. Senior members of the detachment received minor disciplinary penalties for failure to prevent or to detect this hazing.

In August 2004 eight soldiers were convicted of causing the February 2004 hazing-related suicide of conscript Yerbolat Brimzhanov. One soldier was sentenced to a year in prison; the other seven received sentences ranging from 5 to 10 years in prison.

In September 2003 an older fellow soldier was convicted and received 10 years imprisonment in the 2003 hazing case of Daniyar Nagaybayev.

On November 12, former government official Zaman Nurkadilov died in his home as the result of three gunshot wounds. The official government investigation determined the cause of death to be suicide. Several opposition leaders and family members questioned the official conclusion and criticized the authorities for not investigating thoroughly.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, but police and prison officials at times tortured, beat, and otherwise abused detainees, often to obtain confessions. In its Human Rights Commission's annual report, the government acknowledged that torture and other illegal methods of investigation were still used by some law enforcement officers. Human rights and international legal observers noted investigative and procuratorial practices that overemphasized a defendant's confession of guilt over collecting other types of evidence in building a criminal case against a defendant.

The government reported authorities filed 47 criminal cases against law enforcement officers for physical abuse during the year. 11 detainee deaths, including 6 suicides, were registered during the year at 222 pretrial detention facilities. The ombudsman's office reported 169 citizen complaints during the first half of the year, a substantial number of which were allegations of abuse by law enforcement.

On January 10, Mangistau police arrested Nurzhan Zheksemaliev and Zhenisbek Rakhmamedov on theft charges. Human rights observers received reports that the young men were beaten during interrogation.

In July, two policemen in Petropavlosk received four-year suspended prison sentences for the September 2004 beating of Viktor Deviatkin. Police came to Deviatkin's house seeking Deviatkin's son, who was not at home. When Deviatkin refused to admit the officers, the police broke in, dragged Deviatkin out of the house, and took him to the police station, where he was beaten for hours before he was released.

In July the media reported the case of Kazbek Ramazanov, a teacher arrested in 2000 for suspected murder in the disappearance of his mentally disabled female student. While in police custody, Ramazanov confessed under torture to the killing. The missing student was eventually discovered alive, and Ramazanov was exonerated. Ramazanov filed a complaint against his abusers, who were convicted during the year.

No charges had been brought by year's end and none were expected in the 2003 case of a district deputy procurator and two other men who brutally beat a 14-year-old girl at a cafe. According to the victim's parents, the district deputy procurator exerted pressure on witnesses in the case, discouraging them from testifying.

There were unconfirmed reports that some women detained by law enforcement officers were subjected to coercive sexual advances or rape.

A few army personnel continued to subject conscripts to physical and verbal abuse, despite NCO corps reforms that addressed patterns that led to conscript hazing. There were reports of hazing-related deaths and suicide that in some cases led to investigations and eventual convictions of service members (see section 1.a.). In addition to implementing new human rights training and responsibilities for NCOs, the government continued a training program for military personnel at all levels on social and legal issues, which included mandatory anti-hazing training.

Prison and Detention Center Conditions.—Prison conditions remained harsh and facilities did not meet international health standards. Mistreatment occurred in pretrial detention facilities and in prisons. The government took some steps to address systemic patterns that encouraged prisoner abuse; however, no prison officials were prosecuted for abuses during the year. In December 2004 a system of penitentiary-oversight commissions to review human rights conditions was established by statute; these panels were registered as independent nongovernmental organizations (NGOs). The commissions included experts from within the government and from NGOs and academia. Working with outside experts, the government introduced a network of prison psychologists to assist prisoners and prison personnel to reduce stresses contributing to patterns of abuse. In addition a Council for Public Oversight, established in March 2004, conducted internal investigations on abuse allegations and reported directly to the minister of justice. NGOs and international observers reported that incidents of abuse declined following the mid-year return to the MOJ of several well-regarded administrators involved in earlier successful penal reform efforts. The government also brought in new MOJ leadership with a mandate to enact reforms to bring the penal system up to internationally recognized standards. Although the government made some efforts to upgrade and build new facilities, buildings at many prisons remained outdated and hygiene conditions were substandard.

The government conducted 18 criminal investigations of penitentiary officials for corruption crimes and forwarded 13 cases to courts, of which 5 cases resulted in 6 convictions.

In January human rights defenders and opposition party DCK reported authorities at Shiderty settlement prison colony arbitrarily punished Galymzhan Zhakiyanov and denied him necessary medical treatment.

The government reported 43 inmate suicides during the year. Incidents of self-mutilation by inmates to protest prison conditions continued. In general, the government did not take action in response to self-inflicted injuries by prisoners.

Although the Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR) and international organizations regularly visited men's, women's, and juveniles' facilities during the year, they reported that their requests to visit were sometimes denied without clearly articulated reasons, a complaint echoed by other human rights observers and journalists, especially regarding politically sensitive cases. In one case, settlement colony officials refused to permit a prisoner to meet with a foreign diplomat, in contravention of the law. Local human rights NGOs reported that authorities generally denied them access to pretrial detention facilities.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, but they remained problems.

Role of the Police and Security Apparatus.—The Ministry of Internal Affairs (MVD) supervises the national police force, which has primary responsibility for internal security. The financial police have administrative and criminal investigative powers. The MVD and Financial Police Agency report to the prime minister. The Committee for National Security (KNB) plays a law enforcement role in border security, internal security, and antiterrorism efforts, and oversees the external intelligence service, Barlau. The chairman of the KNB reports directly to the president.

According to corruption surveys, public perception of police effectiveness was low, and corruption among law enforcement officers was high. Police were poorly paid and widely believed to be corrupt. The government received 2,196 allegations of corruption and abuse during the year through hot lines set up by the MVD to receive complaints about police. Of these, 1,092 incidents were investigated, and the MVD confirmed 976 violations. As a result of investigations, 497 policemen were fired and 890 received disciplinary action (see section 3).

Representatives from the MVD, the KNB, the procurator general, and parliament served on a special commission established in August 2004 to investigate complaints against law enforcement agencies (see sections 1.c. and 3). By October 2004 the special commission had investigated 34 complaints and punished officials in 12 cases. The other 22 complaints were determined to be unfounded. Although the ombudsman's office does not keep separate statistics, the ombudsman estimated that nearly half the complaints involved police corruption or abuse.

The MVD also cooperated with NGOs to provide human rights training seminars for police at the local level. Additionally, the government cooperated with international organizations to provide limited law enforcement training aimed at decreasing abuse by emphasizing investigative skill development.

Arrest and Detention.—The law provides that courts or procurators must sanction arrests and detentions, and the government generally respected this provision in practice. Warrants were required for arrest. Procurators have the power to authorize arrest and pretrial detention as well as investigative actions such as searches and seizures. The law allows police to hold a detainee for 72 hours before bringing charges. Human rights observers alleged that authorities often exceeded this limit in practice.

A bail system exists but was not widely used, and many individuals remained in pretrial detention until their trial.

Persons detained, arrested, or accused of committing a crime have the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation; however, police were not required under the law or in practice to inform detainees that they had the right to an attorney. Human rights observers alleged that law enforcement officials either dissuaded detainees from seeing an attorney or gathered evidence through preliminary questioning before the person's attorney arrived and the formal interrogation began. The law states that the government must provide an attorney for an indigent suspect or defendant when the suspect is a minor, has physical or mental disabilities, or is facing serious criminal charges.

The government arrested and detained a few government opponents and critics, sometimes for minor infractions of the law such as unsanctioned assembly, and selectively prosecuted political opponents (see sections 1.e., 2.a., and 2.b.). However, there were no allegations of prolonged detention for political offenses.

On October 12, authorities arrested opposition activist Tolen Tokhtasynov of For a Just Kazakhstan for organizing an illegal rally, which Tokhtasynov characterized as a meeting of party members. The next day, Tokhtasynov was found guilty and fined $376 (50 thousand tenge) by an administrative court.

Police reportedly detained foreigners without official charges, sometimes mistreating them.

e. Denial of Fair Public Trial.—The law does not adequately provide for an independent judiciary. The executive branch limited judicial independence. Procurators enjoyed a quasi-judicial role and were permitted to suspend court decisions.

There are three levels in the court system: district, oblast (regional), and the supreme court. District courts are the court of first instance in nearly all criminal cases. Regional courts hear cases involving more serious crimes, including those that carry the death penalty, and may handle cases in rural areas with no local courts. District court decisions may be appealed to the regional courts, and regional court decisions may be appealed to the supreme court. There are also military courts.

The constitutional council rules on election and referendum challenges, interprets the constitution, and determines the constitutionality of laws adopted by parliament. Citizens have no right of direct appeal to the constitutional council.

Corruption was evident at every stage and level of the judicial process. Although judges were among the most highly paid government employees, lawyers and

human rights monitors alleged that judges, procurators, and other officials solicited bribes in exchange for favorable rulings in the majority of criminal cases (see section 3).

The presidentially appointed High Judicial Council recommends nominees for the supreme court to the president, who in turn recommends them to the senate for approval. The council makes recommendations to the president for regional (oblast) level judges, but these appointments are made directly by the president. Lower-level court judges are appointed by the president upon the recommendation of the MOJ and the Qualification Collegium. Judges are appointed for life.

Trial Procedures.—The law allows for trial by jury, but jury trials were not implemented in practice. At year's end a draft law setting up a jury trial system was approved by parliament and awaited presidential approval. Trials were public, except in instances that could compromise state secrets, or to protect the private life or personal family concerns of a citizen. However, there were several reports during the year of journalists being denied access to open court hearings. Defendants in criminal cases have the right to counsel and to a government-provided attorney if they cannot afford one. Under the criminal procedure code, defendants must be represented by an attorney when the defendant: is a minor, has mental or physical disabilities, does not speak the language of the court, or faces 10 or more years' imprisonment. In practice defense attorneys reportedly participated in only half of all criminal cases, in part because the government did not have sufficient funds to pay them. The law also provides defendants the right to be present at their trials, to be heard in court, and to call witnesses for the defense. Defendants enjoy a presumption of innocence, are protected from self-incrimination, and have the right to appeal a decision to a higher court. These rights were generally exercised in practice; however, there were reports of individual cases of infringement. Lack of due process was a problem, particularly in politically motivated trials and in cases where improper political or financial influence was alleged.

The opposition party Democratic Choice of Kazakhstan (DCK) was liquidated by court order following a trial that lacked due process. The court issued a ruling on the merits of the case without resolving an outstanding legal question on jurisdiction. During the hearing, DCK was not allowed to call expert witnesses to testify, more than half of the questions DCK raised during cross examination of prosecution expert witnesses were overruled, and all but one of DCK's motions were denied.

On December 14, the Ekibastuz city court confirmed the recommendation of prison colony authorities that former governor and DCK leader Galymzhan Zhakiyanov be granted conditional early release. On December 21, a special procurator contested the ruling on the grounds that Zhakiyanov had violated prison rules, also noting that the judge had not set any conditions on Zhakiyanov's release. At year's end the court had not ruled on the protest motion. Zhakiyanov, convicted of abuse of power and corruption charges in 2002 following a trial that international observers maintained was politically motivated and lacked due process, was being held in a minimum security settlement colony. Zhakiyanov's supporters claimed that he was subject to heightened scrutiny by settlement colony officials and denied medical attention. Although Zhakiyanov was permitted some visits from family and international human rights observers, the government often refused permission for such visits without legal basis. In contravention of the criminal procedure code, which specifies that there are no limits on visits to settlement colony inmates, colony officials insisted that Zhakiyanov conduct all his meetings inside prison facilities where they could be monitored, and permission from the MOJ was required for visitors to enter the colony. Permission was at times refused to international human rights observers and foreign diplomats.

Military courts had jurisdiction over civilian criminal defendants who were alleged to be connected to military personnel undergoing a criminal trial.

Political Prisoners.—There were no confirmed reports of political prisoners; however, there were reports of individuals imprisoned following politically-motivated criminal prosecutions based on nonpolitical offenses.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government at times infringed on these rights.

The law provides procurators with extensive authority to limit citizens' constitutional rights. The KNB, MVD, financial police, and other agencies, with the concurrence of the procurator general's office, may infringe on the secrecy of private communications and financial records, as well as on the inviolability of the home. Courts may hear an appeal on procurators' decisions, but cannot issue an immediate injunction to cease the infringement. The criminal procedure code allows wiretapping and recording of communications for investigative purposes without a procurator's warrant only in urgent cases; amendments enacted during the year extend

wiretap authority to include monitoring of e-mail and all forms of electronic communication.

Government opponents and their family members continued to report that the government monitored their movements and telephone calls on occasion. Opposition movement For a Just Kazakhstan (FJK) filed suit against the police alleging that on November 29, a police officer illegally videotaped people entering and leaving FJK offices in Almaty. The suit was dismissed on the grounds that the officer had not been acting pursuant to official orders but rather on her own initiative.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government used a variety of means, including criminal and administrative charges, to control the media and limit freedom of expression. Judicial actions against journalists and media outlets, including civil and criminal libel suits filed by government officials, contributed to self-censorship. The ability of opposition newspapers to disseminate information worsened as a number of print-runs were seized by authorities prior to distribution and printing houses refused printing services on several occasions. On three occasions, opposition media outlets were denied registration on the basis that the proposed names had been registered previously or were too similar to copyrighted names.

The government limited individuals' ability to criticize the country's leadership, and regional leaders attempted to limit local media outlets' criticism of them. The law provides for the protection of the dignity of the president, and the law prohibits insulting the president and other senior officials. These provisions narrowed the scope of political speech related to the December 4 presidential election, in which Nazarbayev was a candidate for re-election.

The government continued to characterize the distribution of pamphlets by Hizb ut-Tahrir (HT) members as incitement for political and terrorist purposes, beyond the bounds of constitutionally-protected free speech. During the year police arrested 22 people for disseminating HT materials.

International observers considered that the level of media bias surrounding the presidential elections was similar to the strong pro-administration bias surrounding the September 2004 Mazhilis elections. The election law stipulates that media must provide equal coverage of all parties and candidates during the official campaign season.

On several occasions prior to the December 4 presidential elections, law enforcement seized opposition newspapers. Media content bias in favor of the incumbent candidate was widespread; however, state media outlets generally met their legal obligations to provide free airtime to candidates, and the Central Election Commission (CEC) responded to opposition and independent candidate complaints.

According to government statistics, 23 percent of the 2,110 media outlets were government-owned. Many broadcast media considered to be independent, including the larger outlets, were owned by holding companies believed to be controlled by members of the president's family and close circle of friends. There were 1,021 privately owned newspapers and 429 privately owned magazines. Of the 1,325 registered newspapers distributed nationally, the government directly ran one Russian-language newspapers and one Kazakh-language newspaper. Many privately owned newspapers received government subsidies. The government controlled nearly all broadcast transmission facilities. There were 144 television and 40 radio stations. Media observers believed that six of the seven nationwide television broadcasters were wholly or partly owned by the government; one was nominally independent. Regional governments owned several frequencies; independent broadcasters arranged to use the majority of these.

All media were required to register with the Ministry of Culture, Information and Sports, although Web sites were exempted from this requirement. In practice, media outlets known to be associated with opposition political parties or movements were frequently refused registration, although opposition newspapers managed to continue publishing during the year, in a few cases with a significant hiatus.

The law limits the rebroadcast of foreign-produced programming to 20 percent of a station's total airtime. This provision burdened smaller, less-developed regional television stations that lacked resources to develop their own programs, although no media outlets were sanctioned under this provision.

On an August 24 call-in show, President Nazarbayev urged citizens not to read opposition newspapers. Nazarbayev has stated publicly that certain media restrictions were necessary because of the lack of professionalism of the country's press corps.

Harassment of and violence against journalists remained problems. Press advocacy NGO Adil Soz reported 706 incidents of harassment and violence against journalists during the first 11 months of the year.

In April Irina Petrusheva, editor-in-chief of opposition newspaper *Respublika: Delovoye Obozreniye*, was detained on tax evasion charges for two days by Russian authorities pursuant to a warrant issued by the Kazakhstani government. After wide media coverage of the incident, Petrusheva was released after a Moscow procurator determined she was detained improperly.

On August 27, an assistant editor-in-chief of regional independent weekly newspaper *Altyn Gasyr* was beaten seriously by four unknown assailants in a village in Atyrau region. On September 13, four unknown assailants attacked Azamat Dospanov, also affiliated with *Altyn Gasyr,* causing serious head trauma. At year's end, the attackers had not been identified and no charges had been filed in either case.

On September 7, Viktor Rogalev, an employee of the administration of the lower house of parliament, confronted a reporter from independent weekly *Vremya* while she attempted to interview members of parliament (MPs). Rogalev allegedly grabbed the reporter's hand and dragged her to the exit, threatening to withdraw her accreditation.

Independent journalist and human rights advocate Sergey Duvanov resumed work during the year after his August 2004 release on parole from imprisonment relating to an allegedly politically motivated charge (see section 3).

On October 10, Kaziz Toguzbayev of opposition weekly *Azat* was arrested while covering a conference of the opposition movement People's Party Alga; he was sentenced to five days' detention for participating in an unauthorized march. He was denied visitors.

On October 19, Saya Issa of *Svoboda Slova*, Olesya Gassanova and Almas Nurdos of *Stan.kz*, Ruslan Sapabekov of *Zhuma-Times*, and Eldess Myrzakhmetov of *Soz-Respublika* were arrested in Almaty on the same day that print runs of *Svoboda Slova* were seized by authorities. During their brief detention, they were denied access to legal representation.

On November 6, unknown assailants vandalized the office of *Region Plus* newspaper in Kapchagay. The paper's staff believed the attack to be a response to its reporting. The incident was under investigation at year's end.

During the September 2004 Mazhilis elections, members of a local election commission assaulted newspaper correspondents Tamara Sukhomlinova and Gulzhanat Isabayeva. Sukhomlinova was questioned by police in March pursuant to a complaint filed on the reporters' behalf in September 2004, but she reported no resolution to the case by year's end.

In December 2004, Kanat Kalzhanov was sentenced to 3½ years in prison for causing the July 2004 death, due to vehicular negligence, of Askhat Sharipzhanov, a correspondent for the opposition online news organization Navigator, who was struck and killed crossing an Almaty street. Journalists, human rights advocates, and opposition figures considered the circumstances of the case suspicious and questioned the law enforcement determination that the death was accidental.

Journalists covering organized crime and corruption reported harassment and intimidation, by both government officials and private actors, directed at them as a result of their reporting.

At year's end no criminal charges had been filed and none were expected related to the August 2004 vandalism of the Taraz independent weekly newspaper, *Yuzhnyy Ekspress*.

The law enables the government to restrict media content under amendments that prohibit undermining state security or advocating class, social, race, national, or religious superiority, or cruelty and violence. Owners, editors, distributors, and journalists may be held civilly and criminally responsible for content, regardless of the source of information, unless it came from an official source. The government used this provision to limit freedom of the press. New legislation prohibits publication of any statement that promotes or glorifies "extremism," a term which international legal experts considered unduly vague.

During the year almost all media outlets willing to criticize the president directly were subjected to intimidation, often in the form of law enforcement actions or civil suits. While these events continued to cast a chilling effect on all media outlets, criticism of government policies continued to be reported during the year.

The state secrets law makes it a criminal offense to release any information about the health, finances, or private life of the president, as well as economic information about the country such as the volumes of national mineral reserves and the amount of government debt owed to foreign creditors. Media outlets generally practiced self-

censorship regarding information on the president and his family to avoid possible legal problems.

The government continued to confiscate newspapers that reported on a 2003 scandal involving a foreign investigation into possible illicit payments, allegedly from foreign companies to senior government officials, including President Nazarbayev. Local media outlets, when they did report on the case, informally dubbed it "Kazakhgate." On October 21, in a closed trial, the court fined *Zhuma Times: Data Nedelye* for its article "Kazakhgate: History of One Crime."

Criminal libel suits could be initiated by private parties on behalf of the government, and an individual filing such a suit would be able to file a civil suit as well, based upon the same allegations. Officials used the law's restrictive libel and defamation provisions to constrain media outlets from publishing unflattering information. Both the criminal and civil codes contain articles establishing broad libel liability. The fact that owners, editors, distributors, publishing houses, and journalists were held responsible for the content of information conveyed and had the burden of proving its veracity, regardless of its source, promoted self-censorship at each level. At times fines for libel were exorbitant and bankrupted small media outlets.

In February DCK newspaper *Soz* was fined and, in effect, shut down due to a September 2004 article on the KNB. *Soz* later briefly reappeared as an insert to *Respublika* but continued to encounter problems printing even after payment of all damages to the KNB.

On June 13, opposition leader and former minister of information Altynbek Sarsenbaiuly was charged with defaming the Khabar media firm after he claimed it was owned by Dariga Nazarbayeva, daughter of the president and leader of the Asar Party. He was found guilty and fined $7,518 (one million KZT).

On May 4, the government closed opposition newspaper *Respublika*: *Delovoye Obozreniye* because the newspaper reprinted an interview with Russian Duma vice speaker Vladimir Zhirinovskiy who expressed his inflammatory views of Kazakhstan. This marked the fifth time that a media outlet operated by this group of editors and reporters had been closed by the government. In July 2004 an Almaty district court ordered weekly newspaper *Assandi Times*, the predecessor of *Respublika: Delovoye Obozreniye*, to pay $384,615 (50 million KZT) for defaming the presidential administration. The judgment forced the *Assandi Times* into insolvency. The paper later appeared as *Syet'.kz* and *Pyatoye Izmereniye* and was published as *Pravo. Ekonomika. Politika. Kultura.* at year's end.

On October 19, police seized 50 thousand copies of independent newspaper *Svoboda Slova* for "damaging the honor of the president" after the paper printed a critical editorial quoting from the president's press conference with foreign journalists.

On October 27, the president's daughter, MP Dariga Nazarbayeva publicly threatened court action against any reporter or media outlet that slandered her father, their family, or the country's reputation.

In late 2004 Vremya reporter Grigoriy Melnikov was found guilty of defaming Berik Bilyalov, the former head of a regional criminal investigation division, and was fined $225 (30 thousand KZT). Melnikov had claimed Bilyalov had tried to set him up for arrest in retaliation for negative reporting. Although a Melnikov countersuit against Bilyakov was dismissed, Bilyalov was demoted in rank. A second libel case by Bilyalov against Melnikov was ongoing at year's end. A separate 2004 libel case by another law enforcement officer against Melnikov was dropped by the plaintiff.

The government included revisions to the media law in the July package of national security amendments, including one measure prohibiting foreigners from holding editorial positions in mass media outlets.

The government continued to influence most printing and distribution facilities and to subsidize periodicals, including many that supposedly were independent. In addition many publishing houses were government-owned. Some journalists alleged that the KNB or tax police threatened publishing houses if they printed opposition media; concern over criminal or civil proceedings influenced publishing houses.

On September 26, private printing company facility Vremya, whose majority shareholder is the independent weekly *Vremya*, cancelled its publishing contracts with seven newspapers—*Epokha, Svoboda Slova, Zhuma-Times, Apta.kz, Azat, Pravda,* and *Soz* without public explanation. The newspapers' editors claimed Vremya had been pressured to cancel the contracts. Editors of the newspapers reported other printers also refused printing services, although Dauir publishing house picked up five of the papers after the editors staged a protest.

On October 20, police surrounded the Dauir press and then seized the entire *Zhuma-Times: Data Nedelye* print run. Local media advocacy NGO Adil Soz reported 60 registered cases of impounded opposition newspapers. Observers reported

numerous incidents of print seizures and interruptions to newspaper distribution during October; the police generally instigated the confiscations, although in one incident four armed men in civilian dress held up individuals distributing *Zhuma-Times: Data Nedelye,* Epokha, and FJK campaign pamphlets. Also confiscated were print runs of *Pravda*, *Apta.kz*, and *Svoboda Slova*.

The law defines Web sites based in the country as media outlets. During the year the content of Web sites was subject to libel lawsuits and criminal charges. Independent Web media reported that the government periodically blocked clients of the two largest Internet providers, Kaztelecom and Nursat, from direct access to several opposition Web sites, including Evrasia, Navigator, and Kub, although access was still available through anonymous proxy servers.

On October 13, the Kazakh Network Information Center that manages local domain names cancelled *Navi.kz*, due to purported copyright violations, forcing the opposition Web site to change its address to *navikz.net*. On October 14, an Almaty court then banned all usage of *Navigator* and *Navi* as domain names in both the Cyrillic and Roman alphabets; the Web site had originated as *Navigator.kz*. At year's end, the site was operating under *Mizinov.net* on a proxy server.

The government generally did not restrict academic freedom, though academics, like journalists, could not violate certain restrictions, such as criticizing the president and his family.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for limited freedom of assembly; however, there were significant restrictions on this right in practice and police used force to disrupt peaceful demonstrations. The law defines as a threat to national security unsanctioned gatherings, public meetings, marches, demonstrations, illegal picketing, and strikes that upset social and political stability.

An April amendment to the elections law prohibits any election-related demonstrations from the period following an election until the CEC publishes the results. The February Extremism Law prohibits "extremism" during rallies and demonstrations; "extremism" was ill-defined in the legislation.

Under the law, organizations must apply to the local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance, or the activity is considered illegal. Opposition and human rights monitors complained that complicated procedures and the 10-day notification period made it difficult for groups to organize public meetings and demonstrations, and reported that local authorities turned down most applications for demonstrations. Organizers of unsanctioned gatherings, including political party gatherings, frequently were detained briefly and fined (see section 3). Opposition parties at times chose to hold unsanctioned rallies and, as a result, members were penalized.

On January 19, activists from opposition parties Ak Zhol, the Communist Party of Kazakhstan (CPK), and DCK were denied permission by local authorities to hold a rally in Almaty to "support the fight against extremism and terrorism."

A March request by the Ak Zhol party to hold a freedom of speech rally in Almaty was denied by local authorities for administrative reasons.

In August special forces attempted to block approximately 100 residents of Almaty from marching in an unsanctioned but reportedly peaceful march to the *akim's* (mayor's) office to protest the city's eminent domain seizures of private homes and allegations of insufficient compensation for landowners; police reportedly beat several participants and detained 15 individuals for their participation in the march.

On October 10, Kaziz Toguzbayev of opposition weekly *Azat* was arrested while covering a conference of opposition movement People's Party Alga and sentenced to five days' detention for participation in an unauthorized march (see section 2.a.).

Freedom of Association.—The law provides for limited freedom of association; however, there were significant restrictions on this right in practice. Any public organization set up by citizens, including religious groups, must be registered with the MOJ, and its branches in every region in which the organization conducts activities. Participation in unregistered public organizations may result in administrative or criminal liability, such as fines, dissolution, probation, or imprisonment. The prohibition on unregistered organizations often provided a pretext for authorities to interfere with the activities of organizations. Membership organizations, including religious groups, must have 10 members to register at the local level and must have branches in over half of the regions for national registration. Political parties and labor unions were considered membership organizations but had additional specific registration requirements. The law requires parties to have 50 thousand members, including one thousand in each region, and prohibits parties established on an ethnic, gender, or religious basis (see section 3).

Amendments to the law on political parties put new limitations on political party formation (see section 3). In August the constitutional council found unconstitutional proposed NGO legislation that would have created onerous re-registration and reporting requirements for NGOs and placed limits on foreign funding (see section 4).

The law prohibits members of the armed forces, employees of national security and law enforcement organizations, and judges from participating in trade unions or political parties.

During the year organizations were charged a fee to register as new organizations. Many organizations had to hire lawyers or other consultants to expedite registration through the bureaucracy, which increased the registration cost considerably.

Although initial feedback on the simplified registration process introduced in September 2004 was positive, amendments during the year to registration requirements for political, religious, and other legal organizations resulted in increased reports of registration delays and denials for administrative reasons.

On October 4, police raided the office of youth group Kahar on suspicion of antigovernment activities and accepting illicit foreign financing. There were no arrests or property seizures after a three hour search by police.

The February extremism law criminalizes membership in certain prohibited organizations. At year's end, Islamist political organization HT was the only organization banned under this law. Several members of HT were convicted on charges including extremism and terrorism during the year. Although it maintained that it was committed to nonviolence, HT promoted hate and praised acts of terrorism. The party's virulently anti-Semitic and anti-Western literature called for the overthrow of secular governments, including those in Central Asia, to be replaced with a worldwide Islamic government called the caliphate.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this in practice; however, local officials attempted on occasion to limit the practice of some nontraditional religions. Higher-level officials or courts often intervened to correct such attempts. In July the government enacted amendments to the religion law that restricted legal protections of religious freedom. The amendments clarified that religious groups are required to register with the government and in the individual regions in which they have congregations. Missionaries must register annually. The population was generally wary of nontraditional religions, particularly in rural areas; however, there were few reports that this resulted in governmental or societal persecution.

The law defines the country as a secular state. The government invited the leaders of the two largest religions, Islam and Russian Orthodoxy, to participate jointly in some state events. Leaders of other faiths have at times also participated in some government events. Religious organizations must register to receive legal status in order to act as a legal entity to buy or rent real property, hire employees, or engage in other legal transactions.

Members of the Council of Churches of Evangelical Christians and Baptists reported that they were harassed by law enforcement for not being registered. The council has a policy of not seeking or accepting registration in former Soviet countries (for religious reasons). During the year, as in previous years, the government did not enforce court orders for congregations affiliated with the council to register or pay fines.

In May a court in Zaisan reportedly fined Baptist leader Igor Isakov $129.50 (17,478 tenge) for refusing to register his congregation. In late 2004 Aleksei Buka, of Karaganda oblast, was fined $47.65 (6,433 tenge) for belonging to an unregistered religious group; his case was overturned on appeal in March.

Although the Spiritual Association of Muslims of Kazakhstan (SAMK), a coalition of mosques and clergy, is nominally independent and has no official status, there were reports that the government attempted to coerce independent mosques and Muslim clergy to affiliate with the group. SAMK withdrew a lawsuit against a rival group, the Union of Muslims of Kazakhstan, related to criticism of SAMK's leader, the chief mufti of the country.

Jehovah's Witnesses members were generally able to freely practice their religion without interference; however, they reported isolated problems with local officials. Although local Jehovah's Witnesses groups are formally registered at the national level and in 12 regions, the Jehovah's Witnesses Religious Center has attempted unsuccessfully to register in Atyrau Oblast since 2001. On August 5, the Jehovah's Witnesses Religious Center submitted the latest in a serious of registration applications. The application was returned based on an alleged discrepancy between the Russian and Kazakh versions of the group's charter. The center claimed that offi-

cials in Almaty and other localities sometimes blocked the group from renting stadiums or other large public or private sites for religious meetings.

While the group reported that local authorities ceased what it perceived as a pattern of harassing administrative inspections of its commune, the Hare Krishna movement continued to be subject to lawsuits regarding the title to land used by the community. Although two court cases related to this land were resolved favorably early in the year, the Karasai district *akimat*, or mayor's office, filed two new lawsuits in April and May, seeking to nullify the Hare Krishnas' 1999 land purchase and confiscate all 106 acres. Notwithstanding an apparent lack of legal standing on the part of the *akimat*, and the expiration of the three-year statute of limitations for suits over real property transactions, the Hare Krishna community lost two court hearings during the summer. At year's end the supreme court was considering the Hare Krishnas' appeal in the case. The Hare Krishnas believed that the lawsuits regarding their land were motivated by an attempt to expropriate valuable real estate and not by an intent to suppress religious expression.

Observers believed that security officials informally monitored some religious activity, particularly Muslim imams' sermons; however there were no reports that any monitoring manifested in interference or harassment.

Amendments to the religion law mandated annual registration for missionaries. Missionaries must also be sponsored by a registered religious organization. Pursuant to the registration process, missionaries must submit to the MOJ copies of all materials to be used in proselytizing. Foreign missionaries reported an increase in the number of visa refusals during the year.

Societal Abuses and Discrimination.—The Jewish community, estimated at below 1 percent of the population, has synagogues in several larger cities, including Almaty, Astana, and Pavlodar. There were no reports of anti-Semitic acts apart from the distribution of anti-Semitic literature by banned extremist Islamist political organization HT. Rabbis in Almaty reported generally positive relations with other religious communities in the country.

The government made efforts to promote religious tolerance in its ranks. In April 2004 the Ministry of Internal Affairs invited the country's chief rabbi to give seminars to its police officers on sensitivity to religious minorities. Human rights training provided to law enforcement officers by NGOs in cooperation with the government included information on religious rights under the law.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, but there were some regulatory restrictions in practice. Citizens and foreigners in the country for more than five days were required to register with the migration police. Registration in most of the country generally was routine; nonetheless, some foreign citizens reported that local authorities regularly requested bribes before completing registration. Persons who were suspects in criminal investigations were often required to sign statements that they would not leave their place of residence. Individuals were detained routinely for identity checks without suspicion of a criminal offense (see section 1.d.).

Although the government did not require exit visas for temporary travel of citizens, certain instances in which exit from the country could be denied remained, including for travelers subject to pending criminal or civil legal proceedings, unserved prison sentences, or compulsory military duty. Travelers who presented false documentation during the exit process could be denied exit, and travel by active-duty military was controlled. The law on national security requires that persons who had access to state secrets obtain permission from their employing government agency for temporary exit from the country.

The law prohibits forced exile, and the government did not employ it.

The law provides for the right to emigrate and the right to repatriate, and the government generally respected these rights in practice. An exception is the law on national security, which prohibits persons who had access to state secrets from taking up permanent residence abroad for five years after leaving government service. A permanent exit visa was required for emigration; obtaining this visa required criminal checks, credit checks, and letters from any dependents expressing no objection to exit visa issuance.

Foreigners were required to obtain prior permission to travel to some border areas with China and cities in close proximity to military installations. The government continued to declare certain areas closed to foreigners due to their proximity to military bases and the space launch center at Baikonur—foreigners could however visit these areas with prior permission from the MVD.

It was government policy to encourage and assist all ethnic Kazakhs living outside the country to return. The government accorded special immigration treatment to ethnic Kazakhs and their families who fled during Stalin's era and wished to return. These returnees were in principle entitled to citizenship and many other privileges. Other persons, including ethnic Kazakhs who were not considered refugees from the Stalin era, had to apply for permission to return. Each region had a quota for returnees; apart from Almaty and the southern regions bordering Uzbekistan, these quotas went unfilled.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. The absence of legislation to fully implement the convention left many aspects of refugee status unclear, such as whether refugees have a right to work. In practice the government usually provided some protection against *refoulement*, the return of persons to a country where they feared persecution. In November, however, nine refugees were forcibly returned to Uzbekistan under circumstances neither the Uzbek nor Kazakhstani governments have publicly clarified, including four with UN High Commissioner for Refugees (UNHCR) asylum seeker documents. The government granted refugee status, but not asylum.

The government generally registered asylum seekers and determined their status, in consultation with the UNHCR. Only the president can grant political asylum, and he did not do so during the year. In some cases, asylum seekers and refugees were allowed to stay in the country while the UNHCR found third countries that would accept them. Although the government did register refugees already present in the country, it did not accept any refugees for resettlement. The government also provided temporary protection to individuals, including some Afghan refugees who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The government usually allowed the UNHCR access to detained foreigners to determine if they qualified for refugee status. The government was generally tolerant in its treatment of local refugee populations, except for a few citizens from former Soviet republics. The government often did not allow refugees without passports or those who had entered the country illegally to register.

The Agency for Migration continued to work with the UNHCR and a local NGO, Kazakhstan Refugee Legal Support, in reviewing refugee claims. Consistent with the Minsk Convention on Migration within the Commonwealth of Independent States, the government did not recognize Chechens as refugees. The government, in cooperation with the UNHCR and Chechen organizations, did grant indefinite but temporary legal resident status to Chechens until they could return home to safe conditions. Even though there was a temporary registration procedure for Chechens, reports persisted that Chechens did not have the same access to registration as others, and often resorted to paying bribes to local officials to obtain registration.

In July the government allowed UNHCR to arrange resettlement to a third country for Lutfullo Shamsuddinov, a human rights observer who fled to the country in May from neighboring Uzbekistan following the violent suppression of protests in Andijon.

In November nine Uzbek citizens who were living in the southern part of the country were forcibly returned to Uzbekistan. Relatives of these men claimed that they had left Uzbekistan fearing persecution for religious affiliation with a particular mosque. Four of them had ongoing applications with UNHCR for determination of refugee status and resettlement. At year's end the families did not have confirmation of the welfare and whereabouts of these men.

The government had an agreement with China not to tolerate the presence of ethnic separatists from one country on the territory of the other. Human rights monitors remained concerned with the impact of this agreement on Uighurs from China in the country, although there were no reports of Uighurs forcibly returned to China during the year. The government did not consider any asylum claims by Uighurs.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides for a democratic government with universal suffrage for those over 18 years of age; in practice the government severely limited the right of citizens to change their government.

The constitution concentrates power in the presidency, granting the president considerable control over the legislature, judiciary, and local government. The president appoints and dismisses most high level government officials, including the prime minister, the cabinet, the procurator general, the KNB chief, and the chairman and

members of the CEC, who oversee presidential and parliamentary elections. The parliament has never failed to confirm a presidential nomination. Modifying or amending the constitution effectively requires the president's consent.

New legislation further weakened the independence of civil institutions.

Elections and Political Participation.—On December 4, the country held its presidential election; although there were improvements, the election fell short of international standards for free and fair elections in many areas.

The Organization for Security and Cooperation in Europe's (OSCE's) preliminary statement noted several areas of improvement over the conduct of the previous presidential election. Five candidates, including the incumbent, one independent, and two from the opposition, were registered for the election. The CEC acted with increased transparency, meeting in open sessions and taking actions to correct voting-process deficiencies noted in prior elections. The first presidential candidate debate was broadcast live to a wide audience, though incumbent Nursultan Nazarbayev did not participate. Notwithstanding widespread media content bias in favor of the incumbent candidate, state media outlets generally met their legal obligations to provide free airtime to candidates, and the CEC responded to opposition and independent candidate complaints of denial of media access. Most lower-level election commission members were adequately trained and equipped to conduct voting; however, opposition parties were underrepresented in the makeup of these commissions.

Despite these improvements, the OSCE determined that the December 4 presidential elections fell short of a number of international standards. The OSCE noted serious limitations on political speech that prohibited certain criticism of the president, and unequal access to the media for opposition and independent candidates. The OSCE also highlighted restrictions on holding outdoor meetings, inadequate venues, and insufficient access to advertising space that restricted candidates' ability to campaign freely; and there were frequent reports of pre-election period opposition campaign events being disrupted by organized protests that at times reportedly escalated to violence. The OSCE preliminary statement noted apparent improvements to the e-voting system since its 2004 introduction, but criticized the lack of a mechanism to verify or to audit election results.

Several legal changes during the year limited the ability of opponents to campaign freely against incumbent Nursultan Nazarbayev.

In April parliament passed election law amendments that restricted freedom of assembly and freedom of association, prohibiting election-related demonstrations and rallies during the period following elections until the CEC publishes election results (see section 2.b.). Another amendment restricts political blocs, which are required to have a coordinating council that operates under a formal written agreement between the parties; the coordinating council is required to keep written minutes of its decisions. July amendments to the political parties law require a minimum attendance of one thousand delegates from every region of the country at a party's founding congress and prohibit political party names that resemble the names of liquidated political parties. The government enforced both provisions during the year—in an attempt by members of disbanded party DCK to register as Alga, DCK!, and at its founding conference as new party Alga.

On August 19, indirect elections were held for 16 Senate seats, which were selected by the vote of local-level legislatures (*maslikhats*). Senator Zauresh Battalova, the last openly-opposition MP, was denied registration to run for re-election on administrative grounds. In September 2004 direct elections were held for all seats in the lower house of parliament. In its assessment, the OSCE elections observer mission determined that although elections reflected improvements over previous parliamentary elections, the process fell short of international standards and a number of aspects of the 2004 new election law were not implemented in an effective and impartial manner. Some domestic monitors found the election violations to be worse than in previous parliamentary elections, citing violations of electoral legislation and abuse of voter lists, multiple voting, vote count problems, and interference of local authorities. However, other domestic groups found that irregularities did not appear to alter election results.

For both the December presidential and 2004 lower house parliamentary elections, international and local elections observers reported that media bias in favor of pro-administration parties was most evident in the largest television networks. The Nazarbayev family reportedly owned either significant or controlling shares in these networks, granting the high percentage of television news coverage to pro-presidential parties. During presidential elections, legal restrictions on criticizing or insulting the dignity of the president prevented other candidates from a full discussion of their opponent's record (see section 2.a.). In several cases, newspapers were fined for violating these provisions during the pre-election period.

The media environment during the pre-election period heavily favored the incumbent candidate, and opposition media were harassed because of their campaign coverage. Print runs of *Svoboda Slova* and *Zhuma Times: Data Nedelye* were seized on several occasions, reportedly by law enforcement (see section 2.a).

In August four district *akims* (roughly equivalent to a county executive level position) were chosen by local, directly-elected legislatures. Previously *akims* at all levels were elected by either the president or a higher level *akim*.

Individuals and registered parties could declare their candidacy and stand for election if they met certain criteria. Candidates for presidency, for example, were required to provide financial statements, submit to a Kazakh-language test, and provide a petition with 85 thousand signatures. Independent candidates could run for office.

Political parties must register members' personal information, including date and place of birth, address, and place of employment. This requirement discouraged many citizens from joining political parties. There were credible allegations that persons entering government service were pressured to join the pro-presidential Otan party.

During the year 11 political parties were registered, including opposition parties Ak Zhol and the CPK. The government denied attempts to register opposition parties Alga and True Ak Zhol. In addition, two blocs were registered for the presidential election: the People's Coalition for Kazakhstan (PCK), which supported Nazarbayev for re-election; and FJK, an opposition bloc including members of Alga, True Ak Zhol, and the CPK.

The government restricted the functioning of the political opposition. In January opposition party DCK was judicially disbanded on the basis of a 2004 statement calling for civil disobedience in protest of the 2004 lower house parliamentary elections; the government characterized that statement as undermining the security of the state and propagating social hatred. The government denied attempts to register opposition parties Alga and True Ak Zhol; however, opposition bloc FJK was registered on August 2.

In separate incidents in Ust Kamenogorsk on April 9 and in Shymkent on May 2, FJK members were physically attacked by unknown assailants during rallies. Opposition leaders alleged that government officials instigated the attacks. The president publicly called for investigations. On August 8, the Shymkent city court issued a one year suspended jail sentence to local resident Arman Dzhumageldiyev for his role in the attacks. At year's end, no other arrests were reported in either incident.

On October 12, authorities arrested and detained Tolen Tokhtasynov of FJK for allegedly organizing an unsanctioned rally (see section 1.d.). Several other leaders of FJK were fined by an Almaty court for their participation in the same rally.

On November 11, four members of FJK leader Tuyakbay's campaign team were detained after showing a film the police had prohibited, saying it defamed the president. Gulzhan Yergaliyeva, Tatyana Chernyak, T. Aletova, and A. Masymkhodjayeva were taken into custody, their video equipment and tapes were seized, and authorities filed administrative charges against them.

There were 2 women in the 39-seat Senate and 8 women in the 77-member lower house of parliament. There were four women in the cabinet—the ministers of justice, education and science, environmental protection, and labor and social protection. Traditional attitudes sometimes hindered women from holding high office or playing active parts in political life (see section 5), although there were no legal restrictions on the participation of women and minorities in politics. There were non-Kazakhs in the senate, and ethnic minorities were represented in the lower house of parliament. There was one non-Kazakh cabinet member and a non-Kazakh deputy prime minister.

Government Corruption and Transparency.—Corruption remained a serious problem; it was especially prevalent among various law enforcement agencies, local government administrations, and the judiciary. The government took some measures to address it and acknowledged pervasive police corruption, reporting that 497 police were fired for corruption during the year (see section 1.d.). Opposition leaders accused the presidential administration of rampant corruption.

The law mandates the government, public associations, officials, and media outlets to provide citizens with information that affects their rights and interests; in practice citizens' requests for information, were not fulfilled in a timely manner.

Although parliament continued to become more open by publishing several draft laws, some parliamentary debates, and occasionally, its voting record, many parliamentary activities remained outside public view. During the year parliamentary discussion of controversial pieces of legislation was closed to the public and the media.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated effectively, with relative freedom to investigate and publish their findings on human rights cases; however, the government restricted certain activities of most domestic and international human rights NGOs. International human rights groups reported that the government continued to control the work of NGOs that worked on sensitive issues, and noted harassment including police visits, arbitrary tax investigations, and surveillance of NGOs offices and personnel.

The KIBHR, the Almaty Helsinki Commission, the Republican Network of Independent Monitors, the Confederation of NGOs, and Adil Soz were the most active local human rights NGOs. Employees of local NGOs often were subjected to government harassment and intimidation. In mid-August the Almaty headquarters of KIBHR was burglarized. KIBHR reported that computers containing financial and client case data were stolen, while newer electronic equipment and other valuables were left. The police opened an investigation into the burglary. At year's end, no arrests had been made and none were expected.

In March authorities launched an investigation of 33 NGOs that received grants from foreign governments; this was done pursuant to a formal request by MP Yerasyl Abylkasimov, who alleged that the NGOs were financing the political opposition. Active investigations continued for several months and hampered the work of some of these NGOs, including those working on democracy issues. Investigators found no evidence of improper political activity by the NGOs.

On August 23, the constitutional council determined that a package of controversial NGO legislation passed by parliament was unconstitutional. The draft had been initiated by several MPs to restrict the activities of both local and international NGOS. On September 12, President Nazarbayev stated that he had "no objection" to the constitutional court's decision, effectively extinguishing the legislation; however, he issued a stern warning against "foreign intervention" through NGOs disrupting national security and bringing instability.

More than in previous years, the government used tax, immigration and other administrative investigations to question international and local NGOs operating in the country on their activities; NGOs perceived these actions as an attempt to intimidate and to restrict their activities in the country. In March a Russian political specialist working for the Almaty office of an international NGO was detained by migration police on dubious immigration charges. Following protests by diplomatic missions, the individual was released and he returned to Russia.

In general the government did not prevent international NGOs and multilateral institutions dealing with human rights from visiting the country and meeting with local human rights groups as well as with government officials. However, in one case, a Bishkek-based representative of the AFL–CIO Solidarity Center was denied entry at the border despite having a valid visa, following previous working visits to the country. Observers believed that entry was denied based on law enforcement reciprocity with Russia, from which the representative had been expelled after working there for several years.

The Presidential Commission on Human Rights, a 15-member consultative and advisory body that includes members from the public, coordinates government responses to human rights concerns rather than investigating individual complaints from citizens, which are handled by the human rights ombudsman. The commission also monitors fulfillment of international human rights conventions.

The human rights ombudsman investigates complaints by citizens of violations of their rights by state agencies, although the ombudsman is not authorized to investigate complaints concerning the president, parliament, government, constitutional council, procurator general, CEC, or courts. The ombudsman's office also has the authority to appeal to parliament to resolve citizens' complaints, to cooperate with international human rights organizations and NGOs, and to participate in court proceedings where a violation of human rights is at issue.

During the year the ombudsman regularly briefed the press and issued regular reports discussing complaints investigated. The ombudsman received 5,159 complaints during the year; of the 609 cases investigated, the ombudsman's office reported a restoration of rights in 222 cases. Many of the complaints concerned court rulings over which the ombudsman had no jurisdiction. The ombudsman reported that many complaints could not be resolved because the office acted only in an advisory capacity. Some NGOs believed that the ombudsman was influenced by the government and downplayed cases.

On May 23, the National Commission on Issues of Democratization and Civil Society, issued a report analyzing 1,500 complaints of human rights violations and containing human rights recommendations for state agencies. The bulk of the com-

plaints concerned court judgments, law enforcement actions, and violation of citizens' rights during inspections and investigations.

The commission, established in November 2004 by presidential decree, reports directly to the president, with the secretary of the security council as chairman. The commission met regularly to address issues such as decentralization, judicial reforms, civil society development, and increased empowerment of parliament. Leaders of all registered political parties were asked to participate, but opposition party leaders declined. Some NGOs and political parties questioned the need for the commission and proposed instead that existing mechanisms, such as the ombudsman's office, be strengthened and given more independence from the government.

Domestic human rights observers noted that while government human rights investigators did some creditable work, the ombudsman's office and the human rights commission were limited in their ability to stop human rights abuses or punish those who were believed to have perpetrated them. Several human rights figures criticized the proliferation of government commissions that nominally address human rights issues, none of which has independent authority to initiate criminal prosecutions of human rights abuses or corruption.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not enforce this effectively. Violence against women, trafficking in persons, and discrimination against persons with disabilities, homosexuals, and non-ethnic Kazakhs in government were problems.

Women.—Violence against women, including domestic violence, was a problem. There is no specific domestic violence law, but such violence can be addressed under assault and battery provisions of the criminal code. The maximum sentence for spousal assault and battery is 10 years in prison, the same as for any beating.

Police reviewed over 20 thousand domestic violence complaints and opened 1,973 criminal investigations during the year. An additional 10,528 of the complaints resulted in administrative punishment, including fines.

In 2003 the National Commission on Women and Family Affairs reported that 64 percent of women had been victims of violent crime. According to official statistics released during the year, almost half of all women living in rural areas suffered from domestic violence. Law enforcement officials' reluctance to investigate domestic violence was a problem; the same report estimated that police declined to investigate one-third of domestic violence complaints, considering them to be family matters. Police intervened only when they believed that the abuse was life threatening. Police indicated that victims of domestic violence often asked only for officers to talk with their spouses. When victims did decide to press charges for domestic violence or spousal rape, police sometimes tried to persuade them not to pursue a case. When domestic violence cases came to trial, the charge was most often for light battery, for which domestic abusers were sentenced to incarceration at a minimum security labor colony and a minimum of 120 to 180 hours of work. Sentences for more serious cases of battery, including spousal battery, ranged from 3 months' to 3 years' imprisonment; the maximum sentence for aggravated battery was 10 years' imprisonment.

The punishment for rape, including spousal rape, ranges from 3 to 15 years' imprisonment. The government reported that it opened 1,534 criminal rape cases during the year, leading to prosecutions of 1,094 suspects. Under the law, procurators cannot initiate a rape case, absent aggravating circumstances such as gang rape, unless the victim files a complaint. Once a complaint is filed, the criminal investigation cannot be dismissed if the rape victim recants or refuses to cooperate further with the investigation. This provision is intended to protect victims from coercion. There were anecdotal reports of police and judicial reluctance to act on rape and spousal rape cases.

Prostitution is not prohibited by law, although forced prostitution, prostitution connected to organized crime, and acts facilitating prostitution, such as operating a brothel or prostitution ring, are illegal. During the year, the government reported 305 criminal cases for prostitution-related crimes. Prostitution was a serious problem. NGOs reported that criminal prostitution rings often included local law enforcement officials.

Trafficking in women remained a problem (see section 5, Trafficking).

Sexual harassment remained a problem. The law prohibits only some forms of sexual harassment, and legal and gender-issue experts regarded the legislation as inadequate to address the problem. There were reports of incidents of harassment, but in no instance was the victim protected under the law nor were there reports of any cases prosecuted.

Women enjoyed the same rights as men, including under family law, property law, and in the judicial system. Traditional cultural practices sometimes limited their

role in society and in owning and managing businesses or property. Women were underrepresented in senior positions in state enterprises and overrepresented in low-paying and some menial jobs. According to government statistics for 2004, women's salaries were averaged 61.8 percent those of men. Women had unrestricted access to higher education.

Children.—The government was committed to children's rights, though budget limitations and other priorities severely limited the government's effectiveness in dealing with child welfare. Multiple government agencies had responsibilities for protecting children's rights. By law, all children can appeal to government agencies for the protection of their rights and interests. After age 14, minors have the right to file petitions related to their interests directly with a court.

Education is mandatory through age 16, or the ninth grade; elementary schooling generally begins at age 6. Primary and secondary education was both free and universal. The law provides for equal access to education by both boys and girls. According to Ministry of Education figures, enrollment for the year was estimated at over 98 percent of school-aged children.

The law provides for access to public education for refugee and illegal migrant children. In some cases, these children were denied access to schools or their parents did not attempt to enroll them out of fear of discovery and deportation.

The law provides for medical care to be provided for all children, irrespective of gender, and care was provided in practice.

There were reports of child abuse, although there was no societal pattern of such abuse. During the year the Ministry of Internal Affairs removed 1,416 children from abusive homes and permanently terminated custody rights of abusive parents in 172 cases.

Child marriage was illegal, and the government enforced the prohibition in practice; the government, NGOs, and human rights observers reported the minimum age requirement was generally observed. The law specifies the minimum age for marriage for men and women to be 18 years. However, the marriage registration agency, upon petition of the couple, their parents, or trustees, can allow a marriage of an individual no younger than 16.

Trafficking in girls was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

The government has temporary detention shelters for homeless minors until they can be returned to their parents or more permanently placed.

Trafficking in Persons.—The law prohibits trafficking in persons, but it remained a problem. There was no evidence of a pattern of official complicity in trafficking, although corruption amongst law enforcement officials was widespread.

Although no one provision of the law specifically prohibits trafficking in persons, several articles of the criminal code cover several forms of human trafficking. The law criminalizes the recruitment of any person for sexual or other exploitation and also includes all forms of trafficking. Trafficking for exploitation is punishable by a maximum two-year prison term; if a minor is involved, the maximum penalty increases to five years' imprisonment, and if the exploited person is transferred abroad, the maximum penalty is eight years' imprisonment. The purchase or sale of a minor is a crime, punishable by up to 10 years in prison.

Compared with previous years, international experts reported a decrease in the number of cases of citizens being trafficked abroad for sexual or labor exploitation and an increase in labor trafficking into and within the country. Experts believed the economic growth of the country, especially in relation to its neighbors, contributed directly to both trends.

During the year an interagency working group on trafficking in persons met regularly and drafted a comprehensive set of amendments to the criminal and administrative codes to specifically address legislative gaps in the fight against trafficking in persons. Among the provisions were amendments that would facilitate criminal trafficking prosecutions. The amendments were drafted in consultation with NGOs and international organizations. At year's end the amendments were pending parliamentary approval.

Prosecutions for trafficking were rare, despite the fact that the Law Enforcement Coordination Council (under the leadership of the procurator general) provides detailed guidelines to law enforcement and procurators nationwide on how to investigate trafficking and related crimes under particular sections of the criminal code. Despite an increase in investigations, convictions were also rare, due to inadequacies in criminal statutes; to prove a case of trafficking for sexual exploitation, the procurator had to show that the victim was unaware that she would be working as a prostitute. Procurators more effectively used articles of the criminal code such as

those concerning illegal prostitution and kidnapping to charge suspects whose activities may have included trafficking.

The MOJ reported that seven criminal investigations related to trafficking in persons were initiated during the first seven months of the year. In 2004 the government investigated 27 cases; of these, courts prosecuted 14 cases and convicted 12 traffickers. However, only five of the traffickers convicted in 2004 actually served prison time, the rest received suspended sentences. Several arrests and investigations were reported in the press.

The justice ministry coordinated all of the government's antitrafficking activities. During the year the interagency working group led by the justice minister and including the internal affairs minister, KNB chairman, prosecutor general, foreign minister, education minister, and a representative of the Presidential Commission on Women and Family, developed a second biannual National Plan to combat trafficking, covering 2006 to 2008.

The government sought cooperation with authorities in both destination countries where its citizens were trafficked and in source countries of victims brought into the country. Embassies abroad assisted victims of trafficking; in 2004, the Ministry of Foreign Affairs assisted in the repatriation of 36 citizens, up from 24 in 2003.

The country was a source, transit, and destination country for victims of trafficking. Internal trafficking was also a problem. No reliable statistics were available on the number of victims each year, but NGOs estimated there were several thousand. Many NGOs reported an increase in identification of victims over the past year, which may be attributed to greater awareness of the problem. The International Organization for Migration (IOM) estimated that thousands of citizens were trafficked per year, with an increase in the number of foreigners trafficked into the country for labor exploitation. Individuals were trafficked to the United Arab Emirates (UAE), Turkey, Israel, South Korea, Greece, Cyprus, Russia, Syria, and Western Europe. They were trafficked from the Kyrgyz Republic, Uzbekistan, Tajikistan, and South Asia.

Traffickers targeted young women in their teens and 20s for sexual exploitation. According to NGOs, most women were recruited with promises of good jobs or marriage abroad. Travel, employment, and marriage agencies often recruited victims through advertisements promising lucrative jobs abroad. Offers to participate in international beauty contests also were used. Previously trafficked women reportedly recruited new victims personally. Many trafficking victims appeared to be aware or at least to suspect that they were going to work as prostitutes, but did not expect to work in slave-like conditions. Most trafficked persons traveled to their destinations on forged passports obtained abroad, most often from Russia or the Kyrgyz Republic.

Adolescents raised in orphanages, regardless of gender, and residents of rural and economically disadvantaged areas were particularly vulnerable to being trafficked. The country's relative prosperity otherwise served as a factor against citizens being trafficked through seeking employment abroad. During the year an orphanage director in the southern part of the country was caught attempting to traffic teenage girls to the UAE. The highly publicized case remained ongoing at year's end.

Men and women were trafficked to the country for labor exploitation; some evidence also suggested children were trafficked from Uzbekistan for agriculture and domestic labor. Officials often did not discriminate between illegal labor migrants and victims of trafficking (see section 6.c.). There were credible reports of organized criminal trafficking rings bringing construction laborers to Astana. Employers and trafficking accomplices usually held trafficked workers' passports during their stay in the country. Victims reported traffickers used debt bondage, violence, or threats of violence to compel them to work.

NGOs suspected organized crime was probably involved in all forms of trafficking.

There was no evidence of a pattern of official complicity with trafficking, although corruption of law enforcement officials, including migration and border officials, was widespread and contributed to trafficking. In some instances airport border guards may have taken bribes to facilitate travel of trafficked women. During the year the government investigated two higher-level officials who allegedly aided trafficking rings; however, neither official received a prison sentence. An NGO providing assistance to the victim of a 2004 case in Taraz reported receiving anonymous death threats related to the case from associates of the defendant, who was connected with the local government.

Trafficking victims from other countries were often fined and deported if they entered the country illegally. There are no special legal provisions to treat foreign victims of trafficking differently from illegal migrants, and identification of foreign trafficking victims was less likely in cases of labor trafficking. However, NGOs

working with foreign trafficking victims reported government cooperation in providing administrative support for repatriation of identified trafficking victims.

In November officials in the regions near Shymkent reportedly rounded up hundreds of illegal workers and returned them to Uzbekistan. No trafficking investigations resulted from interviews with the detainees, despite officials' public statements that the Uzbeks were working under slavelike conditions, characteristic of labor trafficking.

The government provided limited material assistance and physical protection to trafficked women who returned to the country in very narrow circumstances. NGOs ran crisis support centers that provided legal and material assistance and counseling, under memoranda of understanding with the government. In some cases the government provided NGOs with reduced rate leases and other support.

The IOM, in conjunction with 19 NGOs across the country, continued an information campaign on the dangers of trafficking and maintained victim hot lines. The MOJ maintained separate national hotlines for trafficking victims to report crimes and to receive information. The government provided special training for law enforcement and other government officials to improve their abilities to recognize, investigate, and prosecute instances of trafficking

The procurator general's office enforced mandatory licensing for tourist agencies and conducted inspections throughout the year to uncover agencies involved in trafficking.

During the year the government encouraged media to publish and report on antitrafficking efforts. The government continued airing a series of public service announcements (PSAs) provided by international organizations in both Russian and Kazakh. Public and private media were required to air these PSAs.

The education ministry reported that curriculum of all high schools and colleges included trafficking awareness segments. According to the Ministry of Education, most universities had information and analysis centers that dealt with trafficking awareness issues, among other topics.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to healthcare, and in the provision of other state services. However, there were reports that discrimination in those areas was a problem. The law mandates access to buildings for persons with disabilities, though the government did not enforce it.

Mentally ill and mentally handicapped citizens could be committed to state-run institutions, without their consent or judicial review. In practice, however, persons were generally committed at a young age by their families. Institutions were poorly managed and inadequately funded. Orphanages for children with physical and mental disabilities were reported to be overcrowded and unsanitary, with insufficient staff to adequately care for children's needs. National NGO KIBHR observed that the government provided almost no care for persons with mental disabilities due to a lack of funds. In March the ombudsman issued a report on the status of persons with disabilities that stated the government failed to meet international standards and to enforce legislation.

National/Racial/Ethnic Minorities.—The government continued to discriminate in favor of ethnic Kazakhs in senior government employment (see section 3).

Kazakh is the official state language, although organizations and bodies of local self-administration may officially use Russian on an equal basis with Kazakh. Most ethnic Russians believed that Russian should be designated as a second state language. The language law was intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages. In reality the government had insufficient funding available to make Kazakh-language education universal.

Other Societal Abuses and Discrimination.—Although there were no press reports or official statistics on sexual orientation discrimination, there were reports of such discrimination. Representatives of international organizations reported social attitudes towards marginalized groups, including homosexuals, impeded these groups' willingness to come forward and consequently their access to HIV/AIDS programs.

The law prohibits discrimination against persons with HIV and AIDS; however, observers report that cultural stigmas against drug users and other at-risk groups continue to affect general access to information, services, treatment and care.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to organize and form unions freely. In practice the government restricted the exercise of this right, with the result that most workers were not able to join or form trade unions of their choice. The government exercised considerable influence over organized labor and favored state-affiliated unions over independent unions. The largest trade union as-

sociation, the Federation of Trade Unions, successor to formerly state-sponsored Soviet era labor organizations, remains affiliated with the government in practice. At least one-third of the workforce was unionized.

To obtain legal status, a trade union had to apply for registration with the MOJ. The registration procedure followed largely that of other membership organizations (see section 2.b.).

The law prohibits the operation of foreign unions and prohibits the financing of unions by foreign legal entities and citizens, foreign states, and international organizations.

Workers are protected by law against antiunion discrimination, but in practice there were violations of this right. Members of a few trade unions have been dismissed, transferred to lower paying or lower status jobs, threatened, and intimidated. Union leaders reported that some workers who were ostensibly fired for other reasons were actually fired in retaliation for union activity. There were no court cases filed on this basis during the year.

b. The Right to Organize and Bargain Collectively.—The law protects the rights of unions to conduct their activities without interference. In actuality there were reports of government pressure on labor negotiators in tripartite negotiations. The law permits collective bargaining and collective agreements; unions and associations engaged in collective bargaining in practice. Collective bargaining agreements were allowed as long as they did not reduce protections afforded to workers in individual contracts or under law. Union associations gave widely varying estimates of the percentage of member unions that had negotiated collective bargaining agreements.

Union demands unacceptable to management could be presented to a tripartite commission, composed of the government, employer associations, and labor union representatives. The tripartite commission is responsible for developing and signing annual agreements governing approximately 80 aspects of labor relations. The labor law provides for an individual contract between employers and each employee.

The law provides for the right to strike, but exercising this right is subject to numerous legal limitations; the government maintained a list of enterprises providing essential services where strikes were not permitted. A few unions and individual workers exercised the right to strike during the year, primarily to protest unsafe working conditions and nonpayment of wages and to recover back wages. According to the law, workers may strike only if a labor dispute has not been resolved through existing compulsory arbitration procedures. Striking workers must give a mandatory 15-day advance notice to employers. December 2004 amendments to the labor code removed the explicit right of employers to break a union and fire employees because they had participated in an illegal strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, except at the sentence of the court or in conditions of a state of emergency or martial law, but there were reports that such practices occurred (see section 5).

In August the migration police deported up to 700 citizens of Uzbekistan and Kyrgyzstan who had been doing agricultural labor under what a government official described as "slave-like" conditions (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively implemented the law and policies to protect children from exploitation in the workplace. The minimum age for employment is 16 years; children between 14 and 16 years can only work with parental permission, performing light work that does not interfere with their health or education.

Child labor was used routinely in agricultural areas, especially during harvest season, but abuse of child labor generally was not a problem. The Ministry of Labor is responsible for enforcement of child labor laws and for administrative offenses punishable by fines; the MVD is responsible for investigating criminal offenses. In 2004 the Ministry of Labor reported five criminal cases involving child labor in 2004.

Trafficking in children was a problem (see section 5).

e. Acceptable Conditions of Work.—The national monthly minimum wage of $ 69.17 (9,200 KZT) did not provide a decent standard of living for a worker and family; however, it was common for working class families to have more than one wage earner and most workers earned above minimum wage in urban areas. As of November, the average monthly wage was $274.40 (36,495 tenge). The monthly minimum wage was slightly above the minimum subsistence wage of $40.53 (5,390 KZT).

The law stipulates the normal workweek should not exceed 40 hours and limits heavy manual labor or hazardous work to no more than 36 hours a week. The law

requires that overtime not exceed 2 hours in a calendar day or 1 hour a day for heavy manual labor, and requires overtime to be paid at a rate of no less than 1½ times normal wages for hours over the normal workweek. Overtime is prohibited for work in hazardous conditions. The law provides that labor agreements may stipulate the length of working time, vacation days, holidays, and paid annual leave for each worker.

The Ministry of Labor enforced minimum wages, work hour restrictions, and limits on overtime established under the Labor Law. Ministry labor inspectors conducted random inspections of employers to enforce all laws and regulations under their purview. In spite of these random inspections, labor advocates reported that some employers regularly violated these laws.

The law provides for the right to safe and hygienic working conditions. In reality working and safety conditions in the industrial, agricultural, and construction sectors were often substandard. Workers in factories usually did not have protective clothing, such as goggles and hard hats, and worked in conditions of poor visibility and ventilation.

Management largely ignored regulations concerning occupational health and safety, which were not well enforced by the Ministry of Labor. In August the ministry reported a staff of over 400 inspectors. Although the frequency of inspections remained insufficient to provide fully for occupational health and safety, the number of fines, penalties, and warnings to employers increased. For the first half of the year, the Ministry of Labor reported 1,497 workers injured on the job; 153 of injuries were fatal. The construction industry produced the highest number of occupational casualties, followed by the mining and metallurgy industry. In the first half of the year, 103 workers were injured at construction sites in Astana alone; 12 of these individuals died as a result of their injuries. Starting on July 1, some employers were required to carry mandatory insurance for their employees.

The law requires employers to suspend work that could endanger the life or health of workers and to warn workers about any harmful and dangerous work conditions and about the possibility of any occupational disease. Although the law does not specifically grant the right of workers to remove themselves from situations that endanger their health or safety without jeopardy to their employment, this right was considered to be implied by general legal provisions on worker safety, and workers' inability to refuse to work under unsafe work conditions was not a problem in practice. The chairman of the constitutional council reported 115,234 violations of labor legislation in 2003.

KYRGYZ REPUBLIC

The 1993 constitution defines the Kyrgyz Republic as a democratic republic; the country has a population of approximately 5,092,800. The February–March parliamentary elections were marred by numerous, serious violations, particularly in the pre-election period, which subsequently sparked protests. On March 20 and 21, opposition demonstrators took control of the southern cities of Osh and Jalalabad. On March 24, President Akayev fled the country after opposition demonstrators overran the main government building in Bishkek. Following Akayev's departure, Prime Minister Kurmanbek Bakiyev assumed the interim presidency. Although acting President Bakiyev was the only serious contender, the July 10 presidential election marked tangible progress towards meeting international standards. A new parliamentary election was held on November 27 in two districts; although some violations were reported, the Central Election Commission (CEC) ruled that the violations were not sufficiently serious enough to alter the results. The civilian authorities generally maintained control of the security forces, although some members committed serious human rights abuses.

The March overthrow of the Akayev regime resulted in a considerable improvement in the government's respect for human rights, although problems remained. The following human rights problems were reported during the year:

- security force abuse of persons, particularly detainees
- poor prison conditions
- impunity of security forces
- arbitrary arrest and detention by the Akayev government
- limitations on due process
- restrictions on freedoms of speech, the press, and assembly by the Akayev government

- corruption
- violence against women and children
- trafficking in persons
- discrimination against ethnic minorities
- child labor

The government's human rights record improved considerably following the change in leadership between March and July. Numerous ministry of internal affairs (MVD) officials were dismissed or prosecuted for abuses or misconduct. Harassment of opposition groups and independent media, including honor and dignity lawsuits against newspapers, decreased considerably. After the March 24 revolution the government did not restrict peaceful meetings or demonstrations, although prior notification to local authorities of such activities was still required.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed any arbitrary or unlawful killings; however, unknown persons killed a number of prominent political figures between March and December.

On April 10, well-known stuntman and political figure Usen Kudaibergenov was killed in his home in Bishkek. Kudaibergenov took an active role in organizing "citizen patrols" to stop looting in Bishkek after the March 24 overthrow of the Akayev government. On June 10, parliamentarian Jalgarbek Surabaldiyev was shot and killed in Bishkek. Surabaldiyev was rumored to have ties to organized crime. On September 21, parliamentarian Bayaman Erkinbayev was shot and killed. There were strong allegations that Erkinbayev was a prominent organized crime figure and drug kingpin and that he had been embroiled in a number of ongoing property disputes. Investigations into these deaths were ongoing at year's end.

On October 20, prisoners killed parliamentarian Tynychbek Akmatbayev while he visited a prison colony near Bishkek in connection with his duties as chairman of the parliamentary committee on defense, security, law enforcement and information policy. Akmatbayev was reportedly beaten by prisoners; when he drew his gun in self-defense, prisoners seized the gun and shot him. Prisoners also shot and killed three other officials accompanying Akmatbayev. Akmatbayev was also reportedly linked to organized crime through his brother Ryspek Akmatbayev. Suspects included Aziz Batukayev, an inmate and organized crime boss. An investigation into the deaths continued at year's end.

On December 11, Uzbek border guards shot and seriously wounded a Kyrgyz citizen. According to press reports, the Kyrgyz citizen had just driven his vehicle through the Uzbek border post, where his documents were checked by Uzbek border officials. Shortly after the car pulled away from the border post, a border guard opened fire on the car. An investigation into the incident continued at year's end.

An investigation continued into the October 2004 death of Tashkenbay Moidinov while held in a police station in the Bazarkorgon district of Jalalabad Oblast.

The 2003 killing of 19 Uighur Chinese citizens on a bus remained under investigation, and no arrests had been made by year's end.

b. Disappearance.—There were no reports of politically motivated disappearances during the year.

Officials continued to investigate the November 2004 two-week disappearance of opposition politician Tursunbek Akunov. Akunov claimed he was taken by the MVD and held in a basement before reappearing in a Bishkek hospital. Akunov further alleged that National Security Service (SNB) members were involved in his disappearance.

There were no developments in the 2003 disappearance of mullah Sadykjan Rahmanov, which investigators attributed to the Uzbek National Security Service.

Local human rights advocates reported that there were approximately 12 Kyrgyz citizens serving sentences in Uzbek prisons who were kidnapped from the Kyrgyz Republic by Uzbek security services between 2000 and the present. Most of these individuals had earlier lived and studied religion in Uzbekistan.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, police and SNB forces employed them. At times police beat detainees and prisoners to extract confessions. Conditions for pretrial detainees remained poor. In September the human rights ombudsman expressed concern over a number of incidents involving abuse of detainees, blaming

the abuse on corruption and a low level of professionalism among jail and police officials.

On August 22, police Special Forces units beat 30 inmates in a pretrial facility in Karakol for up to 5 hours. A human rights nongovernmental organization (NGO) investigation concluded authorities carried out the beating to intimidate certain prisoners who had assumed a leadership role among inmates. Several prisoners sustained bodily injuries. One detainee announced a hunger strike and sutured his mouth to protest the assaults. An official investigation into the incident was ongoing at year's end.

On September 10, three minors in a pretrial facility near Voznesenovka village sewed their mouths shut to protest alleged abuse of other detainees by police special forces.

Also in September human rights activists reported that police beat 15-year-old Sukhrab Rakhmanov while he was in a pretrial facility in Jalalabad. Following complaints by human rights activists, authorities opened an investigation into the incident, but later closed the case after Rakhmanov's mother withdrew abuse charges against police officials. According to Spravedlivost, a human rights NGO in Jalalabad, the abuse charges were withdrawn under pressure from police and prosecutor's office officials. Rakhmanov remained in custody at year's end.

Prison and Detention Center Conditions.—Prison conditions were very poor and included overcrowding, food and medicine shortages, poor health care and disease prevention facilities, and lack of heat and other necessities. Penal Reform International reported that both food supplies and medical services provided to inmates improved during the year. Morbidity and mortality rates also declined, particularly those resulting from tuberculosis (TB). Pretrial detention facilities were particularly overcrowded, and conditions and mistreatment generally were worse than in prisons.

In March an inmate of the Chym-Koprogon hospital died due to negligence (see section 5).

A fellow inmate was convicted for the beating death of Ulugbek Kadirov, who in February 2004 was found dead in his cell in an MVD temporary detention center in the town of Kara-Suu.

The Ministry of Justice (MOJ) and the International Committee of the Red Cross (ICRC) continued to implement a successful nationwide TB program in prisons. As of May 2004, 68 percent of prison inmates reportedly suffered from serious diseases such as TB, hepatitis, HIV infections, and sexually transmitted diseases. During the year the number of prisoners suffering from TB declined from 2,837 to 2,725. The Department Supervising Penal Institutions (DSPI) also reported that timely diagnosis and better treatment reduced TB death rates by almost fifty percent during the first half of the year. Throughout the year the DSPI continued to work with the ICRC and NGOs to improve prison and jail conditions throughout the country, including seminars for prison officials on human rights and hygiene and health care projects.

A series of riots took place at several penitentiary facilities throughout the country between September 1 and November 2. The riots began at the N1 prison colony for minors in Voznesenovka village, where approximately 50 inmates protested poor conditions. Police were called in to quell the demonstration and several detainees were subsequently transferred to other facilities. The riots later spread to the N3 prison colony, a maximum-security prison with approximately two thousand prisoners near Novopokrovka village. Prisoner grievances included poor conditions, the lack of proper medical care, the excessive use of force by correction officers, and the high level of security. Authorities also reported the unrest stemmed in large part from a dispute between criminal gangs inside the prison. Representatives of the DSPI met with the rioters, other prisoners, and prison officers to resolve the prisoners' concerns; however, the riots continued and reached their peak after parliamentarian Tynychbek Akmatbayev and three officials accompanying him were killed during a visit to N31 prison colony near Bishkek on October 20 (see section 1.a.). The riot also resulted in two prisoners' deaths. Following this incident, protests of varying intensity continued at several penitentiary facilities until November 1, when police SWAT units raided prison colony 31 and removed notorious crime boss Aziz Batukayev and other inmates who had coordinated the riots; Batukayev and the other prisoners were transferred to the SNB holding facility in Bishkek. The government reported that three people were killed during the raid. Similar actions to stop the riots happened at other facilities. Also on November 1, the police thwarted a prison break at prison colony #8, which resulted in two prisoner deaths and the injuring of a third. In November the government allocated additional funding to DSPI to improve prison conditions. In December the government began devel-

oping a program to reform the penal system and introduce alternative punitive measures, in order to reduce the number of inmates and improve prison conditions.

Although the government generally permitted domestic and international human rights observers to visit prisons, in August police in Tokmok obstructed an authorized visit of representatives of the ombudsman and an NGO to observe conditions at a pretrial detention center. The ICRC was allowed to visit detainees in MOJ and SNB prisons and pretrial detention centers and was granted access to inmates on death row. DSPI authorities held briefings on penitentiary facilities and organized several visits of journalists to prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, police at times used false charges to arrest persons and solicited bribes in exchange for release.

Role of the Police and Security Apparatus.—Law enforcement responsibilities are divided between the MVD for general crime, the SNB for state-level crime, and the prosecutor's office for both types of crime. Corruption, particularly the payment of bribes to avoid investigation or prosecution, was a major problem at all levels of law enforcement. The government took steps to address corruption in the police force, including public commitments to fight corruption and a government decree, effective as of July, increasing the salary of police officers by 50 percent.

Police impunity remained a problem; however, during the year numerous MVD officials were dismissed and prosecuted for various offenses, including corruption, abuse of authority, and police brutality. According to the MVD, during the first 6 months of the year, 13 criminal cases were opened against police officers. Disciplinary actions were taken against 407 MVD employees, 26 employees were fired, and 43 were demoted. The MVD reported that during the first 6 months of the year, 259 complaints were filed for abuse or illegal conduct by police officials.

Arrest and Detention.—The Prosecutor General's Office determines who may be detained, arrested, and prosecuted. An arrest warrant from the prosecutor's office is required to detain an individual, and there were no reports that this provision was abused. The law permits law enforcement officials to detain suspects for 72 hours before releasing them or charging them with a crime, and this was generally enforced in practice. The law requires that investigators notify a detainee's family within 12 hours of detention; however, this requirement often was not observed in practice.

Persons arrested or charged with crimes have the right to defense counsel at public expense. By law, defense counsel is permitted to visit the accused immediately upon delivery to a detention facility. In practice the accused at times did not see defense counsel until trial. Human rights groups noted that arrested minors were usually denied lawyers; police often did not notify parents of children who were arrested, and generally neither parents nor lawyers were present during questioning, despite laws to the contrary. Consequently children often were intimidated into signing confessions. The law also authorizes house arrest for certain types of suspects. There were reports that at times law enforcement selectively incarcerated people suspected of minor crimes, while other people suspected of more serious crimes remained at large. There was a functioning bail system.

The government continued to express concern about perceived extremist groups with radical religious or political agendas. During the year security forces detained 103 persons on charges related to extremist Islamist political organization Hizb ut-Tahrir activities and initiated 37 criminal cases, mostly for disseminating leaflets and booklets of an extremist nature. Although HT maintained that it was committed to nonviolence, the party's virulently anti-Semitic and anti-Western literature called for the overthrow of secular governments, including in Central Asia, to be replaced with a worldwide Islamic government called the caliphate.

Although HT was banned, police officials publicly stated that membership in the organization itself is not a crime. Rather, HT members charged with crimes were usually accused of possession and distribution of its literature (see section 2.b.).

Since the change of the government in March there were no political detentions.

The prosecutor has the discretion to hold suspects in pretrial detention for as long as one year, after which the prosecutor is required to seek an extension from the parliament or release the suspect. There were no known instances in which the parliament was asked to extend a detention.

On August 13, President Bakiyev signed a law on amnesty, which was being implemented until March 2006.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the executive branch at times interfered with the judiciary. Lawyers and citizens commonly believed that most judges were open to bribes or susceptible to outside pressure, and low salaries remained a mitigating factor.

Cases originate in local courts and can move to appeals courts at the municipal or regional level and finally to the supreme court. There were separate military courts as well as a separate arbitration court system for economic disputes. Civilians may be tried in a military court if one of the codefendants is a member of the military. Military court cases can be appealed to a military appellate court and ultimately to the supreme court.

The constitutional court has responsibility for determining the constitutionality of laws, resolving disputes concerning the interpretation of the constitution, and determining the validity of presidential elections. The constitutional court may not intervene in actions of the supreme court, except in cases related to the constitution. The court has specific authority to determine the constitutionality of NGO activities, political parties, and religious organizations.

Traditional elders' courts consider property and family law matters and low-level crime. Local elders' courts are under the supervision of the prosecutor's office but do not receive close oversight since many are located in remote regions. However, decisions of elders' courts can be appealed to the corresponding regional court.

Trial Procedures.—Prosecutors, rather than judges, direct criminal proceedings. Prosecutors bring cases to court to try them before a judge and two "peoples' assessors." If a court renders a case indeterminate, it is returned to the procurator for further investigation, and suspects may remain under detention.

The judge conducts court hearings in accordance with the law and passes the sentence. A prosecutor participating in a trial is called the state prosecutor—his/her role is to maintain the indictment at all stages of the criminal process. The defendant's attorney defends the rights and interests of the defendant. The defendant may refuse attorney support and defend himself/herself. A criminal case is conducted by one judge; appellate cases—by three judges; and cases brought for supervisory consideration—by the entire supreme court. In the course of court proceedings, prosecutors provide support to charges against the defendant, and the attorney defends the accused. If a court renders a case indeterminable, it is returned to the investigative bodies for further investigation, and suspects may remain under detention.

The law provides for defendants' rights, including the presumption of innocence. In practice, however, such rights were not always respected. The judicial system continued to operate in many cases according to Soviet laws and procedures in which there was no presumption of innocence, and the focus of pretrial investigation was to collect evidence sufficient to show guilt. The law provides for an unlimited number of visits between an attorney and a client. Although official permission for such visits is required, it was usually granted.

The law permits defendants and counsel the right to access all evidence gathered by the prosecutor, attend all proceedings, which were usually public, question witnesses, and present evidence. However, these rights were not always respected in practice. Witnesses have to present their testimony in court; however, under certain circumstances specified in the law, witness testimony given during the investigation can be presented during the trial via audio or video recording without the witness being physically present. Indigent defendants were provided attorneys at public expense.

The law does not provide for juries. Defendants have the right to appeal the court's decision. The law provides for transparency of court proceedings. Generally, trials are open to the public, unless state secrets or the privacy of defendants are involved; however, even in closed proceedings, the verdict is announced publicly.

Military courts and elders' courts follow the same rules and procedures as general courts.

Political Prisoners.—On March 24, after Akayev's overthrow, Kulov was released from jail, where he was serving concurrent 7- and 10-year sentences. On April 6 and 11, the supreme court overturned Felix Kulov's 2001 and 2002 convictions for abuse of power and embezzlement, believed to be politically motivated. He was appointed the acting first vice prime minister in May but resigned from the position for the duration of the presidential election campaign. Following the July 10 presidential election, he was reappointed as the acting first vice prime minister, and on September 1, the parliament approved him as the prime minister.

There were no reports of other political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government at times violated these prohibitions. The law requires general prosecutor approval for wiretaps, home searches, mail interception, and similar acts.

There were unconfirmed reports by citizens active in politics or human rights that their communications were monitored prior to the March revolution. SNB colonel Kelsinbek Akimaliyev was prosecuted on charges of divulging state secrets for a

January 2004 incident in which listening devices were found in the offices of five parliamentary deputies. Akimaliyev was offered amnesty, but he refused the amnesty because he had never pleaded guilty, and thus additional charges of abuse of power, illegal possession of ammunition, and stealing ammunition were pressed against him. The case was forwarded to the Bishkek garrison military court. Akimaliyev claimed the charges were fabricated and in August claimed in a newspaper article that the SNB had made him a scapegoat in the bugging scandal. At year's end the case continued.

Unlike in the previous year, there were no reports of national or Uzbek security services covertly videotaping worshipers at mosques.

The government continued to conduct widespread document checks of some foreigners.

Family law prohibits divorce during pregnancy and while a child is younger than one year of age.

Official harassment of family members of Tynchtyk Duulatov, a member of the political council of the Ar-Namys party, ended after March 24. Tynchtyk Duulatov fled the country in 2003 to avoid prosecution for kidnapping, charges believed to be politically motivated. During the year the MVD continued to investigate the kidnapping charges, but was reportedly also trying to prove that the original charges were politically motivated.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press. Prior to March 24, the Akayev government frequently restricted these rights in practice. After the March 24 change of government, National TV offered airtime to various politicians, lawsuits against independent media decreased, and independent media experienced new, although limited, freedom of operations and news coverage. Nevertheless, by the end of the year there were reports that politicians critical of the Akayev's government were not allowed on National TV.

The MVD reported that during the first half of the year, 37 persons were prosecuted for distribution or possession of HT literature; those arrested typically were charged for distribution of literature inciting ethnic, racial, or religious hatred.

There were approximately 40 to 50 regularly printed newspapers and magazines, 8 of which were state-owned, with varying degrees of independence. Although the state printing house, Uchkun, was the primary newspaper publisher in the country, an independent printing press run by the nongovernmental Media Support Center (MSC) provided a competitive alternative to state-owned printing presses. Approximately 50 television and radio stations operated in the country, with 5 television stations broadcasting nationwide. Two nationwide television stations, Government TV and Radio Company (GTRK) and Mir Interstate TV and Radio Company, which is a Commonwealth of Independent States member-funded regional television station network, were directly influenced by the government. The rest were privately owned.

All media were required to register with the MOJ and receive ministry approval to operate. The media law states that registration should take no longer than one month, but in practice the process often took much longer. Part of the process included background checks on each media outlet's owner and source of financing, including international donor organizations.

Following the March events, the new government initiated a series of far-reaching reforms of government-owned media outlets, including plans to privatize all government-owned newspapers. However, at year's end government newspapers, television, and radio continued to receive subsidies, which allowed the government to influence news coverage and apply financial pressure on independent media by fostering unfair competition for scarce advertising revenue.

Although the GTRK initially was to become a public broadcaster, in November the government announced that it was instead turning its southern branch, then called Osh3000, into a public broadcaster. The new broadcaster, dubbed ElTR, started operating in December, although it did not have a separate channel. ElTR depended on the GTRK for three hours of its national broadcasting.

In November the government dismissed Azima Abdimaminova, the producer of Zamana Studio of the GTRK, in what seemed a rollback in the reforms that would give more freedom to the journalists of the GTRK. Abdimaminova, who was appointed immediately following the March 24 events, claimed the unofficial reason for her demotion was her reporting on sensitive issues.

Although the government announced the start of the privatization process of state-owned newspapers during the year, the government continued to interfere in newspapers' editorial policies, in one case replacing the editor with a government-appointed individual.

On February 24, the Akayev government revoked the broadcasting license of Radio Azzatyk, the local Radio Liberty/Radio Free Europe affiliate, to silence the station before the elections. The station resumed broadcasting following the change in government.

Foreign media operated freely. The law prohibits foreign ownership of domestic media; however, there was a small degree of foreign ownership of media, through local partners. A number of Russia-based media outlets also operated freely in the country, although they were registered with the MOJ and therefore the government considered them local media.

During the year harassment of journalists decreased, although unknown persons continued to intimidate members of the media. For example in August the Public Association of Journalists reported that Aliyma Sharipova, a journalist with the independent newspaper *Itogi Nedeli* in Osh, was threatened after she wrote an article critical of local municipal officials. Other journalists of *Itogi Nedely* also reportedly received threatening phone calls after the appearance of articles critical of political and business leaders.

Although the law prohibits censorship, a few independent journalists reportedly faced occasional government pressure over critical press coverage or were denied access to public meetings and information freely provided to state-run outlets.

According to the Public Association of Journalists, throughout the year the Naryn province governor's office only invited state-owned media outlets to government meetings. Journalists with independent Almaz-Naryn Radio were frequently denied access to the meetings.

In November Internews reported that National TV took the *Zloe Pero* talk show off the air; National TV's president stated one of the participants' remarks damaged the honor and dignity of the people and, if aired, would invite lawsuits against the station. *Zloe Pero* producers then switched to television station NTS to broadcast the show. In July a similar incident occurred, when National TV cancelled a show in which then prosecutor general, Azimbek Beknazarov, participated.

In November Timur Sharshenaliev, editor of independent NBT television station, reported that during prison riots in Moldovanovka, the military confiscated NBT video camera and tapes.

Libel is a criminal offense. A media NGO reported that the vast majority of "honor and dignity" suits filed against newspapers prior to March 24 had been dropped. However, the same NGO reported that numerous similar suits had since been filed and were still pending in the courts.

Four pending lawsuits filed in 2004 by then ombudsman Tursunbay Bakir-uulu against *Vecherniy Bishkek* and government media outlets, as well as the antimonopoly suit filed by *Vecherniy Bishkek* against the MSC, were dropped following the March revolution.

On February 22, five days before the first round of parliamentary elections, the Akayev government cut off the electricity to the MSC in an attempt to stop the printing of several pro-opposition newspapers. The MSC continued to print using generator power. Electricity was restored on March 15 two days after the elections were completed.

There are no laws regarding Internet media. In July Ulan Melisbek, owner and editor of independent, foreign-based Internet newspaper *Gazeta.kg*, alleged that authorities were blocking access to and hacking the Web site because of articles critical of the new government. In September Melisbek reported his family was being threatened and was forced to seek asylum abroad.

The government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the Akayev government frequently restricted this right in practice. The beginning of the year was marked with many demonstrations by citizens expressing their disagreement with the suppression of democracy and freedom. Demonstrations escalated and resulted in the overthrow of President Akayev's regime on March 24. After the revolution the government did not restrict peaceful meetings or demonstrations.

A 2004 proposed draft law to limit public demonstrations did not go into effect and was accordingly not used to limit opposition activity in this year's elections.

Protests, rallies, and demonstrations occurred regularly in public places throughout the country, including in proximity to government buildings. In most cases demonstrations took place without interference from authorities. However, there were several instances in which security forces forcibly disrupted demonstrations or meetings.

On March 23, the Akayev government used police and unarmed civilians to disrupt a peaceful demonstration in central Bishkek. Police detained at least 20 dem-

onstrators for several hours. Progovernment thugs, bussed to the protest site by the government, beat an unknown number of demonstrators.

On March 24, the Akayev government again used civilians, this time armed with clubs and shields, to attack peaceful demonstrators on Ala-Too square in central Bishkek. A number of demonstrators were injured when a clash broke out between opposition protestors and persons bussed in by the government. Opposition demonstrators pushed back progovernment supporters and overran the main government administration building, including the offices of then president Akayev. President Akayev, who was not in the building at the time, fled the country shortly thereafter.

On April 22, demonstrators demanding the resignation of the chairman of the supreme court seized control of the supreme court building and held it for 40 days; government authorities made no attempt to retake the building. On June 1, a large group of private citizens entered the building by force and ejected the demonstrators. Several persons suffered minor injuries during the incident.

On June 17, law enforcement forcibly prevented the seizure of the main government building and the supreme court by supporters of Urmat Baryktabasov, who was denied registration as a presidential candidate. After approximately 200 antigovernment protestors forcibly entered the building, police ejected them and then used tear gas to disperse the crowd outside of the main government building in central Bishkek. Thirteen demonstrators and police were injured in the demonstration, none seriously.

Freedom of Association.—The law provides for freedom of association. NGOs, labor unions, political parties, and cultural associations all must register with the MOJ; they also must have at least 10 members to register, except for NGOs, which are required to have only 3 members. No domestic NGOs were denied registration by the MOJ during the year, although the MOJ did not reregister the Kyrgyz Human Rights Committee (see section 4). The law prohibits activities of foreign political parties and NGOs, including their representative offices and branches that pursue political goals.

During the year (domestic) foreign-funded NGOs were generally able to pursue their work free from government interference. However, prior to March 24, state-owned and pro-government media frequently published articles critical of some foreign-funded NGOs.

The government continued its ban of four organizations it deemed to be extremist due to alleged ties to international terrorist organizations: HT, Islamic Party of Turkestan, Organization for Freeing Eastern Turkestan, and Eastern Turkestan Islamic Party. Arrests and prosecution of persons accused of possessing and distributing HT literature continued during the year (see section 2.a.).

Most arrests occurred in the south and involved ethnic Uzbeks. Those arrested typically were charged for distribution of literature inciting ethnic, racial, or religious hatred. The MVD reported that during the year 103 persons were detained, and 37 persons were prosecuted for distribution or possession of HT literature.

c. Freedom of Religion.—The law provides for freedom of religion. The government generally respected this right in practice, although there were some restrictions, particularly regarding the activities of Islamic groups that it considered to be extremists and a threat to the country. Islam was the most widely practiced faith.

The State Commission on Religious Affairs (SCRA) is responsible for promoting religious tolerance, protecting freedom of conscience, and overseeing laws on religion. Under the law all religious organizations, including schools, are required to register with the SCRA, and each congregation is required to register separately. According to the State Agency for Religious Affairs, 46 new religious entities (17 mosques and 29 Christian churches) were registered between August 2004 and June. Although several groups, including the Roman Catholic Church (RCC), had had difficulties registering, almost all, including the RCC, were eventually registered, except for the Hare Krishnas. Representatives of the Hare Krishna Society reported that they still were not registered by the SCRA, despite repeated attempts since 2003. In September the society filed another application for registration and was awaiting a reply at year's end.

Religious organizations are also required to register with the MOJ to obtain status as legal entities to own property, open bank accounts, and otherwise engage in contractual activities. The ministry's registration process was cumbersome, taking a month on average. In practice the ministry did not register religious organizations without prior SCRA registration. According to SCRA regulations, registration is rejected if an organization does not comply with the law or is a "threat to national security, social stability, interethnic and interdenominational harmony, public order, health, or morality." Applicants whose registration is rejected may reapply and ap-

peal the decision in court. Over the past year the SCRA registered several new organizations that had had trouble registering previously. The Church of Jesus Christ reported that the SCRA registered all six affiliates that attempted to register between August 2004 and July. Despite numerous attempts, the registration of the Church of Jesus Christ of Latter-day Saints, however, was not yet approved.

In October the president signed a decree abolishing the SCRA's status as a separate body. The commission was to become an office under the prime minister, a change that had not taken effect by year's end.

The government was concerned about political extremism it believed was disguised as conservative Islam, particularly Wahhabist interpretations (see section 2.b.). In contrast to previous years, however, no incidents of domestic or foreign security services monitoring worshipers at mosques were reported.

Law enforcement authorities, including the MVD and the SNB, often played a role in investigating religious organizations and resolving inter-religious disputes. Representatives of smaller churches, such as the Church of Jesus Christ, complained of government attempts to hamper their activities in the past. During the year the police detained 103 persons for religious activity and opened criminal cases in 37 occasions, mostly for HT related activities (see section 2.a.).

In June both the SCRA and an official with the Jalalabad Oblast Kaziate confirmed that all of the mosques closed in May 2003 by local administration head Asan Erkinbayev in the Karadarya district had been reopened and were functioning normally.

Female students who attended public schools continued to be forbidden from wearing religious headscarves (hijab) while in school.

Societal Abuses and Discrimination.—During the period covered by this report, there were no acts of violence, harassment, or vandalism reported against the Jewish community, its institutions, schools, synagogues or cemeteries. Approximately three thousand Jews lived in the country.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law on internal migration provides for freedom of movement, and the government generally respected the right in practice; however, certain policies continued to complicate internal migration, resettlement, and travel abroad.

The law requires an official residence registration to work and settle in a particular area of the country. Applicants for residence registration must file a request with the local police and be able to prove that they have a place to live in the area. Local administrations also tied the availability of social services to registration; individuals who did not register could be denied access to subsidized health care or schooling. Authorities detained and fined individuals without residence registration.

The law on external migration prohibits travel abroad of citizens that had access to information classified as state secrets. The delay in issuance of new passports created problems for citizens traveling abroad and within the country.

The law does not provide for or prohibit forced exile, and there were no reports that the government employed it in practice. Following the March overthrow of the Akayev government, the president of the Kyrgyz Committee for Human Rights (KCHR) returned from self-imposed exile abroad.

On July 4, Uzbek border guards arrested a Kyrgyz police officer, Aldayar Satybekov, as he returned home from shopping in Uzbekistan and charged him with illegal border crossing. Satybekov's relatives were not allowed to visit him and alleged that he was detained by the Uzbeks to exchange him for Uzbek refugees who fled to Kyrgyzstan following the May events in Andijon. After four months in custody, he was fined approximately $350 (470 thousand som) and released.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution.

The government granted refugee status or asylum and cooperated with the office of the UN High Commission on Refugees (UNHCR) and other international humanitarian organizations in assisting refugees and asylum seekers.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 protocol and provided it to approximately 23 persons during the year.

The government's record in protection and asylum issues was mixed. In May the government provided temporary shelter to approximately 500 Uzbek asylum-seekers

fleeing violence in the Uzbek city of Andijon. On June 9, the government forcibly returned four of these asylum seekers to Uzbekistan. Neither the ICRC nor any diplomatic mission had access to these individuals since their repatriation and ensuing imprisonment in Uzbekistan. In July and September the government released 450 of the refugees to the UNHCR for third-country resettlement. At year's end five remaining Uzbek asylum-seekers remained in detention in Osh while their cases were being decided by the Kyrgyz courts. Although the UNHCR determined four of the five asylum-seekers met the criteria for refugee status, authorities refused to recognize this status and surrender them to UNHCR for resettlement in a third country. The government did not allow UNHCR access to one asylum seeker from Uzbekistan to make a decision on his status.

Human Rights Watch, Amnesty International (AI), and other sources reported that Uzbek authorities coerced relatives of the Andijon refugees to travel to refugee camps in Kyrgyzstan to ask them to return. Uzbek security forces were also seen outside camps in the country, and in some cases plainclothes officers infiltrated the refugee population; there were reports that in some instances they attempted to remove persons from a refugee camp by force. According to AI, armed local persons also reportedly entered camps and threatened to force the refugees out if they did not return to Uzbekistan voluntarily.

On December 13, Kyrgyz police arrested Makhambet Abjan, an opposition political activist from Kazakhstan who requested political asylum. Despite human rights groups' protests, on December 23, law enforcement officials extradited Abjan to Kazakhstan at the request of Kazakh authorities.

According to the UNHCR and the Ministry of Foreign Affairs migration services department, authorities provided temporary protection to 314 Chechen asylum seekers. The government did not grant Chechen refugees official refugee status but granted them asylum seeker status if they so qualified, providing them with some legal protection.

According to the UNHCR, Uighurs remained at risk of deportation or extradition, particularly if they were involved with political and religious activities in China.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

While the law provides citizens with the right to change their government peacefully, the government restricted citizens' ability to do so. February–March parliamentary elections were marred by numerous, serious violations, particularly in the pre-election period. After a buildup of protests around the country, opposition demonstrators overran the main government building in Bishkek and, on March 24, President Akayev fled the country. Following Akayev's departure, Prime Minister Kurmanbek Bakiyev assumed the interim presidency and was elected president in the July 10 election; a new parliamentary election was held on November 27 in two districts.

Improvements in the right of citizens to change their government peacefully followed the overthrow of the Akayev government. The new government allowed peaceful protests, and new elections demonstrated improvements over previous elections.

Under the constitution the president has a virtual veto on any legislative act and may dissolve the legislature and dismiss members of the government; the president also has immunity after leaving office. The parliament may override presidential vetoes, which it has occasionally done in the past. Despite constitutional limitations, parliament demonstrated a degree of independence in September by rejecting 6 of 16 candidates nominated for Bakiyev's cabinet.

In April the government established a constitutional council to draft a new constitution. In September President Bakiyev signed a decree expanding the size of the council from 114 to 289 members, a move some members of civil society complained was an attempt to pack the council with Bakiyev supporters.

Elections and Political Participation.—In January 2004 then president Akayev signed a new election code into law. Domestic NGOs and opposition parties largely saw the new election code as a significant improvement over the previous law. The new code incorporated numerous suggestions from the OSCE and NGOs to improve transparency as well as NGO and political party participation in the electoral process. However, the OSCE determined it did not meet international standards due to vague provisions that could be used to restrict candidates, media, and party rights. The code prohibits publishing the results of public opinion polls, forecasts of election results, or other such research materials, in the mass media. As a result, public knowledge of candidates and their platforms was inhibited.

Even though the law provides a five-day moratorium on de-registration of candidates, a few days before the second round of the parliamentary elections in March

two candidates were de-registered and removed from the ballot for controversial reasons.

The law's five-year residency requirement barred five opposition candidates who were former diplomats from parliamentary election in February and March.

February and March parliamentary elections were highly flawed, particularly due to pre-election violations. Violations included pressure on independent media, use of progovernment media to discredit particular candidates, selective deregistration of candidates by courts prior to the election, illegal election campaigning, interference by local authorities, low quality of voter lists, and poor organization of the electoral process by election commissions. Election observers also noted widespread electoral violations, including government pressure and intimidation against the media and opposition candidates, disqualification of opposition candidates for spurious reasons, illegal busing of voters to the polls, and rampant vote buying. Nevertheless, independent and opposition political parties and NGOs took advantage of provisions in the new electoral code allowing for their participation on electoral commissions.

Run-off elections in the second round of the February–March parliamentary election were held in 23 out of 75 districts. Election results were appealed through the CEC or courts in at least 11 districts.

The July 10 presidential election was a major improvement over the 2000 presidential elections. The OSCE/ODIHR concluded in its July 11 election assessment that the election "marked tangible progress" and noted "a good measure of political will from the authorities to conduct a democratic election." Fundamental civil and political rights, such as the freedom of expression and the freedom of assembly, were generally respected leading up to the election, and the media provided all candidates with opportunities to present their views. Despite concerted efforts to improve voter lists, however, some aspects of the revision of voter lists breached legal provisions. Unexplained fluctuations in the number of voters on the main voter lists, up to and on election day, raised questions about the accounting of ballots.

On November 27, parliamentary by-elections were held in two districts. Independent observers reported numerous violations in the Tunduksky district in Bishkek. For example, authorities bribed and provided free transportation to voters, and the local election commission disregarded violations committed by one of the candidates, Janysh Kudaibergenov. On December 29, after reviewing a complaint filed by the losing candidates, the CEC ruled that the violations did not affect the final voting results and recognized Kudaibergenov the winner.

The government occasionally sought to impede the functioning of opposition political groupings and the expression of opposition views in the media (see section 2.b.). Numerous opposition politicians and members of prominent NGOs reported incidents of harassment and intimidation prior to March 24. For example, in January and February unknown persons spray-painted graffiti on the homes of a number of prominent opposition figures. In February unknown persons threw a hand grenade onto the balcony of the apartment of then opposition figure Roza Otunbayeva. The apartment was unoccupied at the time, and no one was injured. A spokesperson for former president Akayev publicly suggested that Otunbayeva carried out the attack as a publicity stunt.

In addition one of the leaders of the March events, Azimbek Beknazarov, alleged that his September 19 dismissal from the post of prosecutor general, which he occupied between March and September, was politically motivated.

There were no women in the 75-seat legislature. Women did hold several high-level government posts, including chief justice of the constitutional court, the chair of the State Committee on Migration and Employment Issues, and chair of the Social Fund.

There were 12 members of 4 minorities represented in the 75-seat legislature. Russians and Uzbeks, the two largest ethnic minority groups, remained underrepresented in government positions. Members of minority groups held top posts, including the minister of labor and social protection and chair of the Social Fund. Russian-speaking citizens alleged that a "ceiling" precluded promotion beyond a certain level in government service and alleged that some otherwise qualified candidates were disqualified in elections in previous years on the basis of exams, the fairness of which was questioned (see section 5).

Government Corruption and Transparency.—Corruption remained a serious problem at all levels of society. During the year the government took limited steps to address the problem.

Tax authorities released to the media a list of officials that did not submit income declarations. There were no reports of any action taken against officials that failed to comply with the income disclosure law.

Following the change of government, a special commission was established to identify assets that had belonged to former president Akayev and his entourage.

After the results of the commission were released, the Office of the Prosecutor General launched several investigations to assess the legality of these acquisitions and businesses. The investigations continued at year's end.

On June 21, the government adopted and began implementation of an anticorruption strategy, aimed at combating corruption in all sectors of society. On September 8, the financial intelligence service was established to prevent terrorist funding, fight money laundering, and to gather and forward relevant information to law enforcement agencies. And on October 21, the Anticorruption Council, consisting of 11 governmental officials and representatives of civil society and the media, was established. This council coordinated the government's overall anticorruption work. The government also reduced staff in government offices and began a wide anticorruption information campaign.

The law gives persons the right to request information from the government. The government generally complied with such requests but sometimes took a long time to do so.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Under the Akayev administration, human rights groups operated in a generally hostile environment and were faced with occasional government pressure to curtail their activities. Harassment of human rights activists, particularly those active on election-related issues, increased considerably during the first three months of the year. However, the Akayev Government also made limited efforts to interact with some NGOs, and most domestic independent human rights organizations were able to investigate and publish their findings on human rights cases. After March the Bakiyev government made significant efforts to reach out to human rights groups and civil society in general. Nonetheless, harassment and pressure by unknown persons on human rights activists continued during the year.

In September human rights activist Azziza Abdrasulova and her family received threatening phone calls from unknown persons who demanded that Abdrasulova destroy documents she allegedly held regarding protesting railway workers. Unknown persons approached Abdrasulova's husband and demanded he sign a statement saying he received $20 thousand (822 thousand som) in return for persuading his wife to stop supporting the railway workers. When he refused to sign the statement the assailants beat him.

In August and September unknown persons threatened a prominent civil society activist with violence after he criticized the growing role of organized crime in the country.

In December the government pressed slander charges against Maxim Kuleshov, leader of human rights NGO Peace, Light and Culture, and coordinator of the resource center in Tokmok. The case was initiated after Kuleshov filed a lawsuit against police officers for interrupting a December 2 peaceful rally in Tokmok against torture in penitentiary facilities. Both cases were under consideration at year's end.

In April Ramzan Dyryldayev, head of the Kyrgyz Committee on Human Rights (KCHR), returned to the country from Vienna where he had been living in self-imposed exile since 2002. The MOJ did not reregister the KCHR during the year and reportedly recommended the group to take its case to court, since there was another KCHR registered by the MOJ, which was created by the Akayev regime in 2003 allegedly to oust Dyryldayev from the human rights movement in the country. Dyryldayev took the case to court, but authorities did not reopen the case; Dryldayev also claimed the government did not act on most of his appeals.

Police dropped the case regarding the July 2004 assault of Ramazan Dyryldayev's daughter, Ainura Aitbayeva, when she moved abroad.

A number of international groups reported on human rights problems in the country. The government generally cooperated with international governmental organizations.

The ombudsman's office actively worked to advocate for individual rights. The ombudsman's mandate is to act as an independent advocate for human rights on behalf of private citizens and NGOs and has the authority to recommend cases to courts for review. The ombudsman's office claimed that after the March events, the number of complaints grew by nearly 50 percent. During the year the ombudsman's office received over 25 thousand appeals, most having to do with land ownership issues and official corruption.

Parliament's Committee on Constitutional Law, State Structure, Legality, Court, Judiciary Reform and Human Rights drafts or reviews legislation affecting human rights before it goes before the full parliament for approval. The committee also reviews all draft legislation that has a human rights component. In addition the

Democratic Security Council under the president is nominally tasked with protecting human rights in the country; however, it remained relatively inactive during the year.

In April former opposition politician Tursunbek Akunov was appointed chairman of the State Commission on Human Rights under the president. The commission's responsibilities included implementing the government's policy on human rights, improving relevant legislation, conducting information campaigns to increase public awareness about human rights issues, and establishing relations with international human rights organizations.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, although in practice there was discrimination against women, persons with disabilities, ethnic minorities, and homosexuals.

Women.—The law specifically prohibits domestic violence and spousal abuse; however, violence against women remained a problem. Some estimates indicated domestic violence constituted between 40 and 60 percent of all crimes committed against women. Many crimes against women were not reported due to psychological pressure, cultural traditions, and apathy of law enforcement officials. Penalties ranged from fines to 15 years' imprisonment (if abuse resulted in death). There were 4,135 crimes committed against women during the year; most were sent to court.

Several local NGOs provided services for victims of domestic violence, including legal, medical, and psychological assistance, a crisis hot line, shelters, and prevention programs. Organizations involved with battered women also lobbied for new laws on domestic violence.

Rape, including spousal rape, is illegal. Activists noted that rape was becoming more common, although it was not clear whether this was due primarily to increased reporting of attacks. Interior ministry statistics indicated that during the year there were 298 registered cases of rape, 220 of which were sent to court. Actual figures were believed to be significantly higher; NGOs estimated the number could be up to ten times the reported figure.

Although a law prohibits the custom, rural inhabitants continued the traditional practice of kidnapping women and girls for forced marriage. During the year there were 18 reported cases of forced marriage, but the actual figure may be much higher. One study indicated that up to one-third of ethnic Kyrgyz women living in the northern part of the country were married against their will as a result. Many victims of forced marriage also reported to researchers that they were raped at the time that they were kidnapped. Cultural traditions discouraged victims from going to the authorities. In December 2004 the government supported NGO-sponsored Campaign Against Violence and Bride Kidnapping conducted for high school and college students, government officials, law enforcement officers, and medical personnel. Participating NGOs distributed information materials, produced television documentaries, performed a short play on bride kidnapping, and held discussions on domestic violence and trafficking in persons. NGOs maintained antitrafficking hot lines to help potential and actual trafficking victims.

Prostitution is not a crime, although the operation of brothels, pimping, and recruiting persons into prostitution is illegal, with penalties of up to five years. With no legal measures in place to regulate the industry, it was an increasing problem.

Trafficking in women for the purpose of sexual exploitation and forced labor was a problem (see section 5, Trafficking).

Sexual harassment is prohibited by law, but it was a problem. Penalties range from fines to imprisonment.

Women enjoy the same rights as men, including under family law, property law, and in the judicial system, though discrimination against women persisted in practice. The National Council on the Issues of Family, Women and Gender Development, under the president, is responsible for women's issues. Average wages for women were substantially less than for men. Women made up the majority of pensioners, a group that was particularly vulnerable to deteriorating economic conditions. With the end of communism, traditional attitudes toward women reasserted themselves strongly in the countryside, where women were relegated to the roles of wife and mother, and educational opportunities were curtailed. Data indicated that women were less healthy, more abused, less able to work outside the home, and less able to dispose of their earnings independently.

Children.—The government was generally committed to the rights and welfare of children, although it lacked resources to fully address basic needs for shelter, food, and clothing.

The law provides for compulsory and free education for the first 9 years, or until age 14; secondary education is free and universal up to age 17. However, financial

constraints prevented the government from providing free basic education for all students. Families that kept children in public schools often had to pay burdensome—and illegal—administrative fees. Girls and boys attended school in equal ratios. During the year the primary school enrollment ratio was 99 percent for both girls and boys, according to UNICEF; the secondary school enrollment ratio was 78 percent for boys and 85 percent for girls. The law penalizes parents who do not send their children to school or who obstruct their attendance. This law was only spottily enforced, particularly in rural areas. In the most recent academic year 80,300 or 7 percent of total school age children completed secondary school.

The government continued to fund the work of two programs to provide benefits for low-income children and children with disabilities, such as school supplies and textbooks. Legally, all textbooks should be free, but the government was unable to provide free textbooks to all, and students had to pay for some of the textbooks.

The government provided health care for children, and boys and girls had equal access. The system of residence registration restricted access to social services, including healthcare and education, for certain children, such as refugees, migrants, internally displaced persons, and non-citizens (see section 2.d.).

Child abuse, including beatings, child labor, and sexual exploitation continued to be a problem.

Underage marriage was not a significant problem in the country. Children ages 16 and 17 may legally marry with local authority consent, though marriage before age 16 is prohibited under all circumstances.

Trafficking of children for the purposes of sexual exploitation and labor remained a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

As in previous years, there were numerous reports of child abandonment due to parents' lack of resources, which led to larger numbers of children in institutions, foster care, or on the streets. State orphanages and foster homes also faced a lack of resources and often were unable to provide proper care. Some children too old to remain in orphanages were transferred to mental health care facilities, even when they did not exhibit mental health problems. Many street children left home because of abusive (8 percent) or alcoholic (10 percent) parents or desperate economic conditions (75 percent). Government and NGO estimates of the number of street children nationwide ranged from approximately 2 to 15 thousand, depending on the time of the year. Approximately 80 percent of street children were internal migrants. Street children were detained by police and either sent home (if an address was known) or to a rehabilitation center or orphanage. The two MVD-maintained rehabilitation centers, one each in Bishkek and Osh, were in poor condition and lacked sufficient food, clothes, and medicine.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. Trafficking remained a persistent problem, and victims alleged government officials facilitated, or were complicit in, trafficking. However, the government made significant efforts to address trafficking, including prosecuting several officials involved in trafficking and improving assistance to victims.

Trafficking in persons, including organizing illegal migration and smuggling, is a criminal offense punishable by up to 20 years in prison. Other provisions of the criminal code used to prosecute traffickers included kidnapping, trading in children, recruiting persons for exploitation, coercion into prostitution, rape, and deprivation of freedom. The maximum sentence for those prosecuted under these laws is 15 years. According to the Office of the Prosecutor General, 30 trafficking-related cases were initiated during the year; 3 cases resulted in the convictions of 4 people. Prosecution was difficult due to victims' reluctance to file charges either out of fear, mistrust, or the social stigma attached to trafficking crimes.

In March then president Akayev signed the Law on Preventing and Combating Human Trafficking. The law stipulates legal aspects of preventing and combating trafficking in persons, provides guidelines for coordination of efforts of law enforcement agencies involved in such activities, outlines measures for victim protection and support, and designates a special entity for preventing and fighting trafficking, consisting of representatives of the government, NGOs and international organizations. The law also provides for better protection of trafficking victims.

The MVD has a designated antitrafficking police unit. The National Antitrafficking Council is responsible for developing a government policy to fight trafficking and oversee the efforts of different agencies as they implement government antitrafficking action plans. Following the change of the structure of the government, a new agency, the State Committee for Migration and Employment Issues, was established and is responsible for streamlining labor migration. This agency, the MVD, the Office of the Prosecutor General, and NGOs continued to work on im-

plementation of the 2004–2005 antitrafficking plan of action. Working with the International Labor Organization (IOM), the government started the development of a new program to combat trafficking for 2006–2008. The IOM began implementation of a program sponsored by a foreign government to combat trafficking. Although the government lacked adequate resources to implement many aspects of the action plan, it actively participated in and helped implement numerous NGO and other foreign-donor sponsored antitrafficking programs. Activities included: improvement of antitrafficking laws, changes to the criminal code decriminalizing trafficking victims; an information and public awareness campaign regarding trafficking; training for law enforcement officers and foreign service officers; and monitoring of companies recruiting labor migrants to prevent illegal recruiting. The government cooperated with international organizations and other countries to combat trafficking.

The country was primarily a source and transit point for trafficked persons, although there were increasing reports of the country being a destination for women trafficked as prostitutes. There were no reliable estimates of the number of persons trafficked annually, and no reliable studies had been conducted. However, in 2004 NGOs and government officials estimated that up to four thousand local women were working in the UAE in the sex industry, most presumed to have been trafficked. The NGOs Podruga and Sezim reported that they received approximately 1,500 calls to their hot lines during the year. Some 300 to 500 thousand citizens were estimated to be working as labor migrants in Russia, and 30 to 50 thousand labor migrants were in Kazakstan, some of them illegally. The number of these who were trafficking victims was unknown.

The country was a transit point for individuals trafficked mostly from Uzbekistan and Tajikistan to the West (mainly to Turkey and Eastern Europe). The country was also a source for trafficked women and girls, largely to the UAE, Turkey, Germany, Greece, Cyprus, and South Korea for the purpose of sexual exploitation; and for trafficked persons largely to Kazakhstan, Russia, and Ukraine for forced labor. Labor trafficking was predominant. According to the Osh Migration Service, hundreds of destitute southerners were trafficked to Kazakhstan as forced laborers on tobacco plantations, although this practice declined significantly since the signing of a 2003 bilateral labor agreement between the country and Kazakhstan. In addition there was also internal trafficking from poor, rural areas to Bishkek and Osh.

A flourishing commercial sex industry exploited girls as young as age 10 from destitute mountain villages.

Groups targeted by traffickers included young women unable to earn an adequate living. Poor economic conditions, high unemployment—particularly in the south—and gender inequality made young women and poor workers vulnerable to traffickers who offered lucrative jobs or marriage offers to rich men abroad. The IOM estimated approximately 70 percent of trafficking victims were from the south. Often women were lured abroad via newspaper advertisements or even announcements over loudspeakers in local bazaars. Women responding to job offers for waitresses, au pairs, or dancers, or to marriage agencies could find themselves abroad without documents or money for return tickets and forced to work for their traffickers.

Traffickers were often persons who previously operated local prostitution networks. Relatives or close family friends were also reportedly used to recruit trafficking victims. Tour agents, restaurants, and nightclubs supplemented their activities by trafficking young women to foreign prostitution rings. Traffickers of persons for sexual exploitation included organized crime rings that often used former trafficking victims as recruiters. In some cases traffickers provided escorts, usually an older woman, to accompany victims and facilitate border crossings into countries such as the UAE, where young women were generally not allowed to enter alone. Labor trafficking was much less organized and often involved self-employed recruiters who simply loaded persons onto buses and transported them to the country for work on farms, as well as labor recruitment firms (see section 6.c.).

Endemic corruption impeded the government's efforts to curb trafficking. Victims reported local police, immigration officers, and airport security officials often cooperated with highly organized trafficking operations. Observers believed that some government authorities facilitated or were otherwise complicit in trafficking activities. According to Kubanychbek Isabekov, chair of the parliamentary Commission on Labor Migration, law enforcement officers were involved in trafficking. In July a former officer of the border control department at the National Border Service was arrested for facilitating the trafficking of young women through border checkpoints.

According to a March law, the government may provide foreign trafficking victims with criminal immunity and immunity from deportation for violations committed while being trafficked, provided they cooperate with law enforcement. In addition

such individuals may be granted temporary or permanent residence status. In the past the majority of trafficking victims refused to cooperate with police for fear they would be prosecuted for offenses committed while being trafficked into or out of the country. Many of those who transited the country were abandoned by traffickers and lived in hiding to avoid discovery by authorities. However, there were no reports that the government deported foreign victims of trafficking during the year. The OSCE and IOM reported that many of those who returned from commercial work overseas stated they were forced to pay bribes to law enforcement officials to avoid imprisonment for having improper or falsified travel documents, although border authorities reported that Kyrgyz victims who admitted to the use of false documents or illegal entry into the country were not penalized. During the past year, five trafficking victims cooperated with law enforcement and were not prosecuted for illegal border crossing and document fraud. The government, working with the IOM, returned over 300 trafficking victims from Russia, Kazakhstan, and other countries.

According to NGOs the government did not directly assist trafficking victims, including those repatriated, with any special services or care facilities, but it increasingly referred victims to private shelters such as Sezim, which provided shelter for 41 women during the year. Numerous NGOs conducted workshops for law enforcement officers. A number of NGOs, including Women's Support Center, TAIS-Plus, New Chance, Sezim, and Podruga, provided legal, medical, and psychological counseling and assistance, and economic aid to trafficking victims. In April an IOM-funded shelter for trafficking victims in Osh closed due to lack of funding; it reopened in September. Several NGO-sponsored media articles, public service announcements, and a traveling theater show publicized the dangers of working abroad, and posters on public transport raised public awareness of the problem. Numerous NGOs ran hot lines for victims. During the year Sezim received 514 trafficking-related calls on its hot line and provided shelter to 41 female victims. Podruga received 923 calls on its hot line. During the year the IOM provided assistance to over 300 trafficking victims. The assistance included repatriation (from Kazakhstan, Russia, and other countries), psychological support, shelter upon arrival in Bishkek or Osh, vocational training as well as a monthly stipend.

The IOM, OSCE, various local organizations, and foreign governments sponsored various preventive programs, including antitrafficking public service announcements, roundtables, and workshops to increase awareness among the government, nonprofit, tourism, and media sectors.

The government carried out or participated in a number of antitrafficking and education campaigns. Regional and local governments worked with 18 domestic NGOs on a 2004–2005 information campaign. The NGO Center for Support to Women prepared a book that reviewed trafficking in the country, analyzed international trafficking, reprinted trafficking legislation, and provided recommendations to law enforcement and medical institutions on how to handle trafficking victims. The book was used in seven training workshops for NGOs and seven seminars for law enforcement throughout the country; additionally, the book was disseminated in five schools and two colleges in seminars.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities, but in practice there was discrimination in employment, education, access to health care, and in the provision of other state services for persons with disabilities. The law mandates access to buildings for persons with disabilities, although the government generally did not enforce these provisions in practice. The law provides for access to public transportation and parking for persons with disabilities, subsidies to make mass media available to the hearing or visually impaired, and free plots of land for the construction of a home; however, in practice, few special provisions were in place to allow persons with disabilities access to transportation, public buildings, and mass media. In addition persons with disabilities often had difficulty finding employment because of negative societal attitudes and high unemployment among the general population. The lack of resources made it difficult for persons with disabilities to receive adequate education. Hospitals, special institutions, and boarding homes for persons with mental disabilities were severely strained, due to low budgets and heavy workloads.

Serious problems remained within psychiatric hospitals. The government was unable to provide basic needs such as food, water, clothing, heating, and healthcare, and facilities were often overcrowded. There were documented cases of animal feed being purchased to substitute normal rations for mentally ill patients. Inadequate funding played a critical factor. Mentally disabled children were put into psychiatric hospitals rather than socially integrated with other children. Though they have the right to an education they were not allowed to go to school. Their parents have created special educational centers to educate their children, but they did not receive

any government assistance. Patients were also often admitted involuntarily, including children without mental disabilities who were too old to remain in orphanages. Patients were sometimes engaged in forced labor on hospital grounds (see section 6.c.). The NGO Mental Health and Society continued its work with the health ministry to develop programs aimed at improving conditions in psychiatric hospitals.

During the year under pressure from NGOs, the Chym-Korgon hospital closed down its labor colony, where its patients had worked with no compensation. However, the chief physician of the hospital refused to cooperate with a local NGO project in which patients could work and be paid.

A patient institutionalized at the Chym-Koprgon hospital died under suspicious circumstances three days after the March 24 change of power; foul play rather than neglect was suspected but there was no determination at year's end. The patient had been diagnosed as mentally ill and institutionalized following his attempted murder of Secretary for the State Security Council Misir Ashirkulov.

The lack of transparency in the administration of mental health facilities contributed to abusive conditions.

Some progress in making the work of hospitals more transparent was reported in a Jalalabad hospital, which treats many persons with mental disabilities, and food supply and other conditions improved during the year.

Most judges lacked the necessary experience and training to determine persons should be referred to psychiatric hospitals, and individuals were often institutionalized against their will.

National/Racial/Ethnic Minorities.—There were reports of discrimination against nonethnic Kyrgyz citizens. Minorities alleged discrimination, including from officials, in hiring, promotion, and housing. August statistical data reflected the following ethnic breakdown of the population: 67.4 percent Kyrgyz; 10.3 percent Russian; 14.2 percent Uzbek; 1.1 percent Dungan (ethnic Chinese Muslims); and 1 percent Uighur. Other ethnic groups, including Tatars and Germans, comprised 6.4 percent of the population.

Following the March 24 overthrow of the Akayev government, ethnic minority groups, particularly Russians, expressed fears of increased Kyrgyz nationalism. On several occasions flyers with anti-Russian slogans were distributed around Bishkek. However, no incidents of interethnic violence were reported.

In contrast, a representative of the Uighur community expressed hope that the change of power would end discriminatory actions against the Uighur minority that occurred during the Akayev period. Some Uighurs had reported harassment by authorities, as well as discrimination in employment and negative societal attitudes and media coverage of their community. Until the March 24 revolution former State Secretary Ibraimov prevented the Uighur community from holding festivities, demanding that the leader of the Uighur cultural center refute his earlier anti-Chinese statement in the local press. According to the same source this policy changed with the change of administration in March and ethnic Uighurs were able to elect their nominees to local bodies during the last elections.

Representatives of the large ethnic Uzbek minority alleged on several occasions that officials discriminated against their community. The former governor of the Osh region charged that President Bakiyev removed him from his position, in part because of his Uzbek ethnicity.

The law designates Kyrgyz as the state language and Russian as an official language and provides for preservation and equal and free development of minority languages. Russian-speaking citizens alleged that a ceiling precluded promotion beyond a certain level in government service. They also alleged that some otherwise qualified candidates were disqualified in elections in previous years on the basis of exams, the fairness of which was questioned. Both Uzbek and Russian were widely used both officially and unofficially. A 2004 language law requiring, among other provisions, that the president, prime minister, speaker of parliament, and a number of other unspecified public servants be proficient in Kyrgyz was pending implementation until 2015.

Other Societal Abuses and Discrimination.—According to a Dutch study, people of nontraditional sexual orientation, particularly homosexual men, were among the most oppressed groups, although the country does not outlaw homosexuality. Those whose sexuality was publicly known risked physical and verbal abuse, possible loss of work, and unwanted attention from police and authorities, particularly lower-ranking police. Incarcerated gay men were often openly victimized in prisons by inmates and officials alike.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of all workers to form and belong to trade unions, and workers exercised this right in practice. A new

labor code was adopted in July 2004 and on June 30 amendments were made to the Trade Unions Act. The Federation of Trade Unions (FTU) believed these changes strengthened the legal framework for trade union activities and expanded legal protections for employee rights.

The independent FTU remained the only trade union umbrella organization in the country although unions were not required to belong to it. The FTU had 1,040 million members, or 56 percent of the country's employed workforce. Growing numbers of smaller unions were not affiliated with the umbrella organization. The federation must approve all draft legislation affecting workers' rights. The FTU did not experience any antiunion discrimination.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference and the government protected this right in practice. The law recognizes the right of unions to organize and bargain collectively, and approximately one-third of all trade unions exercised this right. The government set the minimum wage, after which each employer set its own wage level.

While the right to strike was not codified, it was also not prohibited. According to the Deputy Chair of the FTU, no strikes occurred because there were no funds to compensate members for workdays lost due to strikes. However, workers protested against delayed salary payments and arbitrary dismissals. Drivers of van taxies protested against low passenger fees, which were established by the local government.

There are Free Economic Zones (FEZs) that function as export processing zones. The minimum wage law does not apply to the approximately 4,700 workers in FEZs; however, all other labor laws apply.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

The press continued to report that citizens were forced to work without pay on tobacco farms in Kazakhstan, although this practice declined significantly since the signing of a bilateral labor agreement between the government and Kazakhstan. According to different sources, the number of people ranged from several hundred to several thousand.

Local media reported that about 20 Kyrgyz citizens were held hostage in China due to the failure of their relatives to pay for goods purchased from Chinese businessmen. However, according to local NGOs, the actual number of people being held hostage in China was above 100. The Kyrgyz Foreign Ministry continued to negotiate with Chinese authorities for their release.

According to the Chairman of the Parliamentary Commission on Labor Migration Issues Kubanychbek Isabekov, licenses for recruiting labor for work abroad were withdrawn from 15 recruiting companies. Among the companies whose recruiting activities were suspended were Eldorado, which employed workers in South Korea, and Evrozes, which sent labor migrants to Russia. By year's end there were five companies authorized to recruit labor migrants for work abroad, but only two of them—Egemyar and Sara Kountis—were recruiting labor migrants, the former to Kazakhstan and the latter to Turkey.

There were reports that patients in psychiatric hospitals were routinely used for unauthorized labor on hospital grounds and as domestic service for doctors and local farmers. The patients allegedly did not have a choice to refuse and were only paid with food.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law provides for the protection of children from economic exploitation and from work that poses a danger to their health, or spiritual, physical, mental, or academic development. According to the State Labor Inspectorate (SLI) Deputy Director Vladimir Tomchenko, the inspectorate only conducts spot-checks to confirm compliance with child labor law requirements at large industrial sites with strong trade unions, which generally do not allow the use of child labor. The lack of employer-employee contracts in small and medium sized businesses made it impossible to investigate child labor exploitation at those businesses. Under the law, the minimum age for basic employment was 16, except for certain limited circumstances including odd jobs such as selling newspapers.

In addition, the law bans the employment of persons under 18 in a wide variety of categories of employment involving difficult or dangerous conditions, including the metal or oil and gas industries, mining and prospecting, the food industry, entertainment, and machine building.

Children between 14 and 15 years of age are allowed to work a maximum of 5 hours a day; children between 16 and 18 years are allowed a maximum of 7 hours a day.

Child labor was a problem and remained widespread. Child laborers were prevalent in the following sectors: tobacco, cotton, rice, cattle breeding, gasoline sales, car washing, shoe cleaning, and retail sales of tobacco and alcohol. Children also were involved in family enterprises, particularly agriculture, domestic duties, and selling products at roadside kiosks.

According to reports from various NGOs, child labor was particularly evident in the south. During the fall, classes were cancelled and children were sent to fields to pick cotton. During the summer children worked during the tobacco harvest and were involved in all steps of production. Schools required children to participate in the tobacco harvest, some fields were located on school grounds, and the income went directly to the schools, not to the children.

Internal trafficking of children for the purposes of sexual exploitation and labor remained a problem (see section 5). Children were generally trafficked from poor rural areas to Bishkek and Osh.

The government did not enforce child labor laws adequately. Although employers caught violating the law could be charged with disciplinary, financial, administrative, or criminal penalties, punishment was usually minimal.

The prosecutor's office and the state labor inspectorate are responsible for enforcing employers' compliance with labor laws. The General Prosecutor's Office conducted 17 checks, resulting in 5 written notifications, 10 demands for immediate action, 11 warnings, and 1 disciplinary action. Since many children worked for their families or were self-employed in such occupations as selling newspapers, pushing handcarts at markets, and selling cigarettes and candy on the streets, it was difficult for the government to determine whether their work schedules and environment conformed to government regulations.

The FTU also had the right to conduct child labor inspections when it received a complaint; there were no inspections during the year.

e. Acceptable Conditions of Work.—The government-mandated national minimum wage of approximately $2.42 (100 som) per month did not provide a decent standard of living for a worker and family. However, industries and employers generally paid somewhat higher wages. The FTU was responsible for enforcing all labor laws, including the law on minimum wages; minimum wage regulations were largely observed. Salaries in the health care field were among the lowest, averaging $25.74 (1,126 som) per month. According to the National Statistics Committee, 42.9 percent of the population lives in poverty.

The standard workweek was 40 hours, usually within a 5-day week. For state-owned industries, there was a mandated 24-hour rest period in the workweek. According to the labor code, overtime work cannot exceed 4 hours per day and 20 hours per week; premium pay of between 150 and 200 percent the hourly wage or compensatory leave for overtime work are provided for. These provisions were mainly enforced at large companies and organizations with strong trade unions.

Safety and health conditions in factories were poor. The law establishes occupational health and safety standards, as well as enforcement procedures, and the state inspectorate of labor was responsible for enforcement; however, enforcement was lax. Besides government inspection teams, trade unions were assigned active roles in assuring compliance with these laws, but compliance was uneven among businesses. Workers had the right to remove themselves from workplaces that endangered their health or safety without jeopardy to their employment, and workers exercised this right in practice.

LATVIA

Latvia is a parliamentary democracy with a population of approximately 2.3 million. The 2002 elections for the 100-seat parliament were free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens and the large resident noncitizen community; however, there were problems in some areas. The following human rights problems were reported:

- police brutality
- impunity
- poor prison conditions and overcrowding
- lengthy pretrial detention
- judicial corruption
- obstacles to due process

- anti-Semitic violence
- violence against women
- child abuse and child prostitution
- trafficking in women and minors
- racially motivated violence
- societal and occasional government discrimination against homosexuals

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that government officials employed them.

The Latvian Center for Human Rights and Ethnic Studies (LCHRES) received allegations of severe abuse of persons in custody. During a ward search in July, 11 inmates at Valmiera prison sustained serious injuries, including broken ribs, consistent with the use of police batons. Some of the injured did not receive medical attention for 12 to 48 hours.

Accurate statistics on reports of police brutality were unavailable. On February 18, the state police initiated a criminal case against two police officers who beat two individuals apprehended for public drunkenness. Their trial was ongoing at year's end.

LCHRES expressed concern that victims underreported incidents of police brutality. In February 2004 LCHRES conducted a study in which it operated a hot line to collect allegations of police brutality from anonymous callers. Over a 3-day period, LCHRES received 283 complaints regarding police misconduct, 130 of which referred to police brutality. During the year the Latvian National Human Rights Office (NHRO) received 11 written and 23 verbal complaints regarding misconduct. The NHRO reported that the Ministry of Interior and police officials were cooperative in resolving complaints of police brutality, and the NHRO arranged for meetings between complainants and relevant law enforcement agencies where, according to NHRO officials, the Ministry of Interior collected testimony that it used to identify police officials guilty of abuse.

Prison and Detention Center Conditions.—Prison conditions remained poor. Prisons also continued to be overcrowded; nonetheless, overcrowding declined somewhat from 2004. Prison hospitals and general medical care were major concerns. According to a report, a high rate of attempted suicide, resulting from a lack of psychiatric care, was a problem. There were 28 short-term facilities designed to hold detainees less than 72 hours. Both the Council of Europe and the NHRO stated that conditions such as poor ventilation and damp, dark, and unsanitary cells in at least half of these centers violated human rights standards. Unlike in the previous year, there were no reports of abuses in pretrial detention facilities.

The government permitted independent human rights observers to visit prisons and detention centers. During the year domestic groups, such as LCHRES, closely monitored prison conditions.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The security forces consist of the national police, the special immigration police, the border guards, and other services, who are subordinate to the Ministry of Interior; municipal police who are under local government control; the Military Counterintelligence Service and a protective service, which are under the Ministry of Defense; and the national guard, an element of the armed forces. Allegations of corruption and bribery within law enforcement ranks were frequent and affected the public's perception of police effectiveness. According to a report during the year by the anticorruption nongovernmental organization (NGO) Providus, 57 members of the security forces were convicted of corruption-related offenses between 2003 and 2004: 42 members of the state police, 7 members of municipal police forces, and 8 members of the border guards. In the first half of the year the Anti-Corruption Bureau (ACB) initiated cases against the following members of the security forces: three members of the Riga city main police board for allegedly demanding and receiving a bribe to avoid inspections from a businessman; a member of the traffic police for his role in an alleged attempt to falsify blood-alcohol tests; and a police inspector for extortion and bribery.

Arrest and Detention.—The law requires that persons be arrested openly and with warrants issued by a duly authorized judicial official, and the government generally respected this requirement in practice. The law provides a person in detention with the right to a prompt judicial determination of the legality of the detention, and authorities generally respected this right in practice. Detainees were promptly informed of charges against them. The law requires the prosecutor's office to make a formal decision whether to charge or release a detainee within 72 hours after arrest, which was followed in practice. Charges must be filed within 10 days of arrest, and this was followed in practice. A bail system exists; however, it was infrequently used and applied most often in cases of economic crimes. Detainees have the right to have an attorney present at any time. If indigent an attorney is provided by the government. Detainees were allowed prompt access to family members. These rights are subject to judicial review but only at the time of trial.

There were no reports of political detainees.

The law limits pretrial detention to no more than 18 months from the first filing of the case; however, lengthy pretrial detention was a problem. Persons in pretrial detention had limited contact with outside NGOs or family and suffered from considerably worse living conditions than detainees in general.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, there were significant problems, including inefficiency and corruption.

The judicial system is composed of district (city) courts; regional courts, which hear appeals from district courts and can also serve as courts of first instance; a separate administrative court, which adjudicates administrative violations; the supreme court, which is the highest appeals court; and the seven-member constitutional court, which hears cases regarding constitutional issues at the request of state institutions or individuals who believe that their constitutional rights were violated. For more serious criminal cases, two lay assessors join the professional judge on the bench at the district and regional levels.

Corruption in the judicial system was widespread. Through June the ACB had initiated 29 criminal cases against various government officials, compared with 35 in all of 2004 and 21 in 2003. As of June the ACB had passed 21 criminal cases to the Prosecutor's Office for prosecution of 41 persons, including police officers and deputy candidates in municipal elections. In August the justice minister fired three bailiffs following their indictment by the prosecutor general for fraud, abuse of power, and bribery. In 2004 the ACB arrested and launched a criminal case against a prosecutor for corrupt practices. The prosecutor general dismissed the accused prosecutor, and the criminal case was ongoing at year's end. During the year the ACB reported that it had received 114 complaints against members of the bailiff service and the prosecutor general announced criminal cases against seven bailiffs. A time-consuming judicial process and a shortage of judges overloaded the courts.

Trial Procedures.—Trials generally are public; however, they may be closed if government secrets might be revealed or to protect the interests of minors. Juries were used in some cases, but not in others. All defendants have the right to be present at their trial and to consult with an attorney in a timely manner, and the government provided funds to indigent defendants for this purpose. Defendants have the right to read all charges, confront all witnesses, and may call witnesses and offer evidence to support their case. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and can make multiple appeals.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, although the press law prohibits censorship of the press or other mass media, the media law contains a number of restrictive provisions regulating the content and language of broadcasts.

Primary terrestrially broadcast radio and television stations are required to use the state language, Latvian, and secondary terrestrial broadcasters are allotted up to 20 percent of total broadcast time for non-Latvian language programming, which should be simultaneously translated using subtitles. However, the laws only apply to terrestrial broadcasts. Non-Latvian language broadcasts were available on cable.

The independent media were active and expressed a wide variety of views without restriction.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the authorities may not prohibit public gatherings; however, organizers of demonstrations must provide advance notice to local authorities, who may change the time and place of public gatherings for such reasons as fear of public disorder. The law also requires protesters to remain specified distances from foreign diplomatic missions, the parliament, the Prosecutor's Office, and certain other public institutions. Independent human rights organizations argued that the law's provisions were contradictory and confusing. Nevertheless, numerous demonstrations took place peacefully and without government interference during the year. However, a gay pride parade in July had its permit approved, revoked, and then reinstated.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice; however, the law bars the registration of Communist, Nazi, or other organizations whose activities would contravene the constitution. Nevertheless, many nationalist organizations using fascist-era symbols, slogans, and rhetoric operated openly. Noncitizens may join and form political parties. Every party must have at least two hundred citizens as members in order to register. At least half of the total membership must be citizens.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, bureaucratic problems for "nontraditional" religions persisted.

There is no state religion, but the government distinguishes between "traditional" (Lutheran, Roman Catholic, Orthodox, Old Believers, Baptist, and Jewish) and "new" religions. The "new" religions were subject to bureaucratic regulations and paperwork requirements not applicable to "traditional" religions and have more difficulties purchasing property.

Although the government does not require the registration of religious groups, the law accords religious organizations certain rights and privileges when they register, such as a separate legal status for owning property or for other financial transactions, as well as tax benefits for donors.

According to ministry of justice officials, most registration applications were approved once proper documents were submitted. The law does not permit simultaneous registration of more than one religious group (church) in a single confession, and the government has denied the applications of splinter groups on this basis.

Foreign evangelists and missionaries were only permitted to hold meetings and to proselytize if domestic religious organizations invited them to conduct such activities. Foreign religious denominations criticized this provision.

The law provides that only representatives of the Lutheran, Roman Catholic, Orthodox, Old Believers, Baptist, and Jewish religions may teach religion to public school students who volunteer to take the classes.

Societal Abuses and Discrimination.—During the year there were a few reports of low-level societal harassment and discrimination against resident missionaries of the Church of Jesus Christ of Latter-day Saints, including a few reports of violence such as kicking and pushing down stairs.

The Jewish community numbers approximately 9,500 and is largely secular and Russian speaking. There was one synagogue operating in Riga. In April the Orthodox rabbi of Riga was accosted in the city's main square by a group of young men and subjected to anti-Semitic epithets. Suspects were detained and at least one has been charged with hooliganism. During the year the president made several public speeches and appearances commemorating the Holocaust and criticizing manifestations of anti-Semitism.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law stipulates that noncitizens are prohibited from owning land in the border zones.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided some protection

against *refoulement*, the return of persons to a country where they feared persecution. However, there were reports that authorities systematically turned away refugees and asylum seekers at the border, particularly at the border with Belarus. The government granted refugee status or asylum.

During the year the government did not provide temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

Illegal immigrants held at the Olaine detention camp did not have access to information about their rights, including their right to apply for asylum, and had limited recreation opportunities. In August seven Somali refugees were detained at Olaine detention camp. A court declared them to be illegal immigrants, but NGOs and a former government official claimed that the Somalis were not made aware of their legal rights or offered an opportunity to request asylum. In December the Somalis appealed the court ruling, and the case was pending at year's end.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Free and fair elections for parliament were held in 2002, and the parliament elected the president in June 2003. In March nationwide local elections were held; although largely free and fair, vote-buying scandals resulted in the election outcomes being challenged in the cities of Jurmala and overturned in Rezekne. Both incidents prompted ACB investigations. By the middle of the year, the ACB had begun criminal proceedings against five individuals. The cases were pending at year's end.

The election law prohibits the holding of elective office by persons who remained active in the Communist Party or various other pro-Soviet organizations after January 1991 or who worked for such institutions as the former Soviet Committee for State Security.

There were 21 women in the 100-member parliament, and there were 4 women in the 18-member cabinet of ministers. The president was a woman. The speaker of the parliament was a woman.

Nonethnic Latvians, including ethnic Russians and Poles, served in various elected bodies. According to the parliament's website, there were 22 members of minorities in the 100-seat parliament, including 15 ethnic Russians, 1 ethnic Pole, 1 Jew, 1 Karelian, and 4 others who declined to list their ethnicity.

Government Corruption and Transparency.—There was a widespread perception of corruption throughout all levels of the government. Through June the ACB initiated 21 criminal cases, compared with 35 in all of 2004.

A cabinet of ministers' regulation provides a mechanism for public access to government information, and the government generally provided access in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination due to race, gender, language, or disability; however, violence against women and racial minorities, societal discrimination against women and homosexuals, child abuse, and trafficking in persons were problems.

Women.—Violence against women, including spousal abuse, is against the law. Although domestic violence was a significant problem, the government did not effectively enforce the law, in large part, because abuse was underreported. Victims of abuse often were uninformed about their rights and were reluctant to seek redress through the justice system. Human rights groups asserted that the legal system, including the courts, sometimes did not take domestic violence cases seriously, and that the police were often reluctant to make arrests in such cases. There were no shelters designed specifically for battered or abused women. There are no dedicated rape or assault hot lines; however, NGOs managed two crisis hot lines.

The law specifically criminalizes rape but does not recognize spousal rape. A local NGO, the Skalbes Crisis Center reported that rape laws were ineffective and stated that rapes were underreported due to a tendency by police to blame the victim.

Prostitution is legal, although procuring is not. Prostitution was widespread and often was linked to organized crime. During the year large increases in sex tourism were reported.

Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment is illegal; however, in the absence of complaints, the government was unable to enforce the law. Sexual harassment of women in the workplace reportedly was common. Cultural factors tended to discourage women from coming forth publicly with complaints of harassment.

Women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The law prohibits employment discrimination; however, in practice women frequently faced hiring and pay discrimination, especially in the emerging private sector. The law also prohibits women from performing "hard jobs or jobs having unhealthy conditions," which are specified in a list agreed upon by the cabinet and labor unions.

The law prohibits work and pay discrimination based on gender and requires employers to set equal pay for equal work. Some local NGOs questioned the ability of the government to enforce gender equality laws, claiming that the police agencies responsible for enforcing such laws lacked the skills to do so.

Children.—The government was committed to children's rights and welfare; however, constitutional provisions on children and the law on the rights of the child were not enforced fully in practice.

Primary schooling is free, compulsory, and universal through the 9th grade (between the ages of 7 and 16) and free through the 12th grade (age 18).

Access to health care was universal, and there were no reports of discrimination based on sex.

Abandonment and child abuse, including sexual abuse, were common. NGOs reported that laws against child abuse were enforced effectively. Law enforcement authorities have won court suits to remove children from abusive parents and secured convictions in child molestation cases. Children who were from families that were unable to care for them had access to government-funded boarding schools that provided adequate living conditions; however, these schools offered lower educational standards than regular state schools.

Child prostitution remained a problem. During the year the police reported that, due to the imposition of severe penalties for rape and sexual exploitation of minors, the reported incidence of child prostitution sharply declined. According to the police, previous estimates that 12 to 15 percent of prostitutes were between the ages of 8 and 18 were exaggerated and during the year noted that there were only a few reported cases. Nevertheless, legal protections for offenses committed against children were rarely enforced in the case of child prostitutes.

Trafficking in young girls for sexual exploitation abroad remained a problem (see section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking in women and minors to, from, and within the country was a problem.

The law specifically prohibits "trafficking in persons"; however, most traffickers continue to be prosecuted under a statute that prohibits sending persons abroad for sexual exploitation. The law provides for sentences of up to 15 years' imprisonment for trafficking in persons and for sentences of up to 6 years' imprisonment for sending persons abroad for sexual exploitation. During the year the number of investigations into crimes related to trafficking increased. During the first 8 months of the year, a total of 22 persons were convicted; 17 of them received conditional sentences, which are similar to probation. Although there are severe penalties under the law against trafficking in persons, the courts applied this section of the law only in one case. In other cases those sections of the law that criminalize pimping and alien smuggling for sexual exploitation were applied by the courts, imposing less severe penalties.

Cooperation between the border guards, police, and NGOs increased and contributed to effective control of the border areas. International cooperation in investigations and prosecutions was well established with Denmark and Germany. In comparison with previous years, cooperation with Swedish, Lithuanian, Estonian, and Finnish law enforcement agencies improved. The Border Guard Service managed an information database used to reveal trafficking trends.

At year's end the government had not fully implemented the National Action Plan to Combat Trafficking in Persons, which was adopted in March 2004. The Ministry

of Interior had primary responsibility for antitrafficking activities. In late 2004 parliament amended the law to expand the definition of trafficking in persons to include internal trafficking. Parliament also made sending persons abroad for sexual exploitation a felony, increasing the penalty under the law to six years' imprisonment, and made the victim of the crime eligible for special protection. In addition the working group made a government-administered shelter for immigrants and refugees available for trafficking victims, developed an antitrafficking curriculum for high schools, and initiated a study of the problem of sex tourism in the country. However, the government lacked the funds to implement much of the action plan.

The country was primarily a source and transit point for trafficked victims. The main countries of destination were Germany, Spain, Great Britain, Italy, Switzerland, and the Nordic countries. There were reports, including from the European Police Service, that trafficking in women and girls for sexual exploitation abroad increased. Women, including well-educated women, homeless teens, and minors graduating from orphanage boarding schools, were among those most at risk to be trafficked. Males were also trafficked. Trafficking within the country also occurred, and women from poor districts were often trafficked for sexual exploitation to Riga, Liepaja, and Ventspils. However, no criminal cases were initiated for trafficking in persons within the country.

Traffickers, primarily organized criminal groups, usually lured victims through false offers of employment for jobs such as dancers, bartenders, and babysitters in European countries. A large number of victims were drawn from the economically depressed areas of the country's eastern regions. While some victims were recruited through job advertisements or modeling and travel agencies, most victims were solicited through direct contact with traffickers. Traffickers often recruited their victims at cafes and clubs, and victims themselves recruited new victims for the traffickers.

There were some assistance programs, principally organized by NGOs and the International Organization for Migration (IOM); however, the government recognized a need for improvement. Marta Centers continued its operations to educate adolescents regarding trafficking issues. The Council of Youth Health Ceners (CYHC) organized local working groups to combat trafficking in Daugavpils and Liepaja. During the year the CYHC and the Judicial Training Center carried out projects to educate judges and prosecutors about the severe nature of human trafficking. The IOM and several NGOs sponsored conferences on trafficking, and there were multiple antitrafficking education campaigns. In addition, the IOM sponsored a campaign warning young people in the Baltic states of the dangers of accepting attractive employment offers from abroad. The IOM and other NGOs carried out a project for school teachers and invited them to screenings of the film *Lilya 4-Ever*, which depicts the life of a young trafficking victim.

The government acknowledged its responsibilities for the protection of trafficking victims in the National Action Plan to Combat Trafficking in Persons; however, lack of resources and competing budget priorities have limited its ability to provide direct assistance to trafficking victims. Currently, most assistance to victims comes from local NGOs and IOM. Marta Centers, operating in cooperation with the IOM and partially funded by foreign grants, offered assistance to trafficking victims in the form of crisis counseling, professional referrals, and reintegration assistance. The government provided its Center for Asylum Seekers as a shelter for trafficking victims. At year's end only 17 victims had sought assistance.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. The law mandates access to buildings for persons with disabilities; however, most buildings were not accessible.

In 2003 the LCHRES and the Mental Disability Advocacy Center stated that "the review procedure for detention on grounds of mental disability fails to meet human rights standards, the criteria for compulsory admission into psychiatric institutions are too broad, and the provisions on consent to treatment does not meet international principles." The NHRO further stated that committed patients suffered abridged rights that prevented them from corresponding with relatives and placed arbitrary restrictions on freedom of communication.

National/Racial/Ethnic Minorities.—The Ministry of Social Integration and the National Human Rights Office is responsible for the protection of minority rights.

During the year attacks against racial minorities were a problem.

During the year there were four reported violent attacks against racial minorities, including one against the head of the country's African-Latvian community NGO and another against a Sri Lankan medical student. The NGO leader's attackers

chased him through the city and threatened to kill him before bystanders intervened and called the police. No attacks resulted in death. Misdemeanor charges were brought against some of the perpetrators. In response to these incidents, the president, prime minister, social integration minister, and foreign minister all spoke out against racism and racist violence. The interior ministry has reached out to NGOs and minority groups and adjusted its police patrolling patterns to counter racist violence. There was limited improvement in the effectiveness of prosecution of such crimes; most perpetrators were charged with petty hooliganism, a misdemeanor offense. The Ministry of Interior has begun educating the police force about hate crimes and the proper methods of investigation.

The Roma faced high levels of unemployment and illiteracy, as well as widespread societal discrimination.

Other Societal Abuses and Discrimination.—Societal violence and discrimination against homosexuals was a problem. For example, in July the Riga city government, after coming under criticism from the prime minister, various political parties, and religious groups, revoked the permit that it had issued for the country's first gay pride parade. Although a local court eventually reinstated the permit, the prime minister criticized the planned parade, stating that the country is founded on Christian ethics and that holding the parade would be inappropriate. The transport minister called for the removal of Riga's mayor for complying with the court order.

Section 6. Worker Rights

a. The Right of Association.—The law entitles workers, except for the uniformed military and police, to form and join unions of their choice, without previous authorization or excessive requirements, and workers exercised this right in practice. As of 2003 approximately 18 percent of the workforce was unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for collective bargaining, and workers exercised this right in practice. The law recognizes the right to strike, subject to limitations including prolonged pre-strike procedures and prohibition of some types of solidarity strikes and political strikes. Workers generally exercised the right to strike during the year, but labor regulations prohibit judges, prosecutors, police, fire fighters, border guards, employees of state security institutions, prison guards, and military personnel from striking. A labor law addressing disputes identifies arbitration mechanisms that unions and members of the professions forbidden from striking may use in lieu of striking. There are no special laws or exemptions from regular labor laws in the four special economic zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law and policies protect children from exploitation in the workplace, including policies regarding acceptable working conditions, and the government effectively implemented these laws and policies in practice. The law restricts employment of those under the age of 18 by prohibiting night shift or overtime work. The statutory minimum age for employment of children is age 15, although children between the ages of 13 and 15 may work in certain jobs outside of school hours.

Children were trafficked for sexual exploitation, and child prostitution was also a problem (see section 5).

Inspectors from the Ministry of Welfare's State Labor Inspectorate were responsible for enforcing the child labor laws, and they enforced the laws effectively.

e. Acceptable Conditions of Work.—The legally mandated monthly minimum wage of approximately $146 (80 lats) did not provide a decent standard of living for a worker and family. As of September the actual average monthly wage was $427 (246 lats). The State Revenue Service is responsible for enforcing the minimum wage regulations, and they effectively enforced them.

The law provides for a mandatory 40-hour maximum workweek with at least one 42-hour rest period weekly. There is a prohibition on excessive compulsory overtime. Premium pay is one of the ways workers may be remunerated for overtime.

The laws establish minimum occupational health and safety standards for the workplace, which were effectively enforced. Workers have the legal right to remove themselves from situations that endangered health or safety without endangering their continued employment; however, authorities did not enforce this right.

LIECHTENSTEIN

The Principality of Liechtenstein, with a population of approximately 34 thousand, is a constitutional monarchy with a parliamentary government. The parliament nominates and the monarch appoints the members of the government. A two-party coalition government was formed after free and fair parliamentary elections in March. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. The following human rights problem was reported:

- violence against women, including spousal abuse

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. In December 2004 the Council of Europe's (COE) Commissioner for Human Rights visited the only prison and reported that it generally met international standards.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The security forces are composed of the regular and auxiliary police under the interior ministry. There is no standing military force. Corruption and impunity were not problems. Police automatically report allegations of misconduct to the prosecutor's office, and any person subject to wrongful police action also can file a complaint with the chief of police. A failure of either the prosecutor's office or the chief of police to open an investigation can be appealed to the government and, subsequently, to the administrative courts.

Arrest and Detention.—Police arrest a suspect based on an arrest warrant issued by the national court. Within 48 hours of arrest, police must bring suspects before an examining magistrate who must either file formal charges or order release. Release on personal recognizance or bail is permitted unless the examining magistrate has reason to believe that the suspects are a danger to society or would not appear for trial. The law grants suspects the right to legal counsel of their own choosing, and counsel was provided at government expense to indigent persons. However, the law does not grant a suspect access to a lawyer at the time of detention but only after an examining magistrate has filed formal charges. During police detention visits are commonly not allowed, although in practice suspects may inform family members. During investigative detention, visits can be monitored to prevent tampering with evidence.

The COE's Commissioner for Human Rights in May criticized the fact that the law did not guarantee prompt access to legal counsel at the outset of detention.

In 2004 the UN Human Rights Commission (UNHRC) expressed similar concerns about shortcomings in the protection of arrested or detained persons, noting that the law does not require informing them of their right to remain silent, their right to be brought promptly before a judge, and to have access to legal counsel. In response to these criticisms, police internal regulations issued in December 2004 instructed staff to grant suspects access to a lawyer upon request.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judicial system has three tiers: a court of first instance, the appellate court, and the supreme court. The court of first instance is the national court. In addition, an administrative court hears appeals against government decisions. The state court protects the rights accorded by the constitution, decides conflicts of jurisdiction between the law courts and the administrative authorities, and acts as a disciplinary court for members of the government.

In 2004 the UNHRC expressed concern that the mechanism for appointment and tenure of judges may not be compatible with the principle of the independence of the judiciary.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials involving minor offenses were heard by a single judge, more serious or complex cases by a panel of judges, and the most serious cases, including murder, by a public jury. The law grants defendants the right to legal counsel of their own choosing, and counsel was provided at government expense to indigent persons. Defendants may challenge witnesses or evidence and present witnesses or evidence on their own behalf. Defendants are presumed innocent and have access to government-held evidence relevant to their case. Convicts had the right to appeal, ultimately to the supreme court.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The Roman Catholic Church is the official state church, and its finances are integrated directly into the budgets of the national and local governments. The government also provided financial support to the Protestant and Christian Orthodox communities.

Roman Catholic or Protestant religious education was compulsory in all primary schools, but the authorities routinely granted exemptions for children whose parents requested them.

The COE's Commissioner for Human Rights in May criticized the fact that standing policy favored the Catholic Church over other religious communities in the distribution of state subsidies and urged the government to review its policies to ensure an equitable distribution of these funds. In 2004 the UNHRC also expressed concern about the unequal treatment of different religious denominations in the allocation of public funds. The issue of state subsidies to religious communities form part of the government sponsored discussions to reach consensus on the redefinition of the relationship between the state and the Roman Catholic Church.

Societal Abuses and Discrimination.—In a 2004 report the UNHRC found evidence of religious intolerance and discrimination against Muslims (see section 5).

There were no reports of anti-Semitic acts. According to 2002 data, there were 18 members of the Jewish community.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law does not prohibit forced exile, but the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status in one instance during the year.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to two persons during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

A trilateral agreement with Switzerland and Austria requires the government to return persons who enter from Austria or Switzerland without permission to the respective authorities.

The government used a list of "safe countries of origin" to decide asylum applications; the list was identical to the list used by the government of Switzerland.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Parliamentary elections, considered free and fair, were held in March; the center-right Progressive Citizens' Party won 12 seats, the center-left Fatherland Union won 10 seats, and the green-alternative Free List won 3 seats in the 25-member parliament.

The monarchy is hereditary in the male line. Prince Hans-Adam II is the head of state. Since August 2004, Hereditary Prince Alois has taken on the duties of head of state, exercising the rights of office on behalf of the Reigning Prince. All legislation enacted by the parliament must have the concurrence of the monarch and the prime minister.

There were 6 women in the 25-seat parliament and 1 woman in the 5-seat cabinet.

There were no known members of minorities in the government.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The law requires the government to inform the public of its activities, and government information was available freely to all persons living in the country, including foreign media.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A few domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, language, or social status. The law also prohibits public incitement to violence or public agitation or insult directed against a race, people, or ethnic group.

Women.—Violence against women, including spousal abuse, was a problem. Frauenhaus, a woman's shelter nongovernmental organization (NGO), stated that one out of five women was a victim of domestic violence. The law prohibits all forms of domestic violence and provides for restraining orders against violent family members. According to police, there were 20 police interventions in cases of domestic violence during the year, in which three male aggressors were prevented from reentering the family home for 10 days and six for a further period of three months. The government may file charges without a complaint from the victim. Frauenhaus provided refuge for battered women, including non-residents, and dependent children.

In 2004 the government concluded a joint project with Swiss and Austrian neighboring regions to combat domestic violence with additional awareness-raising activities and issued a best-practice guideline in several languages for affected friends and relatives.

Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted those accused of such crimes. Spousal rape has the same penalties as rape under other circumstances. The sentence may be lowered if the victim decides to remain with the abusive spouse. There were nine prosecutions for rape resulting in three convictions during the year. One case remained pending at year's end. Police statistics do not separately record spousal rape.

Public soliciting by prostitutes is illegal; however, police tolerated prostitution in the country's few nightclubs. Any person leading another into prostitution faces up to six months in prison or heavy fines, or both, and up to three years in prison if the victim was under 18. The police closely monitored prostitutes' working conditions and salaries but acknowledged that some foreign middlemen employed women working in the country.

NGOs believed that trafficking in women occurred; however, no specific cases were documented during the year (see section 5, Trafficking).

Sexual harassment is illegal and punishable by up to six months in prison or a fine, and the government effectively enforced these prohibitions. Employers are required to take reasonable measures to prevent sexual harassment, and failing to do so may entail damages to a victim of up to $32 thousand (40 thousand Swiss francs). There were 14 proceedings for sexual harassment during the year resulting in five convictions. One case remained pending at year's end.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. But societal discrimination continued to limit opportunities for women in fields traditionally dominated by men. Men earned more than women, and women generally did not receive equal pay for equal work.

Children.—The government was committed to children's rights and welfare and funded a system of public education and health care. Education is universal and compulsory until the ninth grade; it is free through the end of high school. Virtually all school-age children attend school. Approximately 50 percent complete professional, vocational, or technical training, with another 30 percent going on to earn higher-level specialized or university degrees.

The government provided free health care for children under the age of 16, to which boys and girls had equal access.

There were some reports of abuse of children. During the year there were eight prosecutions but no convictions for child abuse. Four cases remained pending at year's end. In April the commission for the coordination of professionals in cases of sexual offenses against children published a brochure for professionals likely to be confronted with child abuse that included best practice guidelines to facilitate the exchange of information between all parties. Each year the commission generally was contacted in 12 to 14 cases of suspected sexual abuse.

Possession of child pornographic material is a statutory offense. The government has extended the statute of limitation for sexual offenses against children. In January an amendment to the Code of Criminal Procedure was implemented that takes special account of the protective needs of young victims of crimes or victims of sexual offenses. In January the national court fined a 28-year-old citizen $22,500 (28 thousand Swiss francs) for possession of child pornographic material.

The government supported programs to protect the rights of children and matched contributions made to three NGOs that monitored children's rights. The office for social services oversaw the implementation of government-supported programs for children and youth.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country; however, some NGOs believed that trafficking in women occurred but was not reported.

In May the COE's Commissioner for Human Rights expressed concern that the temporary immigration status in conjunction with the precarious economic situation of the majority of foreign cabaret dancers increased the risk of them falling prey to trafficking networks and called on the authorities to be vigilant in monitoring respect of contractual obligations by the hiring night club owners.

Persons with Disabilities.—Although the law does not prohibit discrimination against persons with disabilities, there was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law requires that government buildings and services be made accessible to persons with disabilities, and the government generally enforced these provisions in practice.

National/Racial/Ethnic Minorities.—In 2004 the UNHRC expressed concern about the persistence of xenophobia and intolerance, especially against Muslims and persons of Turkish origin.

Rightwing extremists, including skinheads, were publicly active during the year, but their numbers were no more than 20 to 40. There were some reports of skinhead incidents but none involving racially motivated attacks on foreigners or ethnic minorities during the year. The government continued to monitor right-wing groups. A government advisory commission attempted to raise public awareness in order to address the problem of acts of violence in public areas such as schools and playgrounds. A commission is working on guidelines to reduce violence at public events. During the year police dealt with a few isolated incidents of random violence at public festivals, which targeted neither foreigners nor minorities and involved intoxicated skinheads.

Section 6. Worker Rights

a. The Right of Association.—The law provides that all workers, including foreigners, are free to associate, join unions of their choice, and select their own union

representatives, and workers exercised these rights in practice. Due to the country's small size and population, there was only one trade union, which represented approximately 13 percent of the work force. The law does not prohibit antiunion discrimination, but there were no reports that antiunion discrimination occurred.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right of workers to organize and bargain collectively. About 25 percent of workers were covered by collective bargaining agreements. Workers have the right to strike except in certain essential services. No strikes occurred during the year; there were no reports of denials of the right to strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace. The law prohibits the employment of children less than 16 years of age. However, exceptions may be made for the limited employment of children age 14 and over and for those who leave school after completing nine years of compulsory education. Children age 14 and older may be employed in light duties for not more than 9 hours per week during the school year and 15 hours per week at other times.

On May 1, a new ordinance was implemented that outlaws labor that subjects children to physical, psychological, moral, or sexual abuse.

The government devoted adequate resources and oversight to child labor policies, and the department for worker safety of the office of the national economy effectively supervised compliance with the law. The department for worker safety completed 248 onsite inspections during the year but found no major violations of the law.

e. Acceptable Conditions of Work.—There was no national minimum wage; however, the average daily wage provided a decent standard of living for a worker and family.

The law sets the maximum workweek at 45 hours for white-collar workers and employees of industrial firms and sales personnel and 48 hours for all other workers. The law provides for a daily mandatory 1-hour break and an 11-hour rest period for full-time workers, and, with few exceptions, Sunday work was not allowed. Pay for overtime was required to be at least at a 25 percent higher pay rate and overtime generally was restricted to 2 hours per day. Over a period of four months the average total work week including overtime must not exceed 48 hours.

The law sets occupational health and safety standards, and the department for worker safety generally enforced these provisions effectively. The law provides for the right of workers to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, and workers exercised this right in practice.

LITHUANIA

Lithuania, with a population of approximately 3.4 million, is a constitutional, multiparty, parliamentary democracy. In June 2004 citizens elected President Valdas Adamkus and Prime Minister Algirdas Mykolas Brazauskas in generally free and fair elections. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- poor prison conditions
- police abuse or mistreatment of detainees and misapplication of detention laws
- restrictions on privacy rights
- increased anti-Semitic incidents
- societal violence against women
- child abuse
- trafficking in persons for sexual exploitation
- limits on workers' rights

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

Both the International Commission to Investigate the Crimes of Nazi and Soviet Occupation Regimes and the Prosecutor General's Office continued investigations of genocide, war crimes, and crimes against humanity related to Nazi crimes committed against Jews during World War II. From January to October, the Prosecutor General's Office initiated three pretrial investigations and continued investigations in 23 cases related to Nazi crimes. In September, following pretrial investigation, the government brought criminal charges against Algimantas Mykolas Dailide, alleging collaboration with Nazis and persecution of Jews.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits inhuman or degrading treatment or punishment; however, at times police beat or otherwise physically mistreated detainees, although such incidents continued to decline. The law does not specifically prohibit torture; however, it could be considered an aggravating factor in the commission of other crimes.

From January to June, the Ombudsman's Office received isolated complaints that officials used force to obtain evidence in pretrial investigations. The ombudsman investigated a complaint alleging the transfer of a diabetic suspect, in custody during pretrial investigation, to a facility unable to meet her medical needs. Considering the transfer a form of psychological pressure to coerce testimony, the ombudsman ordered the suspect's release and requested the police commissioner general to investigate the case and take measures to prevent such recurrences. Prosecutors initiated a pretrial investigation but closed it for lack of evidence.

In February local media reported a complaint that Alytus police bound and beat a suspect in custody. A police investigation failed to confirm that the officers involved had committed a crime, and the authorities did not indict them.

Incidents of noncommissioned military officers hazing recruits increased during the year. The military police opened 11 hazing-related criminal cases, compared with 7 such cases in 2004. The military police terminated one pretrial investigation due to lack of evidence of criminal acts. Most reports of hazing alleged that higher-ranking officers beat soldiers or subjected them to psychological pressure. An unconfirmed press account alleged that in a hazing incident superiors placed plastic bags on soldiers' heads. In 2004 investigators passed four of the seven cases opened by the military police to the Prosecutor's Office. (Of the other three, investigators closed one case due a lack of evidence; the victim and the accused reached an agreement to close a second case; and one investigation remained pending at year's end.)

Prison and Detention Center Conditions.—Prison conditions remained poor and life threatening. Inadequate sanitation, overcrowding, and limited access to medical services persisted. Completed reconstruction of several prisons reduced overcrowding.

Parliament controllers noted a marked increase in complaints from prisons and pretrial investigation detention facilities during the year. They also noted a marked decrease in complaints from investigation wards and that prolonged transfer of suspects to interrogation facilities continued. Prison authorities arbitrarily restricted rights of prisoners who had good conduct records, arbitrarily interfered with inmates' correspondence, separated prisoners with HIV, and did not ensure access to medical services in jails. Arrested and detained persons generally suffered worse living conditions than did convicted persons. By December the controllers received 283 complaints, 103 more than in all of 2004. Most complaints were related to prison conditions and actions of prisons department personnel. Investigators determined that 30 were justified, and 91 were outside the parliamentary controllers' purview.

From January to November, 23 prison inmates died (10 by suicide, 11 of natural causes, 1 as a result of an accident, and 1 killed by another inmate), compared with 11 inmate deaths in 2004. The prisons department reported that the lack of mental health treatment for inmates could have contributed to the increase in suicides.

From January to November, there were 59 injuries inflicted by other inmates, more than twice as many as in 2004, and 62 self-inflicted injuries, also an increase from 2004.

From January to November, 3 detainees in jails committed suicide, and 62 injured themselves in protests against authorities.

As of June two correctional institutions remained seriously overcrowded. For example, the Siauliai facility, designed for 350 persons, held 665 inmates. Additionally, controllers concluded that conditions in the jails in the towns of Ukmerge,

Anyksciai, and Zarasai were unfit for use. Unlike in the preceding year, the ombudsman received no complaints that inmates were paid for fewer hours than they worked.

Unlike in the preceding year, there were no reported acts of violence in juvenile detention facilities.

Parliamentary controllers also instructed the prisons department to improve accounting practices for prisoners' labor on holidays and days off. The need for the instruction arose after investigators discovered that an inmate in the Marijampole correctional institution was assigned to work in the facility's canteen for 6 hours a day, up to 17 days consecutively, with neither the mandatory 2-day weekly break and holidays, nor appropriate compensation. After controllers intervened, the inmate received compensation.

Pretrial detainees were generally held separately from convicted criminals, but there were reports that police held individuals in jail for minor offenses together with criminal suspects.

The government continued reconstructing correctional facilities and increased funding for prisoner rehabilitation and job training.

The government permitted visits to prisons by independent human rights observers and researchers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, there were instances of prolonged pretrial detention.

Role of the Police and Security Apparatus.—A unified national police force is responsible for law enforcement, and it consists of the public and criminal police. The police department, which overseas both units, operates under the authority of the Ministry of Interior. The State Security Department is responsible for internal security, intelligence operations, and reports to parliament and the president. The security forces are generally effective.

Corruption in the police system remained a problem. Transparency International reported that the police force was among the country's most corrupt institutions but that lower ranking officials were more corrupt than their superiors. Although police officers and other government officials occasionally exceeded official authority, they were subject to prosecution or punishment for doing so. The Inspector General's Office and the police department's Internal Investigation Division investigated police abuse. Prosecutors and parliamentary controllers carried out independent investigations.

From January to November, 22 police officers were found guilty of abuse of power. By December controllers had investigated 212 complaints regarding police activities and determined 50 to be justified. Authorities disciplined the police officers involved. In most cases police officers faced administrative disciplinary actions such as demotions or reprimands.

In July the anticorruption Special Investigation Service initiated charges against the head of the Vilnius police for abuse of power. Following a series of scandals, the former police chief resigned from office.

Arrest and Detention.—Warrants are required for arrest and are granted by judges upon the presentation of reliable evidence of criminal activity. Police are allowed to detain suspects for up to 48 hours. There were no complaints of failure to inform detainees of the charges against them. Bail is available and was used widely. The law provides for the right to an attorney from the moment of detention and, if indigent, to one provided by the state; however, this right was not always respected. The law provides a person in detention the right to a prompt judicial determination of the legality of the detention, and authorities effectively respected this right in practice.

In August police arrested and detained a suspect but did not allow him to meet with his lawyer during the first day of his detention. Parliamentary controllers verified the complaint, and the officers involved received written warnings.

In July the parliamentary controllers received a complaint that authorities had transferred a detainee from one jail to another over the course of 15 days in violation of standard procedures. In another complaint, a woman alleged that state border guard officers arrested her at her office, took her to a Vilnius police detention facility, and interrogated her without affording her due process protections.

There were no reports of political detainees.

Judges may order pretrial detention only to prevent flight or the commission of new crimes, to allow unhindered investigation, or to comply with extradition requests, and they may do so only in the case of felonies. The pretrial judge may detain a suspect for up to three months. In exceptional cases the detention may be extended to 18 months (12 months for juveniles). The detainee or his or her counsel

may appeal to a higher court the imposition of the detention and the extension. The law provides for liability for damage caused by the unlawful actions of pretrial investigation officials, prosecutors, judges, and courts. For the period from January through June, the average length of pretrial detention was approximately 4 months, and 13 percent of the incarcerated population were pretrial detainees

Parliamentary controllers reported that the number of prolonged pretrial detention complaints has gradually decreased.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The law provides for a four-tier court system: the Supreme Court, the Court of Appeals, district courts, and local courts. The law also provides for a constitutional court and specialized courts for consideration of cases involving administrative, labor, and family problems.

District courts hear juvenile criminal cases and cases related to children's rights (including domestic adoption and paternity matters). The local courts are tribunals of first instance for criminal, civil, administrative offences, and all cases that are not assigned by law to other courts. The constitutional court reviews the constitutionality of laws and other legal acts, as well as actions by the president and the cabinet. The primary function of administrative courts is to investigate the legality and validity of administrative acts and conflicts in public administration and taxation.

Trial Procedures.—The law establishes the right to legal counsel for defendants and provides legal assistance for indigent persons. Parliament's ombudsman reported only isolated cases of authorities' impeding the right to counsel during the year. The continuing shortage of lawyers also contributed to the right to counsel being impeded. Despite government efforts, legal assistance was not always available. Defendants have access to government evidence and may present evidence and witnesses. Defendants enjoy a presumption of innocence and can confront or question witnesses against them. The law permits trials in absentia when a defendant is outside the country and avoids trial. Local human rights experts criticized these provisions, because in such trials defendants do not cross-examine witnesses or present their own defense. Defendants have the right to appeal. Trials are public but juries are not used.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits these actions; however, there were reports that the government did not respect these prohibitions in practice.

The law requires a judge's authorization to search an individual's premises and prohibits indiscriminate monitoring of the correspondence or communications of citizens. However, local human rights groups allege that the government did not properly enforce these laws.

From January to August, the State Data Protection Inspectorate (SDPI) conducted 294 investigations of interference with privacy. Most of the violations involved the failure to report processing personal data, violations of processing rules, and failure to inform individuals that their personal data was processed. The SDPI received one complaint of phone tapping during the year, and its investigation remained pending at year's end.

In May Vilnius police published on its Web site the name, age, place, and time of the violation, alcohol level, and penalties imposed on persons convicted of driving while intoxicated. Lawyers contended that such publication constituted government violation of privacy. In September a television program broadcast photographs of drivers whom police traffic cameras recorded violating traffic rules. The Human Rights Monitoring Institute urged the prime minister, the SDPI, parliament's Human Rights Committee, the Inspector of Journalists' Ethics, and other related institutions to assess the legality of publication and use of personal data from government sources. In October the SDPI began investigating operations of the Vilnius city administration, the Vilnius police, and a company that installs traffic cameras. The investigators concluded that the actions of the Vilnius city administration and the Vilnius police did not violate regulations. The SDPI, however, determined that the company responsible for the traffic cameras had committed an administrative violation and turned the case over to the Vilnius city court, where it was pending at the year's end.

Unlike in past years, there were no reports that doctors divulged confidential data about patients to employers and others.

During the year the European Court of Human Rights (ECHR) issued a judgment that the state discriminated against and violated the privacy of R. Rainys and A. Gasparavicius, former KGB employees. The two had complained that the govern-

ment had barred them from seeking employment in various private-sector fields until 2009, that they were deprived of their jobs in private sector, and that they were subjected to daily embarrassment on account of their past. Following the 2004 ECHR judgment in favor of plaintiffs Kestutis Dziautas and Juozas Sidabras in a similar case, the government introduced amendments to the law to lift its bars on employment; approval of the amendments remained pending at year's end. Several similar cases remained pending at the ECHR.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The independent media were active and expressed a wide variety of views. Radio and television included a mix of independent and state controlled stations. International media generally operated without restriction. Unlike in past years, the government neither blocked transmission of cable broadcasts nor imposed fines on channels.

In September 2004 Prime Minister Brazauskas filed a lawsuit for slander against television journalist Ruta Grineviciute, who had aired material allegedly from a pretrial investigation material that appeared to implicate the prime minister in corruption. The Prosecutor General's Office launched a pretrial investigation, which it terminated in January due to the lack of proof of a criminal act.

The law prohibits dissemination of information that is untrue and that is damaging to an individual's honor and dignity. Libel is punishable by a fine or imprisonment of up to one year, or up to two years for dissemination of libelous material through mass media.

In September a judge filed a lawsuit for slander against the deputy editor-in-chief of the daily *Respublika*, accusing the editor of running 27 defamatory articles. The case remained pending at year's end.

The government did not generally restrict access to the Internet; however, the government occasionally attempted to control its content. In September the Constitutional Court ruled that the government had not violated the constitutional guarantee of freedom of the press in shutting down the Kavkaz Chechen Independence Web site for disseminating objectionable or prohibited content on public media. In fact the court reasoned that the government had shut down the Web site to protect freedom of the press.

There were no government restrictions on academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice; however, the government continued to ban the Communist Party of Lithuania and other organizations associated with the former Soviet regime (see section 3).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. There is no state religion; however, some religious groups enjoyed special government benefits.

The law divides religious communities into state-recognized, traditional groups, and all others; however, in practice, a four-tier system exists: traditional, state-recognized, registered, and unregistered communities. The nine traditional religious communities receive special exemptions and rights not available to other religious group. Both traditional and nontraditional religious communities that are state-recognized may receive state subsidies; however, in practice only the traditional groups received the subsidies regularly. Registered religious communities did not receive the benefits and exemptions enjoyed by traditional and state-recognized communities, but they may act as legal entities and thus rent land for religious buildings. Unregistered communities have no juridical status or state privileges, but there were no reports that any such groups were prevented from worshiping or seeking members.

Applications for the status of a "state recognized religious association" filed by four religious associations since 1999 remained pending at year's end.

The government did not restrict activities of foreign missionary groups within the country; however, the government continued preferential treatment for missionaries from the nine traditional religions.

The law stipulates that state educational institutions may offer religious instruction only of traditional and other state-recognized religions; however, participation in religious classes is not mandatory, and parents can choose either religious instruction or secular ethics classes for their children.

The government conducted research on the Jewish community's property claims and continued negotiations for an agreement on the timetable and procedures for restitution.

Societal Abuses and Discrimination.—There were approximately four thousand Jews in the country, and the various Jewish communities were active. Anti-Semitism, which increased during the year, was manifest in the distribution, including through the Internet, of anti-Semitic proclamations and other materials; acts of vandalism against Jewish graves and monuments; and anti-Semitic statements made during public gatherings. There was an increase in anti-Semitic remarks by extremist and some more mainstream politicians, and the government acted against such statements made by politicians. The political leadership and most media outlets generally criticized anti-Semitic statements.

In April a Siauliai city council member started a nationalist political party with an anti-Semitic agenda. Politicians and high-ranking government officials publicly denounced the founder's statements, and at the recommendation of the state security department, the Siauliai prosecutor's office brought charges against the member; court proceedings were scheduled for January 2006.

In May several young people wearing Nazi-style uniforms and riding Nazi-era motorcycles drove past the Jewish community center in Vilnius, and community members heard the riders yell slogans glorifying Hitler and belittling Jews. The Vilnius city mayor immediately asked the police to investigate the incident. Police identified several suspects, and the Vilnius Prosecutor's Office initiated a pretrial investigation, which was ongoing at year's end.

In August a small, non-parliamentary political party, the Lithuanian Liberty Union, issued a public statement that Jews were assuming power in the country. The union urged people not to trust Jewish-owned banks or insurance companies. The State Security Department determined that there was insufficient evidence to support charges of ethnic hatred against Jews.

In 2004 the daily *Respublika* carried a series of editorials with obvious anti-Semitic overtones and the Prosecutor General's Office and the State Security Department launched pretrial investigations of *Respublika*'s editor-in-chief Vitas Tomkus for inciting ethnic and racial hatred. In July the court found Tomkus guilty and fined him $1,035 (3 thousand litas). In September the Supreme Administrative Court reversed the lower court's ruling, ostensibly because of prosecutorial error, and cancelled the fine. The Prosecutor General's Office November petition for the Supreme Administrative Court to reconsider the lawsuit against Tomkus remained pending at year's end.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

The law generally allows emigrants to retain citizenship. Nonetheless, Jewish and Polish minorities criticized the provisions for creating special conditions that enable "ethnic Lithuanian" emigrants to retain dual citizenship but deny citizenship to local minorities who "repatriate" to their "homeland" (for instance, Jews who returned to Israel or Poles to Poland).

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. Asylum seekers coming from a "safe country" of transit are prohibited from entering the country and are returned to the transit country.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The presidential and parliamentary elections in 2004 were generally free and fair. However, there were complaints that campaign financing lacked transparency and reports of vote buying during the par-

liamentary elections. Some vote-buying charges centered on one party's populist campaign tactics of holding political rallies-cum-concerts and distributing candy or campaign paraphernalia. The court found guilty and fined three persons for vote-buying in the parliamentary elections.

In January an amendment increased the number of enrolled party members necessary to register a political party from 400 to 1 thousand. The government continued to ban the Communist Party.

There were 32 women in the 141-seat parliament, and there were 2 women in the 14-member cabinet. In July the Interior Ministry reported that more than 60 percent of civil servants were women and that women occupied 30 percent of the high-level positions within the government.

There were 9 minorities in the 141-seat parliament and 1 minority (Belarusian) in the 14-member cabinet.

Government Corruption and Transparency.—There were reports of government corruption during the year; however, the legislature took steps to identify corruption and strengthen oversight.

In June Viktor Uspaskich, the economy minister and the leader of the largest parliamentary party, resigned from the cabinet and parliament after a parliamentary commission found him guilty of conflict of interest. The Prosecutor General's Office initiated a pretrial investigation into accusations that Uspaskich presented fraudulent documents regarding his academic experience, and the pretrial investigation was ongoing at year's end.

In October a court sentenced a former parliamentarian to 18 months in a correctional institution for soliciting a bribe (in the form of a contribution to his campaign) while he was a member of parliament.

The Prosecutor General's Office continued investigations into allegations of corruption in the Vilnius municipal administration and on the part of Vilnius Mayor Arturas Zuokas. In December parliament approved conclusions of an ad hoc parliamentary commission that the mayor had received payments in exchange for ensuring that municipal decisions favored certain business interests. A local human rights organization regarded parliament's decision as interference in judicial process.

Polls indicated that corruption was most prevalent among mid-level civil servants, traffic police, university officials, and those working in the health sector.

The auditing committee, established by parliament in 2004, initiated investigations into such matters as property restitution, state procurement, public management of funds, and the collection agents' service. The government criticized some of the investigations as beyond the committee's purview.

The law provides for public access to government information, and government institutions generally provided access in practice. During the year, however, parliamentary controllers received some complaints regarding delays in providing information, the quality of the information provided, and, in the case of municipal institutions, failure to provide material requested. The ombudsman requested heads of institutions and other unit supervisors to consider disciplinary actions against the officials involved.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, social status, or ethnic background. In January the Equal Opportunities Law came into force, barring discrimination based on age, sexual orientation, disability, religion, or belief. In September parliament amended the law to provide penalties for discrimination on the basis of age, disability, race, ethnic origin, religion, and belief, where previously there were only penalties for sexual discrimination. Despite these programs and prohibitions, discrimination against women and minorities persisted.

Women.—Societal violence against women, particularly alcohol-related domestic violence, was a serious problem. The law does not specifically criminalize domestic violence; however, authorities prosecuted domestic violence under general assault laws. There was no authoritative information on the extent of the problem. Local human rights organizations and shelters noticed an increase in complaints about domestic violence, which they attributed to the effectiveness of outreach, prevention

programs, and crisis centers in encouraging victims of domestic violence to register complaints.

When such violence occurs in the home, the victim must file a complaint to initiate an investigation. Certain nongovernmental organizations (NGOs) maintained that few victims of domestic violence reported abuses to police because they preferred to avoid publicity and were not confident that the courts would punish their assailants. Only a few of the reported complaints reached the criminal court. The maximum penalty the courts imposed was two years' imprisonment. Observers criticized the government's ability to enforce the law prohibiting domestic violence. Since domestic violence is prosecuted under general assault laws, the data was not segregated, and no reliable information existed on either the number of complaints of domestic violence or the number of convictions resulting from these complaints.

Thirty-six women's shelters, operating with the funding and under the direction of NGOs or municipal governments, provided assistance to domestic violence victims. Shelters reported that the increase in women applying for assistance was attributable to the growing availability of services rather than an increase in violence against women. During the year the Vilnius-based Shelter for Children and Mothers provided assistance to 1,177 victims of domestic violence.

The law specifically criminalizes rape, including spousal rape. Persons convicted of rape generally received sentences of 3 to 5 years' imprisonment. During the year there were 265 rapes reported, almost 50 percent more than in 2004. Police were sometimes reluctant to act in cases of domestic abuse.

Prostitution is illegal but was a problem. The penalty for prostitution is a fine of $107 to $178 (300 to 500 litas) for a single offense and up to $345 (1 thousand litas) for repeat offenses. According to law enforcement officials, three thousand to five thousand women engaged in prostitution in 2004.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

The law prohibited sexual harassment, but it was a problem. A 2004 survey reported that 14 percent of university students surveyed, most of them female, experienced sexual abuse from professors and university staff. The Equal Opportunities Ombudsman reported that the lack of authority to compel witnesses to testify, or to caution witnesses against presenting false evidence, hampered investigations of sexual harassment.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system; however, women continued to face discrimination. The Equal Opportunities Ombudsman is an independent agency, accountable to parliament, which oversees the implementation of the law and investigates complaints concerning age and gender discrimination, as well as age and gender complaints and sexual harassment. A May report of the Open Society Institute and the Equality Center stated that gender equality institutions existed exclusively in the large cities and that they provided inadequate outreach at the regional or local level.

National policy requires equal pay for equal work; however, employers often paid women less than their male counterparts. During the year a woman's average wage was 82 percent that of a man; in the public sector, women's wages were 71 percent those of men. Women were underrepresented significantly in some professions, business, and the managerial sector as a whole.

From January to October, the ombudsman received 113 complaints of discrimination, initiated 118 investigations(including 5 not based on complaints), and imposed 4 fines. Most complaints concerned either age discrimination in obtaining insurance, loans, and leases, or sexual discrimination in the workplace and labor market.

Children.—The government was committed to children's rights and welfare.

Public education was compulsory, free, and nearly universal for children through the age of 15. Approximately 1 percent of children under 15 did not attend school. According to a 2003 Education Ministry study, 94 percent of children completed primary education, 82 percent continued secondary education, and 69 percent entered universities.

Boys and girls had equal access to government-provided medical care.

Child abuse, particularly in connection with parental alcohol abuse, continued to be a problem. As of October, according to the children's rights ombudsman, approximately 36,900 children lived in 16,700 abusive or dysfunctional families. Several media sources reported that cruelty to children, including sexual abuse, intentional starvation, beatings, and killings, was common. Authorities reported that child abuse caused the death of 11 children during the first 11 months of the year. In August police found the body of a 7-month-old child, apparently a murder victim, in an apartment in Vilnius; the police investigation continued at year's end.

The children's rights ombudsman reported that the number of complaints of child abuse almost quadrupled from 122 complaints in 2004 to 430 complaints during the year. The ombudsman initiated 74 investigations, up from 15 in 2004. The ombudsman attributed the increase to greater awareness of children's rights and reporting, rather than an increase in violence against children. The parliament's board allocated additional staff and funding for the ombudsman during the year.

The penalty for violence or cruelty against minors is a prison term of one to two years. In addition, authorities may remove abused children from their families and place them in foster care. Despite government efforts to combat child abuse and aid abused children, the ombudsman reported that assistance for these children was insufficient.

There were rare reports of child abuse at state correctional institutions or in detention facilities. In September a study conducted by the Lithuanian Law Institute reported that children in orphanages continued to suffer physical abuse. The government relocated children from Soviet-style orphanages to residential foster families, thus permitting children to attend regular schools rather than orphanage schools. Foster families, however, did not always ensure adequate care for children. By year's end the children's rights ombudsman had received 23 complaints about violations of child's rights in orphanages and 10 complaints about such violations in foster homes.

The law provides for up to 13 years' imprisonment for sexual abuse of a child; however, sexual abuse of children was widespread. From January to November, the Interior Ministry registered 60 cases of child sexual abuse (excluding child rape), nearly twice the number of the preceding year. In 2004 a Vilnius hospital and the polling agency Market Analysis and Research Group conducted a survey of 18- to 20-year-olds, which indicated that 31 percent of those surveyed experienced sexual abuse during their childhood and adolescence, but the children's rights ombudsman stated that the survey exaggerated the number of victims. The government operated a children's rehabilitation center to provide special care for sexually abused children.

From January to October, the Child Line (a children's hotline) received more than 40 thousand calls from children, who complained about problematic relations with their parents and friends, violence in their families, and sexual abuse. The Child Line reported a marked increase in complaints about abuse and violence among children.

Trafficking of girls was a problem (see section 5, Trafficking).

Unlike in the previous year, there were no reports of exploitation of children in the production of pornography.

The children's rights ombudsman reported one case of child prostitution, a girl discovered working as a prostitute who was then placed in an orphanage under special care.

Several thousand children reportedly lived on the street. Sixty regional government children's rights protection agencies, other institutions, and numerous NGOs routinely assisted these children. Street children had full access to government sponsored free services. There were no reports of police abuse of street children.

Trafficking in Persons.—The law prohibits all forms of trafficking in persons; however, trafficking in women and girls for the purpose of sexual exploitation was a problem. International and local NGOs claimed that the problem increased despite significant efforts by the government to fight it.

In June new amendments strengthened penalties for trafficking in persons. The amendments increased prison sentences from 8 years to 12 years for trafficking in persons and from 7 years to 15 years for trade in children. The new legislation also fines people purchasing sex services approximately $138 (400 litas) and exempts victims of human trafficking from prosecution.

Trafficking activity increased after the country joined the European Union in 2004. The government opened 24 criminal cases of trafficking in persons and referred 18 of these to the criminal court system. During the year 11 prosecutions ended in convictions, with sentences ranging from fines of $345 (1 thousand litas) to 6 years' imprisonment. The government cooperated with other European governments on several cases of trafficking in persons. During the year police determined that nine women, including one minor, were victims of trafficking, and investigations in other cases continued at year's end.

The Ministries of Interior, Justice, Social Security and Labor, Education and Science, the Police Department, the State Border Guard Service, the General Prosecutor's Office, and the National Courts Administration are responsible for enforcement of trafficking laws.

Early in the year a joint government task force uncovered an organized crime gang that had transported nearly 100 young females from the country to England.

The gang included nine citizens, six of whom remained in detention awaiting trial at year's end. At least 11 victims escaped and reported the crime to the police. All victims were under 25 years of age, and some were juveniles.

In 2003 police detained five Lithuanian, Italian, and Spanish nationals believed to be members of an organized trafficking group. Their cases remained pending at year's end.

In April the government arrested and extradited a citizen of Costa Rica to his home country. The individual was the subject of an Interpol arrest warrant. In June a Lithuanian man was extradited to Germany on trafficking charges.

In late November the police detained five employees of model agencies amid allegations that the agencies were fronts for human trafficking to Western Europe and the United Arab Emirates.

The country was a source, transit point, and destination for trafficking in women and girls. Women from the country were primarily trafficked to Western Europe. Most women trafficked into or transiting the country were from Eastern Europe.

Europol estimated that over 1,200 women and girls were victims of human trafficking every year. The government estimated that approximately 1,000 to 1,500 women, many of them trafficking victims, left the country each year to engage in prostitution. In addition, women from Belarus, Russia, and Ukraine comprised approximately 12 percent of the country's prostitutes.

Traffickers targeted the socially most vulnerable groups: young females from poor or unstable families. Traffickers also commonly targeted young women from ethnic minorities. Many were lured by deceptive offers of jobs such as household helpers, bar dancers, nannies, nurses, models, or waitresses, or through false marriage advertisements. In many cases close relatives or friends made the offers. Victims' compliance was ensured via threats and the withholding of their documents. Families often were unaware of their predicament and believed that they had been kidnapped. Boarding schools that also serve as orphanages were new targets of traffickers.

Police reported that nearly half of traffickers were linked to organized crime, including international groups. The parliament's ombudsman was accused of violating the national laws governing public and private interests when he intervened in the proceedings of a Norwegian court case against a Lithuanian citizen accused of human trafficking. Although parliament defeated a resolution calling for his dismissal, the ombudsman nonetheless stepped down.

During the year parliament adopted legislation to impose fines on clients of prostitutes of approximately $135 (390 litas) and exempt victims of human trafficking from administrative responsibility.

The government partially funded 15 day centers, which assisted various groups at risk, including victims of trafficking. The government also provided grants to 13 NGOs that offered trafficking victims assistance or temporary shelter. No formal screening and referral procedures existed, but police worked closely with these assistance providers.

Prevention programs focused on disseminating information, promoting awareness of trafficking, especially among at-risk populations, and engaging policymakers and community actors in finding solutions to the problem. Despite such government efforts, in June public opposition led the Sirvintos municipal government to block a plan to establish a halfway house and center for victims of trafficking. During the year the International Organization for Migration (IOM) and the Ministry of Social affairs trained 34 social workers on trafficking prevention and on providing assistance to victims. The IOM also published a handbook about preventing human trafficking for teachers to use in schools.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. The Equal Opportunities Ombudsman received complaints concerning discrimination against persons with disabilities. The law mandates access to buildings for persons with disabilities; however, the government generally did not enforce this provision in practice. Individuals involuntarily declared as incapacitated have no right to appeal the decision in court.

In May the Human Rights Monitoring Institute, the Global Initiatives in Psychiatry organization, the Fellowship for Care of Mentally Challenged People Viltis, and the Vilnius Center of Psycho-social Rehabilitation surveyed nine sanitariums and five mental institutions and found that the institutions and sanitariums were operating in gross violation of patients' rights to information, privacy, and freedom from torture. The survey reported discriminatory staff treatment that extended greater privileges to favored patients. The NGOs also reported violations of patients' rights to education and property. The study recommended making available 24-hour special community services in the workplaces and homes of persons with disabilities

and guaranteeing care to people suffering from serious mental disabilities. In response to the report, the Health Ministry presented to parliament a draft reform strategy for mental health care institutions, which was pending adoption at year's end.

The Ministry of Social Affairs and Labor and the Lithuanian Council for the Affairs of Disabled focused on developing equal opportunities in the labor market, improving government's effectiveness in meeting the needs of and augmenting the social security net for persons with disabilities.

National/Racial/Ethnic Minorities.—Although the law prohibits discrimination of ethnic or national minorities, intolerance persisted.

Minority ethnic groups, including Russians, Poles, Belarusians, Ukrainians, Tatars, and Karaites constituted approximately 16.5 percent of the population. The small Romani community (approximately three thousand) experienced discrimination in education, employment, health care, housing, services, citizenship, and in contacts with the police. The Human Rights Monitoring Institute reported that Roma alleged mistreatment by the police. The Human Rights Monitoring Institute also reported that on two occasions restaurants in Vilnius refused to serve Romani patrons. There were also instances of ambulances reportedly refusing to respond to calls in a predominantly Romani community.

Minority advocates continued to criticize the Vilnius city government for focusing law enforcement attention on the Roma but doing little to integrate them into the broader community. After demolishing five allegedly illegal houses in a predominantly Roma area in December 2004, the municipality did not immediately relocate the displaced occupants. A woman with three children lived in a tent until the municipality offered housing at the end of the year. Four families found shelter with relatives or friends. Some Romani families agreed to move to public housing in other parts of the city. The ombudsman, who had attempted to intervene in the demolition of the Romani houses, referred this matter to court, where it was pending at year's end.

Although public sector employees are formally required to have a functional knowledge of the Lithuanian language, there was no documented evidence of job dismissals based on this language law. The authorities indicated that while the law's intent is to encourage competence in Lithuanian as the official language of the state, no one would be dismissed solely because of an inability to meet the language requirements.

Other Societal Abuses and Discrimination.—Local human rights organizations reported that homosexuals suffered permanent social exclusion. Members of the homosexual community reported discrimination because of their sexual orientation. Homosexuals suffered physical abuse on the street.

In September an informal organization, the Union of Honor and Nation, together with some radical public figures, held a demonstration against homosexuals, gay pride and gay rights parades, and the spread of homosexuality in the country. Local human rights organizations called the demonstration an instigation of enmity, which the law prohibits. The municipality that granted the demonstration permit stated that the organizers had not provided information about the hostile nature of the event.

Section 6. Workers Rights

a. The Right of Association.—The law allows workers, including members of the police and armed forces, to form and join unions of their choice, and workers exercised this right in practice. However, unions represented only approximately 10 percent of the workforce.

Unions must have at least 30 founding members in large enterprises or a membership of one-fifth of all employees in small enterprises to legally register. There were no reports of direct discrimination against members of unions. The law provides that trade unions shall be freely established and function independently. Although the law prohibits employee discrimination against union organizers and members, this prohibition was often ineffective in practice, and there were cases of employees punished for attempting to organize. According to the International Confederation of Free Trade Unions, no employer has yet "faced the penal sanctions foreseen by law for anti-union discrimination." Some large retail stores hired short-term contract labor and sometimes did not renew contracts of union members.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law protects collective bargaining for all workers except government employees involved in law enforcement and security-related work. The Lithuanian Tripartite Council, comprising representatives from labor, business, and govern-

ment, estimated that between 5 and 25 percent of workers were covered under collective bargaining agreements. The law provides for the right to strike, except for workers in essential services; however, labor code procedures made it difficult to exercise this right, and there were no official strikes during the year. The law provides that only a union or a union's strike committee may call a strike; thus employees without union representation are unable to strike legally. There are no special laws or exemptions from regular labor laws in the four free economic zones.

Managers often determined wages without regard to union preferences, except in large factories with well-organized unions. The government periodically issued guidelines for state enterprise management in setting wage scales.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Laws prohibit exploitation of children in the workplace, and the government generally enforced these laws effectively. There was at least one report of child labor concerning children working illegally in the agricultural sector for meager wages. In 2004 statistics indicated that 10 percent of children working did so illegally, mostly in the agricultural sector where children sometimes received unlawfully low compensation.

The law sets the minimum employment age at 16 but allows employment of 14-year-olds to perform light labor with the written consent of the child's parents and school. The law provides for reduced working hours for children, allowing up to 2 hours per day or 12 hours per week during the school year and up to 7 hours per day or 32 hours per week when school is not in session. Authorities generally enforced these laws.

In May the media reported that a number of school-age children performed farm fieldwork without contracts and received $5.20 (15 litas) per day.

There was evidence of child prostitution and one confirmed report of trafficking of a teenager (see section 5).

The State Labor Inspectorate (SLI) is responsible for receiving complaints related to employment of persons under 18. Although the SLI conducted 4,134 investigations into reports of illegal employment between January and October, none of these investigations involved illegal child labor. There were a few instances of minor violations of the special employment provisions for workers under 18.

The ministries of social security and labor, education, health, and interior administered programs to protect children's rights.

e. Acceptable Conditions of Work.—In July the government increased the legal minimum wage to $172 (550 litas) per month. The national minimum wage did not provide a decent standard of living for a worker and family.

The law provides that maximum working hours within a 7-day period, including overtime, may not exceed 48 hours. Overtime can be allowed only in cases stipulated by law and, along with night work, must be compensated at a minimum of 1.5 times the hourly rate.

The SLI is responsible for implementing the labor laws; from January to September, it conducted 24,762 inspections of companies. The most numerous abuses included wage arrears, illegal employment, violation of labor contracts, accounting for time off and hours worked, and unsatisfactory investigation of accidents. In September, following receipt of a complaint from the pretrial investigation institutions' trade union, the prisons department investigated working conditions of prison officers and guards in the Vilnius Lukiskes prison. The department found the conditions to be exceedingly poor, but prison authorities made no efforts to ameliorate the conditions. The prisons department presented the findings to the Justice Ministry, and in October the director of the prison resigned.

The law provides that workers have the right to safe and healthy working conditions, and this was generally enforced. Workers have the right, both in law and practice, to remove themselves from dangerous work environments without jeopardizing their continued employment. From January to August, the state labor inspection service recorded 41 fatal accidents at work.

LUXEMBOURG

Luxembourg, with a population of approximately 453 thousand, is a constitutional monarchy with a democratic, parliamentary form of government. The role of the Grand Duke is mainly ceremonial and administrative. The prime minister is the leader of the dominant party in the popularly elected parliament. Free and fair par-

liamentary elections took place in June 2004. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. The following human rights problems were reported:

- prison overcrowding
- trafficking of women for sexual exploitation

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, but overcrowding was a problem. The government permitted visits by independent human rights observers. There were no visits of international human rights observers during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The grand ducal police and its investigative branch, the judiciary police, are responsible for law enforcement and maintenance of order within the country. The police force is under the direction of the Ministry of Justice. Neither corruption nor impunity was a problem. A special police body is in charge of investigating cases of police abuses. Police officers are required to attend training at the police academy, at least every two years.

Arrest and Detention.—Warrants, issued by a duly authorized official, are required for arrests except in cases of hot pursuit. Within 24 hours of arrest, the police must inform detainees of charges against them and bring them before a judge for a determination of the legality of the detention, and these rights were generally respected in practice. There is a functioning bail system, which judges freely employ. Detainees are given immediate access to an attorney, at government expense for indigents. Detainees are allowed prompt access to family members.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary is headed by the Supreme Court, whose members the grand duke appoints. One of the country's three justices of the peace has jurisdiction over minor criminal, civil, and commercial cases, and one of two district courts heard more serious cases. The youth and guardianship court ruled on matters concerning the protection of young persons. An administrative court system reviewed citizen challenges to legislation. The Superior Court of Justice is composed of the *cour de cassation*, a court of appeal, and a department of public prosecution. The defendant or prosecutor may appeal verdicts in criminal cases to the administrative court and the administrative court of appeal before going to the Superior Court of Justice.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public except for those involving sexual abuse or child abuse. There are no jury trials. Defendants have the right to be present and to consult with an attorney in a timely manner. An attorney is provided at public expense if defendants face serious criminal charges. Defendants need to ask the judge for permission to confront or question witnesses against them or present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence; and have the right of appeal.

There were rarely used military and religious courts, which respect the aforementioned rights.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for the freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

There is no state religion, but the government provided financial support to some churches. Specifically, it paid the salaries of Roman Catholic, some Protestant, Greek, Russian, Romanian, and Serbian Orthodox, Anglican, and Jewish clergy, and several local governments maintained sectarian religious facilities. The Muslim community, desiring to receive similar government funding, named a national representative and single interlocutor for negotiations with the government; however there was no final agreement at year's end.

Societal Abuses and Discrimination.—There were no known acts of violence, or discrimination against religious minorities during the year.

There were no reports of anti-Semitic acts during the year, and there were approximately 600 members of the Jewish community.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The law provides for the possibility to grant temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to no one during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—National parliamentary elections are held at least every five years. The most recent national parliamentary elections, held in June 2004, were considered free and fair.

There were 13 women in the 60-member parliament and 3 women in the 14-member cabinet. There were 15 women in the 32-member Supreme Court.

There was one citizen member of a minority in the 60-member parliament, and one citizen member of a minority in the government.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The law provides for public access to government information and the government freely provided access on its website and the Internet.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government effectively enforced it.

Women.—Domestic violence occurred. The law prohibits domestic violence, and the government effectively enforced it. The law is gender neutral and provides that a batterer will be removed from the house for 10 days; this can be extended an additional 3 months. Police are responsible for pursuing the charges so that a victim cannot be intimidated into dropping charges. Penalties may include fines and imprisonment. If a person asks an NGO for assistance, the police must act proactively and to speak with the person. There were approximately 300 cases of police intervention relating to spousal abuse and 154 expulsions by the police of the abusing spouse.

There is a hotline for battered women. During the year government-sponsored NGO shelters provided refuge to approximately 450 women and 500 children. In addition, the government provided financial assistance to domestic violence victims. Information offices set up to respond to women in distress reported that they received 1,056 telephone calls during the year. The government funded organizations that provided shelter, counseling, and hotlines.

The law specifically prohibits rape, including spousal rape, and stipulates penalties ranging between 5 and 19 years' imprisonment; the government enforced these laws effectively. There was a reported average of about ten rape cases per year.

Prostitution is legal, but the activities associated with organized prostitution, such as profiting from, aiding or abetting prostitutes are punishable by law. There have been no reports of police targeting prostitutes for abuse.

There were reports that women were trafficked to the country for sexual exploitation (see section 5).

Law prohibits sexual harassment, and the government generally enforced it.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The law mandates equal pay for equal work; however, according to government reports, women were paid 20 to 30 percent less than men for comparable work. The Ministry of Equal Opportunity is responsible for protecting the legal and social rights of women.

Children.—The government was strongly committed to children's rights and welfare. The law mandates school attendance from 4 through 15 years of age, and school attendance is universal through that age. Schooling was free through the secondary level, and the government provided some financial assistance for postsecondary education. Most students complete high school.

The government provided free medical care, and boys and girls had equal access.

Child abuse occurred. A physicians' organization estimated that approximately 200 cases of child abuse were reported during the year, resulting in 60 children receiving medical treatment. The government's hotline for young persons in distress received 370 calls during the year.

Trafficking in Persons.—The law prohibits trafficking in persons; however, the country was a destination for women trafficked from Eastern Europe for the purpose of sexual exploitation. There were two confirmed reports of trafficking reported during the year. The law provides penalties from six months' to three years' imprisonment and monetary fines for trafficking. If there are aggravating circumstances, prison sentences can range from 1 to 10 years' imprisonment. The government effectively enforced the antitrafficking statutes. The Ministry of Justice with the involvement of the ministries of foreign affairs and equal opportunity as well as NGOs was responsible for the government's antitrafficking efforts. The prosecution of the one 2004 trafficking case was ongoing at year's end.

There were no government services specifically for victims of trafficking; however, two NGOs, which were fully financed by the government, provided shelter and counseling assistance to women in distress.

There were no government prevention programs specifically targeting trafficking at year's end.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. The law does not require accessibility for persons with disabilities, but the government paid subsidies to builders to construct "disabled-friendly" structures. Despite these government incentives, only a small proportion of buildings and public transportation vehicles have been modified to accommodate persons with disabilities. Aid for Handicapped Children, an NGO, is in charge of protecting the rights of persons with disabilities.

The government acknowledged that laws establishing quotas requiring businesses that employ over 25 persons to hire workers with disabilities and pay them prevailing wages were not applied or enforced consistently, and there was a particular problem in the case of persons with mental disabilities.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Approximately 50 percent of the workforce (including the trans-border workers) was unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right to collective bargaining, and workers exercised this right freely. Approximately 66 percent of workers are under collective bargaining agreements. The law provides for the right to strike, except for government workers who provide essential services, but no strikes occurred during the year. Legal strikes may occur only after a lengthy conciliation procedure between the parties. The government's national conciliation office must certify that conciliation efforts have ended for a strike to be legal. There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively implemented laws and policies to protect children from exploitation in the workplace. The law prohibits the employment of children under the age of 16. Apprentices who are 16 years old must attend school in addition to their job training. Workers under the age of 18 have additional legal protection, including limits on overtime and the number of hours that can be worked continuously. The ministries of labor and education effectively enforced the child labor laws.

e. Acceptable Conditions of Work.—The national minimum wage for a single worker over the age of 18 was approximately $1,390 (1,670 euros) per month for unskilled workers and approximately $1,475 (1,770 euros) per month for skilled workers. The minimum wage was not sufficient to provide a decent standard of living for a worker and family; however, most employees earned more than the minimum wage.

The law mandates a maximum workweek of 40 hours. Premium pay is required for overtime or unusual hours. Sunday employment is permitted in continuous-process industries (steel, glass, and chemicals) and for certain maintenance and security personnel; other industries must request permission for Sunday work, which the government granted on a case-by-case basis. Work on Sunday, allowed for some retail employees, must be entirely voluntary and compensated at double the normal wage, or with compensatory time off on another day, equal to the number of hours worked on Sunday. The law requires rest breaks for shift workers and limits all workers to a maximum of 10 hours per day including overtime. If employers did not honor the law, workers may successively ask for assistance at the labor inspection court and then the Superior Court of Justice

The law mandates a safe working environment. An inspection system provided severe penalties for infractions. The labor inspectorate of the ministry of labor and the accident insurance agency of the social security ministry carried out effective inspections. No laws or regulations specifically provided workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment; however, every worker has the right to ask the labor inspectorate to make a determination regarding workplace safety, and the inspectorate usually did so expeditiously.

MACEDONIA

Macedonia is a parliamentary democracy with a population of approximately 2.1 million. Legislative authority is vested in the unicameral Sobranie (parliament). The president, Branko Crvenkovski, was elected to a five-year term in April 2004 in elections that were generally consistent with international standards, although there were election-day irregularities in some areas. Vlado Buckovski, prime minister since December 2004, presided over a multiethnic governing coalition. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights abuses were reported:

- police abuse of suspects, particularly during initial arrest and detention
- police harassment of ethnic minorities, particularly Roma
- impunity and corruption in the police force
- political pressure on the judiciary
- societal violence and discrimination against women, children and ethnic minorities, particularly Roma
- trafficking in women and girls for sexual exploitation
- government interference with union activity

The government took some steps to improve the protection of human rights. The interior ministry's sector for internal control and professional standards (PSU) worked to strengthen its ability to investigate charges of police abuses and corruption, and reports of such abuses were less frequent compared to past years. In November the interior ministry and international observers concluded a series of investigations into nine unresolved cases involving allegations of human rights abuses; the government provided information uncovered during the investigations to prosecutors. The government also somewhat strengthened efforts to prosecute trafficking cases.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Unlike the previous year, there were no reports that the government or its agents committed arbitrary or unlawful killings.

In December 2004 the PSU found the use of force justified in the police killing of a 21-year-old male student earlier that month during an attempt to arrest an armed fugitive in the student's apartment.

On April 22, a Skopje district court acquitted four persons—three former police officers and a businessman—implicated in the Rastanski Lozja case involving the 2002 police killing of seven South Asian illegal immigrants. Two other persons implicated in the case testified against their former coworkers in exchange for reduced sentences. The prosecution had charged that former interior minister Ljube Boskovski ordered the killings, ostensibly because the seven immigrants were terrorists who threatened foreign embassies in Skopje. The prosecution appealed the innocent verdict, but the appellate court had taken no action by year's end. The government applied for Boskovski's extradition from Croatia but was unable to secure extradition before Croatian authorities transferred Boskovski to the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague to stand trial on unrelated charges.

During the year the working group established in 2004 by the interior ministry and the international community to review unresolved human rights cases completed its investigation into all nine cases under its consideration. Although the identities of some officers responsible for reported abuses could not be determined, the working group supplied additional information to prosecutors in a majority of the cases under investigation.

At year's end an appeals court was reviewing the 2004 conviction of six of seven ethnic Albanians on terrorism charges for planting explosives in the center of Kumanovo and on railway tracks near that city that killed one person and injured several others in 2003. The appeals court rejected the appeal of the seventh defendant.

b. Disappearance.—There were no reports of politically motivated disappearances.

The International Commission on Missing Persons closed its offices in the country in November 2004 after collecting blood samples from relatives of all persons missing from the 2001 conflict. The International Committee of the Red Cross (ICRC) estimated that 23 persons remained missing from the conflict.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, police at times used excessive force during the apprehension of criminal suspects and sometimes abused prisoners.

There were credible reports that police used violence or harassed persons, particularly members of ethnic minorities. A coalition of NGOs recorded 100 allegations of police abuse involving 122 victims in the first 10 months of the year. The victims included 47 ethnic Albanians, 52 ethnic Macedonians, and 18 Roma. The PSU re-

ported receiving 54 complaints in 2004 that police used excessive force in the conduct of their duties; the PSU found that 22 of the complaints were justified. The interior ministry took a total of 331 disciplinary actions against police officers for misconduct.

In September the ombudsman announced that he had referred five cases against interior ministry employees to prosecutors for the mistreatment of civilians and other unspecified abuses. By year's end prosecutors had agreed to investigate one case and rejected another; the other three were still under review. The ombudsman also alleged that the interior ministry had failed to cooperate with his office's investigation, refusing to disclose the identities of officers involved in certain operations.

On June 30, according to one NGO, a Romani man was called into the Kicevo police station for questioning after persons under interrogation there accused him of participating in an altercation. The man alleged that the police then beat him, a Romani friend who came to his assistance, and a third Romani man who was also being questioned. The men filed charges on July 6, but the public prosecutor had not acted on them by year's end.

There were no developments reported on the European Roma Rights Center's (ERRC) filing of a criminal complaint in connection with the July 2004 police beating of two Romani men, Trajan Ibrahimov and Bergiun Ibrahimovic, in Skopje.

The ombudsman and public prosecutor continued to review the cases of two ethnic Albanians arrested and allegedly beaten by police near Stenkovec in October 2004. The suspects were charged with attempted murder of a taxi driver and illegal possession of firearms. The PSU investigation, conducted in cooperation with the European Union's (EU) Proxima police mission and completed in 2004, did not confirm the abuse allegations. The officers involved received additional training on the appropriate use of force.

In September border police fired several shots at persons illegally crossing the border from Greece and severely wounded an Albanian woman. A PSU investigation that month determined that the shooting was justified.

In April Ministry of Interior officials and international observers completed an investigation of allegation that security and counterintelligence officers in Kumanovo unlawfully detained and severely mistreated Avni Ajeti, who was convicted of mining the Skopje-Belgrade railroad and placing a bomb in the Kumanovo central square. The observers noted serious irregularities in authorities' handling of the case, including officers' failure to record Ajeti's detention or to obtain legal authority for detaining him longer than twenty-four hours. The observers further noted that these administrative failures prevented them from confirming or refuting the allegations against the counterintelligence officers.

An interior ministry investigation monitored by international observers into allegations that Selam Selami was illegally detained and abused by counterintelligence officers in 2002 ended in April without determining the exact circumstances of his detention. International monitors noted that the counterintelligence agency's inability to produce records relative to the case made it impossible to establish the cause of severe medical problems experienced by Selami while being held by the officers. Selami had been detained in connection with the shooting of two ethnic Macedonian police officers; charges against him were dropped the following year.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and prisons met basic diet, hygiene, and medical care requirements. In July the director of Skopje's Idrizovo prison was dismissed after one detainee was killed in an armed altercation between prisoners. Juvenile prisoners were supposed to be physically separated from adults; however, in one prison, juvenile and adult detention facilities were collocated.

The government generally routinely granted permission for visits to convicted prisoners by independent humanitarian organizations such as the ICRC and by the human rights ombudsman. The law allows access to pretrial detainees for family members, physicians, chiefs of diplomatic missions, and representatives from the European Committee for the Prevention of Torture (CPT) and the ICRC with the approval of the investigative judge. However, the ICRC was denied permission to visit two Albanian journalists detained for allegedly planning terrorist acts with an armed ethnic Albanian group of criminals in the Skopje suburb of Kondovo.

In November a delegation affiliated with the European Institute for Crime Prevention and Control conducted a visit of prisons. At the visit's conclusion, the delegation's chief publicly criticized the hygienic conditions and small cell sizes in the prison system.

The CPT was authorized to visit all places of detention, including numerous police stations, on a regular and ad hoc basis. In July 2004 the CPT carried out a weeklong visit to the country; a report on the visit had not been released by year's end.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, arbitrary arrest and detention were problems.

Role of the Police and Security Apparatus.—The national police are a centralized force subordinate to the interior ministry that consists of uniformed police, criminal (civilian) police, and border police. In August the border police assumed full control of border operations from the military.

By year's end the EU's 185-member Proxima police mission, deployed in 2003 to assist police in former conflict areas and advise on interior ministry reforms, had departed and was replaced by a EU police advisory team consisting of approximately 30 police officers and advisors.

The police force remained largely ethnic Macedonian; however, the government took steps to improve ethnic minority representation, such as maintaining a 25 percent recruiting quota for ethnic minority recruits. During the year an additional 345 ethnic minority police officers completed training. The interior ministry has appointed 1,500 ethnic minority police officers since 2001. Ethnically mixed patrols usually operated in predominantly ethnic Albanian areas.

Interior ministry officials were slow at times to complete investigations and bring charges in outstanding human rights cases from previous years. International observers noted improved ministry response to investigating individual cases of police misconduct and more frequent and consistent disciplining of officers found guilty. However, they cited a limited range of disciplinary options and a restrictive statute of limitations for the punishment of police misconduct as factors that sometimes precluded appropriate sanctions.

The PSU, which is responsible for investigating corruption, completed a major corruption-related investigation in May. As a result of the investigation, charges were brought against seven police officers for abuse of their authority and soliciting bribes. During the year PSU investigations resulted in the discharge of four officers from the police force, reductions in pay for two others, and the voluntary retirement of a seventh. In September a Kavadarci court opened proceedings against an interior ministry administrator involved in a 2004 corruption case, while prosecutors investigating a second administrator in Skopje declined to pursue the case, citing insufficient evidence.

Arrest and Detention.—The law requires warrants for arrest and detention and police generally appeared to follow those requirements in practice. While the law provides that a detainee must be arraigned in court within 24 hours of arrest, police at times violated this requirement, often by transferring the suspect from one police station to another to avoid exceeding a 24-hour period of detention at a location. Detention of suspects for longer than 24 hours may only be ordered by investigative judges upon request of a prosecutor, and this generally occurred in practice.

There is a functioning bail system that was used primarily by the courts in property-related crimes such as fraud, tax evasion, embezzlement, and abuse of official position. The courts were reluctant to approve bail for defendants accused of violent crimes or crimes against children.

The law permits a detainee to contact a lawyer at the time of arrest and to have a lawyer present during police and court proceedings, but such access must be approved by an investigative judge and the warden of the detention facility. While investigative judges and wardens generally approved such access, there were occasional reports that detainees were denied access to an attorney during police and investigative proceedings.

There were reports that police continued to call suspects and witnesses to police stations for "informative talks" without informing them of their rights. At year's end the ombudsman was investigating allegations that two ethnic Albanian suspects in a July 15 bomb attack on a Skopje police station were detained without proper legal authority; a PSU investigation determined there were no irregularities involved in the arrest and detention of the two men.

There were no reports of political detainees. In the Rastanski Lozja case, opposition parties backing the defendants alleged that investigative and trial judges, under pressure from the government, improperly extended pretrial detention for political reasons.

The law sets the maximum length of pretrial detention at 180 days; however, NGOs, as well as some legal experts, contended that the judiciary sometimes abused its detention authority. Defendants freed on bail often failed to show up for court proceedings. There were some reports of government pressure to order pretrial detention in cases where other means of guaranteeing the presence of defendants at trial could have been utilized; however, there were fewer reports of this practice than in 2004.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary was generally weak, at times inefficient, and occasionally influenced by political pressure, intimidation, and corruption. Programs for witness protection did not operate effectively.

The court system is three-tiered and composed of basic courts, appellate courts, and the Supreme Court. The Constitutional Court is not considered part of the judicial branch and deals with matters of constitutional interpretation and certain human rights protection issues.

In December parliament adopted constitutional amendments that envisage a series of administrative reforms to improve the independence and effectiveness of the justice system, including a new procedure for the selection of judges and establishment of a separate court system for minor offenses. The amendments are part of the government's judicial reform strategy, which entails an increase in salaries for prosecutors and judges, as well as the recruitment of approximately 140 new law clerks to help the judiciary reduce the backlog of 1.2 million cases.

The chief public prosecutor accused some lower courts of being inefficient or influenced by political factors, which he said resulted in prolonged trials and an inability to reach final judgments in high-profile corruption or other sensitive cases. In particular he criticized a series of delays in the Rastanski Lozja trial, which involved suspects linked to former interior minister Boskovski. He also publicly complained that his position did not grant him sufficient independence to fully exercise his powers.

The state anticorruption commission reviewed cases of alleged corruption, conflict of interest, and nepotism. It issued several opinions, which frequently included recommendations that the prosecutor initiate criminal actions against judges where there was sufficient evidence of corruption. During the year the republic judicial council (RJC) proposed to the parliament that 10 judges be dismissed on grounds of unprofessional or unethical behavior; 6 were removed, including the president of the largest court of first instance in the country. In one case a former judge from Kocani was sentenced to nine months in prison for abuse of official position. The new special prosecutor's Unit Against Organized Crime brought bribery charges against the former public prosecutor of Stip, and the Kocani basic court sentenced him to one year in prison.

Trial Procedures.—Court proceedings were open to the public except in limited cases, such as trials involving minors or in which the personal safety of the defendant was at risk. Juries are not used. Trials are presided over by judges; two to three community-member consulting jurors assist each judge in determining the verdict, although the judge generally makes the final decision regarding the sentence. The law provides for the presumption of innocence, the right to consult an attorney in a timely manner in pretrial and trial proceedings, the right to an appeal, and the right to stand trial within a reasonable period of time after charges are filed. These rights were generally respected in practice; however, lengthy legal procedures and delays were a problem, and access to attorneys was sometimes not granted in a timely manner. Defendants were entitled to have access to government-held evidence, but this did not always occur in practice. The law requires that indigent defendants be given access to attorneys, and this requirement was generally respected in practice.

The law provides that trials may be held in absentia so long as they are repeated if the convicted individuals later become accessible to justice officials.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. Unlike in the previous year, there were no reports that the government illegally used wiretaps to collect information on suspected criminals, although some opposition politicians alleged that the interior ministry used wiretaps for political purposes.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Media were divided along ethnic lines, with the most striking divisions visible in reports on controversial political issues.

There were no official government-controlled print media. Foreign newspapers and magazines were available throughout the country.

Macedonian Radio and Television (MRTV), which generally favored the government view on political issues, was the sole public broadcaster in the country.

There were 5 private television broadcasters with national coverage and more than 50 private local television stations. A variety of independent radio stations broadcast throughout the country.

There were two news agencies, the state-owned Macedonian Information Agency (MIA) and private Makfax.

In November a Skopje district court sentenced a journalist from Albania, Rajmonda Malecka, and her father to five years in prison for allegedly planning terrorist acts in the Skopje suburb of Kondovo. Police reportedly found a videocassette with footage of an armed group in Kondovo in the suspects' possession when they arrested them in April. An appeals court had remanded the case to the district court in September.

The law provides that defamation, libel, and slander may be punished by prison sentences and fines. During the year media representatives and some international observers pushed for the decriminalization of libel and slander.

Some new cases of libel or slander were brought before the courts, and there were developments in earlier slander cases. Goran Mihajlovski, owner of the tabloid *Vest*, appeared in court in December on libel charges related to his newspaper's allegations that the pharmaceutical company Replek tried to sell unlicensed medications in the country. In December A1 Television journalist Biljana Sekulovska appeared in court on libel charges related to her criticism of the judge presiding over a trafficking-in-persons case involving Dilaver Bojku Leku. During the year *Start* journalist Marjan Gjurovski was acquitted on charges of slander filed in 2004 by former director of the Public Security Bureau Goran Mitevski.

No progress was made in the two police investigations into a 2003 incident in Aracinovo, where local residents physically prevented MTV, Sitel, and Telma television from reporting on local protests. Several journalists sustained injuries in the confrontation.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for the freedom of assembly, and the government generally respected this right in practice; however, the interior ministry requires approval of any religious gathering held outside of specific religious facilities and limits such gatherings to registered religious groups (see section 2.c.).

Unlike in the previous year, there were no reports of police using force or tear gas to break up protests.

Freedom of Association.—The law provides for the freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, the law places some limits on religious practice by restricting the establishment of places of worship.

The law requires religious groups to register with the State Committee on Relations with Religious Communities. A number of specific requirements for the registration of religious groups were struck down by the Constitutional Court in 1998 and 1999. Consequently there was confusion over which registration procedures still applied.

At year's end the appeal of the Orthodox Archbishopric of Ohrid, an affiliate of the Serbian Orthodox Church, of a November 2004 state committee decision to deny it registration was pending before the Supreme Court. The committee's decision was based on a law that allows only one religious community to be registered for each confession; the Macedonian Orthodox Church had been registered as a religious community since Macedonia's independence.

The law requires a group to have a government "opinion" in order to obtain a permit to build a religious facility. However, Constitutional Court rulings in 1998 and 1999 struck down sections of the law that authorized the government to provide an opinion, thereby effectively blocking religious groups from obtaining construction permits for worship facilities. In practice the government generally did not take action against religious buildings lacking permits.

The law somewhat restricts the establishment of places of worship, for example, by requiring that a permit be obtained at least 15 days in advance for services in places not specified in the law. The law also states that religious activities "shall not violate the public peace and order, and shall not disrespect the religious feelings and other freedoms and rights" of persons who are not members of that particular religion. The government did not actively enforce most of these provisions but acted upon complaints when they were received.

Although a permit or permission is not required to perform religious rites in a private home, members of the Orthodox Archbishopric of Ohrid reported that police

interrupted an April 30 religious service in a private apartment in Dracevo and asked the worshipers to produce their identification documents.

On July 26, the Orthodox Archbishopric's Zoran Vraniskovski, whom the Serbian Orthodox Church recognizes as archbishop of Ohrid, began serving an 18-month prison sentence for inciting religious intolerance. The charges against Vraniskovski referred to private religious services held in union with the Serbian Orthodox Church, and his alleged responsibility for a religious calendar calling the Macedonian Orthodox Church "the last fortress of communism" and its believers heretics. An appeals court and the Supreme Court rejected his appeal. Vraniskovski admitted to writing the calendar's text but not to producing and distributing it. Vraniskovski was also ordered to serve a previously suspended 12-month sentence for illegally assuming religious authority by baptizing a relative in a Macedonian Orthodox church near Bitola in 2003. In addition Vraniskovski was found guilty of embezzlement by the Veles district court in September and sentenced to two additional years in prison; a trial on a separate embezzlement charge had not concluded by year's end.

The law requires that foreigners entering the country with the intent to carry out religious work or perform religious rites receive approval from the state commission on relations with religious communities. When applying for visas, persons planning to perform religious work must submit a letter of invitation from representatives of a registered religious group in the country to the commission, which then issues a letter of approval to be submitted with the visa request. Approvals were normally issued within one week.

A Polish-born nun associated with the Orthodox Archbishopric of Ohrid claimed that, in September 2004, the interior ministry declined to extend her residency permit; the Archdiocese is not legally entitled to sponsor foreign religious workers because it has been denied registration under the law permitting only one group per confession.

At year's end the Jewish community reported that all outstanding property claims of the community involving the former Yugoslavia's nationalization of religious properties had been resolved. However, the community expressed some frustration regarding the restitution of property of heirless victims of the Holocaust as envisaged in a 2000 law. While enough land was returned to allow the Jewish community to begin construction of a Holocaust memorial center in September, only a small fraction of other restitution claims in the name of the Jewish and other religious communities had been adjudicated by the government.

Societal Abuses and Discrimination.—There were isolated reports of vandalism of religious properties. The Orthodox Archbishopric of Ohrid reported that private apartments belonging to their members were broken into or vandalized at least five times. Members of the group alleged that on June 25 and July 11, police officers discouraged them from reporting future acts of violence or vandalism directed at the group.

At year's end the ownership dispute between the Bekteshi religious sect and the Islamic community over their religious facility at Tetevo remained unresolved. The Bekteshis filed suit against the government to reverse the former Yugoslavia's nationalization of the property and against the Islamic community, which seized the complex in 2002 and continued to hold services there, excluding Bekteshi community members.

The Jewish community estimated that approximately 600 Jewish persons live in the country. Unlike in the previous year, there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Under the constitution, any Yugoslav citizen who had legal residence in the country in 1991 could acquire citizenship by simple application; however, unresolved citizenship status of long-term habitual residents remained an ongoing problem. The interior ministry claimed that this problem has been resolved; a 2002 amendment to the Law of Citizenship temporarily eased the naturalization requirements for foreigners married to Macedonian citizens, persons without citizenship, and persons with refugee status.

Internally Displaced Persons (IDPs).—At year's end the government reported a total of 831 IDPs, most of whom were in collective centers. That number was down from over 1,180 IDPs reported earlier in the year.

IDPs received basic assistance, mostly from the international community, and had few opportunities for engaging in income-generating activities. The ICRC had sup-

ported some of the IDPs with income-generating projects in the agricultural, livestock-rearing, and handicraft sectors, but phased out its program in 2004. The Ministry of Labor and Social Policy was responsible for IDP programs.

Some IDP groups, overwhelmingly ethnic Macedonians, claimed they could not return to their homes of origin due to security threats in those areas. There were unsubstantiated reports of arson attacks on homes reconstructed by IDPs in some of those areas, notably in the predominantly ethnic-Albanian municipality of Aracinovo. Some IDPs claimed the government was not providing adequate support or incentives for returning to their homes. Other IDPs claimed they had been able to return to their homes, in Aracinovo, for example, and had not faced any threats since doing so.

During the year the government pressured many IDPs to return to their homes of origin by informing them that their monthly benefits would eventually be reduced or eliminated if they did not comply.

Protection of Refugees.—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared prosecution. The government granted refugee status and asylum, but only in rare cases. As of October, out of 751 registered asylum seekers, only 34 had been granted humanitarian protection status, and none had received asylum. A total of 1,204 persons had been granted humanitarian protection, a decision subject to annual review.

According to the Office of the UN High Commissioner for Refugees (UNHCR), the refugee status determination (RSD) mechanism was accessible and active, and the overall process was handled in a generally satisfactory manner. The country's RSD laws were considered satisfactory, but implementation of the RSD procedure in some cases was inadequate. The UNHCR noted significant shortcomings in refugee interview techniques and worked with interior ministry officials to improve them. A more serious shortcoming in the RSD process noted by the UNHCR was the lack of an effective appeals system for those not initially granted either refugee or asylum status. UNHCR reported that appeals rejected by the administrative courts were usually given only cursory review by the Supreme Court, which simply rubberstamped the commission's decision to deny the appeal.

The government provided temporary protection status to most refugees and asylum seekers in the country. However, that status was valid for only 12 months and had to be renewed. In addition, it could be terminated by the government at any time.

The government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees.

While there were no reports that authorities abused or mistreated refugees, some female refugees were the victims of sexual abuse committed by nonofficials. There was no evidence to suggest the female refugees had been targeted because of their refugee status.

There was strong evidence to suggest that Romani refugees were discriminated against in the RSD process, a reflection of general societal discrimination against the Roma. However, Romani refugees in the predominantly Romani municipality of Suto Orizari were generally well tolerated.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

Elections and Political Participation.—The most recent presidential elections were held in April 2004. International observers characterized both rounds of the election as satisfactory, but noted serious second-round irregularities in parts of the country. The opposition party VMRO–DPMNE challenged the election results on the basis of the irregularities; however, international observers concluded that these did not significantly influence the final outcome.

In March elections were held to select the mayors and council members of the country's 84 municipalities and the city of Skopje. An additional partial round of voting was held on April 10 after irregularities in 20 municipalities forced a rerun of the balloting in those areas. International observers found that the elections, the first since a redrawing of municipal boundaries in 2004, were generally well conducted but failed to meet key international standards in some regions of the country. At least seven polling stations were closed due to violent incidents, and international monitors observed ballot stuffing in a number of polling stations, primarily

in areas populated by ethnic Albanians. The ethnic-Albanian opposition party DPA boycotted the second round of elections and subsequently withdrew from parliament, citing serious irregularities in the elections and the government's failure, in its view, to address them adequately.

In Muslim communities, particularly among more traditional ethnic Albanians, many women were disenfranchised due to the practice of family or proxy voting by male family members on their behalf.

There were 24 women in the 120-seat parliament and 3 women in the 19-member Council of Ministers. The law requires that female candidates make up 30 percent of each political party's list in both national and municipal elections.

There were 26 ethnic Albanians, 1 Muslim, 1 Roma, 3 Turks, 2 Serbs, 2 Bosniaks, and 1 Vlach in the 120-seat parliament. There were 6 members of minorities in the 19-member Council of Ministers.

Government Corruption and Transparency.—Corruption was a problem in the executive and legislative branches of the government. Instances of corruption in the police and judicial system were of particular concern (see sections 1.d. and 1.e.). The State Anticorruption Commission was responsible for investigating charges of corruption as well as complaints submitted by citizens. During 2004 the commission received 627 complaints concerning the work of state bodies, privatization procedures, judicial procedures, and other relevant cases. In response the commission initiated 23 investigations and recommended 33 initiatives to counter corruption.

The commission accused government institutions of lacking the political will to fight corruption. After the government significantly reduced the funds available to the commission in a rebalancing of the budget, the commission charged that the government was deliberately impeding its work.

During the year the courts resolved a number of long-pending, high-profile corruption cases involving former government officials, largely as a result of criticism from both the public and the international community. In March a court convicted Ljupco Popovski, a former defense ministry official from the ruling Social-Democratic Union of Macedonia party, on bribery charges and sentenced him to more than two years in prison. The former mayor of the predominantly Roma municipality Suto Orizari was also among those sentenced in corruption trials.

In April Nikola Tasev, the former general manager of the Nova Makedonija publishing house charged with abuse of power for selling 70 percent of the company on the eve of 2002 parliamentary elections, was sentenced to 4 years in prison by Skopje Basic Court I. Besnik Fetai, who was minister of economy at the time of the privatization, was acquitted of similar charges. Nova Makedonija was the country's largest publishing house before its liquidation in 2003.

The country does not have a law guaranteeing citizens' access to government information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were receptive to their views.

There were more than four thousand domestic and international registered NGOs operating in the country, including FORUM, Transparency International, MOST, Macedonian Helsinki Committee, and NGOs devoted to specific causes, including Roma rights, human trafficking, and voters' rights.

The OSCE led international community efforts to engage the government on human rights issues. The OSCE and EU monitoring missions continued to implement projects to improve relations between ethnic Macedonians and ethnic Albanians.

The ombudsman has a mandate to improve nondiscrimination and equitable representation of minority communities and operated six local branch offices around the country. The ombudsman has the legal right to visit all persons detained, including those in pretrial detention, and officials from the ombudsman's office exercised this right freely during the year. The ombudsman found that government institutions violated individuals' rights in 569 cases, or approximately 29 percent of the complaints received in 2004. Most cases concerned violations of judicial procedures, police abuse, and labor and property rights. The government acted on the ombudsman's recommendations in 73 percent of these cases but in some instances did not provide information requested by the ombudsman's office in the course of their investigations.

The government generally cooperated with the ICTY. In March the ICTY indicted two ethnic Macedonians—former interior minister Ljube Boskovski and former po-

lice officer Johan Tarculovski—accused of complicity in the 2001 killing of ethnic Albanian civilians in Ljuboten.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for equal rights for all citizens regardless of their gender, race, disability, or social status; however, societal discrimination persisted against ethnic minorities, particularly Roma, and the protection of women's rights remained a problem.

Women.—Domestic and other violence against women was a persistent and common problem; one survey found that one of four women claimed to have been a victim of physical or psychological domestic violence.

Cultural norms, including victims' concern over possible shame to the family, discouraged the reporting of violence against women, and victims of domestic violence filed criminal charges only rarely. Although the law specifically defines domestic violence as a crime and prescribes substantial punishments for violators, the government did not provide mandatory training for police, prosecutors, and judges, and the law was rarely applied. While the law provides for civil restraining orders to protect victims of domestic violence, there were reports that police officers were unaware of provisions of the law that allow them to act *ex officio* to protect victims of family violence, and police often did not respond to allegations of domestic violence.

The government operated six shelters with limited capacities and funded a national NGO-operated hotline for victims of domestic violence in Skopje. Local NGOs working against domestic violence relied to a large extent on international donor assistance. Public concern about violence against women was not generally evident in the media, although some women's groups worked to raise awareness of the issue.

While the law specifically prohibits rape, including spousal rape, conviction requires proof of both penetration and active resistance by the victim. These requirements are more stringent than for other violent crimes. The penalties for rape or forcible sexual assault range from 1 to 15 years' imprisonment. Some rape cases were tried during the year. As with domestic violence, police and judicial officials were reluctant to prosecute spousal rape, and many victims did not come forward due to social stigma.

Although prostitution is illegal, the law was not always enforced. Some foreign women accused of prostituting themselves were deported, and some men were prosecuted for "mediating" in prostitution.

Trafficking in women for sexual exploitation was a problem (see section 5, trafficking).

Sexual harassment of women in the workplace was a problem, particularly in the private sector. Although the law does not specifically address sexual harassment, it could be prosecuted as a criminal act under antidiscrimination legislation; however, this did not occur in practice. Although women remained underrepresented in the higher levels of the government and the private sector, there were several prominent professional women, including a female deputy prime minister, foreign minister, and justice minister.

Women from parts of the ethnic Albanian community did not have equal opportunities for employment and education due to traditional and religious restrictions on their schooling and participation in society. In some ethnic Albanian communities, women were disenfranchised by the practice of men voting on behalf of female family members (see section 3).

The Office of Gender Equality in the Ministry of Labor and Social Policy was responsible for ensuring the legal rights of women, but did not have the legal authority to aggressively combat discrimination.

Although the law requires men and women to be paid equally for equivalent work, wage discrimination against women remained pervasive, particularly in the private sector. While the law prohibits dismissal of women on maternity leave, discrimination against pregnant women continued in practice.

Among other activities, women's advocacy groups worked to combat domestic violence through awareness-raising campaigns, increase women's political involvement by training female candidates for local elected office, improve women's access to legal services, and promote female establishment of small and medium enterprises.

Children.—The government was committed to the rights and welfare of children; however, it was significantly limited by resource constraints. The ombudsman's office had a special unit for children, partially funded by the UN Children's Fund (UNICEF), that investigated complaints of violations of children's rights. The Ministry of Labor and Social Policy is responsible for children's welfare.

Education is mandatory through the eighth grade or to the age of 16; however, some children did not enter the educational system at all. The Ministry of Education reported that 95 percent of children were enrolled in school; no official data was

available on school attendance or the number of children who did not have access to education. Primary and secondary education was free; however, students had to provide their own books and other materials.

Almost 90 percent of the children who finished primary school continued to secondary school; however, at both the primary and secondary levels, girls in some ethnic Albanian communities did not attend school. Approximately half of ethnic minority students did not go on to high school due to lack of classes in minority languages at the secondary level and to the conviction of many rural, ethnic Albanian families that girls should be withdrawn from school at age 14.

According to Romani community leaders, up to 10 percent of Romani children never enrolled in school. Of those who did enroll, 50 percent dropped out by the fifth grade and only 35 to 40 percent finished the eighth grade.

As in previous years, poor physical conditions of schools and insufficient classroom space were common complaints, particularly in the predominantly ethnic Albanian western parts of the country, and parents and students sometimes protested these conditions. Boys and girls generally had equal access to education except in ethnic Albanian areas.

Medical care for children was generally adequate, but was hampered by the generally difficult economic circumstances of the country and by the weak national health system.

Child abuse was a problem in some areas. According to interior ministry statistics, the number of reported cases of sexual abuse against children decreased; there were 37 reported cases during the year. The Centers for Social Work of the Ministry of Labor and Social Policy and the Department for Juvenile Delinquency of the Ministry of Interior are responsible for addressing child abuse. NGOs are also active in this area.

Child marriage occurred with some frequency in the Romani community and less frequently in the ethnic Albanian community. It was difficult to estimate the extent of underage marriage in the Romani community because such marriages frequently were not registered. A survey of 960 Romani women during the year by the NGO Daja found that 54 percent had given birth to their first child by the age of 18, while 3 percent had given birth between the ages of 12 and 14.

Girls were sometimes trafficked for sexual exploitation (see section 5, Trafficking).

Romani children were often organized into groups by Romani adults and made to beg for money at busy intersections, street corners, and in restaurants and cafes (see section 6.d.).

According to some estimates, there were between 500 and 1 thousand street children in the country, most of whom were Roma. With international support, the Ministry of Labor and Social Policy operated a day center for street children. The minister of labor reported that the center has served at least 265 children to date.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, through, and, to a lesser degree, from the country.

It is a criminal offense to traffic persons for sexual exploitation, forced labor or servitude, slavery, or a similar relationship. The law provides for a minimum sentence of four years for most trafficking crimes and a minimum of six months for the destruction of identification documents of trafficked persons. Persons convicted of organizing human trafficking receive a mandatory minimum prison term of 8 years and 1 to 10 years for complicity in the crime of human trafficking. The law provides for a minimum six-month sentence for persons who wittingly use, or enable another person to use, sexual services from a trafficked person. The mandatory minimum sentence for trafficking in children or for knowingly using trafficked children and juveniles for sexual exploitation is eight years.

During the year at least 32 trafficking-related cases were prosecuted, compared to 20 cases in 2004. During the year 83 persons were convicted and sentenced for trafficking. The country's most notorious convicted trafficker, Dilaver Bojku Leku, remained in a Skopje prison after being sentenced in 2004 for "mediation" in prostitution. Since he was in an "open regime" facility with liberal release policies, international observers were concerned that Bojku would be able to intimidate witnesses during his periods of authorized leave from prison.

The national commission for prevention and suppression of trafficking in persons coordinated government efforts to combat trafficking. The interior ministry was also involved in antitrafficking efforts and detailed several law enforcement personnel to work fulltime in its main trafficking unit in Skopje. It also deployed antiorganized crime police officers to combat human trafficking on a local level. The government routinely cooperated with neighboring countries' national organizations, most notably those in the Southeast European Cooperation Initiative.

In May parliament passed a law on witness protection to facilitate witness testimony in trafficking and other sensitive cases. In at least one case, a trafficking victim who had been repatriated to her home country was allowed to testify against her trafficker using a digital video conference link. In at least 12 cases, the interior ministry and the association of public prosecutors arranged for the travel of witnesses to the trial and provided for their protection.

While the country remained primarily a transit and destination point for trafficking, officials and others acknowledged that it was a point of origin for a small number of trafficking victims. Women from the country were trafficked throughout the former Yugoslavia. Interior ministry officials reported a downward trend in human trafficking during the year. However, NGOs and the international community reported that there were more cases of internal trafficking. Reliable statistics were not available, but specialists working in the field for the OSCE and other agencies estimated that between 200 and 400 women were trafficked to or through the country during the year, primarily for sexual exploitation. Moldova, Romania, Albania, and Bulgaria were the primary sources of trafficking victims, and victims trafficked through the country were most often en route to Serbia and Montenegro (including Kosovo), Albania, and western Europe.

There were four reported cases of trafficking involving girls during the year. There were reports that female minors were recruited by some massage parlor owners to perform sexual services for clients. In at least one case, authorities shut down a massage parlor operating in this way.

Trafficked women were forced to work in prostitution, often under the guise of dancers, hostesses, or waitresses in local clubs. Police raids and testimony by victims confirmed that trafficking victims were subjected to threats, violence, physical and psychological abuse, and seizure of documents to ensure compliance.

There were no developments in the 2004 case involving police complicity in trafficking in Gostivar, which resulted in the suspension from duty of an officer pending his trial on criminal charges for misuse of official position and trafficking in persons. While pretrial procedures had concluded, a hearing had not been scheduled by year's end. At year's end two police officers who testified on behalf of trafficker Dilaver Bojku Leku were under investigation for possible complicity in trafficking.

During the year the International Organization for Migration assisted two victims of trafficking at its local shelter, which it operated with support from the government and a local NGO.

Persons with Disabilities.—The law prohibits discrimination on the basis of disability; however, there was discrimination against persons with disabilities in employment, education, access to health care, and in the provisions of other state services. There are no laws or regulations requiring buildings to be made accessible to persons with disabilities, and many public buildings remained inaccessible for persons with physical disabilities.

Advocates for disabled persons stated that employers were reluctant to hire persons with disabilities and that the difficulty of accessing educational and other opportunities prevented them from fully integrating into society.

The interparty parliamentary lobby group for the rights of people with special needs, in cooperation with NGOs, worked to develop and promote comprehensive legislation promoting the rights of persons with disabilities. The group focused on changes to laws on urban planning and construction.

The Ministry for Labor and Social Policy was responsible for the integration of persons with disabilities into economic life and the payment of benefits. UNICEF implemented several projects aimed at addressing the needs of children with disabilities.

National/Racial/Ethnic Minorities.—According to the 2002 census, the population was 64.2 percent ethnic Macedonian; 25.2 percent ethnic Albanian; 3.9 percent ethnic Turkish; 2.7 percent Roma; 1.8 percent ethnic Serb; 0.8 percent Bosniak; and 0.5 percent Vlach.

There were credible reports of police violence against Roma, including beatings during arrest and while in detention (see section 1.c.), as well as incidents of societal violence during the year.

There continued to be incidents of interethnic violence and tension during the year. For example, on August 26, ethnic Albanian villagers in Celopek prevented ethnic Macedonians from commemorating the killing of two ethnic Macedonians at the site of the Motel Brioni, which was destroyed shortly after the end of the 2001 conflict. The motel site remained the subject of an ethnically charged property dispute between ethnic Albanian villagers and the ethnic Macedonian owners of the destroyed building. In September three ethnic Albanians accused of organizing the

crowd that prevented the ethnic Macedonians from commemorating the event failed to appear in a Tetovo court for a hearing into charges against them.

In September police intervened to stop a large fight between ethnic Macedonian and ethnic Albanian students in a high school in Struga; such altercations have been common in the town since 2003.

Although interethnic tension in schools remained a problem, there were there were fewer cases than in 2004 of serious disputes between parents and school authorities over ethnic issues.

Students from different ethnic groups sometimes studied in separate shifts or entirely separate facilities, usually at their parents' request. For example, in Shemsevo, ethnic Macedonian parents refused to send their children to mixed local schools, and instead sent them to monoethnic schools in the nearby towns of Jegunovce and Zilce.

While interethnic relations remained strained, a survey conducted in May found that, for the first time in seven years, a majority of both ethnic Albanians and ethnic Macedonians held favorable opinions of the other ethnic group.

Ethnic Albanians continued to complain of widespread official discrimination. They were concerned about the slow progress in reaching what they considered to be equitable representation in government ministries, while ethnic Macedonians often claimed that they were targeted for downsizing regardless of job performance. Some ethnic Albanians reported that they were effectively disenfranchised by discrimination in citizenship decisions. In at least one case an ethnic Albanian woman complained that her application for citizenship was denied despite her insistence that she met the relevant criteria.

Although some progress was made, and recruitment efforts were in place, ethnic Albanians remained underrepresented in the military and police.

The law establishes that languages of ethnic minorities must be recognized as additional official languages in areas where those minorities comprise at least 20 percent of the population. In those areas citizens had the right to communicate with local offices of the central government in the language of the minority group and to receive responses and personal documents in the same language; however, this did not always occur in practice. Under the law those accused of crimes have the right to translation at state expense of all relevant judicial proceedings and documents; however, this did not always occur in practice.

The law provides for primary and secondary education in the languages of the ethnic minorities, and primary education was available in Macedonian, Albanian, Turkish, and Serbian. The number of ethnic minority students who received secondary education in their native languages continued to increase; however, ethnic Albanians complained that distribution of public educational resources was not proportional to ethnic groups' representation within the general population.

Ethnic minorities remained underrepresented at the university level, although there was progress in increasing the number of minority students. In July the government accredited the University of Tetovo, whose primary language of instruction is Albanian. More than six thousand students were enrolled in the university's four faculties.

Ethnic Turks also complained of governmental, societal, and cultural discrimination. Their main concerns centered on the slow progress in achieving equitable representation in government institutions, the absence of Turkish majority municipalities in the 2004 municipal redistricting, and a lack of Turkish language education and media.

Roma complained of widespread ethnic discrimination. NGOs and international experts reported that Roma were often denied job opportunities, access to public welfare funds, and entrance to establishments such as restaurants and cafes.

Roma had the highest rate of unemployment and the lowest personal and family incomes, were the least educated, and had the highest mortality rates of any ethnic group in the country. The government provided few social services to Roma despite the belief that unemployment among the Romani population was above 70 percent.

At year's end there were 2,169 Romani refugees remaining in the country from the 1999 conflict in Kosovo. The country's ethnic Albanians and, to a lesser degree, ethnic Macedonians held hostile views of the refugees, many of whom settled in Skopje and some of whom frequented busy traffic intersections to beg, wash car windows, or sell small items. These Roma were often targets of harassment and verbal abuse.

Other Societal Abuses and Discrimination.—There was societal prejudice against homosexuals.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form and join unions, and workers did so in practice; however, at times the government interfered with union activity.

While the law provides that independent unions may freely register with the Ministry of Labor and Social Policy, some unions reported encountering obstacles, particularly delays in the registration process. Without registration a union cannot operate legally. More than 50 percent of the legal workforce was unionized, and unions were particularly well represented in the public sector.

Unions are not required to belong to the Confederation of Trade Unions of Macedonia (SSM), which maintained close ties with government officials. Several new unions formed outside of the SSM in recent years, including unions of journalists, police officers, and farmers.

In July the largest SSM branch union, the Union of Education, Science, and Culture (SONK), severed ties with SSM and became independent. Some SONK members alleged that, after the split, local political leaders with ties to the government attempted to pressure local SONK union members to oppose the decision by the union's leaders. In September the government severed wage negotiations with SONK. The government resumed negotiations in November after SONK demonstrated it had strong support from its members as well as from international unions and labor organizations. In December SONK and several other unions that were formerly members of SSM formed a new, independent union federation, the Confederation of Free Unions.

The law prohibits antiunion discrimination; however, antiunion discrimination existed in practice, and workers in private companies were fired on several occasions for participating in union activities. Because of the delays in the court system, it could take a worker two to three years to regain employment through the courts.

Employers sometimes interfered in the internal affairs of unions by dominating union election campaigns or running their own candidates in union elections. At times these practices resulted in the election of company managers to company union leadership positions. As a result workers were sometimes afraid to run for local union office, and union elections were not always free and fair.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference; however, the government did not always actively enforce these laws in practice. The law protects the right of employees to bargain collectively, and most branch and local unions had collective bargaining agreements. All legally employed workers are covered by one of two collective bargaining agreements, one for public sector employees and the other for private sector employees. While collective bargaining took place, employees had very little practical negotiating leverage due to the country's weak economic environment, and many collective bargaining agreements failed to keep pace with changes in the environment and workplace.

In August parliament passed a new labor relations law. The law legalizes part-time and temporary workers, who had not been recognized under the previous law, and protects the right of employees to bargain collectively and to strike. However, it allows employers to "exclude," or temporarily release, up to 2 percent of a company's workers during a strike if the company considers these workers to be potentially violent or disruptive. The "excluded" workers would be rehired after the strike. The unions maintained that this provision allows employers to exclude union leaders from negotiations during a strike.

The SSM negotiated two national collective bargaining agreements with the government, covering the public and private sectors, that established minimum standards for working conditions. In the private sector, branch unions negotiated at the national level with the respective chambers of commerce, and local unions negotiated with individual companies. Collective agreements in the public sector were negotiated between branch unions and the respective ministries.

The law provides for the right to strike, and workers exercised this right in practice during the year. The law allows members of the military and the police to strike but only if they adhere to restrictive guidelines and continue to perform essential duties.

There is one export processing zone in the country, but it was not operational during the year.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—While there are laws and policies to protect children from exploitation in the workplace, includ-

ing a prohibition of forced or compulsory labor, government enforcement has been uneven. The law provides that anyone who buys, sells, keeps, or takes children or minors for the purpose of exploitation shall receive a prison sentence of at least eight years.

The minimum age for employment is 15 years. The law prohibits employing minors under the age of 18 in work that is detrimental to their physical or psychological health and morality. The law also prohibits minors under the age of 18 from working nights or more than 40 hours per week.

There were no official reports of child labor during the year; however, there was evidence that child labor was used in the "gray economy," including for begging on the street and selling cigarettes and other small items at open markets, in the streets, and in bars or restaurants, sometimes at night. The children involved in these activities were almost exclusively Roma. Officials did not punish such violations and children remained vulnerable to exploitation.

Children were sometimes trafficked for sexual exploitation (see section 5, Trafficking).

The Ministry of Labor and Social Policy is responsible for enforcing laws regulating the employment of children. Government efforts to eliminate child labor abuse have been largely ineffective and, while the necessary laws are in place, there has been little practical implementation of the policy and laws.

While the government did little to raise public awareness on child labor abuse, NGOs were active in organizing workshops on children's rights. International donors supported programs to prevent children from working on the street and to increase school enrollment of children at risk for such work.

e. Acceptable Conditions of Work.—The country does not have a national minimum wage established by law. The average monthly wage according to official statistics was approximately $250 (12,464 denars) and did not provide a decent standard of living for a worker and family. The government statistics office estimated that 29.6 percent of the population lived below the poverty line.

The law establishes a 40-hour workweek with a minimum 24-hour rest period and vacation and sick leave benefits. Employees cannot legally work more than 10 hours of overtime per week, 20 hours per month, or 190 hours per year. According to the collective agreement between the government and the SSM, employees have a right to overtime pay of 135 percent of regular pay. In addition employees who work more than 150 hours of overtime per year are entitled to a bonus of one month of salary. However, high unemployment and fragile economic conditions led many employees to accept work that did not comply with the law. In particular small retail businesses often required employees to work well beyond the legal limits.

Although there are laws and regulations on worker safety, they were not strictly enforced by the Ministry of Labor and Social Policy. Workers have the legal right to remove themselves from situations that endanger their health or safety without jeopardy to their future employment, but employers did not always respect this right in practice.

MALTA

Malta, with a population of approximately 400 thousand, is a constitutional republic and a parliamentary democracy. The chief of state (president) is appointed by the unicameral parliament. The president appoints as prime minister the leader of the party that gains a majority of seats in the parliamentary elections. The last such elections, in 2003, were free and fair and retained the Nationalist Party in power. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- child abuse
- trafficking in persons

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. The Council of Europe conducts visits on a biannual basis. There were no visits in during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally respected these prohibitions.

Role of the Police and Security Apparatus.—The country has a single police department which maintains internal security with backup support from the armed forces. The appointed commissioner who commands the police is under the supervision of the civilian minister of justice and home affairs. The police force includes a number of special squads, namely the drugs, economic crimes, cyber crimes, and vice squads and the Criminal Investigation Department. The unified armed forces are responsible for defense, with an emphasis on protecting the country's territorial waters and airspace. The commander of the armed forces is under the direct supervision of the prime minister. There were no reported problems related to corruption or impunity within the force. A Police Board made up of independent members from outside the police force and presided over by a former judge investigates any allegations of police abuse, and appropriate disciplinary action is taken when necessary. Training for members of the police force is ongoing. New recruits are trained at the police academy, and current members regularly undergo refresher courses. There were no reported instances where police failed to prevent or to respond to societal violence.

Arrest and Detention.—An arrest warrant, issued by a magistrate, is generally required before the police may detain a person for questioning on the basis of reasonable suspicion. Within 48 hours of detention, police must either release the suspect or file charges, and must inform the detainee of the grounds of suspicion for his arrest. These requirements were respected in practice. During the 48-hour period after detention, arrested persons have no right to legal counsel or meetings with family members. Pretrial detainees were granted access to counsel. A person charged may select a lawyer, or the court appoints a lawyer at the court's expense. Family members could visit detainees once charges had been filed. There were no reports of problems or abuse of prisoners during the 48-hour detention period. Bail normally was granted on a case-by-case basis.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The country's highest court, the constitutional court, interprets the constitution and has original jurisdiction in cases involving human rights violations and allegations relating to electoral corruption charges. The civil court of appeal hears appeals from the civil court, court of magistrates, and special tribunals. The court of criminal appeal hears appeals from the court of magistrates and the juvenile court.

Trial Procedures.—The law provides for the right to a fair public jury trial, and an independent judiciary generally enforced this right. Defendants have the right to counsel of their choice or, if they cannot afford counsel, to court-appointed counsel at public expense. Defendants and their lawyers have access to government-held evidence relevant to their cases. Defendants may confront witnesses and present evidence, enjoy a presumption of innocence, and have the right of appeal.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice; violations were subject to effective legal sanctions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. The law prohibits foreign participation in politics during the period leading up to elections, although this provision rarely has been used. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In 2004 the broadcasting authority, an independent statutory body that is responsible for television and radio broadcasting, fined an independent television station for broadcasting an interview with an independent candidate for the European parliament on the grounds that his statements as broadcast could have incited racial

hatred. The station sought judicial review of the authority's decision, and the case was ongoing at year's end.

The independent media were active and expressed a wide variety of views without restriction. The international media operated freely.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The constitution establishes Roman Catholicism as the state religion; however, numerous non-Catholic religious groups, including an Islamic community, various Protestant denominations, and a small Jewish community, practiced their faiths freely and were not required to register with the government.

The government and the Catholic Church participated in a foundation that finances Catholic schools. While religious instruction in Catholicism was available in all public schools, a student may opt out of this instruction if the student or guardian objects.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts during the year. The Jewish community was composed of about 120 persons.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who appeared not to qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 544 persons during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The government reduced the period of detention for asylum seekers to one year. It placed children, pregnant women, and elderly immigrants, in so-called open centers, where they were free to move about, shortly after their arrival in the country. In addition, the cabinet assigned to the Ministry for Family and Social Solidarity responsibility for the welfare, accommodation, and general management of persons released from detention centers.

Illegal immigrants awaiting a decision on their cases occasionally protested against being detained or attempted to escape from detention centers.

In January there was a riot by detainees at a detention center operated by the armed forces. The detainees were awaiting repatriation after their applications for refugee status were turned down. Some immigrants were hospitalized. Detainees and groups supporting them complained later that the armed forces used excessive force to restore control. The prime minister ordered an independent judicial inquiry to investigate the incident. The inquiry found that the detainees had refused to obey legitimate orders of the members of the armed forces and that the use of force was generally justified, but that some individual soldiers used excessive force. The inquiry recommended that the armed forces receive additional training on handling detainees but that the government's detention policy not be changed.

The government excluded refugees if it deemed them to nationals of a safe country of origin.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The 2003 general elections were free and fair.

There were 6 women in the 65-seat parliament. There were 2 women in the 14-member cabinet of ministers. Approximately 13 percent of senior government officials were women, and 2 women held ambassadorial rank.

There were no members of minorities in the government.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The country does not have a general access to information law. There are laws which provide access for the press and the public to certain government-held information. But the government retained discretion to release information, which did not fall under any of these sector-specific laws. The government generally provided such access.

Section 4. Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

After the January riot by detainees at a detention center, a UNHCR official who happened to be conducting a routine visit to the detention camps for illegal immigrants called on the government to change its detention policy. It was not clear if he was speaking for UNHCR. The government defended and retained its detainee policy.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally effectively enforced it. However, child abuse and trafficking in persons were problems.

Women.—Domestic violence was not common. Between January and November, the police domestic violence unit received 208 reports of domestic violence, compared with 233 reports during the same timeframe in 2004. The law prohibits violence against women, and the government generally effectively enforced it. Penalties ranged from 3 months' to 20 years' imprisonment.

A special police unit and several voluntary organizations provided support to victims of domestic violence. There was a hotline to assist victims of abuse through counseling and referrals to shelters. The government provided support to victims of domestic violence through the department of welfare. A government-supported shelter for women and children operated during the year and the government provided financial support to a shelter operated by the Catholic Church. The government also maintained an emergency fund and subsidized other shelters.

Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted those accused of such crimes. For the period January through November there were five reported cases of rape. The cases were pending trial at year's end. Rape, spousal rape, and violent indecent assault carry sentences of up to 10 years' imprisonment.

The law prohibits prostitution, and the government effectively enforced it. The law provides for sentences of between several months' and two years' imprisonment. From January to November, there were 43 cases of prostitution and a number of prosecutions during the year.

Sexual harassment was unlawful and carried the penalties of a $2,800 (1 thousand Maltese lira) fine or six months' imprisonment, or both. The government effectively enforced the law.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The government took steps to provide gender-neutral legislation, and redress in the courts for sexual discrimination was available. The ministry for the family and social solidarity and the national commission for the promotion of equality for men and women were responsible for gender equality issues. The commission's program focused on broader integration of women into society. It advised the government on the implementation of policies in favor of equality of the sexes.

Although women constituted a growing portion of the higher education graduates and the work force, they were underrepresented in management and generally earned less than their male counterparts.

Children.—The government was strongly committed to children's rights and welfare. It provided free, compulsory, and universal education through age 16. Approximately 95 percent of school-age children attended school, and 70 percent went on to post-secondary education. There were no apparent differences in the treatment of girls and boys in education.

The government provided universal free health care to all citizens, and boys and girls had equal access to health care.

Child abuse was a problem. In 2004 there were 892 cases of child abuse. Prison sentences were handed down in a number of cases involving sexual abuse of minors.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to the country.

In 2004 the authorities prosecuted thirteen persons for trafficking; the longest sentence was three years in prison and a fine of $600 (200 Maltese lira) for an ex-police constable. The average sentence was two years in prison. The cases resulted in fines, dismissed cases, continuing investigations and prison sentences up to four years. The government sometimes cooperates with other governments in the investigation of trafficking. The police, special branch, vice and economic crime squads coordinated the enforcement of the antitrafficking law.

The country is a destination for persons, primarily from the Ukraine and Russia, trafficked for prostitution.

Reliable law enforcement sources reported that women were recruited for prostitution from eastern European countries and essentially "purchased" by Maltese men, sometimes pimps intent on exploiting them for commercial sex or by individuals for exploitative sex only with the purchaser. These women were often "sold" to other pimps or individuals who then continue the cycle; it is typical for a woman to be "sold" every three months under these schemes. The victims of this type of sexual exploitation will typically arrive in the country legally on a tourist visa and often with understanding that they will be employed in the sex trade. The degree of the cooperation of these victims with the "purchasing schemes" once they arrive in the country, or whether any coercion or force was used to ensure that they remained in this trade, was unknown.

Additional sources claimed that immigration authorities were aware of the possibility of trafficking from certain countries and screened for this when suspicious persons attempted to enter the country. Local law enforcement authorities generally believed that women who travel to the country to provide sexual services were willing participants, that they willingly provide these services for the clients recruited by the pimps; that they profit from these activities; and that they were not coerced, forced, or compelled to continue.

In general authorities did not condone or facilitate trafficking in persons. However, there was one documented case of an ex-constable and a police officer arrested and convicted of trafficking in human beings, living off the earnings of prostitution, and keeping a brothel. The victims of these pimps were an undisclosed number of Russian women.

The victims of trafficking are treated as a culpable part of the criminal enterprise. The government encouraged victims to assist in the investigation and prosecution of traffickers, and the government provided protection of witnesses. However, victims who have been arrested generally refused to provide testimony or would testify only in closed hearings. Once the victims provided evidence they were typically deported to their country of origin.

The government did not provide funding specifically for victims of trafficking. There was no formal screening or referral process in place for victims of trafficking; however, they could be, and sometimes were, referred to the array of social and housing services available to victims of domestic violence.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. The National Commission for Persons with Disability worked on 58 complaints of discrimination against persons with disabilities, and began investigating 85 new cases. A total of 75 cases were satisfactorily concluded. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice.

National/Racial/Ethnic Minorities.—A few thousand persons of Arab, African, and Eastern European origin lived in the country; they made up a small percentage of the country's population. There were isolated reports that owners of some bars and discos periodically discouraged or prohibited darker-skinned persons, particularly of African or Arab origin, from entering their establishments. There were no reports of charges being pressed by the alleged victims.

The law criminalizes racial hatred, and during the year two persons were charged with three separate cases of inciting racial hatred. Their trials were ongoing at year's end.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. Noncivilian military and police personnel are not allowed to join a union. Approximately 63 percent of the work force was unionized. Although all unions were nominally independent of political parties, the largest, the General Workers' Union, generally was regarded as having close informal ties with the Labor Party.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for collective bargaining, and it was freely practiced. Workers, except noncivilian military and police personnel, have the right to strike, and they exercised this right by conducting legal strikes. There are no special laws or exemptions from regular labor laws in the country's one export processing zone.

c. Prohibition of Forced or Compulsory Labor.—The government prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace, and the government effectively implemented them in practice. The law prohibits the employment of children younger than age 16. The Department of Labor generally enforced the law effectively but allowed summer employment of underage youth in businesses operated by their families; some underage children were employed as domestics, restaurant kitchen help, or vendors.

e. Acceptable Conditions of Work.—The national weekly minimum wage of $160 (56 Maltese lira) for adults combined with an annual mandatory bonus of approximately $620 (214 Maltese lira) and a $110 (38 Maltese lira) annual cost of living increase allowance provided a decent standard of living for a worker and family. Citizens were also entitled to additional government subsidies for housing, health care, and education.

The standard workweek was 40 hours, but in some trades it was 43 or 45 hours. Government regulations provide for a daily rest period, which is normally one hour, and one day of rest per week. Premium pay was required for overtime. Excessive compulsory overtime is prohibited, and workers cannot be obligated to work more than 48 hours, inclusive of overtime. The Department of Labor generally enforced these requirements effectively.

The occupational health and safety authority, a body made up of the government, unions, and employers, conducted regular inspections at work sites, and cited a number of offenders. However, enforcement of the health and safety standards was uneven, and industrial accidents remained frequent, mostly in the building and construction sector. Workers had the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, and the Department of Labor generally enforced this right.

Allegations of physical and sexual abuse of workers existed, but they were rarely made public, and even more rarely were they the subject of court proceedings.

MOLDOVA

Moldova is a parliamentary republic, with a population of approximately 4 million, of whom an estimated 580 thousand live in the secessionist-controlled region of Transnistria. The constitution provides for a multiparty representative government with power divided among a president, cabinet, parliament, and judiciary. Separatist elements, supported by Russian military forces in the area, declared a "Transdniester Moldovan Republic" in Transnistria between the Dniester River and Ukraine. The government does not control this region. Unless otherwise stated, all references herein are to the rest of the country. Parliamentary elections on March 6 were generally free and fair; however, authorities in the Transnistria region interfered with the ability of residents there to vote. On April 4, the parliament reelected Communist Party leader Vladimir Voronin as president. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas, and the human rights record of the Transnistrian authorities remained poor. There were reports of the following human rights problems:

- selective official harassment and intimidation of the political opposition
- security force beatings, particularly of persons in police custody and Roma
- incommunicado detention for extended periods
- harsh prison conditions
- arbitrary arrest and detention of Roma
- judicial and police corruption
- monitoring by security forces of political figures through unauthorized wiretaps and, at times, illegal searches
- intimidation of journalists into practicing self-censorship
- restrictions on freedom of assembly
- obstacles to official registration by a few religious groups
- persistent societal violence and discrimination against women and children
- trafficking in women and girls
- discrimination against Roma
- some limits on workers' rights
- child labor

In Transnistria: the right of citizens to change their government was severely restricted; authorities reportedly continued to use torture and arbitrary arrest and detention; prison conditions remained harsh, and two members of the so-called Ilascu Group remained in prison despite a July 2004 ruling in their favor by the European Court for Human Rights. Transnistrian authorities harassed independent media and opposition lawmakers, restricted freedom of association and of religion, and discriminated against Romanian-speakers.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings in the country or its separatist region.

b. Disappearance.—There were no reports of politically motivated disappearances during the year. The police investigation into the July 2004 disappearance of Sergei Gavrilov, who was imprisoned in Transnistria during the early 1990s and allegedly witnessed the mistreatment of members of the "Ilascu Group," continued at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that police employed cruel and degrading arrest and interrogation methods and that guards beat prison inmates. On June 30, parliament approved a law criminalizing torture.

Nongovernmental organizations (NGOs) reported several cases of cruel, inhuman, or degrading treatment of prisoners and detainees. For example, the local Amnesty International (AI) office reported that armed police beat several Roma in a mid-July raid on a Romani community in Edineti in connection with a murder investigation. Police in Chisinau detained three persons incommunicado for several weeks (see section 1.d.).

According to the Helsinki Committee, the Ministry of Internal Affairs took administrative action against the officers involved in the September 2004 beating and interrogation of Petru Calamanov.

Prison and Detention Center Conditions.—Conditions in most prisons in the country (including Transnistria) remained harsh, and in some instances were life-threatening, with serious overcrowding. Cell sizes did not meet local legal requirements or international standards. The incidence of malnutrition and disease, particularly tuberculosis, was high in all prisons. Conditions were particularly harsh in facilities for persons awaiting trial or sentencing. AI reported that one detainee, Oleg Talmazan, suffered a heart attack in March 2004 but was not hospitalized for almost two weeks even though emergency ambulance personnel recommended immediate hospitalization. Other detainees reported being denied food and water and being held in underground facilities without medical care, fresh air or ventilation, or appropriate sanitation.

On June 27, several hundred inmates protested their detention conditions and treatment at a prison in Tiraspol (in Transnistria). The prisoners went on hunger strike and inflicted cuts and other injuries on themselves. The protests ended after

several days, and a representative of the Organization for Security and Cooperation in Europe (OSCE) was allowed to visit the prison.

In August 2004 the Supreme Court of Justice ordered the Bender prosecutor's office to take action to resolve the situation of 250 prisoners with tuberculosis who were held at Bender prison under inadequate conditions, but the prosecutor's office had taken no action by year's end.

Pretrial detainees generally were held separately from convicted prisoners, although there were reports of convicted prisoners remaining in detention facilities due to prison overcrowding. Children convicted of crimes were sent to adult prisons, where they were held in separate cells. A survey by the NGO Institute for Penal Reform (IPR) revealed cases of minors detained for the first time in pretrial detention together with minors who had a past history of detention and were suspected of grave offenses. IPR reported a case of a female minor being detained together with adults.

Government and independent human rights observers were generally permitted to visit prisons. The Moldovan Center for Human Rights regularly made prison visits during the year. The government cooperated with the International Committee of the Red Cross (ICRC) and permitted visits to prisoners. Transnistrian authorities allow the ICRC to visit the Ilascu Group prisoners once a year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, at times, police arbitrarily arrested and detained Roma (see section 5).

Role of the Police and Security Apparatus.—The national police force is the country's primary law enforcement body. The police force is subdivided into regional and city police commissariats, which are subordinated to the Ministry of Internal Affairs. Police corruption remained a problem. During the year, authorities brought 190 criminal cases against employees of the Ministry of Internal Affairs for bribery, robbery, and abuse of office, compared with 199 such cases in 2004. The Prosecutor General's Office is responsible for investigating the activities of the police. An internal affairs unit, reporting to the Ministry of Internal Affairs, investigated minor incidents of corruption.

Arrest and Detention.—Judges issue arrest warrants based on cases presented by prosecutors. Under the law, authorities must promptly inform detainees of the reason for their arrest and the charges against them. Suspects may be detained without charge for 72 hours. The law provides accused persons the right to a court hearing on the legality of their arrest. These rights were not always respected in practice.

Once charged, a detainee may be released on personal recognizance pending trial; in some cases, to arrange release, friends or relatives were allowed to give a written pledge that the accused would appear for trial. The law provides for a system of bail, but it was rarely used. Authorities generally did not release before trial detainees accused of violent or serious crimes.

Detainees had the right to a defense attorney; however, at times this right was restricted. Authorities generally did not grant detainees access to a lawyer until 24 hours after detention. Police often told persons that they were considered witnesses in a case and questioned them without a lawyer present, then changed their status to that of suspect. Detainees were often presented with the charges against them without a lawyer present. The government requires the local bar association to provide an attorney to defendants who are unable to afford one, but the government did not pay legal fees, and defendants often did not have adequate counsel. Detainees were generally allowed access to family members.

Local and international NGOs reported arbitrary detention and arrests of Roma without cause or warrants, often without granting them access to a lawyer (see section 5). According to AI, on July 18, the police detained more than 30 Romani men and boys, some as young as age 12, during a raid in the town of Edineti. Most were held for two days before a local court ordered their release; most were released without charge. Mikhail Kaldarar, who was detained on July 18, was subsequently transferred to a holding facility in Chisinau. Although the court ordered his release on July 25, authorities held Kaldarar until September 8, without allowing him access to his family or lawyer. In connection with the same investigation, Vasilii and Ana Kodrian were taken into custody on August 18 on the grounds that their son, who was not apprehended, was a suspect in a murder investigation. They were held incommunicado for several weeks until their releases on September 12 and 7, respectively.

There were occasional detentions that some observers regarded as politically motivated. On October 19, local authorities briefly detained Mikhail Formuzal, mayor of Ciadir-Lunga in the Gagauz autonomous region and a leading opposition figure in

Gagauzia on charges of abuse of office and misuse of funds. Formuzal was forbidden to leave the city while the investigation continued.

In March police arrested former defense minister Valeriu Pasat on accusations of defrauding the government of several million dollars. Many observers considered his arrest and detention politically motivated. A trial was completed in December, and Pasat remained in custody while a verdict was pending at year's end.

The trial of Chisinau water utility head Constantin Becciev, which began in 2003, remained pending at year's end. Becciev, who was held in preventive detention for six months in 2003, continued to run the utility after his release. On October 4, in a separate case lodged by Becciev, the European Court for Human Rights (ECHR) concluded that the country had held Becciev in inhuman and degrading conditions and had not provided a fair trial; the court obliged the country to pay Becciev for moral damages and lawsuit-related expenses.

The laws permit pretrial detention for an initial period of 30 days. The courts may extend pretrial detention to 12 months on an individual basis, based on the severity of the alleged crime. Detentions of several months were fairly frequent; in rare instances, pretrial detention was extended for several years. At year's end there were 8,876 persons in prison: 259 were minors, 417 were women, and 2,472 were pretrial detainees.

In May Gagauz authorities granted amnesty to Ivan Burgudji, an official of the Gagauz autonomous region and well-known Gagauz nationalist. In 2003 the Chisinau tribunal court sentenced Burgudji to five years in prison for abuse of power and malicious hooliganism in connection with his opposition political activities.

Transnistrian authorities regularly harassed and often detained persons suspected of being critical of the regime for periods of up to several months.

On November 22, Transnistrian authorities detained for several hours and reportedly abused two brothers, aged 12 and 15, who were the sons of a teacher at one of the Latin script schools in Transnistria. The Transnistria militia reportedly explained they had detained the boys to clean the city of homeless people before the December legislative elections.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, but official pressure and corruption of judges remained a problem. There continued to be credible reports that local prosecutors and judges extorted bribes in return for reducing charges or sentences, and observers charged that courts were sometimes politically influenced. Political factors played a large role in the reappointment of judges.

The judiciary consists of lower courts, courts of appeal, and the Supreme Court of Justice. A separate Constitutional Court has exclusive authority in cases regarding the constitutionality of draft and final legislation, decrees, and other government acts. The Constitutional Court was the only court generally regarded as fair and objective.

The prosecutor general's office is autonomous and answers to parliament. It is responsible for overseeing criminal investigations, presenting charges before a court, and protecting the rule of law and civil freedoms. Prosecutors may open and close investigations without bringing the matter before a court, giving them considerable influence over the judicial process.

Trial Procedures.—While defendants in criminal cases are presumed innocent, in practice a prosecutor's recommendation carried considerable weight and limited a defendant's actual presumption of innocence. Trials were generally open to the public; however, due to a shortage of courtrooms many cases were heard in judges' offices. Court session information, such as trial times, locations and verdicts, was rarely posted publicly as required by law, which limited public access to court proceedings. Cases were presented to a judge or panel of judges depending on the complexity of the case. Defendants have the right to a lawyer, to attend proceedings, to confront witnesses, and to present evidence. The law requires the local bar association to provide an attorney to defendants who are unable to afford one; however, since the government did not pay ongoing legal fees, defendants often did not have adequate counsel. Prosecutors occasionally used bureaucratic maneuvers to restrict lawyers' access to clients. Defense attorneys were able to review evidence against their clients when preparing cases. Convicted persons have the right to appeal to a higher court.

The law provides for the accused to have an interpreter if needed, both at the trial and when reviewing documents of the case; however, due to a lack of resources, persons requiring an interpreter often had their hearings repeatedly postponed. If the majority of participants agree, trials may be conducted in Russian or another language instead of Romanian.

There is no juvenile justice system, and children accused of crimes usually were tried by the criminal courts. There were judges in each region and in Chisinau specializing in cases involving minors.

The country has a military justice system, whose courts have generally the same reputation as civilian courts. Its jurisdiction extends to crimes committed by active duty military personnel and crimes committed by reserve or retired military personnel while they were on active duty. The military courts can also try civilians for crimes committed against military personnel if the plaintiff presses charges through the military prosecutor's office.

Political Prisoners.—Transnistrian authorities continued to refuse compliance with a July 2004 ECHR ruling to release two members of the Ilascu Group convicted in 1993 of killing two Transnistrian officials; their sentence has two years remaining. There were no other reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government did not respect these prohibitions in practice.

It was widely believed that the security agencies conducted illegal searches, including wiretaps. Only a judge can legally authorize wiretaps and may do so only if a criminal investigation is underway; in practice, the judiciary lacked the ability to control security organizations and police or to prevent them from using wiretaps illegally. Courts did not exclude evidence obtained illegally. It was widely believed that security agencies electronically monitored residences and telephones. During the February parliamentary election campaign, police searched a Chisinau office of the opposition Social Democratic Party, confiscating a list of party supporters and files of several party members. Police searched the Cahul offices of the opposition Christian Democratic People's Party and the Democratic Moldova Bloc; authorities asked both parties to present data on sources of financing for their election campaigns.

During the year, police reportedly informed persons of Middle Eastern origin that they were being carefully monitored. Several opposition politicians alleged that government authorities were illegally monitoring them.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government sometimes restricted these rights; however, the government on occasion intimidated journalists into practicing self-censorship.

The print media expressed a wide variety of political views and commentary. The government owned a news agency; national and city governments subsidized a number of newspapers. Political parties and professional organizations also published newspapers, most of which had a circulation of less than 15 thousand. The government did not restrict foreign publications, but most were not widely circulated due to high costs. Russian newspapers were available; some of them published special Moldovan weekly supplements.

Most radio stations rebroadcast programs from Romania and Russia, offering only a limited amount of locally produced programming. The government controlled a radio station and a television station (Teleradio Moldova—TRM) that covered most of the country. Some local governments, including in Chisinau and Gagauzia, operated television and radio stations as well as newspapers. The country received television and radio broadcasts from Romania, Ukraine, and Russia. A number of cable subscribers received a variety of foreign television programs, including news programs.

The number of media outlets not owned and operated by the government or a political party increased, but many of these independent media remained in the service of, and secured large subsidies from, the government and political movements.

In June authorities sold the two government-owned newspapers, *Moldova Suverana* and *Nezavisimaya Moldova*. The sale fulfilled one of the conditions put forward by the parliamentary opposition in return for supporting President Voronin's re-election in April. The two newspapers continued as independent publications but retained their pro-government stance.

The restrictive regulatory framework for media coverage of the March 6 parliamentary election campaign made it difficult for citizens to get information about the candidates. On February 23, responding to international and domestic concerns, the Central Election Commission (CEC) revised the regulations, dramatically increased the airtime for debates on public stations, and allowed news programs to cover the campaign. The CEC decision came less than two weeks before the election, which lessened its efficacy.

Authorities released for lack of evidence a suspect in the June 2004 beating and robbery of investigative journalist Alina Anghel of the independent newspaper *Timpul*, and the investigation remained ongoing at year's end.

There were no developments in the case of Nicolae Roibu, another *Timpul* journalist, whom unknown persons attacked and robbed of his dictaphone and tape recordings in 2003.

The law prohibits foreign governments from funding or supporting domestic publications. In practice, Romanian government-supported publications complied with the law by receiving funds from "foundations" created for this purpose. The government did not prosecute publications receiving funds from other states.

On October 18, the Audiovisual Coordinating Council suspended the license of Analytic Media Group to rebroadcast the Russian news channel, Channel One, on one of the three nationwide television networks. Foreign observers expressed concern over the lack of transparency of the decision-making process and the independence of the Audiovisual Coordinating Council.

Despite the transformation of Teleradio Moldova into a public company in August 2004, controversy continued over alleged government control of the company. Teleradio Moldova employees charged that selection of employees for the new company was biased against journalists who were critical of the government. Several journalists who had been dismissed sued Teleradio Moldova's administration. In one such case, a court upheld the legality and competency of Teleradio Moldova's hiring committee. Other lawsuits remained pending at year's end.

Several international organizations sponsored a monitoring project, which showed that Teleradio Moldova continued to limit coverage of the opposition while giving extensive positive coverage to the activities of the government.

Journalists and media outlets continued to face libel suits under the civil code, but there were no reported cases of such suits during the year. The weekly newspaper *Timpul* lost a 2004 lawsuit in which the Daac-Hermes Company alleged $2 million (24.8 million lei) damages from the publishing of "calumnious" information. Also in 2004 the head of the government-owned Moldovan Railroad filed a civil suit against the independent Russian-language newspaper *Moldavskie Vedomosty*, asking for $50 thousand (620 thousand lei) for "moral damages." On July 12, the court ordered *Moldavskie Vedomosty* to pay a penalty of $2 thousand (25 thousand lei). *Moldavskie Vedomosty* filed an appeal with the ECHR, which was pending at year's end.

Both print and broadcast journalists reportedly practiced self-censorship due to government and public figures' use of civil defamation and calumny laws and to complaints from authorities about news coverage.

There were no government restrictions on the Internet or academic freedom.

One of the two major newspapers in Transnistria was controlled by the separatist authorities and the other by the Tiraspol city government. There was one independent weekly newspaper in Bender and another in the northern Transnistrian city of Ribnitsa. Separatist authorities harassed the independent newspapers when they criticized the Transnistrian regime. Other print media in Transnistria did not have a large circulation and appeared only on a weekly or monthly basis; some of them also criticized local authorities. Most Moldovan newspapers did not circulate widely in Transnistria, although they were available in Tiraspol.

In July the Transnistrian Supreme Soviet amended the election code to prohibit media controlled by the Transnistrian authorities from publishing results of polls and forecasts related to elections.

In August, under an OSCE-negotiated formula, the Transnistrian authorities registered all Latin-script schools in the region, allowing them to start a new school year. In previous years Transnistrian authorities used threats of violence to force schools (which teach in the Romanian language) to use Cyrillic rather than Latin script (see section 5).

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, at times the government limited this right in practice. In several instances, citizens were arrested during peaceful protests, detained for several hours, and then released without charge. On May 16, Chisinau authorities refused to issue a permit to the NGO Gender DocM for a peaceful demonstration in conjunction with the country's fourth annual gay pride events (see section 5).

The OSCE Office for Democratic Institutions and Human Rights' (ODIHR) final report on the March 6 parliamentary elections noted several cases where local administrations either did not authorize campaign meetings or obstructed access to them.

The Transnistrian authorities usually did not permit free assembly; on those occasions when they did issue permits for demonstrations, they often harassed organizers and participants, although there were no such incidents reported during the year.

Freedom of Association.—The constitution provides for freedom of association and states that citizens are free to form parties and other social and political organizations; however, the constitution also prohibits organizations that are "engaged in fighting against political pluralism," the "principles of the rule of law," or "the sovereignty and independence or territorial integrity" of the country. Small parties favoring unification with Romania charged that this provision was intended to impede their political activities, but no group has been prevented from forming as a result of this provision. While private organizations, including political parties, were required to register, applications were approved routinely.

Transnistrian authorities restricted freedom of association by intimidation and prosecution for alleged offenses or on invented charges.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice; however, the law includes restrictions that inhibit the activities of some religious groups. Although there is no state religion, the Moldovan Orthodox Church received special treatment from the government. For example, the Metropolitan of Chisinau and All Moldova and other high-ranking Orthodox Church officials received diplomatic passports.

The law requires religious groups to register with the State Service for Religions (SSR). Unregistered religious groups may not buy land or obtain construction permits for churches or seminaries.

At year's end the SSR had not registered the True Orthodox Church of Moldova, despite a 2002 Supreme Court ruling in the church's favor. The SSR and the government attempted a variety of appeals but still were ordered to register the church. According to the SSR, the wording of the court decision, which obliges the government rather than the SSR to register the church, has prevented the church's registration. The Church of Jesus Christ of Latter-day Saints, the Central Muslim Spiritual Board of Moldova, and the Spiritual Organization of Muslims in Moldova also continued to encounter bureaucratic obstacles to registration. The SSR stated that the application of the Mormons was pending, while the SSR monitored the activities of the church. In the case of the Muslim organizations, the SSR stated that they failed to present the necessary documents for registration.

The Spiritual Organization of Muslims reported fewer problems with the police, who in the past frequently appeared at their local office during Friday prayers, checked participants' documents, and took pictures. In March the organization received a letter from the Ministry of Justice, demanding that it stop the propagation of an unregistered cult. In March 2004 the police raided the organization's meeting place after Friday prayers, detained several members, and subsequently deported three Syrian citizens for not having proof of legal residence. The authorities claimed the services were illegal because the organization was not registered and because the meeting place was not being used in accordance with the organization's status as a charity.

Baptists reported interference from government authorities in constructing places of worship. Authorities continued to ban work on constructing a Baptist church in the village of Capriana, which they had stopped in May 2004.

A July 2004 Transnistrian supreme court ruling limited the activities of the Jehovah's Witnesses to the city of Tiraspol, but the court rejected the Tiraspol public prosecutor's 2002 request to annul the group's registration and prohibit its activities altogether. In December 2004 the Tiraspol city prosecutor notified the Jehovah's Witnesses that the church would need to reregister, but the Jehovah's Witnesses were unable to obtain from the Transnistrian authorities the required documents. The Transnistrian supreme court refused to hear an appeal filed by the Jehovah's Witnesses early in the year. Transnistrian authorities reportedly accused Jehovah's Witnesses of lacking patriotism and spreading Western influence and developed school teaching aids that contained negative and defamatory information regarding the Jehovah's Witnesses.

Although the law prohibits "abusive proselytizing"—defined as "an attempt to influence someone's religious faith through violence or abuse of authority"—the government has not taken legal action against individuals or organizations for proselytizing. Foreign missionaries may enter the country for 90 days on a tourist visa.

Nondenominational "moral and spiritual" instruction is mandatory for primary school students and optional for secondary and university students. Some schools have a specific class on religion; student participation requires parental consent.

The law that provides for restitution of property confiscated during the Nazi and Soviet regimes to politically repressed or exiled persons has been extended to religious communities; claims of the Moldovan Orthodox Church have been favored over those of other religious groups, and the church has recovered nearly all of its property. In cases where property was destroyed, the government offered alternative compensation. Property disputes between the Moldovan and Bessarabian branches of the Orthodox Church have not been resolved; representatives of the Bessarabian Orthodox Church claimed that their property rights were still being violated and a case they filed with the ECHR against the country was pending at year's end. The Jewish community, which experienced mixed results in recovering its property, had no pending claims.

Societal Abuses and Discrimination.—Members of Jehovah's Witnesses complained that various local town councils and Orthodox priests and their adherents had impeded their ability to practice their religion freely. On April 28 several residents of Comrat led by a city councilman entered a construction site, where Jehovah's Witnesses were building a house of worship; the group threatened and insulted workers and demanded they stop work. A week later Comrat Mayor Nikolai Dudoglo temporarily suspended construction and referred the matter to the city council, which, on May 20, decided to suspend indefinitely the previously issued construction permit. The Jehovah's Witnesses reported similar problems in obtaining and maintaining construction permits to build houses of worship in villages throughout the country. Baptists also reported that townspeople in several localities physically or verbally abused them at the instigation of local Orthodox priests.

There were a few reports of negative press articles about non-Orthodox religions. Articles targeted members of Jehovah's Witnesses, criticizing their beliefs and legitimacy; Baptists in Transnistria also complained of negative press reports about their religion.

Non-Orthodox groups in Transnistria complained that they were generally not allowed to rent property and were often harassed during religious services.

The Jewish community numbered approximately 25 thousand. On May 3, six tombstones were destroyed in the Jewish cemetery in Chisinau. Three young men, two from Chisinau and one from Tiraspol, were arrested in connection with the vandalism; their motives were not clear, but Jewish community leaders stated that they did not consider the vandalism an act of anti-Semitism.

There has been no progress in the investigation into several anti-Semitic acts, which took place in Tiraspol (Transnistria) in March and May of 2004 when unknown persons desecrated more than 70 tombstones in the Jewish cemetery and later unsuccessfully attempted to set the Tiraspol synagogue on fire. Transnistrian authorities believed the attacks were perpetrated by the same individuals.

There were no developments in the 2003 destruction by unknown persons of eight tombstones in a Jewish cemetery in Balti.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Transnistrian authorities sometimes restricted travel to and from the separatist region.

Transnistrian authorities applied a transit fee to Moldovan nationals crossing through Transnistria and often stopped and searched incoming and outgoing vehicles. Transnistrian authorities prevented farmers from government-controlled villages in the Dubassari region of Transnistria from traveling to areas outside Transnistria to sell their produce and, in some cases, blocked farmers' access to their fields.

The law prohibits forced exile, and the government did not employ it.

Citizens generally were able to depart from and return to the country freely; however, there were some restrictions on emigration. Persons wishing to emigrate must meet all outstanding financial obligations to other persons or legal entities before emigrating. Close relatives who are dependent on a potential emigrant for material support must give their concurrence. Although the government may deny permission to emigrate if the applicant had access to state secrets, no such cases have been reported for several years.

Protection of Refugees.—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status and asylum. The Government also pro-

vided temporary protection to individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol and provided it to seven persons during the year. Although the government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers, AI reported that Chechen asylum-seekers experienced delays in having their applications adjudicated, and in some cases no decisions were taken. In October several refugees complained about delays in receiving their legal documents including identification cards and travel permits.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice in most of the country through periodic, generally free and fair elections held on the basis of universal suffrage, although authorities harassed and intimidated the political opposition. Authorities in Transnistria restricted the right of citizens to change their government.

The constitution provides for a parliamentary form of government. Parliament by a three-fifths vote elects the president, who appoints the prime minister, who in turn names a cabinet. Parliament must approve both the prime minister and the cabinet.

Elections and Political Participation.—On March 6, citizens voted in multiparty parliamentary elections. The ODIHR considered the balloting itself to be generally free and fair, but the campaign conditions and media coverage preceding the vote "were not satisfactorily equitable." The ODIHR concluded that the elections generally complied with most OSCE and Council of Europe commitments and other international election standards. Nevertheless, the ODIHR commented, the elections fell short of meeting some standards "central to a genuinely competitive election process. Some restrictive legal provisions and interference by the authorities, in particular at the local level, hampered the campaigns of some contestants, especially those representing the opposition." Restrictive media provisions in the electoral code hindered candidates from presenting themselves to the public. Election observers noted other shortcomings such as inaccurate and incomplete voter lists and group voting on election day. The law requires a minimum of five thousand members for registration of political parties, a threshold which the Council of Europe considered to be "a serious barrier to the maintenance of political parties."

The authorities generally allowed international observers to monitor the elections, registering a record number of international and national observers for the elections. Several persons from Russia and the CIS who claimed to be observers were refused registration and were expelled from the country during the campaign for conducting "illegal activities" in the country. The authorities accused them of campaigning for and illegally funding one of the candidates.

The government selectively enforced regulations, including inspections and tax auditing, for individuals and businesses that belonged to or supported opposition parties. There were reports of police and officers from the Center for Combating Economic Crime and Corruption visiting printing houses that serviced opposition parties in the election campaign and preventing transport companies from providing buses to political parties to bring individuals to voter assemblies.

Two parties and one bloc won seats in the 101-seat parliament: the Communist Party won 56 seats, the three-party Democratic Moldova Bloc (BMD) gained 34 seats, and the Christian Democratic People's Party won 11 seats. On April 4, the new parliament reelected Communist Party leader Vladimir Voronin president.

There were 21 women in the 101-seat parliament and 2 women in the 19-member cabinet. First Deputy Prime Minister Zinaida Greceanii, Justice Minister Victoria Iftodi, and Deputy Speaker of Parliament Maria Postoico were the highest-ranking female political figures in the country.

There were 26 members of ethnic minorities in the 101-seat parliament and 4 members of a minority in the 19-member cabinet. Russian, Ukrainian, Bulgarian, Azeri, and Gagauz minorities had representation in parliament. Deputies are elected from nationwide party lists rather than local districts.

Early mayoral elections in several towns, including Chisinau in July, were generally free and fair, including more media access and less government interference than in 2003. The elections in Chisinau failed four times because voter turnout did not reach the required one-third of registered voters.

A Christian Turkic minority, the Gagauz, enjoyed local autonomy in Gagauzia in the southern part of the country. Two rounds of voting for the Gagauzia Popular Assembly in November 2003 generally met international standards but were marked by numerous irregularities.

Transnistrian authorities interfered with residents' ability to participate in elections. Internationally recognized election observers were not present during the December 11 elections to the Transnistrian Supreme Soviet, and the elections were not considered free and fair.

The January 9 referendum in Transnistria to recall opposition lawmaker Alexander Radchenko from his position in the Supreme Soviet for allegedly undermining Transnistrian society failed due to low turnout. "Government"-backed NGOs such as Proryv continued to harass Radchenko and fellow opposition lawmaker Nicolai Buchatsky, who were refused access to local media and routinely criticized by the government media. Neither Radchenko nor Buchatsky were reelected to the Supreme Soviet in the December 11 elections.

Government Corruption and Transparency.—Corruption was believed to be pervasive throughout the government and society, as reflected in numerous public opinion polls and widely reported by NGOs. The NGO Transparency International reported that corruption remained a "severe problem" in the country. Although the government has acknowledged corruption to be a problem and formed special law enforcement and judicial units to combat it, some critics charged that the government used these units to persecute political opponents. On April 11, the Center for Combating Economic Crime and Corruption arrested Deputy Minister of Labor and Social Protection Valeriu Mostovoi on charges of extorting a bribe. Mostovoi's trial was ongoing at year's end.

In March police arrested former defense minister Valeriu Pasat on accusations of illegally selling fighter jets to a foreign government in 1997. Many observers considered the arrest to be politically motivated, due to Pasat's association with previous administrations and his vocal support of the opposition BMD during the election campaign. At year's end Pasat remained in police custody, pending a verdict in his trial.

The Center for Combating Economic Crime and Corruption continued its yearlong investigation into allegations of graft and corruption against opposition BMD leader Serafim Urechean (former mayor of Chisinau) and three other members of parliament (MPs) (two from Urechean's parliamentary group). BMD members accused the authorities of politically motivated harassment. On October 13, at the request of the Prosecutor General's Office, parliament voted to lift the immunity of Urechean and two other MPs from his faction in order to bring charges against them.

In late 2004 the Center for Combating Economic Crime and Corruption and the Prosecutor General's Office opened criminal investigations and arrested several Chisinau city officials. In a televised interview, President Voronin called the Chisinau mayoralty "a mafia nest." The former secretary of the Chisinau City Council, Vladimir Sarban, who had been in detention since his arrest in late 2004, was released October 12, after the ECHR ruled that the government's reasons for prolonging his detention were not relevant or sufficient. At year's end, the investigations of all the officials continued.

The law provides for free access to official information; nonetheless, in several cases authorities denied access to public information. For example, *Ziarul de Garda* newspaper never received a response to its June request to the presidency for a copy of a contract that the presidency signed with a private company. In 2004 the newspaper *Timpul* filed a complaint against parliament for refusing access to transcripts of its sessions. Although the Supreme Court dismissed the suit, parliament subsequently changed its internal regulations to permit publication of its transcripts.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases, except in the Transnistrian region; however, officials were generally not responsive to their views.

The local Helsinki Committee for Human Rights maintained contacts with international human rights organizations; AI maintained a satellite office in Chisinau and was active in the country. Transnistrian authorities impeded the activities of human rights groups in that region.

In anticipation of the March 6 parliamentary elections, more than 200 local NGOs formed the Civic Coalition for Free and Fair Elections "Coalition 2005," to monitor the elections. The coalition issued several reports on its long-term observation findings and was a frequent target of verbal attacks by the ruling Communist Party. On February 9, the Communist Party's executive secretary Victor Stepaniuc published an open letter to the coalition, accusing it of supporting an electoral contestant and threatening to confiscate its funding from international donors. The coali-

tion refuted the accusations, and several diplomatic missions issued a statement in support of the organization.

The government cooperated with the OSCE, which maintained a mission in the country to assist efforts to resolve the Transnistrian conflict. The OSCE participated in the Joint Control Commission that monitors compliance with the cease-fire agreement. Transnistrian authorities occasionally limited OSCE access to the region, including to the security zone dividing Transnistria from the rest of the country.

The law provides for three parliamentary advocates (ombudsmen) and an independent center for human rights, the Moldovan Human Rights Center. Parliament appoints the three advocates, who have equal rights and responsibilities, for five-year terms. Advocates may be removed from office only by a two-thirds vote of parliament. Parliamentary advocates are empowered to examine claims of human rights violations, advise parliament on human rights problems, submit legislation to the constitutional court for review, and oversee the operation of the Moldovan Human Rights Center. In practice the parliamentary advocates dealt mostly with low-level cases. Center personnel provided training for lawyers and journalists, visited jails, made recommendations on legislation, and organized round tables. In July the Moldovan Human Rights Center presented an annual report to parliament that documented the human rights complaints it received in 2004 and made recommendations for improving legislation in the field of human rights. Several opposition parliamentarians criticized the center for not being active enough in reporting violations and proposing solutions to human rights problems.

Transnistrian authorities reportedly attempted to control NGOs in the region by having security officials "invite" NGO representatives to their offices and by pressuring landlords not to renew selected office leases. The Chisinau-based NGO Promo-Lex reported that unidentified persons in Transnistria had followed their representatives, tapped their telephones, and broken into their offices. In November Ion Iovcev, the principal of a Romanian-language school in Transnistria and active advocate for human rights and critic of the Transnistrian leadership, received many threatening calls that he attributed to his criticism of the regime.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides that persons are equal before the law regardless of race, sex, disability, or social origin; however, societal discrimination against women and some ethnic minorities, particularly Roma, persisted.

Women.—Domestic violence against women was a widespread problem. The law does not specifically address domestic assault. Women abused by their husbands may file charges under general assault laws, but the government rarely prosecuted domestic assault crimes. During the year the Ministry of Internal Affairs received 3,083 domestic violence complaints, including 39 cases of severe spousal abuse, of which 25 resulted in serious bodily injury and 14 resulted in death. Women's groups asserted credibly that the numbers of rapes and incidents of spousal abuse were underreported.

The government supported educational efforts, usually undertaken with foreign assistance, to increase public awareness of domestic violence and to train public and law enforcement officials to address the problem. The city of Chisinau operated a women's shelter for victims of domestic violence. Private organizations operated services for abused spouses, including a hot line for battered women.

The law criminalizes rape but does not specifically address spousal rape. There were 247 cases of rape reported during the year, but most rapes went unreported. There were no specific government actions to combat rape.

Prostitution is not a crime but is a violation of civil law punishable by a fine or administrative detention of up to 30 days. Prostitution was widespread, and observers noted a growing sex tourism industry, which was particularly prevalent in upscale Chisinau hotels.

Trafficking in women was a serious problem (see section 5, Trafficking).

The law does not prohibit sexual harassment, and it was a common problem.

The law provides that women and men enjoy equal rights, and in practice women, who constituted approximately 50 percent of the workforce, received pay equal to that of men for equal work; however, women did not hold high-paying jobs in the same proportion as men.

Children.—There is extensive legislation designed to protect children, and the government provided supplementary payments for families with many children.

The law mandates government-provided free, compulsory, and universal education for at least nine years. Many inadequately funded schools, particularly in rural areas, charged parents for school supplies. While not illegal, such fees contradicted the government's policies and resulted in some parents keeping their children at home. The government and local authorities provided annual assistance to children

from vulnerable families to buy school supplies. The UN Children's Fund (UNICEF) reported that net primary school enrollment was 86 percent and secondary school enrollment was approximately 73 percent, with little difference in the rates of boys and girls.

Although the healthcare system devoted a large portion of its limited resources to childcare, childcare professionals considered the amount inadequate. Nonetheless, UNICEF reported that between 96 and 98 percent of children had been fully immunized against tuberculosis, DPT, polio, and measles.

While the law prohibits child neglect and specified forms of abuse, such as begging, child abuse was believed to be widespread. Although no comprehensive statistics on the problem exist, the National Center for Child Abuse Prevention registered 93 cases of abuse in the first seven months of the year. Observers alleged that women begging on the streets of Chisinau often sedated their babies to spend long hours begging.

Trafficking of children for the purpose of sexual exploitation and begging remained a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

The situation of children in orphanages was generally very poor. Due to lack of funding, children's institutions had major problems, including inadequate food, "warehousing" of children, lack of heat in the winter, and disease. According to the Ministry of Education, there were approximately 11,500 institutionalized children. Not all institutionalized children were orphans; the number of children entrusted to the government by needy parents or by parents leaving the country to look for work reportedly continued to grow. The government estimated that parents of approximately 20 thousand children worked abroad and placed their children in boarding schools or entrusted them to relatives.

Trafficking in Persons.—Although prohibited by law, trafficking in persons was a very serious problem. There were reports of involvement by some government officials in trafficking, but authorities opened investigations only against low-level government officials.

The law prohibits trafficking and provides for severe penalties, ranging from seven years to life imprisonment. Sentences for trafficking in children range from 10 years to life imprisonment. The penalty is 15 years to life imprisonment and confiscation of property for repeated or serious offenses, such as trafficking of groups, minors, or pregnant women; through kidnapping, trickery or abuse of power; with violence; or by a criminal organization.

During the year, authorities opened 397 trafficking-related investigations. The Prosecutor General's Office reported that during the year the government had referred 314 trafficking cases to court and had obtained 102 convictions for trafficking-related activities, compared with 95 convictions in 2004; 18 of the 102 convictions resulted in prison sentences.

The Ministry of Internal Affairs antitrafficking unit and the Prosecutor General have principal government responsibilities for combating trafficking. A special law enforcement unit within the Ministry of Internal Affairs continued to operate. The Police Academy curriculum includes an antitrafficking segment developed in conjunction with the international antitrafficking NGO La Strada.

The government improved cooperation with other member countries of the Southeast European Cooperative Initiative during the year, resulting in a number of convictions abroad. The government cooperated with Belarus, Ukraine, and Russia in investigating trafficking cases, as well as with Interpol on cases in Serbia and Montenegro and the United Arab Emirates.

The country was a major country of origin for women and children trafficked abroad for sexual exploitation and men and children who were trafficked to Russia and neighboring countries for forced labor and begging. The country was also a transit point for victims trafficked from Ukraine. Victims were increasingly trafficked to Russia and countries of the Middle East, such as Turkey, Israel, and the United Arab Emirates. The International Organization for Migration (IOM) reported an increase in the number of cases of families trafficked for begging to Poland. The IOM and Save the Children reported that Russia has increasingly become a destination country for trafficking victims, especially minors. During the year IOM assisted 262 returned trafficking victims, the majority of whom had been trafficked to Turkey, Russia, and the United Arab Emirates (149 returned from Turkey, 44 from Russia, and 9 from the United Arab Emirates). The National Committee to Combat Trafficking in Persons reported that new information indicated that men were being trafficked for agricultural and construction work to the Baltic states and to the Commonwealth of Independent States (CIS). There also were reports that women were trafficked to Lebanon, Syria, Israel, Saudi Arabia, the United Arab Emirates,

Portugal, France, Thailand, the United Kingdom, Spain, the United States, and Australia.

While many different individuals have become trafficking victims, the primary target group was the female population between the ages of 15 and 30. In 2004 the IOM reported that 12 percent of the victims they assisted were minors at the time of return, and 40 percent were minors at the time of their initial trafficking. Victims often came from rural areas where economic desperation had already driven many residents to look for work abroad. According to the IOM, most victims had already suffered some form of physical or sexual abuse at home and were willing to face significant risk to escape unbearable circumstances in their families. Women and girls typically accepted job offers in other countries, ostensibly as dancers, models, nannies, or housekeepers. In many areas, friends, relatives, or acquaintances approached young women and offered to help them find good jobs abroad.

The IOM reported that former victims frequently acted as trafficking recruiters, sometimes under coercion, and that over the past two years women had recruited most of its caseload victims. Newspaper advertisements promising well-paying jobs abroad also lured many victims. The IOM also noted that traffickers themselves were mainly foreign men, and the International Labor Organization's (ILO) program for the elimination of child labor reported that in many cases traffickers of children have been Roma.

Another trafficking pattern involved orphans who were required to leave orphanages when they graduated from school, usually at the age of 16 or 17, and had no funds for living expenses or continuing education. Some orphanage directors reportedly sold information on when orphan girls were to be turned out of their institutions to traffickers, who approached the girls as they left.

According to the Center for Prevention of Trafficking in Women, parents or husbands pressured some young women to work abroad. Traffickers commonly recruited women from rural villages, transported them to larger cities, and then trafficked them abroad.

Victims were transported by car, van, train, and on foot across borders. Sometimes false documents were used, but increasingly victims traveled by plane with genuine documents.

Widespread corruption and lack of resources prevented adequate border control and monitoring of traffickers, particularly in Transnistria. Border guard and migration officials' salaries were low and frequently not paid regularly, making them vulnerable to bribery.

Observers alleged that corrupt low- and high-level government officials were involved in, or routinely turned a blind eye to, trafficking crimes. No high-level officials were prosecuted during the year, and no government officials were convicted of trafficking. A former policeman was investigated for trafficking women to the United Arab Emirates and deported back to the country in November 2004; at year's end he was free on bail pending trial. In another case, following an investigation in 2004, several officials of the Department of Youth and Sports were fined for issuing false documents used to obtain Western visas, with the intent of either trafficking or smuggling individuals. During the year the Ministry of Internal Affairs withdrew the licenses of several tourism and employment agencies for their suspected role in trafficking.

The Law on Preventing and Combating Trafficking in Persons enacted on October 20 provides for free social services for victims of trafficking, including a modest package of medical and psychiatric services, issuance of identity documents and residence permits, consular services, legal counseling and employment services such as vocational training and professional counseling. The law does not, however, clarify how its implementation will be funded.

The government had no programs to assist victims. Several NGOs offered repatriation assistance, temporary housing, and medical care for victims, and job training. The NGO Save the Children worked with trafficking victims, particularly repatriated girls. The NGO La Strada Moldova provided informational and educational services and a national toll-free hotline.

The government took some steps to prevent the trafficking of persons and assist victims through its national antitrafficking committee. Local committees in each region of the country, and officials of various ministries and local governments were required to present reports on their antitrafficking efforts to the committee. On August 25, the government approved a new National Action Plan for Combating Trafficking in Persons, which was developed in conjunction with international organizations.

Local NGOs operated public school programs to educate young women about the dangers of prostitution. During the year, the IOM continued its information pro-

gram aimed at providing information to help citizens who have decided to go abroad avoid exploitation.

Persons with Disabilities.—Although the law prohibits discrimination against persons with physical and mental disabilities, there were reports of such discrimination. The local NGO Gaudeamus reported widespread discrimination against students with disabilities. There are no laws mandating access to buildings, and there were few government resources devoted to training persons with disabilities. The Social Assistance Division in the Ministry of Health and Social Protection and the National Labor Force Agency are responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—Ukrainians and Russians are the two largest minorities. A Christian Turkic minority, the Gagauz, makes up a small percentage of the population living primarily in the Gagauz Autonomous Region (Gagauz Yeri) in the south of the country. Official statistics put the number of Roma at 11,600, but Romani NGOs estimated the number to be much higher.

Roma suffered violence, harassment, and discrimination. Local and international NGOs reported that Roma were victims of police beatings in custody, arbitrary arrest and detention, harassment by law enforcement officials, and societal violence and harassment (see sections 1.c., 1.d., and 1.e.). The European Roma Rights Center reported that officials discriminated against Roma with regard to housing, education, and access to public services.

The Roma were the poorest of the minority groups and often lived in unsanitary conditions in segregated communities lacking basic infrastructure. These conditions often led to segregated education and schools with even fewer resources than those elsewhere in the country. Many Romani children did not attend school, very few received a secondary or higher education, and there was no Romani-language education.

Minority rights and language were closely related problems. Romanian is the only official language, but Russian served as a language for interethnic communication and is well-established in practice. Russian speakers were not subject to discrimination in education or employment, and a citizen has a legal right to choose either language for interaction with government officials or commercial entities. Officials are required to know both Romanian and Russian "to the degree necessary to fulfill their professional obligations." The law provides parents the right to choose the language of instruction for their children, and the government observed this right in practice.

Authorities in the separatist Transnistrian region continued to discriminate against Romanian speakers, although to a lesser extent than in previous years. They refused to observe the country's language law, which requires the use of Latin script, and the region's schools were required to teach Romanian using the Cyrillic alphabet. Many teachers, parents, and students objected to this requirement, asserting that it disadvantaged persons who wished to pursue higher education opportunities in the rest of the country or in Romania, where the Latin script is used.

In July, under an OSCE-negotiated formula, Transnistrian authorities allowed Latin-script schools located in Transnistria but registered with the Moldovan Ministry of Education to register locally and begin the school year in September. In the summer of 2004, police had closed the Latin-script schools in Ribnita, Tiraspol, Dubasari and Corjova, stating that the institutions violated the Transnistrian legal requirement for the schools to register locally and to use the Cyrillic alphabet for instruction.

Other Societal Abuses and Discrimination.—There were reports of governmental and societal discrimination based on sexual orientation.

According to Gender-DocM, lack of community recognition, negative media portrayals, and condemnation by the Orthodox Church often led to public ostracism of gays, lesbians, and their families. On May 16, Chisinau authorities refused to issue a permit for a peaceful demonstration in support of antidiscrimination legislation for sexual minorities during the country's fourth annual gay pride events, reasoning that the country already had a law protecting minorities, and thus there was no reason for the demonstration.

Gender-DocM reported several incidents of gay children being asked to leave home by their parents and of villages shunning a family because of a gay child. The NGO reported that schoolteachers and university professors have been dismissed due to their homosexuality and that police regularly threatened gays and lesbians with public exposure if they did not pay bribes.

In Transnistria, homosexuality was illegal, and gays and lesbians were subject to governmental and societal discrimination.

Several NGOs reported instances of discrimination against persons with HIV/AIDs, particularly in rural villages.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers the right to establish or join unions; however, there were reports that the government attempted to pressure individual unions to leave the confederation with which they were affiliated and join a confederation that supported government policies. Approximately 50 percent of the workforce belonged to a union.

There were two union confederations—the Trade Union Confederation of Moldova (TUCM) and the Confederation of Free Trade Unions Solidaritate (Solidarity). The latter advocated government positions and was widely believed to enjoy government support. During the year, the government continued to pressure several local teachers' unions to quit TUCM and join Solidaritate. The government did not respond to calls by the TUCM leaders and the International Confederation of Free Trade Unions that it stop interfering in the internal affairs of the union movement.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining, the right to organize, and the right to conduct activities without government interference; however, the government did not always respect these rights in practice (see section 6.a.). The law provides for the right to strike, except for workers in essential services, and workers exercised this right by conducting legal strikes.

The government, company management, and unions negotiated national minimum wages in tripartite talks. Arbitration committees typically settled workplace labor disputes. If an arbitration committee failed to settle a dispute, parties could take it to the court of appeals.

Public officials and workers in essential services such as emergency health care, water and energy supply, telecommunications, air traffic control, law enforcement, judges and military employees do not have the right to strike; the law provides for arbitration of disputes in these sectors with court mediation as a final option to ensure due process.

There are no special laws or exemptions from regular labor laws in export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see section 5).

Child labor was a problem (see section 6.d.).

d. Prohibition of Child Labor Practices and Minimum Age for Employment.—The law sets standards for child labor, including the minimum age for employment, hours of work, and working conditions, and prohibits the worst forms of child labor; however, the government did not effectively enforce these protections. The law provides for 10 to 15 years' imprisonment for persons involving children in the worst forms of child labor; under aggravated circumstances, sentences could be life imprisonment. Child labor was a problem. Due to the poor economic conditions, parents often sent children to work in the fields or to find other work, and those living in rural areas often assisted in the agricultural sector.

The minimum age for unrestricted employment was 18 years. Persons between the ages of 16 and 18 were permitted to work under special conditions, including shorter workdays, no night shifts, and longer vacations.

Trafficking in persons, including trafficking of children, remained a very serious problem (see section 5).

Efforts to enforce child labor laws did not deter violators. The Labor Inspection Office (LIO), which in April was moved from the Ministry of Labor and Social Protection to the Ministry of Economy and Trade, is responsible for investigating possible child labor violations. The LIO, which has not uncovered any child labor violations since its creation in 2002, found it difficult to distinguish between children involved in forced labor and those involved in the common practice of helping on family farms.

The ILO in cooperation with the government implemented aspects of its international program for the elimination of child labor by strengthening local antitrafficking committees, establishing community-based youth centers, training representatives of employers' organizations and trade unions, promoting employment for at-risk youth and parents, and improving care for child victims of trafficking.

e. Acceptable Conditions of Work.—The legal minimum monthly wage was approximately $16 (200 lei) for public sector employees and approximately $44 (550 lei) for private sector employees, neither of which provided a decent standard of liv-

ing for a worker and family. The LIO is responsible for enforcing the minimum wage regulation, and it opened some administrative cases against employers who violated it. Severe budgetary constraints often prevented government and private sector employers from meeting employee payrolls.

The law sets the maximum workweek at 40 hours with extra compensation for overtime, and the law provides for at least one day off per week.

The government is required to establish and monitor safety standards in the workplace. The LIO is responsible for enforcing health and safety standards; however, health and safety standards were not adequately enforced. Workers have the right to refuse to work if working conditions represent a serious health threat, but there were no reports that workers exercised this right in practice. Poor economic conditions led enterprises to economize on safety equipment and give inadequate attention to worker safety. According to labor inspection office preliminary data, there were 121 workplace accidents during the year, in which 41 persons died.

MONACO

Monaco, with a population of approximately 32 thousand, is a constitutional monarchy in which the sovereign prince plays a leading role in governing the country. The prince appoints the four-member government, headed by a minister of state chosen by the Prince from a list of candidates proposed by France. Legislative power is shared between the prince and the popularly elected 24-member National Council (parliament). The 2003 parliamentary elections were considered free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of dealing with individual instances of abuse. The following human rights problems were reported:

- restrictions on citizens' right to change their government
- limits on freedom of speech
- legal discrimination against women

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that officials employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by human rights monitors; however, there were no such visits during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—In addition to the French national police force, the prince's police force (Carabiniers du Prince) performed security functions. The Prince's chef de cabinet is responsible for administering the police forces. Corruption and impunity were not problems. The police forces are generally considered effective.

Arrest and Detention.—Arrest warrants, issued by a duly authorized official, are required, except when a suspect is arrested while committing an offense. The police must bring detainees before a judge within 24 hours to be informed of the charges against them and of their rights under the law. Most detainees are released without bail, but the investigating magistrate may order detention on grounds that the suspect either might flee or interfere with the investigation of the case. The magistrate may extend the initial two-month detention for additional two-month periods indefinitely. Detainees are allowed prompt access to a lawyer of their choice, and, if indigent, one provided by the government. The magistrate may permit family members to see detainees.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. Under the law the prince delegates his judicial powers to the judiciary.

The Supreme Court is appointed by the monarch based on recommendations from the National Council.

Trial Procedures.—Trials are public, but there are no jury trials. As under French law, a three-judge tribunal considers the evidence collected by the investigating magistrate and hears the arguments made by the prosecuting and defense attorneys. The defendant has the right to be present and the right to counsel, at public expense if necessary. Defendants have the right to question witnesses against them and to present their own witnesses. Defendants and their attorneys have access to government-held evidence relevant to their cases. The defendant enjoys a presumption of innocence and the right of appeal. After a prisoner receives a definitive sentence, they are transferred to a French prison to serve out their prison term.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights. However, the law prohibits public denunciations of the ruling family, a provision that the media respected in practice.

The independent media were active and expressed a wide variety of views without restriction.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for the freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. Roman Catholicism is the state religion.

No missionaries operated in the principality and proselytizing is strongly discouraged; however, there is no law against proselytizing by religious organizations that are formally registered by the Ministry of State. Organizations regarded as religious "sects" routinely have been denied such registration; however, there were no reports of religious organizations being denied registration during the year.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts. Monaco is 90 percent Roman Catholic and has a very small Jewish community.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

Nationals enjoyed the rights of emigration and repatriation; however, they can be deprived of their nationality for specified acts, including naturalization in a foreign country. Only the prince can grant or restore nationality, but he is obliged by the law to consult the crown council on each case before deciding.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. In light of its bilateral arrangements with France, the government does not grant political asylum or refugee status unless the request also meets French criteria for such cases. The number of such cases was very small.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Authority to change the government and to initiate laws rests with the prince. The constitution cannot be suspended, but it can be revised by common agreement between the prince and the elected national council. The prince plays an active role in government. He names the minister of state (in effect, the prime minister) from a list of names proposed by the French government. He also names the three coun-

selors of government (of whom the one responsible for the interior is usually a French national). Together the four constitute the government. Each is responsible to the prince.

Only the prince may initiate legislation, but the 24-member national council may propose legislation to the government. All legislation and the adoption of the budget require the council's assent. Elections for the national council, which are held every five years, are based on universal adult suffrage and secret balloting.

The law provides for three consultative bodies: the seven-member crown council, composed exclusively of Monegasque nationals, must be consulted by the prince on certain questions of national importance; the 12-member council of state, which is not restricted to Monegasque citizens, advises the prince on proposed legislation and regulations; and the 30-member economic council, which includes representatives of employers and trade unions.

Elections and Political Participation.—The 2003 parliamentary elections were considered free and fair.

There were 5 women in the 24-member national council, 1 woman in the 7-member crown council, and 4 women on the 30-member economic council. A woman was the mayor of Monaco.

There were no members of minorities in the government.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The law provides for public access to government information and provides access in practice for citizens and noncitizens, including the foreign media.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

While the government imposed no restrictions on the establishment or operation of local groups devoted to monitoring human rights, no such groups were formed. International human rights groups did not seek to investigate human rights conditions in the country.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally effectively enforced it; however, some legal discrimination against women remained.

Women.—Violence against women, including spousal abuse, was rare. The law prohibits violence against women, and the government generally effectively enforced it. Any wife who is a victim of spousal abuse may bring criminal charges against her husband.

Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted those accused of such crimes.

Prostitution is illegal, and it was uncommon.

Sexual harassment was illegal, and the government effectively enforced the law. There were no reports of sexual harassment during the year.

Under the law, women enjoy the same rights as men; however, women who acquire Monegasque citizenship by naturalization cannot transmit it to their children, whereas naturalized male citizens can.

Women received equal pay for equal work. Women were represented fairly well in the professions; however, they were represented less well in business.

Children.—The government was committed fully to the protection of children's rights and welfare. The government provided compulsory, free, and universal education for children up to the age of 16.

The government provided free health care for children, and boys and girls had equal access.

There were isolated reports of abuse of children.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. The government mandated that public buildings provide access for persons with disabilities, and this goal largely had been accomplished by year's end.

Section 6. Worker Rights

a. The Right of Association.—By law all workers (except government workers) are free to form and join unions, and workers exercised this right in practice; however, fewer than 10 percent of workers were unionized, and relatively few workers, union-

ized or nonunionized, resided in the country. Unions were independent of both the government and political parties.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right of workers to bargain collectively, but it is rarely used. A very small percentage of workers are under collective bargaining agreement, as industrial activity was very limited. The law provides for the right to strike in conformity with relevant legislation; however, government workers may not strike. There were no strikes during the year. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively enforced the laws and policies to protect children from exploitation in the workplace. The minimum age for employment is 16 years; those employing children under that age can be punished under criminal law. Special restrictions apply to the hiring, work times, and other conditions of workers 16 to 18 years old.

The counselor of government for the interior is responsible for enforcing the child labor laws and regulations, and they were effectively enforced.

e. Acceptable Conditions of Work.—The legal minimum wage for full-time work is the French minimum wage, which is approximately $9.60 (8 euros) per hour, plus a 5 percent adjustment, and this provided a decent standard of living for a worker and family. Most workers received more than the minimum.

The legal workweek is 39 hours. The government allows companies to reduce the workweek to 35 hours if they so choose.

Health and safety standards are set by law and government decree. These standards were effectively enforced by health and safety committees in the workplace and by the government labor inspector. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, and the authorities effectively enforced this right.

THE NETHERLANDS

The Netherlands, with a population of approximately 16.3 million, is a constitutional monarchy with a bicameral parliamentary legislative system. Parliamentary elections, most recently held in January 2003, were free and fair. A prime minister and a cabinet representing the governing political parties (traditionally a coalition of at least two major parties) exercise executive authority. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- societal discrimination and violence against some religious and ethnic minorities
- violence against women and children
- trafficking in women and girls for sexual exploitation.

Aruba and the Netherlands Antilles are two autonomous countries of the Kingdom of the Netherlands; they also feature parliamentary systems and full constitutional protection of human rights. In practice, respect for human rights in these islands generally was the same as in the European Netherlands; however, the islands' prison conditions remained substandard.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

There were incidents of rightwing and racist violence against religious and ethnic minorities (see section 2.c.).

Prison and Detention Center Conditions.—Prison conditions in the country generally met international standards, and the government permitted visits by independent human rights observers.

Several persons died possibly due to negligence in a fire at a detention center for illegal immigrants and asylum seekers.

During the year, the governments of the Netherlands Antilles and Aruba continued to improve prison staffing and capacity to address concerns by the Council of Europe's Committee for the Prevention of Torture. Both governments took steps to alleviate overcrowding. They increased cell capacity at the Bon Futuro prison in Curacao and introduced a pilot project on home arrest for selected prison inmates. New women's and juvenile sections opened at the correctional institute Aruba while the detention center in Bonaire was renovated and placed under the supervision of the Netherlands Antilles Prison Service. Despite these improvements, problems remain. On Curacao, several stabbings and shootings took place among rival gang members in the Bon Futuro prison, while several inmates escaped. In St. Maarten, illegal immigrants held a hunger strike because they were not repatriated in a reasonable amount of time. The government of the Netherlands continued to provide assistance to improve prison conditions and management.

The governments of the Netherlands Antilles and Aruba permitted access by independent human rights observers to prisons; however, no such visits occurred during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions in practice.

Role of the Police and Security Apparatus.—Regional police forces have primary responsibility for maintaining internal security. The royal constabulary and investigative organizations also have specified responsibilities for internal and external security. The police were generally effective, conducting their investigations in a professional manner. There were no indications of systematic police corruption, although there were reports of corruption with the customs and police officers at Schiphol airport (see section 3).

Arrest and Detention.—Police officers, acting under the authority of the public prosecutor, conduct criminal investigations. A prosecutor or senior police officer must order arrests. Police officers may question suspects for a maximum of 12 hours and may detain a suspect for up to 6 days upon an order of the public prosecutor. Detainees are promptly informed of the charges against them. Detainees must be brought before an examining magistrate within 4 days. The magistrate subsequently checks the validity of continued detention every 30 days depending on progress in the preliminary investigation. The authorities respected these rights in practice. If the prosecutor believes an investigation is necessary, he must request a preliminary judicial inquiry from the investigative judge, who then assumes responsibility over the investigation. Defense attorneys have the right to be present during any questioning. There is no provision for bail.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judicial system is based on the Napoleonic Code. A pyramidal system of cantonal, district, and appellate courts handles both criminal and civil cases. The supreme court acts as the highest appellate court and ensures the uniform interpretation of the law.

Trial Procedures.—Trials are public, but the judicial system does not provide for jury trials. The law requires that defendants be informed fully at every stage of criminal proceedings. In criminal trials, the law provides the right to prompt access to counsel (virtually free for low-income persons), for a presumption of innocence, and to appeal. The government respected these rights in practice.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a

functioning democratic political system combined to ensure freedom of speech and of the press.

In December an appellate court cited the importance of safeguarding the right to freedom of speech in overruling a lower court's decision to fine a person who called a Rotterdam local council member "just about the biggest neo-Nazi in Dutch politics." The decision came only a few weeks after a court prohibited authorities from removing banners accusing Immigration Minister Rita Verdonk of complicity in the deaths of 11 people in a fire at a detention center in Schiphol airport (see section 1.c.).

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The constitution states, "the law may set rules for the exercise of the right to religion or conviction outside buildings and closed places for the protection of health, in the interest of traffic and for the purpose of countering or preventing disorder." In practice, this article is rarely if ever invoked.

Societal Abuses and Discrimination.—Latent tensions between Muslim and non-Muslim communities were aggravated by the November 2004 murder of the controversial filmmaker Theo van Gogh—whose work had been criticized as anti-Islamic—by a Dutch-born member of a radical Islamic group. In late 2004 and during the early part of the year, the killing triggered multiple reported instances of violence against Islamic institutions and mosques, reprisals against churches, and clashes between Muslim and other youth, who identified themselves as "native Dutch." The Pew Foundation global attitudes project noted that 88 percent of citizens regarded Islam as violent; 76 percent were concerned about Islamic extremism; and 55 percent had an unfavorable view of Muslims.

The number of Muslims in the country increased significantly in the past two decades. By 2004, 945 thousand Muslims, constituting 5.8 percent of the total population, lived in the country, primarily in Amsterdam, Rotterdam, and The Hague.

Muslims faced criticism based on a number of popularly held perceptions, including they were poorly integrated into society and Muslim youth were disproportionately prone to criminal activity. They are also criticized for the conservative views of orthodox Muslims on topics such as women, homosexuals, and corporal punishment. A number of outspoken politicians, mainly on the right, openly argued that Islam itself is incompatible with the country's traditions and social values. The result was growing animosity between Muslim and non-Muslim communities, and more open and frequent discrimination against Muslims, particularly in social and work settings. Anecdotal evidence suggested that Muslims had a harder time finding employment in the private and public sectors, were more prone to be refused housing, and were more frequently banned from entering nightclubs and similar establishments than non-Muslim Dutch. Reports of Muslims encountering unprovoked verbal and even physical abuse increased. In response the government launched a comprehensive outreach campaign to counter anti-Muslim sentiments.

Anti-Semitism was a problem. According to government statistics, the country has a population of approximately 45 thousand Jews, less than a quarter of whom belong to active Jewish organizations. In June the Anti-Defamation League reported that one in five citizens embraced stereotypical prejudices about Jews. Moreover, certain groups opposed to Israeli policies in the occupied territories used seemingly anti-Semitic language and images to express political views. Explicitly anti-Semitic sentiments also prevailed among fringe Nationalist and neo-Nazi groups, as well as among some elements within the Muslim community.

Between January 2004 and May, the Center for Information and Documentation on Israel (CIDI) registered 326 anti-Semitic incidents, compared to 334 in 2003 and 359 in 2002. The number of serious incidents, such as physical violence, threats of violence, and desecration of cemeteries and synagogues, remained roughly the same. CIDI criticized the police and public prosecutors offices for failing to give sufficient priority to investigating and prosecuting anti-Semitic incidents.

CIDI also expressed concern about the rising number of anti-Semitic incidents at schools. Anti-Semitic views were especially prevalent among students of North African descent.

The government repeatedly condemned anti-Semitism and had a comprehensive action plan to combat discrimination. The Ministry of Education reminded schools about longstanding guidelines prescribing the teaching of different religions and ideologies in conjunction with combating discrimination and intolerance. The Ministry of Welfare subsidized a special program to teach children about the Second

World War and the persecution of Jewish persons. The government sought to promote dialogue and supported initiatives that aimed to create a better understanding between Jews and Muslims. The Anne Frank Foundation published a book, *Fifty Questions on Anti-Semitism*, primarily intended for teachers in dealing with Muslim students. Nonetheless, CIDI suggested that the government spend more time and money creating a safe environment at schools and teaching respect for the different cultural and social backgrounds of students. CIDI also called on the government to restrict the incitement of hate through the media, including cracking down on anti-Semitic and racist Internet sites.

The Jewish community has an umbrella group, the Central Jewish Consultation, which represents the community's interests in discussions with the government.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution; however, nongovernmental organizations (NGOs) alleged that the government returned asylum seekers, particularly those from Iraq, Somalia, and the Democratic Republic of the Congo (DRC), to countries where the security situation was sufficiently unstable that their safety could not be guaranteed. In December Immigration Minister Rita Verdonk acknowledged publicly that the Immigration and Naturalization Service had mistakenly reported the asylum status of some screened-out asylum seekers to DRC authorities. The government granted refugee status or asylum.

The government generally cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Individuals are not granted asylum if they come from a so-called safe country of origin or stayed for some time in a safe country of transit. The government does not grant asylum to economic migrants and illegal immigrants who cannot demonstrate a credible fear of persecution. Those who were denied asylum and chose to return voluntarily were provided economic assistance.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. These constitutional rights also apply to the Netherlands Antilles and Aruba.

Elections and Political Participation.—Parliamentary elections, last held in January 2003, were free and fair.

There were 60 women in the 150-seat second chamber of parliament, and there were 5 women in the 16-member cabinet. By court order, the government was prohibited from subsidizing the orthodox Protestant SGP party, which does not grant equal rights to women on theological grounds. Women also held positions in the parliaments and cabinets of the Netherlands Antilles and Aruba.

There were approximately 15 members of ethnic minorities—Turkish, Moroccan, Iranian, Surinamese, and Somali—in the 150-seat second chamber of parliament, although there were no ethnic minority political parties or movements specifically represented in parliament. There were no members of ethnic minorities in the 16-member cabinet.

Government Corruption and Transparency.—There were reports of corruption within the government. In August the justice ministry's scientific investigation and documentation center (WODC), reported that every year there were approximately 130 internal investigations into corruption within the public administration. Of these investigations, approximately 50 are handed over to the police or public prosecutor's office and resulted in several prosecutions and approximately five convictions a year. Although there were allegations in 2004 of corruption of customs and police officers at Schiphol airport, no indictments were subsequently issued.

The law provides for public access to government information, and generally respects that right to citizens and noncitizens. Disputes occasionally arise in court over the scope of the government's nondisclosure entitlement for public interest rea-

sons. For example, there were disputes as to whether classified internal memos should be released.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

The government has a long tradition of hosting international legal tribunals, including the International Court of Justice, the International Criminal Tribunal for the Former Yugoslavia, and the headquarters of the International Criminal Tribunal for Rwanda.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, disability, language, political preference, sexual orientation, and social status, and the government generally enforced these prohibitions. However, violence against women and children, trafficking in persons, and discrimination against ethnic minorities were problems.

Women.—Domestic violence was the most prevalent form of violence in society. According to a June justice ministry fact sheet, more than 40 percent of the population has experienced domestic violence at some point in their lives. Of these, 10 percent reportedly experienced some form of physical, sexual, or mental violence on a daily or weekly basis. According to police records, some 80 percent of victims were women. The police estimated that only approximately 12 percent of cases were actually reported to the police. Spousal abuse carries a penalty one-third greater than ordinary battery. In 2004 approximately 800 men were prosecuted for beating their partners.

In January the TransAct organization became the national office for providing support to victims of domestic violence and those investigating and prosecuting such crimes. TransAct organized meetings of the national network on domestic violence, set up databases, and gathered examples of best model practices. The government subsidized shelters for battered women.

Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted those accused of such crimes. Approximately 15 thousand rapes and sexual assaults were committed each year. The penalty for rape is imprisonment not exceeding 15 years and/or a fine. The maximum sentence for marital rape is eight years' imprisonment. Some rape victims may be given protection in government-subsidized shelters for battered women. Police officially registered 1,774 rape cases in 2004, an increase from 1,665 in 2003.

Female genital mutilation (FGM) is prohibited; however, a March report by the special FGM committee estimated that FGM was performed in the country on at least 50 girls each year.

Prostitution is legal for persons who are at least 18 years of age and engage in the work voluntarily; however, the law penalizes forms of organized prostitution involving force, violence, misuse of power, and deception. The government has strict licensing standards for brothels to ensure decent working conditions and health care for prostitutes, while prohibiting the employment of minors and illegal immigrants and making prostitution less susceptible to criminal organizations. There were approximately 25 thousand prostitutes; roughly two-thirds were from non-European Union countries.

Trafficking of women for sexual exploitation was a problem (see section 5, Trafficking).

The law requires employers to take measures to protect workers from sexual harassment; however, a 2003 study showed that 5.3 percent of female workers were sexually intimidated in the workplace. The government funded an ongoing public awareness campaign and has taken measures to counter harassment among civil servants.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system.

Although roughly 54 percent of women worked, nearly two-thirds did so part-time. Traditional cultural factors and an inadequate number of daycare facilities discouraged many women from working full time. Female and male unemployment were, respectively, 7.3 and 5.3 percent. The social affairs ministry reported that women often were underemployed, had less chance of promotion, and held lower level positions than men, primarily because of their part-time work status. According to the Ministry of Social Affairs and Employment, women working in the private sector on

average earned 23 percent less than men, although, when adjusted for level of experience and expertise required for the jobs, this differential fell to 7 percent.

The government provided affirmative action programs for women, and collective labor agreements usually included provisions to strengthen the position of women. An equal treatment commission investigated complaints of discrimination against women.

Children.—The government worked to ensure the well being of children through numerous well-funded health, education, and public information programs.

Education was free and compulsory for children between the ages of 4 and 16, although schools could ask for a voluntary contribution from parents. Vocational education was also free, except for the cost of books and materials. Approximately 10 percent of students left secondary school before attaining a certificate. Government-licensed Islamic schools were obliged to follow the same curriculum requirements as other schools. One in 10 immigrant children left school without obtaining a diploma.

The government subsidizes health care, and boys and girls have equal access.

Child abuse was a problem. In a February report the special child abuse commissioner for youth policy concluded that as many as 100 thousand children were victims of abuse. Approximately 50 to 80 children are believed to die each year from some form of abuse. More than 30 thousand formal reports of child abuse were registered in 2004, 24 percent higher than in 2002. Due to the high volume of reports, there were long waiting lists for assistance, but the government reduced these waiting lists by increasing funding to the Council for the Protection of Children.

The law provides for the prosecution of sexual abusers of children between the ages of 12 and 16 without requiring that affected parties file a complaint. Under the law, citizens and noncitizen permanent residents who abused minor children abroad could be tried and convicted in the country, even if the offense is not a crime in the country in which it occurred. In May the Arnhem court convicted five men, accused of having organized trips to Tunisia for sex with minors, of participating in a criminal organization, and committing crimes against morals. The men received prison sentences from 1 to 3.5 years.

The maximum penalty for the distribution of child pornography is six years' imprisonment, and the government continued its campaign against child pornography on the Internet. The child pornography reporting center and the national police reported 6,322 cases of Internet child pornography in 2004, compared with six thousand reports in 2003. In 2004 more than 60 child pornography cases were prosecuted, compared with 100 in 2003.

Trafficking of girls for sexual exploitation was a problem (see section 5, Trafficking).

Trafficking in Persons.—The law criminalizes trafficking in persons; however, trafficking in persons was a problem.

On January 1 legislation came into effect, which increases the maximum sentence for trafficking in persons to 12 years' imprisonment in case of serious physical injury and 15 years' imprisonment in case of death. The law also expands the definition of trafficking in persons to include labor trafficking. The law prohibits the employment of prostitutes under the age of 18.

Prosecutors opened approximately 220 trafficking cases in 2004, compared with 187 cases in 2003. In January the Lelystad court convicted two individuals of having kidnapped, raped, abused, and trafficked three African asylum seekers and sentenced one suspect to 14 years' and the other to 10 years' imprisonment. In April police arrested 18 men suspected of having trafficked Russian and Bulgarian girls. In December the Almelo court sentenced two Moroccan "lover boys" and two accomplices to prison for two to approximately six years for having lured two young women into prostitution. The court ordered the procurers to pay each victim $6 thousand (5 thousand euros) in damages.

During the year, the following 2004 pending trafficking cases were resolved. The leader of a group of five persons arrested in May 2004 for having forced African women to work as prostitutes and act in pornographic videos was sentenced to 14 years' imprisonment. Each of the four accomplices received sentences of between 5- and 10-years' imprisonment. Three persons charged in June 2004 with trafficking East European women were each punished with two to three years' imprisonment. The Hague court sentenced six person arrested in July 2004 for sex trafficking to imprisonment for terms ranging from one to six years. The Alkmaar Court verdict for the owner of an escort service arrested in July 2004 on suspicion of having exploited minors was still pending at year's end.

The government, in particular the ministries of justice, internal affairs, foreign affairs, welfare and health, and social affairs, actively combated trafficking in persons.

Local police forces established special units to deal with trafficking, and a 500-person national police team focused exclusively on trafficking investigations and provided specialized training to police in the identification and protection of possible trafficking victims. The national rapporteur on trafficking in persons, an independent, publicly funded agency, reported annually to the government on the nature, extent, and mechanisms of trafficking as well as on the effects of national policies. Authorities participated in international investigations and cooperated closely with other governments on trafficking.

The country was a destination and transit point for trafficked persons. NGOs and the police estimated that the number of women and girls trafficked for the purpose of sexual exploitation ranged from 1,000 to 3,600. The Foundation against Trafficking in Women (STV) registered 405 victims in 2004, of whom 126 came from Central and Eastern Europe; lesser numbers came from African countries, primarily Nigeria, Cameroon, and Morocco, and from South America. Of the 405 victims registered in 2004, approximately 26 were under age 18. In the first eight months of the year, STV registered 252 trafficking victims.

Trafficking within the country was also a problem. Of the 405 trafficking victims registered in 2004, 51 were living in the country at the time they were seduced into prostitution by so-called lover boys, primarily young Moroccan or Turkish men and boys. The victims were young, mostly immigrant women. In January the government set up the national expertise center for youth prostitution to collect figures, background information, and the best practices in fighting youth prostitution and lover boys. Various organizations and local governments initiated specific assistance and prevention programs for potential victims of "lover boys."

Most traffickers used threats of violence to the victim, or to the victim's family, to control their victims. Underage girls and young women of Moroccan and Turkish descent (mostly lover boy victims), underage asylum seekers, women with a dependent residence status (pseudo marriage), and women recruited in Africa were most vulnerable to becoming victims of trafficking.

The government and NGOs believe that trafficking for labor occurs, but had not compiled statistics on this phenomenon at year's end.

Under the law, illegal residents, who may have been victims of trafficking, may not be deported before investigations are completed. Victims are allowed three months to consider pressing charges, and victims who did so were allowed to stay in the country and to work until the judicial process was completed.

The government subsidized NGOs working with trafficking victims, including the STV, an independent organization offering social support, legal advice, medical aid, shelters, and counseling to victims.

The justice ministry co-financed the La Strada program, aimed at preventing trafficking in women in Central and East European countries. Other prevention initiatives included the travel agents' association distribution of warnings about trafficking and sex with minors and public awareness campaigns aimed at tourists and travel agencies meant to deter sexual exploitation of children.

Persons with Disabilities.—The law provides for the protection of persons with disabilities from discrimination in employment, education, access to health care, or in the provision of other state services, and there were no reports that such discrimination occurred. The law requires access to public buildings for persons with disabilities, but public buildings and public transport often were not easily accessible in practice.

The Equal Treatment Committee received a few dozen complaints from persons with disabilities most of which were related to labor issues.

National/Racial/Ethnic Minorities.—Approximately 20 percent of the population (3 million persons) is of foreign origin, including 1.7 million who belong to ethnic minority groups, principally Turkish, Moroccan, Surinamese, and Antillean.

Incidents of physical assault against minorities were rare, but members of minority groups were subjected to verbal abuse and intimidation and were denied access to public venues, such as discotheques. The Muslim community, including 365 thousand of Turkish descent and 315 thousand of Moroccan descent, faced increased discrimination (see section 2.c.).

Members of immigrant groups faced discrimination in housing and employment. The minority unemployment rate remained roughly three times that of the ethnic Dutch workforce.

With the proliferation of Internet Web sites, the dissemination of racial and discriminatory material increased. The Discrimination on the Internet Registration Center registered a sharp increase in reported incidents, from approximately 1,200 in 2003 to more than 1,800 in 2004. Increases occurred in all categories, particularly discrimination against Moroccans, Turks, Islam, native Dutch, and homosexuals.

The government pursued an active campaign to increase public awareness of racism and discrimination. Civil and criminal courts, the equal opportunities committee, the national ombudsman, the commercial code council, as well as the council for journalism, the European Court of Justice, and the European Court of Human Rights addressed complaints about racism and discrimination. The majority of criminal cases concerned racist defamation. Civil lawsuits often concern discrimination in the supply of services, such as supplemental conditions for non-ethnic Dutch persons to obtain a mobile phone or to gain access to clubs. The equal opportunities committee primarily addresses incidents of discrimination in the labor market, including discrimination on the work floor, unequal pay, termination of labor contracts, and preferential treatment of ethnic Dutch employees.

The prosecutor's office also has established a national expertise center on discrimination that collects information, maintains a database on cases, and provides courses to prosecutors handling cases of discrimination. In 2003 the government-sponsored national association of anti-discrimination bureaus registered approximately 36 hundred complaints, two-thirds of which were based on racial discrimination.

Other Societal Abuses and Discrimination.—Homosexuals faced increasing harassment in the larger cities, primarily from pockets of Muslim youth. Harassment consisted largely of verbal epithets and abuse.

Section 6. Worker Rights

a. The Right of Association.—Workers are entitled to form or join unions of their own choosing without prior government authorization, and workers exercised this right in practice. Approximately 25 percent of the work force was unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right to organize, and specific laws provide for the right to collective bargaining; workers exercised this right in practice. Approximately 86 percent of workers were covered by collective bargaining agreements. The law provides for the right to strike, and workers exercised this right by conducting legal strikes, except for some civil servants, who have other institutionalized means of protection and redress. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively enforced laws and policies to protect children from exploitation in the workplace. The minimum age for employment is 16 years. Those in school at the age of 16 may not work more than 8 hours per week. The law prohibits persons under the age of 18 from working overtime, at night, or in areas dangerous to their physical or mental well-being. The tripartite labor commission, which monitored hiring practices and conducts inspections, enforced these laws effectively.

Holiday work and after school jobs are subject to very strict rules set by law. The social ministry's labor inspection office oversaw observance of the rules. In 2004 labor inspections found that 28 percent of companies violated the regulations applying to holiday work, including by employing children under the age of 13.

Trafficking of children occurred (see section 5).

e. Acceptable Conditions of Work.—The minimum wage for adults of approximately $1,517 (1,264 euros) per month provided a decent standard of living for a worker and family. The Labor Inspectorate effectively enforced the minimum wage.

The law sets a 40-hour workweek. The average workweek was 30.6 hours (38.7 hours for full-time and 20 hours for part-time workers). Anyone working more than 4.5 hours per day was entitled to a 30-minute rest period. Overtime is regulated. There are no exceptions for legal foreign workers. The Labor Inspectorate effectively enforced the labor laws.

Working conditions, including comprehensive occupational safety and health standards set by law, were monitored actively and enforced effectively by the tripartite labor commission. The Ministry of Labor and Social Affairs also monitored standards through its labor inspectorate. Workers could remove themselves from dangerous work conditions without jeopardizing their continued employment, and workers exercised this right in practice.

Members of immigrant groups faced discrimination in employment (see section 5).

NORWAY

Norway is a parliamentary democracy and constitutional monarchy with King Harald V as head of state. With a population of approximately 4.6 million, the country is governed by a prime minister, a cabinet, and the 169-seat *Storting* (parliament) that is elected every 4 years and cannot be dissolved. Free and fair elections to the modified, multiparty unicameral parliament were held in September. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the rights of its citizens, and the law and the independent judiciary provided effective means of addressing isolated instances of abuse. The following human rights problems were reported:

- violence against women
- trafficking in persons

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers; however, no such visits took place during the year.

Juveniles aged 15 to 18 were held separately from the general prison population. Social welfare authorities generally cared for those under the age of 15.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The national police have primary responsibility for internal security; however, the police may call on the armed forces for assistance in times of crisis, such as internal disorder or natural catastrophe. In such circumstances, the armed forces are under police authority. The Ministry of Justice and the Police oversees the police forces.

The police force was effective, and corruption was not generally a problem. Adequate measures were in place to investigate police abuses. Reports of corruption within the police force were investigated by the independent police complaint commission.

Arrest and Detention.—The law requires warrants for arrests, and police generally arrested a person based on a warrant authorized by a prosecutor. Police must file charges against detained persons within four hours, and detainees were promptly informed of the charges against them. An arrested suspect must be arraigned within 24 hours, at which time the arraigning judge determines whether the accused should be held in custody or released pending trial. This legal provision was upheld in practice. Arrested persons were allowed prompt access to a lawyer of their choosing or, if they could not afford one, to an attorney appointed by the government. Arrested persons were generally allowed access to family members.

There was no bail system or similar mechanism. Defendants accused of minor crimes are released pending trial. Convicted offenders are put on a waiting list to serve their jail sentence. Defendants accused of serious or violent crimes remain in jail until trial.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The court system consists of the Supreme Court, the appeals selection committee of the Supreme Court, six appellate courts, and a number of district courts which hear both civil and criminal cases. District court rulings may be appealed progressively by either party, but the appeals selection committee refers only cases of great importance to the Supreme Court. There are a few specialized courts, including the labor court and the land ownership severance courts.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Trials are public, but juries are only used in criminal cases heard by the court of appeals. Charges are stated clearly and formally, and defendants enjoy a pre-

sumption of innocence. All defendants have the right to be present, to have counsel (at public expense if needed), to confront and question witnesses, to present evidence and witnesses, and to appeal. Defendants and their attorneys have access to government-held evidence relevant to their cases. The law extends the above rights to all citizens. Military personnel enjoy the same rights as other citizens but are tried by military courts.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The state church is the Evangelical Lutheran Church of Norway, which is supported financially by the government. The constitution requires that the king and at least one-half of the cabinet belong to this church. Other denominations operated freely.

A religious community is required to register with the government only if it desires financial support, which is provided by the government to all registered denominations on a proportional basis in accordance with membership.

The law provides that "religious knowledge and education in ethics" be taught as a subject in public schools. The course covers world religions and philosophy and promotes tolerance and respect for all religious beliefs; however, the course devotes the most time to Christianity. The course is mandatory, and there are no exceptions for children of other faiths; students may be exempted from participating in or performing specific religious acts such as church services or prayer, but they may not forgo instruction in the subject as a whole. Both Muslim communities and organizations for atheists have contested the legality of forced religious teaching. They lodged formal complaints in 2002 with the UN Human Rights Committee (UNHRC) and the European Court of Human Rights. Following the November 2004 UNHRC decision that the law violated the International Covenant on Civil and Political Rights, the government changed the law to emphasize that the course was intended to educate rather than proselytize. During the year the government implemented a new curriculum for the course and loosened the rules for exemption.

The law permits private or religious schools and day care centers to ask persons seeking employment whether they will respect and teach the denomination's beliefs and principles. Employers may reject applicants on the basis of their responses, but no statistics were available on how frequently this occurred.

Societal Abuses and Discrimination.—The Jewish population was relatively small. There were no reports of anti-Semitic incidents during the year.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement, Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum, and accepted refugees for resettlement.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol, and provided it to more than three thousand persons in 2004.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seek-

ers. The government contracted with nongovernmental organizations (NGOs) to provide information to asylum seekers in their native languages, and to educate them about the asylum application process. Several NGOs offered additional legal counsel to persons whose initial applications were denied. To better communicate with the diverse group of asylum seekers, reception centers employed speakers of a wide range of languages.

The government required asylum seekers to make their claims in "safe countries" through which they traveled. The government used a "fast track" system to process asylum claims from nationals of "safe countries" within 48 hours of application. Persons were not excluded from consideration for asylum because they were from a "safe country."

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Free and fair parliamentary elections held on September 12 resulted in the formation of a coalition government of the Labor, Socialist Left, and Center Left parties. Labor Party leader Jens Stoltenberg was named prime minister following multiparty negotiations.

There were 63 women in the 169-seat parliament and 6 women among the 19 Supreme Court justices. Women headed 9 of the 19 government ministries. There was 1 member of a minority in parliament and no minority ministers or Supreme Court justices.

Government Corruption and Transparency.—There were no reports of government corruption during the year. The law provides for public access to government information, and the government provided this access in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced this prohibition in practice, although violence against women and trafficking in persons were problems.

Women.—Violence against women, including spousal abuse, was a problem.

The law provides for higher penalties for violence in cases of domestic abuse and severe acts, and the government enforced the law in practice. During the first half of the year, police registered 1,956 cases of domestic violence. The penalty for domestic violence is generally one to six years in prison, with an increased prison term in more severe cases.

The law criminalizes rape, including spousal rape, and the government enforced the law. The penalty for rape is generally 1 to 10 years in prison depending on the severity of the assault, the age of the victim, and the circumstances under which the rape occurred. Although the number of rapes reported to the police has risen in recent years with 689 reported rapes in 2004, the country has experienced a decrease in the number of rape convictions, with only 25 convictions in 2004, the most recent year for which statistics were available. In October the chief prosecutor's office convened a task force to examine this trend.

The government and the police have instituted special programs to prevent rape and domestic violence and to counsel victims. In June 2004 the government developed an action plan to address the root causes of domestic violence and to establish programs to prevent it. As a result of the plan, a domestic violence coordinator position was created in each of the country's 27 police districts to provide victims with more responsive and knowledgeable assistance. Coordinators aided domestic violence victims in identifying the various services and institutions available to assist them. Public and private organizations ran 50 government-funded shelters and managed 5 24-hour crisis telephones. The shelters provided victims support and counseling, and helped victims access social services, doctors, lawyers, and housing authorities. Each of the country's 19 counties had several shelters. In 2004 the country's shelters registered approximately 47,550 overnight stays by 1,970 women.

Prostitution is legal, but organized prostitution and pimping are illegal. NGOs and the government estimated that 2,500 to 3,000 persons sell sexual services. A

few of these persons were men, and NGOs reported that a few persons selling sexual services appeared to be under the age of 18, although they generally claimed to be older. Foreign women comprised at least 60 percent of the country's prostitutes.

Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

An amendment to the working environment act provides that "employees shall not be subjected to harassment or other unseemly behavior," and the government effectively enforced this provision in practice. Employers that violate these provisions, including the harassment clause, are subject to fines or prison sentences of up to two years, depending on the seriousness of the offense.

Women have the same legal status as men, and enjoy identical rights under family and property laws and in the judicial system. The office of the gender equality ombudsman was generally effective in processing and investigating complaints of sexual discrimination. In 2004 the office received 517 such complaints and 471 telephone inquiries.

The law protects the rights of women and provides that women and men engaged in the same activity shall have equal wages for work of equal value. According to the office of the gender equality ombudsman, which monitors enforcement of the law, women generally received 10 to 15 percent less in pay and benefits than men for equal work.

In 2003 the parliament passed a resolution mandating that 40 percent of publicly listed companies' directorships be held by women by mid-2005. However, companies were still far from this goal with approximately 16 percent of all directorships held by women at year's end. The government did not intend to penalize non-complying companies by removing them from the Oslo stock exchange until 2007.

Children.—The government was strongly committed to children's rights and welfare; it amply funded systems of education and medical care.

The government provides free education for children through the postsecondary level. Education is compulsory for 10 years, or through the tenth grade; most children stay in school at least until the age of 18. The UN Children's Fund (UNICEF) reported a school attendance rate of 100 percent in 2004.

The government provides extensive, free medical care for children.

In 2004 child care services intervened in 536 cases of child abuse. An independent children's ombudsman office, within the ministry of children and families, is responsible for the protection of children under the law. In July 2004 the government established the directorate for children, youth, and family affairs to provide appropriate, high-quality services for children, young persons, and families in need of assistance and support. With 5 regional offices and 26 professional teams, the directorate is the government's principal agency for the welfare and protection of children and families. During the year the directorate's primary activities included providing family counseling, managing foster homes and child welfare institutions, and administering funds to NGOs focusing on children.

Trafficking in Persons.—Although the law prohibits trafficking in persons, the country was a destination and transit country for trafficking victims, most of whom were from Eastern Europe, Russia, and the Baltic countries. The maximum sentence for trafficking in persons is 5 years, with a maximum sentence of 10 years for "aggravated" cases, which are determined by several factors, including the victim's age, the use of violence or coercion, and any proceeds derived from exploitation. Traffickers can also be charged with violating pimping, immigration, and slavery prohibitions. Victims may sue their traffickers for compensation without impediment.

The Ministry of Justice and the Police coordinates and implements antitrafficking measures.

In February the government prosecuted the country's most significant trafficking case to date, convicting eight men of various crimes related to the trafficking of a Russian woman and a Lithuanian woman for sexual exploitation. The group of men had kept the two women captive in an Oslo apartment, subjected them to rape and assault, and forced them to work as prostitutes. Three of the eight persons were found guilty in April of organized pimping rather than trafficking; the court refrained from sentencing them under the trafficking laws since the victims had known that they would be working as prostitutes. The sentences handed down by the court ranged from 4 months to 11 years in prison, and the convicted men were also required to pay the victims $170 thousand (NOK 1.1 million) in compensation. In September the court rejected the appeal of two of the defendants who initially had been charged with contributing to trafficking in persons. The court found the two guilty of trafficking, sentencing one of them to five years in prison and the other

to three years. At year's end 6 police districts were investigating 25 cases of trafficking.

The government cooperated with foreign governments, Interpol, and Europol in the investigation and prosecution of trafficking cases. The country's collaboration with other Scandinavian countries was particularly strong.

Police identified a number of possible victims trafficked by organized criminals for the purpose of sexual exploitation. Most of these suspected victims were women from Russia, Albania, Italy, Eastern Europe, and the Baltic states. Suspected victims were often reluctant to press charges, making it difficult for police to identify and assist them and to prosecute traffickers.

Government officials believed that organized crime groups were responsible for most trafficking. Traffickers used threats, violence, rape, and confinement to enforce victims' compliance. Government authorities suspected they may also confiscate travel documents and subject victims to debt bondage.

Although trafficking victims may be prosecuted for violating immigration laws, no such prosecutions occurred during the year. Deportation decisions concerning victims of trafficking may be suspended for a 45-day reflection period to provide time for practical assistance and counseling to the individuals concerned.

Government officials sought to improve public awareness of trafficking by raising the issue in speeches and other forums. NGOs conducted outreach programs to provide trafficking victims with information on their legal rights and available health and other services. Foreign victims of trafficking have the same legal rights as other foreigners to apply for residency, asylum, welfare, social aid, and emergency health care.

In January the government launched a formal assistance program for trafficking victims that featured support centers, shelters, and a 24-hour hot line. In the same month, the government opened a national network of crisis centers where trafficking victims could seek assistance finding shelter, work, and education.

In June the government launched a second action plan against trafficking in persons. Several of the plan's goals were implemented during the year, including conducting research on trafficking and improving cooperation between authorities and NGOs. Police working on trafficking issues are required to attend a two-day training seminar.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to public buildings for persons with disabilities, and the government generally enforced this provision in practice.

The section for disabled persons in the Ministry of Labor and Social Affairs was responsible for protecting the rights of persons with disabilities, and the office coordinated relevant national policy and managed the social benefit system for disabled persons. In January the government increased grants for the disabled by $14 million (NOK 90.6 million) and provided additional support to individual agencies to provide more enterprises, better transportation, better building access, and increased access to parks.

Indigenous People.—The rights of the indigenous Sami were protected by the government, which provided Sami language instruction at schools in their areas, radio and television programs broadcast or subtitled in Sami, and subsidies for Sami-oriented newspapers and books. A deputy minister in the ministry of local government and regional affairs deals specifically with Sami issues.

In addition to participating freely in the national political process, the Sami elect their own constituent assembly, the *Sameting*. The law establishing the Sameting stipulates that this 39-seat consultative group meet regularly to deal with "all matters, which in [its] opinion are of special importance to the Sami people." In practice the *Sameting* has been most interested in protecting the group's language and culture and in influencing decisions on resources and lands where Sami are a majority. The law requires that a report on the activity of the *Sameting* be submitted annually to parliament, and that a report on the main principles of Sami policy be presented to parliament every four years. The 2004 report called for further strengthening the rights of indigenous people on both the international and national levels and asserted that the Sami do not have enough control over the management of natural resources in the northern part of the country known as Finnmark.

Following negotiations with the Sami, the government passed legislation in June resolving many of the resource management issues of concern to the group. Several NGOs also worked to promote Sami rights.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and they ex-

ercised these rights in practice. Approximately 55 percent of the workforce was unionized.

b. The Right to Organize and Bargain Collectively.—All workers, including government employees and military personnel, have the right to organize and bargain collectively, and they exercised this right in practice.

The law provides for the right to strike, and workers exercised this right in practice; however, the government may, with the approval of parliament, compel compulsory arbitration under certain circumstances. During the year the government invoked compulsory arbitration once in response to an elevator worker strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government implemented laws and policies to protect children from exploitation in the workplace. Children 13 to 18 years of age may be employed part-time in light work that will not affect adversely their health, development, or schooling. Minimum age rules were observed in practice and enforced by the directorate of labor inspections. There were no reports of child labor during the year.

e. Acceptable Conditions of Work.—There is no legislated or specified minimum wage, but wages normally fall within a national scale negotiated by labor, employers, and the local government. During the year three-party negotiations led to wage increases of approximately 3.5 percent. The average daily wage provided a decent standard of living for a worker and family. Approximately 200 thousand people lived below the country's poverty line.

The law limits the normal workweek to 37.5 hours and provides for 25 working days of paid leave per year (31 days for those over age 60). The law mandates a 28-hour rest period on weekends and holidays. The law provides for premium pay for overtime and prohibits excessive compulsory overtime.

The law provides for safe and physically acceptable working conditions for all employed persons. Specific standards are set by the directorate of labor inspections (DLI) in consultation with nongovernmental experts. Under the law environment committees composed of management, workers, and health personnel must be established in all enterprises with 50 or more workers, and safety delegates must be elected in all organizations. Workers have the right to remove themselves from situations that endanger their health, but no statistics were available on whether they exercised this right in practice. The DLI effectively monitored compliance with labor legislation and standards.

Although foreign workers were provided the same legal protections, many children of immigrants complained that they were excluded from mainstream society and that they had fewer and inferior job opportunities than did ethnic majority citizens.

POLAND

Poland, with a population of 39 million, is a multiparty democracy with a bicameral parliament. Executive power is shared by the prime minister, the council of ministers, and, to a lesser extent, the president. On September 25, free and fair parliamentary elections were held. Lech Kaczynski was elected president in a free and fair election on October 23. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- poor prison conditions
- occasional lengthy pretrial detention
- a poorly functioning judicial system
- restrictions on freedom of speech and of the press
- discrimination against women in the labor market
- the sexual exploitations of children
- trafficking in women and children
- societal discrimination and violence against ethnic minorities
- violations of workers' rights and antiunion discrimination

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

In May 2004 police officers in Lodz accidentally used live ammunition rather than gum bullets to pacify crowds at a student festival, and two people were killed. As a result of this incident and the ensuing investigation, 12 police officers faced disciplinary action, including the Lodz regional police commander, city commander, and deputy city commander, who lost their jobs. The investigation by local prosecutors of two police officers believed to have knowingly distributed the live ammunition was ongoing at year's end. In September 2004 police paid the family of 1 victim approximately $80 thousand (240 thousand PLN), while negotiations with the second victim's family were continuing at year's end.

In February the appeals court in Warsaw overturned the two-year suspended sentence handed down by the district court in May 2004 to former interior minister Czeslaw Kiszczak for his role in the 1981 killings at the Wujek mine. In August the district court determined that the case was a "Communist-era crime" that should either be heard by the institute for national remembrance (IPN) or be dismissed on the basis of an expired statute of limitations. The prosecutor appealed that decision, and the appeal court ruled in September that the district court must hear the case. In October the Katowice distict court again began hearing testimony, including that of General Wojciech Jaruzelski, who testified that Kiszczak had not authorized the use of firearms at the Wujek mine. The trial had not concluded at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Observers accused police of using excessive force against a June 26 gathering of approximately eight thousand miners who were peacefully protesting proposed changes in the retirement law being considered by the parliament. Observers reported that police used tear gas, batons, and water cannons against the protesters. Seven police officers and approximately 40 miners were injured in the confrontation.

Prison and Detention Center Conditions.—Prison conditions remained generally poor. Overcrowding and insufficiency of medical treatment were the chief problems.

Overcrowding persisted in both prisons and detention centers. The Helsinki Foundation reported that approximately 83 thousand persons were held in prisons, despite an estimated capacity of 50 thousand. Overcrowding and other issues led to several riots in 2004. In May 2004 prison inmates in Wroclaw and Poznan staged a three-day hunger strike to protest crowded cells and demand better food and medical care. The protest ended peacefully, but with no resolution of the grievances.

In December the ombudsman sent a motion to the constitutional tribunal to review the regulation of the ministry of justice which allows for overcrowding in prisons and detention facilities. No ruling had been issued at year's end.

During the year prisoners submitted 15,065 complaints about the living conditions in penitentiary institutions. During the year there were 125 complaints of beatings or improper use of force by prison officials. Authorities took disciplinary action against 186 prison guards and supervisors when complaints were found to be justified.

Women, who constituted 2 percent of the prison population, were held in 28 detention facilities, 8 of which were only for women. In the remaining 20 facilities, inmates were segregated by gender.

Juveniles were generally separated from adults; however, in accordance with the law, at times juveniles and adults were housed together. Convicted minors (defined as 15- to 17-year-olds) were segregated from the adult prison population. Juveniles (17- to 21-year-olds) accused of serious crimes were usually sent to pretrial detention. According to the prison service central administration, there were no reported cases of an adult abusing a juvenile in mixed adult-juvenile detention.

Facilities that housed convicted prisoners often held pretrial detainees in separate areas. Conditions for pretrial detainees were occasionally worse than those for convicted prisoners.

The government permitted prison visits by independent human rights organizations, and there were visits by the UNHCR and the Helsinki Foundation during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The police force is a national law enforcement body with regional and municipal units overseen by the minister of interior and administration. Low-level corruption within the police force was considered widespread, and there was also a public perception that police were unduly influenced by political pressures. Instances of corruption and serious criminal misconduct were investigated by the national police's office of internal affairs. The personnel division handled minor disciplinary offenses.

In January the former deputy minister of internal affairs and two parliamentary officials were sentenced to prison following their December 2004 convictions for obstruction of justice. Zbigniew Sobotka, the former deputy minister, was sentenced to 3.5 years in jail; Henryk Dlugosz and Andrzej Jagiello, both former parliamentary officials for the Democratic Left Alliance (SLD), were sentenced to 1.5- and 2-year terms, respectively. In his last days in office, the president reduced Sobotka's sentence to one year. Dlugosz and Jagiello's appeals were heard before an appeals court in Krakow in November, but a verdict was not issued by year's end.

In 2003 national police commander Antoni Kowalczyk resigned after it was revealed that he had changed his testimony during the investigation into the "Starachowice affair," a corruption scandal in which senior officials alerted suspects to an impending raid by the national police's central bureau of investigation. In October 2004 the prosecutor's office in Kielce charged Kowalczyk with perjury and failing to report the improper release of classified information. Kowalczyk's trial concluded in mid-December, and no verdict had been issued by year's end.

The government continued to implement programs to combat corruption in the police force. Workshops and seminars provided anticorruption training to employees and officers. In November the new commander for national police, Marek Bienkowski, announced a new anticorruption program that included higher salaries, better recruitment techniques, disclosure of individual financial holdings, and more severe penalties for offenses. At year's end the plan was being considered by the council of ministers.

Arrest and Detention.—The law provides for suspects to be apprehended openly with warrants based on sufficient evidence and issued by the courts. The law allows a 48-hour detention period before authorities are required to bring a defendant before a court and an additional 24 hours for the court to decide whether to issue a pretrial detention order. Detainees must be promptly informed of the charges against them, and the government provides free counsel to the indigent. Defendants and detainees may consult with attorneys during their detention and before and during court proceedings. There was a functioning bail system, and most detainees were released on bail pending trial. Detainees have the right to prompt access to a lawyer, but family members must apply for permission to visit from the prosecutor.

Detainees may be held in pretrial detention for up to three months and may challenge the legality of an arrest by appeal to the district court. The court may extend the pretrial detention period every 6 to 12 months, but total detention time before the court issues a first sentence may not exceed 2 years. However, in certain circumstances, such as very complex cases, the court may petition the Supreme Court for an extension past the two-year limit. Trials were occasionally delayed by inefficiency.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary remained inefficient and lacked resources and public confidence.

There is a four-tiered court structure. The courts consist of regional, provincial, and appellate divisions, as well as a supreme court. These tiers are subdivided further into five domains of jurisdiction: military, civil, criminal, labor, and family. Regional courts try original cases, while appellate courts are charged solely with appeals. Provincial courts have a dual responsibility, handling appeals from regional courts while having original jurisdiction for the most serious offenses. Appellate courts handle appeals tried at the provincial level; the Supreme Court handles appeals of lower court decisions and ensures that the law is applied consistently throughout the country.

The court system remained cumbersome, poorly administered, inadequately staffed, and underfunded. The courts had numerous inefficiencies—most notably, more criminal judges than prosecutors in many districts—that contributed to a lack of public confidence. Court decisions frequently were not implemented. A continuing backlog of cases and the high cost of legal action deterred many citizens from using the justice system.

Trial Procedures.—Cases are tried in regional and provincial courts by a panel consisting of a professional judge and two lay assessors. Defendants are allowed to

consult an attorney, who is provided at public expense if necessary. Defendants must be present during trial, may confront and question witnesses in their defense, and may access government-held evidence relevant to their case. Defendants may present evidence and witnesses on their own behalf. Prosecutors can grant witnesses anonymity if they express fear of retribution from the defendant. This provision, designed to help combat organized crime, impaired defendants' right to confront their accusers. Trials are usually public; however, the courts reserve the right to close a trial to the public in some circumstances, including divorce cases, cases in which state secrets may be disclosed, or cases whose content might offend public morality (see section 1.f.). The courts rarely invoked this right.

Once a verdict is rendered, the defendant has seven days to request a written statement of the basis for the judgment. The court then has seven days to produce a written decision. A defendant has the right to appeal within 14 days of the written decision on the basis of new evidence or procedural irregularities. A two-level appeal process is available in most civil and criminal matters.

The law provides for juries, usually composed of two or three individuals appointed by local officials, who assist judges in making decisions.

Several individuals lodged complaints or filed cases against the government in the European Court of Human Rights (ECHR) because of trial delays and a perceived lack of due process.

Military courts, which are supervised by the minister of justice and the prosecutor general, have jurisdiction over crimes committed by members of the military while on duty. Defendants enjoy the same rights as civilians. Civilian employees of the ministry of defense are not tried by the military courts.

Political Prisoners.—There were no reports of political prisoners.

Property Restitution.—While there is a law permitting restitution for communal property seized during the Communist and Nazi eras (see section 2.c.), the government failed to vote on a restitution bill for private claims that was introduced into parliament in July. The treasury estimated that there were 56 thousand claims outstanding for property valued at approximately $16.7 billion (50 billion PLN). Despite the lack of a national law, some property nationalized illegally has been restored and compensation provided, amounting to approximately $183 million (550 million PLN) for 500 property claims over the past 10 years.

In July the parliament passed a law concerning properties lost as a result of border changes after World War II. The legislation refers to formerly Polish land east of the Bug River that now falls inside the borders of Lithuania, Belarus, and Ukraine. The government estimated that the law could affect approximately 80 thousand claimants. However, no compensations were made during the year.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government did not always respect these prohibitions in practice.

There was no independent judicial review of surveillance activities, nor was there any control over the use of the information thus derived. A number of agencies had access to wiretap information, and the law allows electronic surveillance for crime prevention and investigations.

Under the "lustration" law, designed to expose officials who collaborated with the Communist-era secret police, persons caught lying about their past may be prohibited from holding public office for 10 years.

In December 2004 former parliament speaker Josef Oleksy announced his decision to resign after a Warsaw court found him guilty of failing to reveal the extent of his communist-era activities. In October the court banned Oleksy from holding public office for 10 years as punishment for his concealment of secret collaboration with the wartime military intelligence services.

Many lustration cases were closed to the public because they involved classified documents (see section 1.e.). Critics continued to voice concern that the vetting procedure was unfair because secret police records were subject to loss or tampering.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, there were a few restrictions in law and practice. The law states that an individual who "publicly insults or humiliates a constitutional institution" of the country is subject to a fine or imprisonment of up to two years, and an individual who insults a public functionary is subject to a fine or imprisonment of up to one year. Offending the object or spirit of a place of worship through public speech is punishable by a fine or a two-year prison term.

During the year artist Dorota Nieznalska appealed her conviction for offending religious beliefs by placing a photograph of female genitals on a Christian cross. She

was sentenced by the Gdansk regional court in July 2003 to six months of public service. The appellate court's decision was pending at year's end.

The independent media were active and expressed a wide variety of views without restriction. The national radio and television broadcasting council (KRRiTV) has broad power to monitor and regulate programming on radio and television, allocate broadcasting frequencies and licenses, and apportion subscription revenues to public media. Council members are legally required to suspend their membership in political parties or public associations.

Private television, including satellite and cable services, was available across most of the country. Private television broadcasters operated on frequencies selected by the ministry of communications and auctioned by the KRRiTV. The four channels of the public Polish Television (TVP) were the most widely viewed, with a combined 40.5 percent market share, but TVP had strong competition from the private TVN and Polsat networks. Cable television and various satellite services carried the main national channels, as well as local, regional, and foreign channels.

The law prohibits the media from promoting activities that are illegal or against government policy, morality, or the common good and requires that all broadcasts "respect the religious feelings of the audiences and, in particular, respect the Christian system of values." The government enforced this provision in practice, levying many fines during the year to programs deemed offensive. There was significant political debate about how to interpret and apply this law.

In 2003 the Supreme Court ruled in favor of the *Zycie* newspaper's appeal of a Warsaw district court judgment ordering it to apologize to then president Kwasniewski for publishing untrue information. The paper had accused the then president of meeting with a Russian spy at a sea resort. Kwasniewski denied such a meeting and said that he was abroad on the day he was reportedly to meet with the Russian agent and filed a suit. The case was returned for further review to the lower court, which in September 2004 again ordered *Zycie* to apologize. The newspaper initiated a new appeal, which was still pending at year's end.

In January a Warsaw regional court found journalist Jerzy Urban guilty of insult for his 2002 publication in news weekly *Nie* of an article that criticized the pope for senility and made other derogatory remarks. The court fined Urban approximately $6,250 (20,000 PLN). In response to this and other cases of alleged slander, the representative on freedom of the media of the Organization for Security and Cooperation in Europe (OSCE) expressed his concern that freedom of speech was not sufficiently protected under the country's law. Urban's appeal of the ruling was pending at year's end.

On January 10, the Bielsko-Biala district court fined a journalist for the biweekly newspaper *Nad Skawa* $650 (2,000 PLN) for publicly insulting religious belief and publicly libeling the object of religious worship in 1998. The journalist had called the pope's visit to Skawa an "artistic event" and described Jesus Christ in graphically explicit terms.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government did not always respect this right in practice. Permits were not necessary for public meetings but were required for public demonstrations. Authorities routinely issued permits for public gatherings; however, the mayor of Warsaw refused to issue a permit for a gay rights parade in June, and the mayor of Poznan denied a permit for a separate gay rights parade in November (see section 5).

Freedom of Association.—The law provides for freedom of association; however, there were restrictions on this right in practice. Private associations were required to register with the local district court in order to obtain government approval to organize. The organization must sign a declaration that it will abide by the law. In practice the procedure was complicated and subject to the discretion of a judge. There were no reports that private associations were routinely denied registration, or that any registration was denied for political reasons.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

There are 15 religious groups that were officially recognized by the government before World War II, and whose relationships with the government are guided by specific legislation outlining their internal structure, activities, and procedures for property restitution. There were 150 other registered religious communities. Approximately 96 percent of the population was Roman Catholic. Although the constitution provides for the separation of church and state, crucifixes hang in both the upper and lower houses of parliament, as well as in many government offices. State-run radio broadcasts Catholic mass on Sundays, and the Catholic Church was au-

thorized to relicense radio and television stations to operate on frequencies assigned to the church—the only body outside the National Radio and Television Council allowed to do so.

Religious education classes continued to be taught in public schools. The government employed Catholic Church representatives to teach religious classes in schools. However, parents could request religious classes in any registered religion, including Protestant, Orthodox, Jewish, and Muslim religions. Children may choose between religious instruction and ethics, and may request exemption from any religious instruction. Non-Catholic religious instruction existed but was uncommon. In addition Catholic Church representatives sat on a commission that determined which books qualified for school use.

The government continued to work with both local and international religious groups to address property claims and other sensitive issues stemming from Nazi- and Communist-era confiscations and persecutions. Of approximately 10,000 communal property claims filed for restitution of religious property, more than 4,100 have been resolved and more than 1,200 properties had been returned by the end of the year.

At the end of the year, approximately 2,959 of the 3,063 claims filed by the Catholic Church had been concluded, with 1,420 claims settled by agreement between the church and the party in possession of the property (usually the national or a local government); 922 properties returned through decision of the commission on property restitution, which rules on disputed claims; and 617 claims rejected by the commission.

Claims by the local Jewish community, whose deadline for filing claims under the 1997 law expired in 2002, totaled 5,544. The commission considered 857 cases, of which 277 were settled amicably and 317 properties were restored.

The Lutheran Church, for which the filing deadline was 1996, filed claims for 1,200 properties. Of these 834 cases were heard, 228 of which were resolved amicably and 136 properties were restored. A total of 313 claims were filed with the commission by the Orthodox Church, of which 137 were closed in full or in part.

Societal Abuses and Discrimination.—Relations between various religious communities were generally amicable. There was a small Jewish population of approximately 20 thousand. There were reports of sporadic incidents of harassment and violence against Jews and occasional desecration of Jewish cemeteries, committed by skinheads and other marginal elements of society.

Occasional incidents of cemetery desecration were reported during the year.

The government provided grants to a number of organizations involved in antibias education, including the public-private Jewish Historical Institute (ZIH) in Warsaw. ZIH is the largest depository of Jewish-related archival documents, books, journals, and museum objects in the country. The government also provided grants to ZIH, which produces educational materials on Jewish culture, the Holocaust, and religious tolerance.

On May 5, the prime minister, the Israeli prime minister, and the Hungarian prime minister were featured speakers at the fourteenth March of the Living. An estimated 21 thousand participants walked from the former Auschwitz concentration camp to the former Birkenau death camp to honor victims of the Holocaust. Schoolchildren, Boy Scouts, the Polish-Israeli Friendship Society, Polish survivors of Auschwitz, and the Polish Union of Jewish Students participated in the march.

In 1998 the parliament created the commission for the prosecution of crimes against the Polish nation within the IPN. The IPN was responsible for commemorating Polish losses sustained in World War II and the postwar period, celebrating citizens' efforts to forge an independent state, and pressing for government compensation of past human rights violations. In April the government-funded IPN confirmed that Konrad Hejmo, a Polish priest posted to the Vatican, collaborated with the secret police in the 1970s and 1980s to provide information on Pope John Paul II. Hejmo was recalled from his position in the Vatican.

The ministry of culture, the city of Warsaw, and ZIH completed years of negotiations on January 25 when they signed an agreement to build a museum of the history of Polish Jews. Following an international competition, the design for the museum was awarded to Finnish architects in the fall.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 1,856 persons during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

During the year the Halina Niec Human Rights Association reported that a refugee detention center in Lesznowola had inadequate standards of hygiene at in some facilities, insufficient lighting and ventilation, as well as a lack of privacy. The government responded by beginning construction on four more modern centers for refugees. The considerable increase in space and upgrades in efficiency were expected to address some of the current challenges.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—National parliamentary and presidential elections took place in September and October, respectively, and were regarded as free and fair. Multiple candidates from various political parties participated in the elections and had access to the media.

Following parliamentary elections on September 25, Kazimierz Marcinkiewicz became prime minister. Coalition talks with Civic Platform (PO) failed, and Law and Justice (PiS) formed a minority government, which received a vote of confidence from the parliament on November 10.

There were 94 women in the 460-seat lower house and 13 women in the 100-seat senate. There were 2 women in the 18-member cabinet.

There were two members of minorities in the lower house and no minorities in the senate. There were no minorities in the cabinet. The law exempts ethnic minority parties from the requirement that they win 5 percent of the vote nationwide in order to qualify for seats in individual districts.

Government Corruption and Transparency.—There was a widespread public perception of corruption in government. Experts reported that citizens considered political parties, parliament, the health care system, and the judiciary to be the most corrupt public institutions. The nongovernmental organization (NGO) Transparency International reported an erosion in public confidence in the country's institutions. According to a poll conducted in August by the Center for Public Opinion research (TNS OBOP), 94 percent of citizens believe corruption occurs very often (67 percent) or often (27 percent).

On September 19, the parliamentary Orlen investigative committee approved a final report on the "Orlengate" scandal, which originally surfaced in October 2004 with reports that the country's richest businessman had met with a former Russian spy and suggested he had official approval to negotiate the sale of state-owned Rafineria Gdanska, the country's second-largest oil refinery. The alleged conversation would have been illegal, since the law bars any state officials, with the exception of treasury ministry officials, from negotiating business transactions, including asset sales, on the government's behalf. The committee's final report concluded that President Kwasniewski, former prime minister Leszek Miller, former minister of treasury Wieslaw Kaczmarek, former minister of justice Barbara Piwnik, Speaker of the Sejm Wlodzimierz Cimoszewicz, Minister of Justice Andrzej Kalwas, and former minister of treasury Emil Wasacz should all be impeached before the state tribunal for their involvement in the scandal. On September 26, the committee's report was sent to the speaker of the house, but the case remained pending at year's end since the report had not yet been reviewed by the parliament.

In a separate matter a former aide leaked allegations of tax fraud against SLD presidential candidate Wlodzimierz Cimoszewicz to the press, leading him to withdraw from the presidential campaign on September 15.

In September 2004 businessman Marek Dochnal was arrested for allegedly bribing public officials for information about the privatization of a state-owned steel mill and the sale of shares of the country's largest oil company. His detention was

extended several times and he was still in custody at year's end, although no official charges had been filed or trial date set.

In April a government inspection of the central bureau of investigation (CBS) offices in Lodz revealed that over 265 pounds (120 kilograms) of narcotics had disappeared from CBS custody over the past few years. A similar inspection in May of the CBS offices in Poznan found that CBS officers were trading top-secret operational information. Both offices were closed, and the director of CBS, Janusz Golebiewski, resigned. Interior Minister Ryszard Kalisz offered his resignation to Prime Minister Marek Belka in response to these scandals. Belka did not accept Kalisz's resignation, but instead relieved Kalisz's deputy, Andrzej Brachmanski, of his position.

The law provides for public access to government information; in practice the government provided such access for citizens and noncitizens, including foreign media. Government refusals of requests for information must be based on exceptions provided in the law related to government secrets, personal privacy restrictions, and propriety business data. Refusals may be appealed.

On November 25, the defense minister announced that the "Warsaw Pact files," which contain information about the 1968 Soviet invasion of Czechoslovakia and the 1981 imposition of martial law in the country, would be declassified and made available to historians at the IPN. Government-appointed teams began to evaluate which documents were appropriate for declassification.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language or social status, and the government effectively enforced these provisions in practice; however, violence and societal discrimination against women and ethnic minorities persisted.

Women.—Domestic violence against women continued to be a serious problem. Police statistics indicated that approximately 88,388 women were victims of domestic violence during 2004, with 17,158 convictions resulting from prosecution. During the year police reported 22,652 investigations, with 21,843 indictment requests forwarded to prosecutors. Women's organizations asserted that the number of women suffering from domestic abuse was probably much higher than reported. Violence against women remained hidden, particularly in small towns and villages.

The NGO Women's Rights Center reported that police were occasionally reluctant to intervene in cases of domestic violence, particularly when the perpetrator was a member of the police force and when victims were unwilling to cooperate. The police, in cooperation with the state agency for solving alcoholic problems, used the "blue card," a record-keeping system designed to document incidents of spousal abuse. However, the program had limited effect due to inadequate funding. There were 150,266 cases of family abuse reported in 2004, compared with 137,299 in 2003. The increase in reported cases was attributed to heightened police awareness, particularly in urban areas, as a result of media campaigns and NGO efforts. According to NGOs, courts often treated domestic violence as a minor crime, pronounced lenient verdicts, or dismissed cases. Most convictions for domestic abuse resulted in suspended sentences, although the law provides for up to five years in prison. The law does not provide for restraining orders to protect abused women from further abuse.

NGOs operated a number of centers to assist victims, provide preventive treatment and counseling to perpetrators, and train personnel working with domestic violence victims. Victims and their families received legal assistance from the ministry of internal affairs and psychological assistance from the ministry of labor and social policy, which also operated 9 shelters for pregnant women and mothers with small children and 158 crisis centers. Approximately 341 persons used the shelters during the year, and 31,943 persons used the crisis centers during the first 6 months of the year. However, neither the shelters nor the crisis centers were devoted exclusively to battered women. Women's advocacy groups complained there were too few state-supported shelters for battered women.

In July parliament passed a domestic violence law that provides for the creation of a national program on counteracting domestic violence, as well as provisions to support victims of domestic violence legally, psychologically, and physically.

Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. During the year 1,987 cases of rape were reported, a slight decrease from the 2,176 reported in 2004. However, women often were unwilling to report the crime because of the associated social stigma, and NGOs estimated that the actual number of rapes was 10 times higher than reported. Of the 1,773 preparatory proceedings that police undertook for rape allegations, 1,360 were forwarded to prosecutors for indictment.

In divorce cases, courts frequently granted a divorce without providing for a property settlement, forcing women to return to abusive husbands. This problem was exacerbated by a lack of alternative housing.

Prostitution is legal, but pimping is illegal. Experts estimate that 30 thousand to 35 thousand women worked as prostitutes, many of them employed by the country's 1 thousand "escort services." Trafficking in women for the purposes of sexual exploitation was a problem (see section 5, Trafficking).

The law prohibits sexual harassment and regards it as "discrimination because of gender." The NGO Center for Women's Rights believed that sexual harassment was a serious and underreported problem. Many victims either did not report the crime (out of shame or fear of losing their job) or, according to police authorities, withdrew their claims as police investigations progressed. Social awareness of the problem continued to increase, however, as more reports of sexual harassment cases appeared in the media. Cases were typically prosecuted under a law stating that whoever takes advantage of a position of power in a relationship to gain sexual gratification may be sentenced to up to three years in prison. During the year police reported 54 investigations into sexual harassment cases under this law; in 2004 there were 225 such investigations, 13 of which resulted in convictions. Police attributed the difference in results to the incarceration of repeated violators.

The constitution provides for equal rights regardless of gender in family law, property law, and in the judicial system; however, apart from the constitution and the labor code, there were no laws to implement this provision. Women mainly held lower-level positions and frequently were paid less for equivalent work, were fired more readily, and were less likely to be promoted than men.

Women are prohibited from working underground (that is, in mining) or in jobs that require lifting of weights above a specified maximum. The prohibitions are binding on employers and do not permit exceptions even if requested by a female employee or with her consent. Additional restrictions apply to pregnant women.

The ombudsman for human rights monitored women's rights within the wider context of human rights; however, the broad scope of the office's mandate diluted its ability to function as an effective advocate of women's issues.

In November the government abolished the office of the government plenipotentiary for equal status for women and men, which had been charged with incorporating the principle of gender equality into governmental policy, including monitoring implementation of government programs aimed at achieving equal status. Those responsibilities were given to the department for women, family, and counteracting discrimination, which was established at the ministry of labor and social policy in December.

Until the abolition of her office, the plenipotentiary continued to implement her duties. The plenipotentiary protested discrimination of women a number of times during the year. She issued a statement severely criticizing parliament's rejection of a bill addressing discrimination against women. In May she sent protested to the mayor of Krakow over discrimination against women in the Cracovia Marathon, which presented female victors with a financial reward half as large as that of the men. The office of the plenipotentiary also provided financial grants to NGOs working to combat violence against women and to promote women in the labor market.

Children.—The government was committed to children's rights and welfare.

During the year the ombudsman for children's rights submitted more than 30 statements to various ministries and other public institutions regarding the rights and welfare of children, including appeals to undertake comprehensive measures to stop domestic violence against children, to enhance children's safety, and to improve their access to preschool education.

Education is universal and mandatory until age 18, and public schools are free. According to the UN Children's Fund (UNICEF), 98 percent of school-age children attended school. Most students continued their studies to the postsecondary level.

The government sponsored some health programs targeted specifically at children, including a vaccination program and periodic checkups conducted in the schools; however, budget shortfalls prevented complete implementation of these programs.

Child abuse was rare. The law prohibits violence against children, and anyone who physically or psychologically abuses a juvenile may receive a prison sentence of three months to five years. However, abuse was rarely reported, and convictions

also were rare. Police reported 1,697 cases of the sexual exploitation of children, 158 cases of child pornography, and 70 cases of child abandonment. Schools did not have procedures to protect children from physical or psychological abuse by teachers, and the teachers' work code provides legal immunity from prosecution for corporal punishment in the classroom.

Trafficking in children, primarily for the purpose of sexual exploitation, was a problem (see section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in persons; however, the country was a source, transit point, and destination for trafficked persons, primarily women and girls but also, to a lesser extent, boys. Internal trafficking for the purpose of sexual exploitation also occurred.

Several legal provisions specifically address trafficking; however, many convictions resulted in suspended prison sentences. The law prohibits trafficking in persons for the purposes of both sexual and nonsexual exploitation and imposes sentences of 3 to 15 years in prison. Pimping, recruiting, or luring persons into prostitution are also prohibited, with penalties up to 10 years in prison. Individuals convicted of trafficking in children and luring women into prostitution abroad receive the most severe sentences. Traffickers could also be prosecuted under laws criminalizing statutory rape, forced prostitution, and other acts.

Eleven agencies were involved in antitrafficking efforts. The ministry of interior and ministry of justice have primary responsibility for antitrafficking efforts, with the ministry of foreign affairs engaged on bilateral and multilateral levels. The government dissolved the plenipotentiary for equal rights for men and women, which had also been involved in antitrafficking programs.

The national police participated in several bilateral task forces that shared information, tracked the movement of traffickers and victims across borders, and coordinated repatriations and casework. In 6 of the 16 provinces, there were individuals or special teams at the county level monitoring trafficking. The national police coordinated these efforts. There was close cooperation with Ukraine and Belarus.

Individuals were trafficked to and through the country, primarily from Ukraine, Bulgaria, Romania, Belarus, and Moldova. A growing number were members of the Turkish minority in southern Bulgaria and from the Romani population in Romania. There was a decrease in victims trafficked from Russia. Individuals, including citizens, were trafficked to Western Europe, including Germany, Italy, Belgium, France, and the Netherlands, as well as to Japan and Israel. Some internal trafficking occurred. The extent of the problem was unclear because statistics on prostitution did not distinguish trafficking victims from those willfully engaged in prostitution and other aspects of the sex trade. Of the estimated 7 thousand prostitutes in the country, approximately 30 percent were estimated to be of foreign origin. The international NGO La Strada previously estimated that 75 percent of the foreign women working as prostitutes in the country were trafficking victims. In addition La Strada reported that as many as 10 thousand Polish women were trafficked out of the country annually. NGOs have noted a recent trend toward a higher percentage of victims being trafficked for labor in agriculture and other economic sectors.

Traffickers targeted young, unemployed, and poorly paid women, particularly those with weak family ties and support networks. Traffickers attracted victims through methods including fake employment offers, arranged marriages, fraud, and coercion. Some victims believed that they were accepting employment abroad as waitresses, maids, or nannies. While traveling to their purported destinations, traffickers confiscated their passports and identity papers and exerted control over them through fear and intimidation. Traffickers threatened victims with violence, and those who resisted or tried to flee were raped, beaten, or intentionally injured.

As many as 90 percent of those trafficked in the country had false travel documents, and the trafficking operation usually involved a network of criminals. One criminal would recruit the victim; a second would provide false travel documents and traffic her across the border; and a third would supervise her work with clients, functioning as a pimp. Arrest statistics indicated that approximately 25 percent of traffickers were noncitizens. Unlike in previous years, there were no reports of large-scale auctions of women in Warsaw and other cities. Prices for trafficked women and girls reportedly started at approximately $2 thousand (6 thousand PLN).

There were unconfirmed reports of local police taking bribes to ignore trafficking activity.

Trafficking victims often were afraid to turn to officials for help because border guards and police could potentially deport victims, if they were not identified as such, on immigration law violations. In many cases unidentified victims were deported as soon as possible, preventing the government from providing assistance, despite legal provisions allowing foreign victims with illegal status to remain in the

country during the investigation and trial of their traffickers. NGOs attributed the high number of these deportations to the absence of national guidelines for police officers and border guards on how to approach and identify suspected victims. Victims were often prosecuted for carrying false travel documents, working illegally, and violating the terms of their visas.

Deported victims were sometimes met at the border by their traffickers, who provided them with new travel documents and returned them to the country. For example, in 2004 police detained a Bulgarian woman on several occasions, each time with a new identity and passport.

The revised immigration law, which came into force in October, introduces a "reflection period" of up to two months, during which a foreign trafficking victim may remain in the country legally while deciding between cooperating with law enforcement agencies and being deported. If a victim decides to remain and testify against the alleged trafficker, he or she receives a temporary residence permit.

While the government generally lacked resources to support victims financially, it cooperated extensively with NGOs, which provided a wide range of support services. The government leased an apartment to La Strada to use as a shelter for trafficking victims and gave another organization a grant to build a similar shelter. In January 2004 La Strada opened a 12-bed shelter with funding from foreign governments to provide victims with medical, psychological, and legal assistance. This shelter was at full capacity throughout the year. The number of shelters remained inadequate, and NGOs frequently resorted to temporary arrangements to shelter victims.

In April the council of ministers approved the national antitrafficking plan, which received approximately $82 thousand (250 thousand PLN) for victim protection. As part of the plan, a series of trainings for police, border guards, prosecutors, judges, and social workers were held in 10 of the 16 provinces.

All incoming police officers reportedly received antitrafficking training. In September police began implementing the new antitrafficking training program in all police schools, offering general training to all incoming police officers.

La Strada received approximately $33,000 (99,842 PLN) from the government to support its antitrafficking programs. The NGO conducted training courses at six police academies and border guard academies during the year. The courses were designed to improve knowledge of the issue of trafficking in persons among students of both academies. La Strada also offered counseling for victims and their families; developed training and prevention materials; and conducted awareness campaigns on the dangers of trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, or in the provision of other state services, including health care. The government effectively enforced these provisions; however, there were reports of some societal discrimination against persons with disabilities. There were approximately 5.5 million persons with disabilities in the country at year's end.

The law states that buildings should be accessible for persons with disabilities; however, public buildings and transportation generally were not accessible to these persons. There is no legal obligation to adapt existing facilities to the needs of persons with disabilities and efforts to make improvements in this area have been hampered by lack of funding.

The first deputy minister in the ministry of social policy is responsible for disability-related issues. He supervises the state fund for rehabilitation of the disabled, and is advised by the national consultation council for the disabled. In July the fund approved three new programs to improve the access of persons with disabilities to education and public facilities, and to provide them with information centers. In September the fund approved the Partner 2006 program to support NGOs that implement projects for persons with disabilities.

During the year the government made only nominal gestures of support for strengthening the rights of persons with disabilities. On January 21, the lower house passed an amendment that more clearly defines the role of government financing in vocational and social rehabilitation. An additional bill reforming support and vocational rehabilitation of persons with disabilities was rejected during the first meeting of the lower house committee on May 4.

National/Racial/Ethnic Minorities.—There were occasional incidents of racially motivated violence directed at Roma, typically by skinheads. Individuals of African, Asian, or Arab descent also reported isolated incidents of verbal, physical, and other types of abuse. The small Ukrainian and Belarusian minorities occasionally experienced petty harassment and discrimination.

Societal discrimination against Roma was common, and some local officials discriminated against Roma in the provision of social services. According to its leaders, Roma faced disproportionately high unemployment and were hit harder by economic changes and restructuring than were ethnic citizens. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education.

In 2004 the government began implementing a "Program for the Roma Community in Poland" to improve Romani living and social conditions, access to health care, and employment opportunities. Coordinated by the ministries of interior and administration, the program was designed to combat ethnically related crime and protect and maintain the Romani culture and identity. The program included hiring Romani teaching assistants, providing vocational training to Roma, and training police on racially motivated crime.

In February 2004 the ECHR upheld the government's 2001 rejection of the application for official minority status by the 170-thousand-member Silesian-speaking community. During the year the Silesian community appealed the government's decision and was awaiting the decision of the court of first instance at year's end.

The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. The German minority in Opole province made up one-third of the area's one million inhabitants, and some community members continued to complain of inadequate use of German in the province's schools.

On January 6, parliament passed a law establishing a joint committee to advise the prime minister on issues related to minorities, including minority rights, relevant legislative initiatives, and budget resource allocation. The new law also imposes an obligation on public authorities to allocate funds for the protection, preservation, and development of the cultural identity of minorities.

Other Societal Abuses and Discrimination.—Right-wing groups attempted on several occasions to disrupt gay pride marches. In May the mayor of Warsaw, Lech Kaczynski, denied approval of a gay rights parade organized by the Equality Foundation, a consortium of gay-rights groups, stating that he would not allow the promotion of gay culture. Despite the denial, on June 11, gay rights activists held a peaceful equality parade during which they complained about the discrimination they experienced in their everyday lives. Marchers were assaulted with objects such as rocks thrown by antigay demonstrators led by the ultraconservative All Poland's Youth League. In September a Warsaw court ruled that the mayor's refusal to issue a permit for the equality parade was illegal. In December the organizers of the parade filed a claim with the ECHR arguing that the country had violated three articles of the European Convention on Human Rights. The case was pending at year's end.

On November 15, the mayor of Poznan, Ryszard Grobelny, refused to issue a permit for an equality march in that city. The mayor cited security concerns, but the NGO attributed the refusal to social intolerance of the local lesbian, gay, bisexual, and transgender (LGBT) community. On November 20, despite the denial of the permit, several hundred people demonstrated in support of gay rights. The activists were harassed, reportedly by members of the All Poland's Youth League, who threw eggs and rocks and made verbal threats that were both homophobic and anti-Semitic in nature. Sixty-eight of the gay rights activists were arrested by police and interrogated about their participation before being released. Approximately one hundred of the violent counterdemonstrators were asked by police for identification in case police decided to investigate further.

On November 25, AI issued a public statement expressing concern over the local "climate of intolerance" against the LGBT community. The statement also criticized the abolition of the office of the plenipotentiary for equal rights for men and women.

There was discrimination against HIV-positive persons. The national AIDS center reported several minor cases of discrimination against HIV-positive persons in the units supervised and funded by the center. The center intervened when complaints were found to be justified.

Section 6. Worker Rights

a. The Right of Association.—The law provides that all workers, including civilian employees of the armed forces, police, and frontier guard, have the right to establish and join trade unions of their choosing, and workers exercised this right in practice. According to press reports, 17 percent of the workforce was unionized. As a rule newly established small and medium-sized firms were nonunion, while union activity in most cases carried over into privatized (former state-owned) enterprises.

The law sets minimum membership requirements for establishing a trade union: 10 persons are required to form a local union and 30 for a national union. Unions, including interbranch unions for workers in the same profession and interbranch

federations of unions within a sector, must be registered with the courts. A court decision refusing registration may be taken to an appeals court. The law does not give trade unions the freedom to exercise their right to organize all workers. For example, workers on individual contracts cannot form or join a trade union.

The law prohibits antiunion discrimination; however, labor leaders reported that employers discriminated against workers who attempted to organize or join unions, particularly in the growing private sector. In state-owned enterprises, such as the health, water, and forestry sectors, there were cases in which workers had their normal employment contracts terminated and replaced by individual contracts that eliminated rights to join unions. Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing the workplace. The law also did not prevent employer harassment of union members for trade union activity; there were unconfirmed reports that some employers sanctioned employees who tried to set up unions. In December Frito Lay fired the chairman of the Solidarity Trade Union for allegedly allowing an increase in the number of union members. Managers also asked workers in the presence of a notary public to declare whether they were union members.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for and protects enterprise-level collective bargaining over wages and working conditions. As of June there were 165 collective bargaining agreements between employers and trade unions. The tripartite commission (unions, employers, and the government) was the main forum that determined national wage and benefit increases in sensitive areas, such as the social services sector.

Key public sector employers (largely in heavy industry and the social services sector) remained unable to negotiate with labor without the extensive involvement of the ministries to which they are subordinate, thereby complicating and politicizing the government's labor relations. The law provides for parties to take disputes first to labor courts, then to the prosecutor general, and, as a last resort, to the Supreme Court. During the year, 916 such disputes reached the Supreme Court.

All workers have the right to strike except for those in "essential services"—security forces, employees of the supreme chamber of audit, and uniformed services (such as the police, border guards, and fire brigades)—who only have the right to protest. These workers could also seek resolution of their grievances through mediation and the court system. A majority of strikes were technically illegal because one or both sides did not follow each step exactly. Labor courts acted slowly in deciding the legality of strikes, while sanctions against unions for calling illegal strikes and against employers for provoking them, were minimal. Unions alleged that laws prohibiting retribution against strikers were not enforced consistently and that the small fines imposed as punishment were ineffective deterrents. Organizers are liable for damages and may face civil charges and fines.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There were laws and policies to protect children from exploitation in the workplace, including a prohibition of forced or compulsory labor and policies regarding acceptable working conditions, and the government effectively enforced these provisions in practice. The law prohibits the employment of persons under the age of 15. Persons between the ages of 15 and 18 may be employed only if they have completed primary school and the proposed employment constitutes vocational training and is not harmful to their health.

The state labor inspectorate (PIP) reported that increasing numbers of minors worked and that many employers violated labor rules by underpaying them or paying them late. During the year PIP conducted 732 investigations involving almost 3,930 possible underage employees. Fines were levied in 428 cases, amounting to approximately $32,000 (99,300 PLN). Inspectors found violations in restaurants, stud farms, and, in some instances, small private businesses and factories.

e. Acceptable Conditions of Work.—The ministry of labor, the unions, and employers' organizations negotiate a revised national minimum wage every three months. At year's end the national minimum monthly wage of approximately $252 (849 PLN) did not provide a decent standard of living for a worker and family. During the year parliament passed legislation raising the minimum wage to approximately $300 (899 PLN) on January 1, 2006. The large size of the informal economy and the low number of government labor inspectors made enforcement of the minimum

wage very difficult. A large percentage of construction workers and seasonal agricultural laborers from Ukraine and Belarus earned less than the minimum wage.

The law provides for a standard workweek of 40 hours, with an upper limit of 48 hours per week, including overtime. The law requires premium pay for overtime hours, but there were reports that this regulation was often ignored. The law provided for workers to receive at least 11 hours of uninterrupted rest per day and 35 hours of uninterrupted rest per week.

The law defines strict and extensive minimum conditions for the protection of workers' health and safety; however, enforcement was a major problem because it was unclear which government body had responsibility for enforcing the law. The PIP was unable to monitor workplaces sufficiently. During the first 9 months of the year, 54,531 workers were injured in workplace accidents, 654 were seriously injured, and 326 were killed. Employers routinely exceeded standards for exposure to chemicals, dust, and noise. The PIP may shut down workplaces where it finds unsafe conditions.

The law permits workers to remove themselves from dangerous working conditions without losing their jobs; however, they were unable to do so in practice without jeopardizing their employment.

PORTUGAL

Portugal, with a population of approximately 10.4 million, is a constitutional democracy with a president, a prime minister, and a parliament elected in multiparty elections. National parliamentary elections on February 20 were free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, the following human rights problems were reported:

- police and prison guards beat and abused detainees
- poor prison conditions
- lengthy pretrial and preventive detention
- trafficking in persons, foreign laborers and women

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings; however, security forces killed eight persons during the year. Most of the killings took place during the pursuit of suspects, either on foot or in car chases, after the suspects failed to obey repeated verbal orders by security forces. One killing occurred inside a police station when a prisoner attempted to escape through a bathroom window. The eight killings were under investigation by the government's Inspectorate General of Internal Administration (IGAI).

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were credible reports of disproportionate use of force by police and of mistreatment and other forms of abuse by prison guards against detainees.

During the year the IGAI investigated new reports of mistreatment and abuse by police and prison guards (see section 1.d.).

An internal prison inquiry into the beating of Albino Libânio in 2003 found that he had sustained multiple injuries from an assault that may have amounted to torture. A criminal investigation into the matter was pending, and disciplinary proceedings against several prison officers were ongoing.

In December a trial began of three police officers who were accused of assault in 1995.

Prison and Detention Center Conditions.—Prison conditions remained poor, and guards continued to mistreat prisoners. Other problems included overcrowding, inadequate facilities, poor health conditions, and violence among inmates.

Most of the guidelines and legislative proposals the government adopted in 2004 to reform the prison system had not been put in practice. However, some improvements were made during the year, including the opening of several new detention facilities, a decrease in prison overcrowding, an increase in personnel training and

implementation of a new prison administration program in the Santa Cruz do Bispo Prison.

Approximately 30 percent of the prison population had hepatitis B or C, and 14 percent were HIV-positive. According to the Ministry of Justice, 55 persons died in prisons during the first 6 months of the year, 49 of them from unspecified illnesses. Six were reported as suicides. One-third of the total deaths occurred while under preventive detention. The government started a new AIDS prevention and treatment program in two major prisons on a three-year trial basis.

Although there was a youth prison in Leiria, at times juveniles were held with adults elsewhere in the prison system. Pretrial detainees were held with convicted criminals.

The government permitted visits by independent human rights observers during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—There were approximately 50 thousand law enforcement officials, including police and prison guards. The Ministries of Justice and Internal Administration are primarily responsible for internal security. The Republican National Guard (GNR) has jurisdiction outside cities, and the Public Security Police (PSP) has jurisdiction in cities. The Aliens and Borders Service (SEF) has jurisdiction on immigration and border issues.

Some members of the security forces committed a number of human rights abuses. In 2004 the IGAI received 276 complaints of human rights abuses. The majority of the complaints were against the PSP and the GNR, 166 and 94 respectively. The complaints included injuries or threats with firearms, excessive use of force, illegal detention, and abuse of power.

The major problems with the police forces were understaffing, insufficient training with firearms, and inconsistent or weak law enforcement. According to a former senior IGAI official, the increase in the number of persons killed by security forces during the year could be linked to the lack of adequate firearm training. There were no indications that police corruption was widespread. During the year police officers received professional training, and the government regulated their actions through mechanisms established by law.

An independent ombudsman is chosen by the parliament and the IGAI to investigate complaints of abuse or mistreatment by police; however, nongovernmental organizations (NGOs) criticized the slow pace of investigations and the lack of an independent oversight agency to monitor the IGAI and Ministry of Interior.

Arrest and Detention.—The law provides detailed guidelines covering all aspects of arrest and custody, and the authorities generally followed the laws in practice. Persons can only be arrested based on a court ordered warrant. However, warrantless arrests by law enforcement officials and citizens can be made in cases where there is probable cause to believe a crime has been or is being committed and in cases where the person to be arrested is an escaped convict or detention prisoner.

Under the law an investigating judge determines whether an arrested person should be detained, released on bail, or released outright. A person may not be held for more than 48 hours without appearing before an investigating judge. Investigative detention is limited to a maximum of six months for each suspected crime. If a formal charge is not filed within that period, the detainee must be released. In cases of serious crimes such as murder or armed robbery, or of those involving more than one suspect, investigative detention may last for up to two years and may be extended by a judge to three years in extraordinary circumstances. A suspect in investigative detention must be brought to trial within 18 months of being charged formally. If a suspect is not in detention, there is no specified period for going to trial. Detainees have access to lawyers from time of arrest, and the government assumes any necessary costs.

In 2004 the IGAI received 17 complaints linked to arbitrary arrests, which were duly investigated.

There were no reports of political detainees. Lengthy pretrial detention was a problem; however, the government made progress in addressing the problem.

By year's end 2,325 individuals (18 percent of the prison population) were in "preventive detention," which was a decrease from the previous year. According to the Director General for Prisons, the number of pretrial detainees has decreased by approximately one thousand since 2003 due to more efficient legal practices and a doubling in the number of electronic monitoring devices for detainees. Detention time for detainees who remained under preventive detention in prison also decreased significantly. The average detention time was 8 months (down from 26 months), while approximately 20 percent of preventive detainees spent more than 1 year in prison.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The court system consists of a constitutional court, a supreme court of justice, and judicial courts of first and second instance. There is also a supreme court of administration, which handles administrative and tax disputes and is supported by lower administrative courts. There is an audit court in the Ministry of Finance.

There were more than 500 courts in the country, and approximately 3 thousand magistrates and judges; however, staff shortages, budget restrictions, court delays, and the lack of computerization continued to be serious problems that contributed to inefficiency and a backlog of cases.

Critics, including the media, business corporations and legal observers, estimated the backlog of pending trials was at least a year. A two-day strike in October by judges, district attorneys, court employees, and notaries to protest proposed decreases in benefits and a freeze on automatic promotions did not substantially affect the backlog of cases.

Trial Procedures.—Jury trials can be requested for criminal cases but are rare. Civil cases do not have jury trails. Defendants are presumed innocent and have the right of appeal and the right to consult with an attorney in a timely manner, at government expense if needed. They can confront and question witnesses against them, present evidence on their behalf, and have access to government held evidence. These rights were generally followed in practice.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press and judiciary and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The 2001 Religious Freedom Act created a legislative framework for religions established in the country for at least 30 years, or recognized internationally for at least 60 years. The act provides all other qualifying religions with benefits previously reserved for the Catholic Church: full tax-exempt status, legal recognition for marriage and other rites, chaplain visits to prisons and hospitals, and respect for traditional holidays. In December 2003 rules were enacted to govern the commission that supervises implementation of the act. In 2004 procedures were published in the national gazette, *Diario da Republica*, on how to create a registry of religious entities.

The Catholic Church maintains a separate agreement with the government under the terms of the 1940 Concordat. In May 2004 the government signed an amended concordat with the Vatican to comply with the 2001 Religious Freedom Act. The new concordat was approved by Parliament and the president and ratified in 2004. It recognized for the first time the juridical personality of the Portuguese Episcopal Conference. It also allows the Catholic Church to receive 0.5 percent of the income tax that citizens can allocate to various institutions in their annual tax returns.

Societal Abuses and Discrimination.—The Jewish population was approximately 700. There were no reports of anti-Semitic acts. Government efforts to promote antibias and tolerance education included the president's participation in a ceremony in September to commemorate the anniversary of the founding of Lisbon's 19th century synagogue, which was restored for religious services and cultural events. The government also provided matching funding to help build a new mosque in Lisbon.

For a more detailed discussion, see the *2005 International Religious Freedom Report.*

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The country's system for granting refugee status was active and accessible. The country's refugee population was estimated at 377. According to the Ministry of the Interior, there were 113 requests for political asylum, primarily from African and Central and South American countries.

During the year the government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and 1967 protocol, although the exact number was not available.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections on the basis of universal suffrage.

Elections and Political Parties.—Free and fair national parliamentary elections were held February 20. The Socialist Party won a ruling majority, ending a governing coalition between the Social Democrat Party (PSD) and the Christian Democrat/People's Party (PP).

There were 58 women in the 230-member parliament. There were two women in the cabinet. There were no minorities in parliament or the cabinet.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The law provides for public access to government information, and the government provided access in practice for citizens and noncitizens, including foreign media.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views; however, most of the groups continued to complain about the slow pace of investigations or remedial actions.

The country has an independent human rights ombudsman who is responsible for defending human rights, freedom, privileges, and the legitimate rights of all citizens. The ombudsman had adequate resources and published mandatory annual reports and special reports on such issues as women's rights, prisons, and the rights of children and senior citizens.

Within parliament there is an independent First Committee for Constitutional Issues, Rights, and Liberties and Privileges, which has oversight over human rights issues. It drafts and submits bills and petitions for parliamentary approval. During the year these included improvement of civil protection laws, additional legislation on crimes of moral harassment in the workplace, arson, and parental rights.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, and social status; however, discrimination against women and ethnic minorities persisted.

Women.—Violence against women, including domestic violence, continued to be a problem. While there was no clear evidence that violence against women increased, more cases of violence were reported. In January the government established the Portuguese Structure against Domestic Violence (EMCVD), which launched a nationwide awareness campaign against domestic violence, trained health professionals, proposed legislation to improve legal assistance to victims, increased the number of safe houses for victims of domestic violence, and signed protocols with local authorities to assist victims.

Of the nearly 10,041 cases of violence during the first 9 months of the year reported to the Association for Victim Support (APAV), more than 83 percent involved domestic violence. The APAV is a nonprofit, charitable organization that provides confidential and free services nationwide to victims of any type of crime. (Most re-

ported domestic violence cases are registered by the PSP and GNR, who redirect victims to APAV for assistance.) The PSP alone detained 500 suspects of domestic violence during this time period, resulting in 83 arrests.

According to women's rights NGO, the Union of Women Alternative and Response, 39 women were killed by their husbands or partners in the 12 month period that ended in November.

The law provides for criminal penalties in cases of violence by a spouse, and the judicial system prosecuted persons accused of abusing women; however, traditional societal attitudes still discouraged many battered women from using the judicial system.

According to the head of the newly established government-sponsored Mission Against Domestic Violence, only 10 percent of cases were brought to trial. The vast majority were resolved outside of the court system by lawyers who mediated between the parties. In 2003, according to the Ministry of Justice, there were 677 court cases related to domestic violence. Of that number, 43 percent ended were closed without prosecutions.

The government's Commission for Equality and Women's Rights ran 14 safe houses for victims of domestic violence and also maintained a 24-hour-a-day, 7-day-a-week phone service. The safe house services included food, shelter, and health and legal assistance.

The law specifically makes rape, including spousal rape, illegal, and the government generally enforced these laws. However, statistics were not available for the number of abusers who were prosecuted, convicted, or punished.

Prostitution was legal and common, and there were reports of violence against prostitutes. Only pimping, running brothels, and the procurement of prostitutes are illegal and legally punishable. Trafficking in women for the purpose of sexual exploitation continued to be a problem (see section 5, Trafficking).

Sexual harassment is a crime if perpetrated by a superior in the workplace. The penalty is two to three years in prison.

The Commission on Equality in the Workplace and in Employment (CITE), which is composed of representatives of the government, employers' organizations, and labor unions, is empowered to examine, but not adjudicate, complaints of sexual harassment. Reporting of sexual harassment was on the rise. According to a study conducted by the Higher Institute for Labor and Entrepreneurial Sciences and published by CITE, one out of three women has been victim to sexual harassment, which ranged from offensive gazes to sexual propositions, insults and threats to coerced or unwelcome touching.

The civil code provides women with full legal equality with men; however, in practice women experienced economic and other forms of discrimination. Of the 349,847 students enrolled in higher education in the 2004–05 school year, 55 percent were women. Although women made up 47.3 percent of the working population and increasingly were represented in business, science, academia, and the professions, their average salaries were about 30 percent less than men's.

Discrimination by employers against pregnant workers and new mothers was a common problem.

Children.—The government was strongly committed to children's rights and welfare. Nine years of compulsory, free, and universal education was provided for children through the age of 15. The majority of children attended school; however 45 percent dropped out before completing high school. The government also provided preschool education for children age four and older upon entry into primary school.

The government provided free or low cost health care for all children until the age of 15; girls and boys had equal access.

Child abuse was a problem. The nonprofit APAV reported 396 cases of crimes against children under 18 during the first 9 months of the year. Most of the cases involved domestic violence.

The high-profile trial of a pedophilia operation at the Casa Pia children's home in Lisbon that began in November 2004 continued at year's end. The 8 defendants faced charges ranging from procurement and rape to homosexual acts with adolescents and sexual abuse of minors for abusing 46 children.

Trafficking of children for sexual exploitation and forced labor remained a problem (see section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, or within the country. The law also criminalizes the trafficking of children under 16 years of age for the purpose of sexual exploitation. Each law that can be applied to traffickers, such as facilitating the illegal entry of persons, employing an illegal immigrant, false documentation, extortion, fraud, and sexual exploitation, carries a penalty of between one and

eight years' imprisonment. By citing the violation of multiple provisions, judges have handed down longer sentences.

According to the latest available statistics, the government in 2004 initiated 408 investigations and 248 prosecutions related to immigration crimes, including trafficking in persons. The government's annual statistical summaries are for classes of crimes that include trafficking but do not isolate trafficking in person crimes in a separate category. Prison sentences ranged from 18 months to 15 years; however, many were in the 11- to 15-year range.

The government assisted other countries with international investigations of trafficking. In January 2004 the government established an antitrafficking task force to ensure coordination and communication among relevant government bodies and NGOs. In December the government launched a pilot project to combat prostitution and the trafficking of women for sexual exploitation in the country. It involved the Ministries of Justice and Interior, the Commission for the Equality and Rights of Women, the High Commission for Immigration and Minorities, the IOM, various NGOs, and the police and security forces. The project's main goals are to establish a full-time body and database within the Ministry of Interior to monitor trafficking-related developments, open a safe house for trafficking victims, and create a registry for filing legal complaints that can be used by police security forces.

The country is a destination for men and women trafficked from Ukraine, Moldova, Russia, Romania, and Brazil for the purposes of forced labor and sexual exploitation. There were reports that immigrant children were used for street begging. Some trafficking victims were transited through the country to other European countries. Most trafficked persons were Eastern European males who ended up working in construction or in other low-wage industries, such as textile manufacturing, woodworking, metalworking, and marble cutting. Some trafficked women (mostly from Eastern Europe and Brazil) worked as prostitutes. Trafficked persons usually lived in hiding in poor conditions, often with little or no sanitation facilities and in cramped spaces. Some trafficked workers were not paid, and some were "housed" within the factory or construction site. Moldovan, Russian, and Ukrainian organized crime groups reportedly conducted most of the trafficking of Eastern Europeans. The traffickers frequently demanded additional payments and a share of earnings following their victims' arrival in the country, usually under threat of physical harm. They often withheld the identification documents of the trafficked persons and threatened to harm family members who remained in the country of origin.

The government may refer victims to NGOs for short and long-term assistance and may provide short- or long-term residency for victims willing to cooperate with law enforcement. The government's high commissioner for migration and minorities is responsible for coordinating assistance to immigrants, including trafficking victims.

During the year the government targeted information campaigns toward immigrant populations and to persons in source countries vulnerable to exploitation and trafficking. The government also placed immigration liaison officers in prominent source countries.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services, and the government effectively enforced the law. The law also mandates access to public buildings for such persons, and the government enforced these provisions in practice; however, no such legislation covers private businesses or other facilities.

The Ministry of Labor and Social Solidarity oversees the National Bureau for the Rehabilitation and Integration of Persons with Disabilities, which is responsible for protection, professional training, rehabilitation, and integration of persons with disabilities, and enforcement of related legislation.

National/Racial/Ethnic Minorities.—The government effectively protected the civil and political rights of minority groups. The principal minority groups were immigrants, legal and illegal, from the country's former African colonies, Brazil, and Eastern Europe. Approximately 500 thousand legal immigrants lived in the country, representing an estimated 5 percent of the population. The country also had a resident Romani population of approximately 50 thousand.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers with the right to form or join unions of their choice without previous authorization or excessive requirements, and they exercised this right in practice. Approximately 35 percent of the total workforce was unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The right to organize and bargain collectively was recognized and exercised freely in practice. The law provides for the right to strike, and workers exercised this right in practice. During the year there were strikes in the education, health, justice, transportation, and agriculture sectors. If a long strike occurs in an essential sector such as justice, health, energy, or transportation, the government may order the strikers back to work for a specific period. The government rarely has invoked this power. However, in October the government intervened in a two-day judges' strike by calling on indispensable workers to avoid delays in ongoing legal actions and court cases (see section 1.e.).

Police officers and members of the armed forces may not strike legally, but they have unions and recourse within the legal system.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively implemented laws and policies to protect children from exploitation in the workplace.

The minimum working age is 16 years. There were instances of child labor, but the overall incidence was small and was concentrated geographically and by sector. The greatest problems were reported in Braga, Porto, and Faro and tended to occur in the clothing, footwear, construction, and hotel industries.

According to the government's last major study on child labor, in 2001, approximately 48,900 children between ages 6 and 15 engaged in some form of economic activity. Of that number, 85.3 percent were unpaid family workers, 14.7 percent worked for third parties, and 98.6 percent attended school. Of these children, 48.4 percent were employed in the agricultural sector, 12.4 percent in manufacturing, and 8.9 percent in construction. Of the children that worked, the vast majority worked 15 hours or less per week; however, about 11 percent worked more than 35 hours per week.

The government's principal body to address, monitor, and respond to reports of child labor is the Plan for the Elimination of Exploitation of Child Labor (PETI). The Ministry of Labor and Social Solidarity is responsible for enforcing child labor laws, and it did so effectively.

There were reports that Romanian minors were often used for street begging (see section 5, Trafficking).

e. Acceptable Conditions of Work.—The monthly minimum wage, which covers full-time workers, rural workers, and domestic employees ages 18 and older, was approximately $449 (374.70 euros) and did not provide a decent standard of living for a worker and family. However, widespread rent controls and basic food and utility subsidies increased the standard of living. Most workers received higher wages, with the General Confederation of Portuguese Workers estimating an average monthly salary of approximately $916 (763.20 euros), excluding public servants.

The maximum legal workday is 10 hours, and the maximum workweek is 40 hours. There is a maximum of 2 hours of paid overtime per day and 200 hours of overtime per year, with a minimum of 12 hours between workdays. The Ministry of Labor and Social Solidarity effectively monitored compliance through its regional inspectors.

Employers legally are responsible for accidents at work and are required by law to carry accident insurance. The General Directorate of Hygiene and Labor Security develops safety standards in line with European Union standards, and the general labor inspectorate is responsible for their enforcement; however, the inspectorate lacked sufficient funds and inspectors to combat the problem of work accidents effectively. Workers injured on the job rarely initiated lawsuits. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and the authorities effectively enforced this right.

ROMANIA

Romania, a country of approximately 22.3 million persons, is a constitutional democracy with a multiparty, bicameral parliamentary system. Traian Basescu was elected president in December 2004 in elections characterized by irregularities, but

which were judged generally free and fair. The civilian authorities generally maintained effective control of the security forces.

The government made increasing attempts to address human rights issues during the year; however, human rights abuses continued to occur. The following human rights problems were reported:

- police abuse and harassment of detainees and Roma
- poor conditions in prisons and detention centers
- political influence over the judiciary
- restrictions on freedom of religion
- failure to restitute property to the Greek Catholic Church and other denominations
- incidents of intimidation and harassment of journalists
- widespread corruption
- violence and discrimination against women
- significant lapses in protecting children's rights
- trafficking in persons
- neglect of and inadequate assistance for persons with disabilities
- violence and discrimination against the Roma and homosexuals
- discrimination against persons living with HIV/AIDS
- lack of enforcement of labor laws

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the government or its agents, although there were allegations that three extrajudicial killings had occurred.

Nongovernmental organizations (NGOs) reported suspicious circumstances surrounding the January 11 death in Buzau of 50-year-old Dumitru Ciobu, who had been taken into custody after neighbors complained that he was disturbing public order. Ciobu reported feeling ill and died in police custody en route to the hospital. According to the forensic report, he died of a hemorrhage resulting from pancreatic cancer, but NGOs questioned the rapid progression of the disease and called for an investigation into the matter to determine if the death resulted from possible police abuse. No investigation had been initiated by year's end.

On August 6, railway transportation police shot and killed a 34-year-old man, Gheorghe Cazanciuc, while he was allegedly stealing copper wires. The police reported that Cazanciuc attempted to flee the scene. Human rights NGOs asserted that the use of a firearm by police was excessive and illegal under the law, given the nature of the crime. Police did not open an investigation.

On August 8, four police officers in Constanta beat a drunk man, Viorel Gionea, who went into a coma and died 10 days later. The forensic report attributed Gionea's death to a head injury he sustained from a fall at his workplace the day before the beating. The police discipline commission fired all four police officers and placed two of them under criminal investigation for abusive behavior and inflicting serious physical injuries. The commander of Constanta police was also dismissed.

In October police and prosecutors in Calarasi county transferred to another precinct the police officer who shot and killed 31-year-old Nicusor Serban in Jegalia in May 2004 when he resisted arrest.

In April authorities released from prison on medical grounds one of two former security agents found responsible in 2003 for the 1985 beating death of former dissident Gheorghe Ursu. The other agent remained in prison. The two had been sentenced to 10 years in prison. A new forensic report, requested in an appeal by the two agents, was issued in November. The new report attributed Ursu's death to a lack of medical care, a finding which contradicted a 1993 coroner's report attributing the death to the beatings. Human rights NGOs questioned the accuracy of the November report, which—although legally acceptable in a court—was carried out nearly 20 years after the crime.

In July the Association for the Defence of Human Rights in Romania—the Helsinki Committee (APADOR–CH) reported the death of prisoner Victor Garcea in suspicious circumstances in the prison in Giurgiu. Garcea had acute head and body injuries when he was taken to Bagdasar hospital, and he died five days later. Authorities declared that his injuries were due to an accident, and the case was closed. However, human rights NGOs noted that the circumstances of his death indicated

possible foul play, since Garcea had allegedly formally complained before his death that his family had been denied visitation rights.

NGOs reported a case in which 24-year-old Ionut-Cristinel Maftei, who was serving a 5-year prison term for theft in Iasi, entered a coma and died in June 2004 following a serious head injury received in his jail cell in unclear circumstances. Suspecting the involvement of the cell supervisor, in July 2004 Maftei's family filed a complaint against the supervisor with the military prosecutor's office in Iasi. The case was forwarded to the prosecutor's office of the territorial military tribunal, which decided in January that there was insufficient evidence to open a criminal investigation. Maftei's father appealed the decision three times to successively higher military courts, and each of the appeals was rejected.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were numerous credible reports of police torture and mistreatment of detainees and Roma, primarily through excessive force and beatings by police.

In August the media reported that two men from Buzau were beaten by a police officer who was escorting them to the local precinct after the two were engaged in an altercation at a restaurant. The officer was under investigation at year's end.

In October a student from Bucharest, Razvan Vasile Muraru, stated that he had been beaten by three police officers in Tulcea county after allegedly having been taken without grounds to the police station. Muraru filed a complaint with the prosecutor's office, and police initiated an internal investigation which remained open at year's end.

In December two police officers in Tibana in Iasi county allegedly beat four minors with clubs and forced them to admit to committing an alleged theft. Two of the minors had to be hospitalized for their injuries. The officers were dismissed and remained under criminal investigation at year's end.

According to human rights NGOs, on February 2, the general prosecutor's office decided not to prosecute an unspecified number of members of the Bucharest fourteenth police precinct and the rapid intervention police squad for allegedly physically assaulting Cristian Bujor, a 15-year-old bystander who was walking by a fight between the police and a group of taxi drivers in March 2004. Bujor's relatives alleged that police pressured the hospital to release him after less than 48 hours to prevent doctors from issuing a medical certificate. The prosecutor's office cited Bujor's failure to provide medical documentation of his injuries and his family's decision not to take the case to court as factors influencing its decision.

Romani NGOs continued to claim that police used excessive force against Roma and subjected them to brutal treatment and harassment. On April 12, a police officer in Moreni allegedly beat a Romani individual in a bar without cause, resulting in injuries that required six days of hospitalization. The case remained under investigation at year's end.

On two separate occasions in November, police searched Romani neighborhoods during an eviction operation and physically assaulted several Roma (see section 1.f.).

There were no developments in the January 2004 case in which Bucharest police shot and wounded Marius Silviu Mitran.

In August a court in Simleul Silvaniei dismissed a case against local police in which the head of a local police station and three civilians reportedly subjected a Roma couple, Stela and Sofron Varga, to verbal and physical violence in Banisor in January 2004. One of the three civilians accepted responsibility in court for the violence against the Romani couple and in December, the court gave him a five-month suspended sentence.

A police officer accused of physically assaulting a 12-year-old boy in Fetesti in June 2004 was acquitted of criminal charges but ordered by the court to pay the defendant $65 (ROL 2 million) and court expenses of $165 (ROL 5 million). The charges were reduced by the court, which determined that the officer had not been on duty at the time of the beating. The police officer has reportedly not paid the defendant or the court and remained employed as a police officer at year's end.

The lawsuit involving two members of the Service for Protection and Guard, who in August 2004 physically assaulted Serban Pretor, state secretary on the national audiovisual council (CNA), continued without resolution at year's end. The trial date was repeatedly postponed during the year.

In 2004 a county-level council of discipline of the police inspectorate found a plainclothes officer innocent in the 2003 beating of Mihai Dumitru during a raid in Tulcea. The ministry of the administration and interior (MOAI) initially acknowledged the officer's guilt and proposed that the council of discipline punish him ac-

cording to the police officers' status law. The prosecutor's office referred the case to court for criminal prosecution in 2004, but the victim withdrew his complaint after reaching an out-of-court settlement with the police officer.

Lesbian and gay rights NGOs complained that police singled out members of this community for violence and harassment and noted that few victims pursued charges due to fear of harassment from the local community and police or the belief that authorities would not carry out unbiased investigations (see section 5).

Prison and Detention Center Conditions.—Prison conditions remained harsh and did not meet international standards. Overcrowding remained a serious problem, although there was a slight improvement over 2004 in respecting prisoners' rights, such as visitation privileges. At the end of the year, 36,682 persons, including 858 minors, were in prison or juvenile detention facilities in a system with a capacity of 37,393. Overcrowding resulted from a high concentration of inmates in a few facilities; for example, the prison in Bacau operated at 300 percent of its capacity, and the facility at Margineni had 60 cells for 1,500 prisoners, with many cells housing 40 to 50 prisoners each.

Media and human rights organizations reported that the abuse of prisoners by authorities and other prisoners continued to be a problem. There were reports that at the prison in Jilava, prisoners with few or no visitors were often the victims of physical and sexual abuse by other prisoners, due to the inability of the victims to obtain outside support, including through filing complaints.

Sanitation and hygiene in prisons did not meet international standards. Medical facilities were not sufficient to care for all prisoners and detainees. Heating and hot water were not available in several facilities. At the prison at Jilava, prisoners complained of mold on cell walls, rust in the tap water, poor heating, and cold showers. Because the facility was built on swampland, sludge periodically flooded the cells, bringing rats and mice. Many prisoners had lice and scabies, and reported the insufficient provision of many medications.

NGOs stated that the lack of daily activities for prisoners was a major problem. NGOs also reported that prison meals did not provide the minimum necessary calories and that prisoner access to health care was inhibited by the lack of doctors dedicated to prisoners.

The government continued limited efforts, including partnerships with NGOs, to alleviate harsh conditions and to deter the spread of HIV and tuberculosis. With funding from the European Union (EU), the government upgraded five prison hospitals, equipping them to detect infections more rapidly. The government also provided segregated cells for self-declared homosexual prisoners at the maximum security penitentiary in Adjud to better ensure their safety, and offered higher education courses for prisoners to continue their studies.

Because of overcrowding in certain prisons, detainees awaiting trial were sometimes held in the same facilities and treated in the same manner as convicted prisoners.

The government permitted prison visits by human rights observers and media representatives. The national administration of penitentiaries reported that there were 5,688 individual or group visits by media and domestic and foreign NGOs to penitentiaries during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The MOAI is responsible for the national police and the gendarmerie, as well as the border police, alien authority, national office for refugees, the general directorate of information and internal protection (DGIPI) (which oversees the collection of intelligence on organized crime and corruption), the special protection and intervention group, and the special aviation unit. The national police agency is the inspectorate general of Romanian police, which is divided into a number of specialized directorates and has 42 regional directorates for counties and the city of Bucharest. The internal intelligence service (SRI) also collects intelligence on major organized crime, major economic crimes, and corruption. Both SRI and DGIPI turn over the intelligence they gather on criminal activity to the prosecutor's office for criminal investigation.

While the police generally followed the law and internal procedures, corruption was a continuing problem which remained a main cause of citizens' lack of respect for the police and contributed to a corresponding lack of police authority. Extremely low salaries (which were sometimes not paid on time) contributed to the susceptibility of individual law enforcement officials to bribes. According to human rights NGOs, forensic reports are frequently unreliable, often erring in favor of police and other officials.

Police impunity was a problem. Complaints of police misconduct are handled by the internal disciplinary council of the unit where the reported officer works. During the year 107 cases were investigated for alleged violations of human rights. Officers were found innocent in 65 cases and to have had no involvement in 10 cases. The outcome of one case was withheld from the public. Thirteen officers were disciplined, and three were sanctioned administratively. Fifteen of the 107 cases remained under investigation at year's end, and the disciplinary council was also continuing to investigate 15 additional cases of corruption, a category separate from human rights violations.

Police reform continued during the year. The government, with support from law enforcement agencies from other countries, offered police training workshops on topics such as human rights and the proper treatment of criminal suspects.

On August 25, the government adopted a new police code of ethics that establishes rules for police conduct in special circumstances and when working with the public.

Arrest and Detention.—The law provides that only judges may issue arrest and search warrants, and the government generally respected this provision in practice. The law requires authorities to inform detainees at the time of arrest of the charges against them and their legal rights. Police must notify detainees of their rights in a language they understand before obtaining a statement. Detainees must be brought before a court within 24 hours of arrest. The law provides for pretrial release at the discretion of the court. A bail system also exists; however, it was seldom used in practice. Detainees have a right to access to counsel, and generally had prompt access to counsel and their families. Indigent detainees were provided with legal counsel at public expense.

The law allows police to take any person who endangers the public, other persons, or the social order to a police station. There were allegations that police often used this provision to detain persons up to 24 hours. The confidentiality of discussions between detainees and their lawyers was generally respected in practice.

In May Rompetrol chief executive Dinu Patriciu alleged that prosecutors detained him for longer than the 24 hours allowed by law. The general prosecutor's office (GPO) refuted the allegation, claiming that Patriciu had appeared before prosecutors voluntarily for questioning, albeit in response to a request. The GPO asserted that the initial phase of questioning could not therefore be considered a period of detention.

There were no reports of political detainees.

A judge may order pretrial detention for periods of 10 or 30 days, depending upon the status of the case. The court may extend these time periods; however, pretrial detention may not exceed 180 days. Courts and prosecutors may be held liable for unjustifiable, illegal, or abusive measures.

Pretrial detainees represented approximately 7.5 percent of the prison population.

Amnesty.—In July President Basescu pardoned on humanitarian grounds a 26-year-old woman sentenced in 1998 to two years in prison for a theft committed as a minor.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, judges continued to be subject to political pressure.

In order to comply with requirements for EU accession in June, the parliament passed a new judicial reform law to increase the independence and professionalism of judges and prosecutors. Human rights and democracy NGOs widely supported the legislation. The law, which became effective in July, provides the minister of justice the authority to propose to the president the removal of senior management within the GPO and the national anticorruption prosecutor's office (PNA), with the superior council of magistrates (CSM) retaining only an advisory role. The law also establishes rules to prevent conflicts of interest among judges and prosecutors and to prevent members of the Communist-era security services from entering the judiciary.

There was a widespread perception of corruption within the judiciary, which the government took steps to fight. These efforts included the implementation of random case assignment for judges, and new provisions to limit the ability of supervising prosecutors to reassign criminal investigations or to influence the conclusions of the prosecutor assigned to the case.

There was no parliamentary action in response to a December 2004 complaint by the association of Romanian magistrates asserting that the two positions on the CSM reserved for independent civil society individuals had been filled by the previous government with political partisans. The complaint claimed that the two received the nomination due to their loyalty to the then governing Social Democratic Party (PSD) and in spite of their lack of background, experience, and requisite moral stature.

The law establishes a four-tier legal system, beginning with the lower court (*judecatorie*), followed by the intermediate court (tribunal), the appellate court, and the high court of cassation and justice. A separate constitutional court validates electoral results and makes decisions regarding the constitutionality of laws, treaties, ordinances, and internal rules of the parliament. A prosecutor's office is associated with each court. The court having original jurisdiction over a case is determined by the nature of the offense and by the position a defendant may hold in public service.

Trial Procedures.—Trials are open to the public. The law does not provide for trial by jury. The law provides for a right to counsel and a presumption of innocence until a final judgment by a court. The law requires the government to provide an attorney to juveniles in criminal cases; in practice, local bar associations provided attorneys to the indigent and were compensated by the ministry of justice. Defendants have the right to be present at trial, to consult with an attorney in a timely manner, to confront or question witnesses against them, and to present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Both plaintiffs and defendants have a right of appeal.

The law provides for the investigation by civilian prosecutors of crimes by the national police. Military prosecutors continued to try cases that involve "state security". Crimes by the gendarmerie continued to fall under military jurisdiction. Local and international human rights groups criticized the handling of cases by military courts, claiming that military prosecutors' investigations were unnecessarily lengthy and often inconclusive.

Political Prisoners.—There were no reports of political prisoners.

Property Restitution.—In July the government passed legislation to improve the process of property restitution, which has moved slowly since the end of communism. The legislation clarified the procedures for restitution and established new application deadlines and fines for officials who hindered the process; and created a property fund of $4 billion (ROL 120 trillion) for the compensation of owners with properties that cannot be returned in kind. Although the large majority of restitution cases remained unresolved, the pace of restitution increased at year's end as a result of the legislation. Organizations of former owners seeking return of their property also reported that personnel changes in and expansion of the national authority for property restitution (ANRP) increased the pace of processing cases.

Former owners organizations, however, asserted that property restitution remained hindered by inertia at the local level. In many cases, local government officials delayed or refused to provide necessary documents to former owners filing claims. In many cases they also refused to turn over restituted properties in which county or municipal governments had an interest. Former owners stated that the central government, represented at the local level by prefects, did not uniformly apply fines or other sanctions against local governments that failed to provide requested documents or to turn over restituted properties. The ANRP fined 62 mayors between July and year's end for failing to abide by laws on restitution; however, former owners claimed that the actual number of mayors who disobeyed the law was much higher. Former owners also complained of a lack of transparency in the creation of the property fund.

The number of restitution claims submitted increased greatly as a result of the new law. ANRP announced that the government received an additional 600 thousand applications by the close of a November 30 deadline for claims. Of the 210 thousand claims filed before the legislation, ANRP reported that some 60 thousand were resolved by year's end.

There were several high profile properties restituted during the year. In December the government restituted to the Evangelical Church of German Language the buildings of the well-known Bruckenthal Museum in Sibiu county together with its art collections (see section 2.c.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

The law permits the use of electronic interception both in criminal cases and for national security purposes. In exceptional circumstances (when there is a clear and present danger to national security), government institutions may begin interception without a warrant issued by the judiciary. Following this, however, a request for authorization must be submitted within 48 hours.

On two separate occasions in early November, police and security forces conducted raids in a Romani community on the outskirts of Cluj-Napoca. Under the pretext of a search for stolen goods and criminal suspects, police reportedly confiscated pri-

vate property, physically assaulted several Roma, evicted residents by force, detained men at the police precinct for six hours, and eventually burned all of the Romani dwellings. In December NGO Romani CRISS filed a complaint against the police officers for abuse and property destruction at the prosecutor's office in Cluj. The case was under investigation at year's end.

In May, 40 Romani families were evicted in Tulcea although the local court of first instance had not yet ruled on an appeal of the eviction. Eviction of Roma also occurred in Bucharest, Zalau, and other towns. In January eviction proceedings in Bucharest's sector one were cancelled following the intervention of government officials. Approximately 250 Roma evicted in Zalau in February and March were moved to areas with poor or no water supply, heating, electric power, or sewage system. To implement a city plan to renovate Bucharest's historic Lipscani district, the authorities evicted Roma living in the area, providing minimal financial aid and compensation. Although the authorities in many cases offered alternative housing to those evicted, Romani NGOs found the offers inadequate for several reasons: proximity to industrial areas; poor living conditions; or the likelihood of de facto segregation from mainstream society.

According to Romani CRISS, the number of evictions increased during the year, although no official statistics were published.

In August the national council for combating discrimination (CNCD) fined the mayor's office in Miercurea Ciuc approximately $1,350 (ROL 40 million) for the May 2004 forced eviction of about 140 Roma and their relocation to a hazardous area near a wastewater treatment facility. The Roma lacked alternative housing and continued to reside in that area.

The government took no further steps to resolve other eviction cases that took place in 2004—such as those in Buzau, Galati, and Tulcea—or the 2003 eviction of several dozen Roma squatting on the outskirts of Bucharest's Militari district.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, certain legal prohibitions against "defamation of the country" and "offense to authority" potentially limited these rights, and journalists continued to be prosecuted and convicted for their articles and public statements. Media watchdog groups reported that the media environment improved significantly during the year. Journalists and private citizens could generally criticize the government authorities, including those at senior levels. Violence and threats against journalists dropped substantially, although investigations of incidents from previous years moved slowly.

There were isolated cases of authorities intimidating, censoring, or attacking journalists, though this occurred less frequently than in previous years.

Laws restricting freedom of speech continued to cause concern among the media and NGOs. The offense of insulting authorities is punishable with a fine. In December the government approved an amendment to the law that would eliminate libel as a criminal offense; at year's end the new law had not been enacted by parliament.

In June Marian Oprisan, president of the opposition party PSD's local council, sued journalist Sebastian Oancea of *Ziarul de Vrancea* for libel for an article he wrote about how Oprisan spent public funds. A lower court ordered the journalist to pay $330 (ROL 10 million), but a higher court rejected this ruling on appeal.

The government collaborated with media and NGO representatives to make the allocation of government-funded advertising more transparent, resulting in legal changes and the creation of a web site dedicated to public advertising. These negotiations followed an October 2004 ruling by the Bucharest appellate court that the government must provide information regarding advertising contracts to the NGO Center for Independent Journalism (CIJ).

The independent media were more active than in previous years, and expressed a wide variety of views without restriction.

Parliamentarians and their political allies owned numerous media outlets in the provinces, and the news and editorial tone of these outlets frequently reflected the views of the owners.

Unlike in previous years, there were no reports that job contracts at some private television stations prohibited journalists from speaking freely about political pressures in news reporting or commentary.

The media reported several cases of journalists who, while videotaping or covering various official events, were assaulted by those being filmed. Such incidents occurred in public places, and the media reported that gendarmes and police frequently did not intervene.

In February a cameraman with Alpha TV in Cluj was attacked by Bodocan Vasile, the mayor of Bontida, while trying to film an interview. The mayor destroyed film equipment worth $1,200 (ROL 36 million).

In July the mayor of Sighisoara city, Ioan Dorin Danesan, physically and verbally attacked the editor of a local publication during a local city council meeting. Danesan also confiscated the editor's camera and refused to return it. After the event, the editor filed a complaint with the local police but the police failed to follow up on the case.

The NGO Media Monitoring Agency reported that in June several journalists and writers working for *Curierul de Botosani* in Botosani county were threatened by local members of the extreme nationalist Greater Romania Party (PRM). Valentin Guraliuc, PRM representative in the local council, reportedly threatened a journalist's mother with harm to her son if he continued to write about Guraliuc. Another journalist received similar threats by telephone from a man claiming to be associated with Guraliuc.

During the year there were no developments in cases from previous years of violence against journalists.

In October broadcaster Romedia criticized the national audiovisual council (CNA) for banning a television advertisement that featured President Basescu urging people to help raise money for flood victims by buying a bracelet from a local store. CNA justified the ban on the grounds that the commercial gave free publicity to the store where the bracelet could be purchased. CNA's president stated, however, that the president should not receive free political publicity. Romedia asserted that CNA's decision was an abuse of power that constituted a form of censorship. The CNA did not change its decision, and the advertisement was taken off the air.

Although the media climate and perceived level of freedom of expression substantially improved during the year, courts continued to fine journalists in isolated instances for libel. Some authorities banned journalists' access to public information (see section 3).

In February an appeals court in Targu Mures withdrew the accreditation of a *Romania Libera* correspondent in response to stories he wrote criticizing the Targu Mures courts. Following protest from several media organizations citing violations of the right to access public information, the court reversed its decision.

In August the mayor of Ploiesti city, Emil Calota, withdrew the accreditation of a journalist at *Informatia Prahovei* after a city hall press conference during which the journalist voiced dissatisfaction with the major. The mayor claimed that the journalist had disturbed the activities of the office.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice. The law provides that unarmed citizens can assemble peacefully, but states that meetings must not interfere with other economic or social activities and may not be held near locations such as hospitals, airports, or military installations. Organizers of public assemblies must request permits in writing, three days in advance, from the mayor's office of the locality where the assembly will take place.

In May the mayor's office in Bucharest initially turned down a request by ACCEPT, an NGO advocate of lesbian, gay, bisexual, and transgender (LGBT) rights, to hold a "march of diversity," asserting that the city hall could not provide the security necessary for the public assembly. The march was eventually approved after several public figures, including the president and the justice minister, declared that doing otherwise would constitute a human rights violation.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. The law prohibits fascist, Communist, racist, or xenophobic ideologies, organization, and symbols (such as statues of war criminals on public land). Political parties are required to have at least 25 thousand members to have legal status, a number that some NGOs criticized as being excessively high.

In December seven prominent NGOs, including the Foundation for Open Society and Transparency International, began a campaign against the draft bill on political migration, which would penalize mayors and local officials who change their political party affiliations after being elected. The NGOs asserted that the proposed legislation would violate the constitution and people's fundamental right to choose.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, there were some restrictions, and several minority religious groups continued to claim credibly that govern-

ment officials and Romanian Orthodox clergy impeded their proselytizing and interfered with other religious activities.

The government requires religious groups to register; however, there is no clear registration procedure, which made it almost impossible for groups to receive legal status.

The government gives official religious status to 18 religions. Only these recognized religions are eligible to receive state financial support. Recognized religions have the right to establish schools, receive state funds to build churches, pay clergy salaries, subsidize clergy housing, broadcast religious programs on radio and television, apply for broadcasting licenses for denominational frequencies, offer religion classes in public schools, and enjoy tax-exempt status. The government also registered religious groups either as religious and charitable foundations or nonprofit cultural associations.

In January the local council of the village of Pesceana illegally forbade the registration of a Greek Catholic parish and the activity of the Greek Catholic Church in the locality. The police did not react to the Greek Catholics' complaints of verbal and physical abuse by Orthodox villagers and their priest. Eventually, the local police chief was fired. Following a complaint by a group of NGOs, the CNCD decided that the local council's decisions were discriminatory and reprimanded it at the end of August.

The law provides for peaceful religious assembly; however, several minority religious groups again complained that, on various occasions, local authorities and Orthodox priests prevented religious activities from taking place, even when their organizers had been issued permits. The Seventh-day Adventist Church reported difficulties obtaining approval to use public halls for religious activities following pressure by Orthodox priests. In some cases, Orthodox priests incited the local population against activities by the Seventh-day Adventist Church, the Greek Catholic Church, and members of Jehovah's Witnesses. The press continued to report instances of Romanian Orthodox clergy harassing members of other faiths, such as pressuring non-Orthodox school children to attend Orthodox religion classes or not allowing members of religious groups to proselytize near Orthodox churches.

Although most minority religious groups reported that they had received permits to build places of worship without difficulty, some continued to complain that permits were unduly delayed by local authorities.

Several religious groups made credible complaints that, in some instances, local police and administrative authorities tacitly supported sometimes violent societal campaigns against proselytizing. On January 8, several residents in the town of Dofteana physically assaulted a group of visiting Jehovah's Witnesses. When the victims filed a complaint with the local police, the police took no action and told them not to return to the town. On March 23, a similar incident occurred in Doftnea, and the local police explicitly told the Jehovah Witnesses members that they were not there to protect their rights. Between March and May in the town of Pesceana, members of the Greek Catholic Church and their priest were subjected to repeated harassment by local residents, a private security firm, and the local police. In some localities, the activities of religious groups, such as charitable programs in children's homes and shelters, were perceived as being directed at adherents of the Orthodox Church, and conflicts occurred. Members of the Greek Catholic Church, Jehovah's Witnesses, the Church of Jesus Christ of Latter-day Saints, and the Seventh-day Adventist Church continued to report such cases.

A Roman Catholic Csango community repeatedly complained that they were unable to hold religious services in the community in their mother tongue because of the opposition of the Roman Catholic Bishopric of Iasi. In August the Csango community filed a complaint with the CNCD, which decided on October 27 that the act of denying religious services in the maternal language is a restriction on religious freedom. In December the Bishopric challenged the CNCD decision in court. The case had not been resolved by year's end.

Orthodox priests reportedly denied permission to Greek Catholic and Seventh-day Adventist churches to bury members in either religious or secular cemeteries.

Representatives of denominations other than the Orthodox Church were required to ask the permission of the chief chaplain in the ministry of justice to have access to penitentiaries. Some NGOs reported that prisoners were pressured and intimidated to prevent them from changing their religions. In August, in response to a complaint by the NGO APADOR–CH, the CNCD concluded that both the legal provisions on military clergy and the agreement between the ministry of justice and the Orthodox Church regarding religious assistance in penitentiaries are discriminatory. The CNCD recommended that the ministry of justice eliminate the discriminatory provisions from the law as well as the protocol. These provisions had not been eliminated by year's end. In addition, both public and private organizations often

permitted only Orthodox priests to provide religious guidance in the hospitals, children's homes, and shelters for the elderly operated by the groups.

In April the CNCD reprimanded school authorities and the mayor of Mizil for harassing and discriminating against a Jehovah's Witnesses teacher who was also told by the school director he would be dismissed. The mayor alleged that the teacher was proselytizing in school, and two school inspectors asked him to choose between his faith and his job. In April the CNCD also fined the Mizil city hall $200 (ROL 6 million) for publishing discriminatory articles against Jehovah's Witnesses in the city hall's monthly publication. The city hall and the two inspectors challenged the CNCD decisions, and on November 16, the Mizil court of first instance ruled in their favor based on a procedural flaw and eliminated the fine.

Only officially recognized religions have the right to teach religion in public schools. Attendance in such classes is optional; however, the Baptist Church reported cases of children who were pressured to attend Orthodox religion classes.

The restitution law passed in July permits religious minorities to receive back from the government previously confiscated properties which house school, hospitals, or cultural institutions.

Property restitution was particularly important for the Greek Catholic Church, all of whose properties, including churches, were confiscated during the Communist regime. Most of the Greek Catholic Churches were given to the Romanian Orthodox Church after their forced merger in 1948. The Romanian Orthodox Church resisted their return after the fall of communism. The most recent restitution legislation passed in July failed to address the issue of the Greek Catholic churches. During the year the government made slow progress in restoring these properties. Since 2003 the government restituted to the church only 78 out of 2,207 claims under the law to restore confiscated church property. Twenty-three of the 78 were restored during the year.

In June the parliament passed into law an August 2004 decree permitting the Greek Catholic Church to resort to court action whenever the bilateral dialogue regarding the restitution of churches with the Orthodox Church fails.

On November 20, the Orthodox Church returned a cathedral in Oradea to the Greek Catholic Church after direct pressure exerted by a top official in the government. In general, however, the Greek Catholic Church made very limited progress in recovering properties taken by the Romanian Orthodox Church. To date, the Orthodox Church had returned only a few of the approximately 2,600 Greek Catholic churches and monasteries. A Greek Catholic-Orthodox commission, which had long been ineffective in resolving the problem of the restitution of Greek Catholic churches, almost ceased operation during the year.

The historical Hungarian churches, including the Hungarian Roman Catholic and the Hungarian Protestant Reformed, Evangelical, and Unitarian churches, have received several significant properties. The Hungarian churches have received 508 properties since 2003, 170 of which were resolved during the year. Over 1,450 cases were still pending at year's end.

In Oradea, the Reformed Church, municipal office, and the Orthodox Church remained embroiled in a conflict over possession of land used for a playground adjoining the Reformed Church high school. The municipality granted the land to a neighboring Orthodox Church without consideration for the functioning of the school, a move that ethnic Hungarians claimed was deliberately discriminatory against the church. Ethnic Hungarians also claimed the local Orthodox parish intensified the conflict by locking up the playground during the summer and restricting all access.

The new legislation regarding the restitution of both religious and ethnic communal property provided for a broader scope of claimable properties and compensation for demolished buildings. This legislation was beneficial to the Jewish community, which has 1,744 claims outstanding, including many with demolished buildings. By separate government decrees through 2003, the Jewish community received 42 buildings, but is in full or partial possession of only 32 of those. Since 2003 the community received an additional 67 buildings under the law restituting church property, of which 19 were restituted during the year.

Societal Abuses and Discrimination.—According to the most recent census in 2002, the Jewish population numbered 5,785 persons. Acts of anti-Semitism, including vandalism against Jewish sites, continued.

In February four Torah scrolls were stolen from a synagogue in Iasi. The police found them in an antique store and returned them to the Jewish community. In April unidentified persons vandalized the headquarters of the Jewish community in Focsani. In May nine graves were desecrated in a Jewish cemetery in Ploiesti. On May 17, Torah scrolls were vandalized in a synagogue in Radauti. In July unidentified persons stole the iron fences of 50 graves and the metallic doors of 2 burial vaults in Barlad. In August a swastika was found on the walls of an old synagogue

in Cluj. In November the doors of two synagogues in Dorohoi were damaged by putative vandals. The Federation of Jewish Communities notified the authorities in all these cases, but the perpetrators were not identified. An NGO, the Center for Monitoring Anti-Semitism, stated that authorities tended to downplay such incidents, often attributing the acts of vandalism without proof to children, drunkards, or persons with mental disorders.

In October police began an investigation into the dissemination of fascist and xenophobic symbols by one adult and three juveniles. The juveniles had allegedly drawn Nazi symbols on the walls of a synagogue in Targu Mures at the end of September. The police halted the investigation after the suicide of the adult, who had been the primary suspect.

In November swastikas and anti-Semitic slogans were found on the walls of a vocational school and a neighboring bloc of apartments in Suceava. The police identified the perpetrators and their prosecution began the same month.

The extremist press continued to publish anti-Semitic articles. The Legionnaires (Iron Guard), an extreme nationalist, anti-Semitic, pro-Nazi group, continued to republish inflammatory books from the interwar period. In February an Iron Guard monthly *Obiectiv Legionar* (Legionnaire Focus), which began publication in 2003 and is distributed by the state-owned press distribution company, was disseminated by group members in the upper chamber of the parliament.

During the year anti-Semitic views and attitudes were expressed during the talk shows of private television stations such as DDTV and Pro-TV.

Extremists made repeated attempts to deny that the Holocaust occurred in the country or in Romanian-administered territory with direct participation by the country's World War II regime. Religious services for dead *legionnaire* leaders continued to be held in individual Orthodox churches. The annual march commemorating the founder of the *legionnaire* movement, Corneliu Zelea Codreanu, took place in Tancabesti in November.

In March Corvin Lupu, a university professor in Sibiu, published an article denying the Holocaust. In August the Federation of Jewish Communities, MCA Romania, and the Association of Romania's Jewish Victims of the Holocaust filed a complaint with the prosecutor's office in Sibiu against Lupu for denying the Holocaust in the country, citing his violation of a 2002 decree forbidding such actions. In October the prosecutor's office decided against prosecuting Lupu on the grounds that his action could not be interpreted as a crime as defined by the government decree. An appeal filed by the organizations was also rejected in November.

In November a university professor and Holocaust denier published an anti-Semitic article in a magazine belonging to the extreme nationalist Greater Romania Party, *Romania Mare* (Greater Romania). The article claimed that the country was the target of a Jewish invasion. In reaction the Federation of Jewish Communities issued a statement urging the relevant government institutions to take concrete measures to eradicate anti-Semitism and xenophobia, stating that current governmental actions were insufficient.

In September unidentified individuals removed the covering hiding a bust of Romanian World War II dictator Ion Antonescu located in an Orthodox church courtyard in Bucharest. Antonescu was responsible for widespread atrocities against Romanian Jews during World War II. The covering was eventually put back in place following complaints from the local Jewish community.

The government made some progress in its effort to expand education on the true history of the Holocaust in the country. In October the government launched the first standardized textbook on the Holocaust and the history of Jews in the country, which was used in an elective course offered throughout the country during the school year. The government failed to implement any plans, however, to make the course mandatory for all public high schools. The elective course was offered for the first time at two hundred high schools in the 2004–05 school year, but without any standardized textbooks.

On various occasions during the year, the president and other high-level officials made public statements against extremism, anti-Semitism, and xenophobia, and criticized the denial of the Holocaust. The president also pointed out during a speech the need for an accurate rendering of the Romanian Holocaust in school curricula.

In August the government established a national institute for the study of the Holocaust in Romania, which opened on October 10. On October 9 and 10, the country commemorated its second Holocaust remembrance day with events in several cities that were attended by key dignitaries including the president, prime minister, and foreign minister.

In October the president vetoed and sent back to parliament a 2002 emergency provision that strictly bans fascist, racist, and xenophobic organizations, and pun-

ishes the denial of the Holocaust. Because the provision passed parliament as an emergency decree in 2002, the president must sign the decree for it to become a permanent part of the code. The president said he objected to language in the bill that did not include Roma among the acknowledged victims of the Holocaust, since approximately 14 thousand Roma were killed in the country during that period. He asked parliament to amend the bill to include language explicitly including the Roma.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

In July the government temporarily implemented a policy of passport confiscation for citizens discovered upon reentering the country to have exceeded their permitted length of stay in an EU Schengen country. Human rights NGOs and the media protested that the rule effectively curbed a citizen's right to travel freely outside the country. The government rescinded the decision four days later. However, in the interim it had revoked the passports of 65 thousand citizens; the passports had not been reissued by year's end.

Internally Displaced Persons (IDPs).—Beginning in late April, thousands of homes were destroyed, and approximately 12,500 persons were displaced by 6 periods of heavy rain that caused severe localized flooding in 34 of 42 counties, covering approximately 80 percent of the country. Most displaced families found temporary shelter with relatives and friends. For others, local authorities offered housing in public buildings such as schools or community centers. The government allocated resources for reconstruction in most affected areas. At year's end, an estimated 1,300 displaced persons continued to live in container-houses.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution; however, the Office of the UN High Commissioner for Refugees (UNHCR) considered the time limits provided by the law for submitting appeal applications and court procedures too short.

The government did not provide temporary protection to individuals who did not qualify as refugees under the 1951 convention and the 1967 protocol.

Conditional humanitarian protection was granted in court to six persons during the year. Two of the three Sudanese Christian refugees who had entered the country in 2001 but were denied refugee status several times were granted refugee status in January and June. The third Sudanese refugee was presumed to have left the country.

In July the government agreed to allow on a temporary basis 439 Uzbek refugees from Kyrgyzstan to enter the country without a visa for humanitarian reasons. The government signed an agreement with the UNHCR and the International Organization for Migration (IOM) to permit the refugees to stay at a suitable facility in Timisoara for up to six months (with the possibility of an extension, if necessary).

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR stated that government-sponsored programs for integrating refugees continued to improve following the 2004 refugee integration law. A new agency within the national refugee office, which is subordinated to the ministry of interior, was established to help refugees integrate and seek employment in their communities. The MOAI and the ministry of labor, social solidarity, and family also funded programs to assist asylees and refugees.

Section 3. Respect for Political Rights: the Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The country held national selections for parliament in November 2004, and for the presidency in December 2004. The parliamentary and first round of presidential elections were characterized by widespread irregularities, precipitated primarily by the previous government's decision to abandon the use of previously issued electoral identification cards and to allow

citizens outside their home districts to vote at any polling location in the country. There were widespread reports of individuals voting in multiple locations, which political parties occasionally facilitated. Observers also reported the abuse of the so-called mobile ballot boxes that were transported to elderly or infirm voters; the prolonged presence of elected officials in polling places in contravention of the law; and the illegal placement of campaign posters near polling centers. Civil society organizations and opposition parties also claimed that the central electoral bureau allowed fraud to take place at a national level during the electronic tabulation of votes, although subsequent inquiries into these allegations were inconclusive.

In the second round of presidential elections in December 2004, the government limited the locations where voters outside of their home districts could vote, thereby reducing the possibility for multiple voting. However, both the lack of sufficient alternate locations and the closure of existing locations while many would-be voters were still waiting in line resulted in the disenfranchisement of hundreds and perhaps thousands of citizens, particularly in major cities. Members of the center-right Liberal-Democratic (PNL–PD) Alliance accused the then governing PSD of intentionally restricting the vote in this manner. In some precincts local officials or partisan election monitors instructed citizens on how to vote, and campaign posters were placed too close to polls.

Political parties must register with the Bucharest tribunal. The law requires a political party to submit to the Bucharest tribunal its statutes and program, and a roster of at least 25 thousand signatures. These 25 thousand "founding members" must be from at least 18 counties, including Bucharest, with a minimum of 700 people from each of these counties. The party statutes and program may not include ideas that incite war; discrimination; hatred of a national, racist, or religious nature; or territorial separatism. Organizations of ethnic minorities can also field candidates in elections if they meet requirements similar to those for political parties. Organizations must submit to the central electoral bureau a list of members numbering at least 15 percent of the total number of persons belonging to that ethnic group, according to the most recent census. If 15 percent represents more than 25 thousand persons, then at least 25 thousand names from at least 15 counties, but not fewer than 300 persons from each county, must be submitted. Human rights NGOs criticized these requirements as discriminatory and overly demanding, and argued that the stringent requirements eliminated any competition against the mainstream organizations representing Hungarians and Roma, namely the Democratic Alliance of Hungarians in Romania (UDMR) and the Romani Party (Partida Romilor). The tribunal barred an ethnic Hungarian group from participating in the 2004 elections when irregularities were found in many of the 25 thousand signatures it submitted in order to field candidates.

While the law does not restrict women's participation in government or politics, societal attitudes presented a significant barrier. In parliament 37 of 332 deputies and 13 of 137 senators were women. There were 3 female ministers in the 24-member cabinet. Three of the prefects (governors) of the 42 counties were women.

The law grants each recognized ethnic minority one representative in the chamber of deputies if the minority's political organization cannot obtain the 5 percent of the votes needed to elect a deputy outright. Organizations representing 18 minority groups received deputies under this provision. There were 50 members of minorities in the 469-seat parliament. There were four members of minorities in the 24-member cabinet; all were ethnic Hungarians. There were no minorities on the high court.

Ethnic minority groups reported encountering difficulties in meeting the criteria to be allowed to field candidates, although there were no specific laws or policies prohibiting such groups from registering. In March 2004 parliament passed a law on local elections that potentially discriminated against some minority organizations by defining "national minorities" as only the ethnic groups represented in the council of national minorities and by requiring that these organizations meet requirements to participate in local government that are more stringent than those of minority groups already represented in parliament. The law adopted in September 2004 for national elections included a similar provision.

The Romani population was underrepresented since only one ethnic Romani organization, the Romani Party, was represented in parliament, and its number of members was small. Internal politics within the ethnic Romani community was fragmented because of the large number of Romani organizations whose individual efforts prevented the consolidation of votes for any single candidate, organization, or party. There were several hundred Romani organizations. Low Romani voter turnout due to lack of awareness, means, or identity cards further exacerbated the situation.

Ethnic Hungarians, represented by the UDMR party, attained parliamentary representation through the normal electoral process, having obtained over 5 percent of

the total votes. Other ethnic Hungarian associations have alleged that their attempts to register as opposing ethnic Hungarian parties were unfairly blocked by the more influential existing party.

Government Corruption and Transparency.—Reports of corruption and the government response to corruption remained a focus of public discussion, political debate, and media scrutiny. The government took steps to address the problem of corruption. In March the government adopted and began implementing a new strategy to combat corruption, which included steps to increase transparency in public procurement, ensure oversight of government spending, and enforce new laws and procedures to combat money laundering and tax evasion. However, NGOs and the media continued to point out that no major case of high-level corruption had been prosecuted to date.

The institution responsible for investigating and prosecuting high-level corruption cases was the PNA, whose name was changed by legislation passed in August to the national anticorruption prosecutor's department (DNA). The same legislation also placed the DNA under the nominal authority of the prosecutor general's office, although it remained operationally independent. This change was made to ensure the office would have clear constitutional authority to prosecute cases against members of parliament. The legislation also amended the DNA's jurisdictional limits to cases involving bribes of more than 10 thousand euros or damages over 200 thousand euros, or to certain designated officials whose rank is too high to be prosecuted by the GPO. Ministry of justice officials noted that this amendment would improve the DNA's performance by focusing its efforts on the most serious cases of corruption, while leaving minor cases under the purview of the general prosecutor's office.

In July PNA general prosecutor Ioan Amarie resigned under pressure from the minister of justice, and 10 other senior anticorruption prosecutors either resigned or were removed. The minister of justice accused the departing officials of inefficiency in carrying out their mandates and appointed Daniel Morar as Amarie's replacement in August. The minister also appointed other new senior level prosecutors to the office.

Although the PNA/DNA produced no indictments against former or current officials at the most senior levels of government, the office did successfully prosecute cases against mayors, judges, police, customs officers, and other officials at the local level and in the middle ranks of the bureaucracy. During the year the PNA/DNA initiated 1,104 investigations, which resulted in 110 indictments against 742 individuals. The office obtained 169 convictions, including 75 that cannot be further appealed.

The PNA/DNA was authorized to prosecute corruption without regard to the political affiliation of the accused. Opposition politicians, however, alleged that investigations of high officials tended to focus on members of former administrations, contributing to questions about the office's impartiality.

On November 25, the department for the fight against fraud (DLAF) officially opened an investigation into the fraudulent use of EU funds. During the first month of the investigation, DLAF sent 17 cases to the DNA that involved the misuse of EU funds by members of the government.

Part of the government's new strategy to combat corruption included strengthening asset disclosure requirements for public officials. New legislation created templates for public officials to use to disclose their assets. However, only 4 percent of public officials submitted asset declarations. At year's end, the ministry of justice was continuing to work on legislation to create a monitoring authority to ensure officials submit accurate asset declarations.

The law provides for access to government information related to official decisionmaking; however, human rights NGOs and the media reported that the law was poorly and unevenly applied. Procedures for releasing information were arduous and varied greatly by public institution. On numerous occasions NGOs and journalists took cases to court to obtain information.

There were also reports that local authorities occasionally made it difficult for journalists to access public information. In at least one instance, a polling institution was reportedly coerced by government officials to limit the public release of information that reflected negatively on certain political groups or goals.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views; however, there were a few reports of government officials harassing and intimidating members of the NGO community.

At times police intimidated and harassed NGO workers. For example, in June and July a Romani representative of the NGO Roma Center for Social Intervention and Studies (Romani CRISS) allegedly was repeatedly harassed by police and city hall officials as he monitored an ongoing eviction case against Roma in Zalau (see section 1.f.). The representative received repeated threatening phone calls, was visited by police at his home, and was informed falsely of criminal charges against him. Romani CRISS asserted that the harassment was clearly intended to intimidate the representative and prevent him from further monitoring the case.

Following its publication of a report on the expenditures of members of parliament, the institute for public policies (IPP) stated in August that it received threatening letters from the secretary general of the chamber of deputies, as well as from members of parliament, who threatened to take legal action against the IPP.

An ombudsman's office existed to protect citizens' constitutional rights but it has limited power and independence from the government. Numerous media reports characterized the office as ineffective. During the year the office received 5,465 complaints, some of which it refused because they required judicial action, an authority the ombudsman's office does not possess.

Both chambers of parliament have a human rights committee that focuses on legislation regarding human rights, religious issues, and minorities. However, since these committees were comprised of party representatives, the recommendations of the committees often simply reflected the parties' views on these issues.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law forbids discrimination based on race, gender, disability, ethnicity, language, or social status, among other categories; however, in practice, the government did not enforce these provisions effectively in some circumstances, and women, Roma, and other minorities were often subject to discrimination and violence.

Women.—Violence against women, including spousal abuse, continued to be a serious problem, and the government did not effectively address it.

The law prohibits domestic violence and allows police intervention in such cases, but no specific law addresses spousal abuse. NGOs reported that domestic violence was common. According to a 2002 UN survey, 45 percent of women have been verbally abused, 30 percent physically abused, and 7 percent sexually abused. The law does not provide sentencing guidelines for domestic violence convictions. According to police statistics, domestic violence during the year resulted in over 30 deaths. Although there was no evidence that the police or the judicial system was reluctant to act on domestic abuse cases, very few cases were prosecuted in the courts. Many cases were resolved before or during trial when victims dropped their charges or reconciled with the aggressors. In cases with strong evidence of physical abuse, the court can ban the abusive spouse from returning home. The law also permits police to fine the abusive spouse for disturbing public order. During the year there were over 380 convictions for domestic violence.

During the year the National Domestic Violence Coalition, composed of more than 30 NGOs, organized a number of campaigns to raise awareness of domestic violence. The government funded 26 public institutions that provided counseling and support to domestic abuse victims. In addition, 52 NGOs from all regions worked on domestic violence. There were several shelters dedicated strictly to domestic abuse victims, but many of them were forced to close due to insufficient funding. The government distributed funds to NGOs operating shelters for domestic violence victims in Cluj, Timisoara, and Baia Mare.

Rape, but not spousal rape, is illegal. The prosecution of rape cases was difficult because it required both a medical certificate and a witness, and a rapist could avoid punishment by marrying the victim. The successful prosecution of spousal rape cases was essentially impossible. The law provides for 3 to 10 years' imprisonment for rape; the sentence can increase to 5 to 18 years if there are aggravated circumstances. There were 327 rape convictions during the year. NGOs provided counseling and shelters for rape victims.

Prostitution is illegal, but was common. Police implicitly tolerated most reported or investigated cases by limiting their intervention to fining prostitutes for loitering or disturbing the peace. NGOs and the media reported that sex tourism existed in Bucharest and other major cities.

There were reports of trafficking in women (see section 5, Trafficking).

The law prohibits any act of gender discrimination, including sexual harassment. Although there were no reported cases of sexual harassment during the year, human rights NGOs attributed this to low public awareness of the problem. The government enforced existing prohibitions, but there were no effective programs in place to educate the public about sexual harassment.

The law grants women and men equal rights, including under family law, property law, and in the judicial system; however, in practice, the government did not enforce these provisions, nor did authorities focus attention or resources on women's issues. Women had a higher rate of unemployment than men and occupied few influential positions in the private sector. An EU report published in August indicated that a man's average salary was 18 percent higher than that of a woman.

The national agency for family protection, within the ministry of labor, social solidarity, and family, is responsible for advancing women's concerns and family policies, including organizing programs for women, proposing new laws, monitoring legislation for sexual bias, targeting resources to train women for skilled professions, and addressing the problems of single mothers. During the year the agency completed its strategy and action plan and developed a training curriculum for social workers. In collaboration with a private pharmacy chain, the agency conducted an awareness campaign on domestic violence in November.

Children.—The government was committed to children's rights and welfare, but competing priorities, bureaucratic inefficiency, and poorly allocated resources prevented this commitment from being fulfilled in practice.

Public education was free and compulsory through the tenth grade or age 14. After the tenth grade, schools charged fees for books, which discouraged attendance for lower-income children, particularly Roma. The UN Children's Fund (UNICEF) reported that approximately 90 percent of primary school-age children attended school.

The highest level of education achieved by most children was secondary school, although Romani students had lower rates of attendance at all levels of education.

Romani children were segregated from other students in some schools, including those in Cehei (Salaj county), Targu Frumos (Iasi county), Geoagiu (Hunedoara county), Ardusat (Maramures county, and Targu Jiu (Gorj county). In April 2004 following complaints by several NGOs that monitored such situations, the ministry of education nominally prohibited segregation in schools in a notification that was not legally binding; Romani NGOs unsuccessfully tried to press for an order to this effect. Only some of these cases were solved, such as the one in Cehei, in which the CNCD fined the school authorities who subsequently renounced the segregation decision. In September in Macin (Tulcea county), the prefect intervened after a local advocate for the Roma submitted a complaint and threatened to fine all teachers who tried to segregate Romani children at the beginning of the school year.

A general health insurance plan covers all children until age 18 or graduation from college. All schools have medical units which supply first aid and carry out vaccination campaigns and dental care. Boys and girls had equal access to medical care in schools. All medical costs for children are waived, and most drugs are provided at little or no cost. Of the 11,035 persons living with HIV/AIDS, approximately 75 percent are children between the ages of 15 to 19 years of age who were infected in the late 1980s and early 1990s through unsafe blood transfusions and other medical procedures.

Child abuse and neglect were serious problems, and public awareness of the issue remained poor. Laws to protect children from abuse and neglect existed, but the government did not effectively enforce them. In July 2004 the National Authority for Child Protection and Adoption issued standards for services for abused and neglected children. Still, there was no functioning mechanism for identifying and treating abused and neglected children and their families. While there are criminal penalties, there was no consistent policy or procedure for reporting child abuse and neglect and no system for rehabilitating families who abuse their children. In 2004 police reported that 1,331 cases of abused and neglected children were registered, including 832 cases of rape, 284 cases of sexual intercourse with a minor, 114 cases of sexual perversion, and 101 cases of sexual corruption. At year's end there were 39 hot lines to receive and assess reports of child abuse and neglect and 22 specialized counseling services for child victims and their families. In the first four months of the year, the hot lines received 1,766 calls reporting child abuse and neglect. The legal prohibition on foreign adoption and a constant rate of child abandonment in hospitals strained government resources. During the year UNICEF reported that the number of children abandoned annually in hospitals was approximately five thousand.

The abandonment of children in maternity hospitals remained a problem. The national authority for the protection of children's rights in coordination with the ministry of health made some progress in discouraging child abandonment through prenatal counseling and training of hospital personnel. However, children's rights NGOs and local child welfare officials reported that these efforts were insufficient to resolve the continued high number of abandonment cases, resulting in many chil-

dren being kept in hospitals despite not needing medical treatment because family reintegration or foster placement was not available.

On January 1, the country implemented new child protection legislation that included extensive measures intended to address corruption in the child welfare system and to encourage the reunification of abandoned and orphaned children with their biological families. However, NGOs and child protection authorities reported that judges, police, and social workers severely lacked the training and resources necessary to implement the legislation. As a result, thousands of children remained institutionalized or in foster care rather than reunited with biological families or legally approved for adoption when family reunification was not possible. There were credible reports of attempts to force family reunification for abandoned or orphaned children in cases in which biological family members explicitly stated they did not want the children or in which there was a high risk of child abuse in the new situation.

The public child welfare system tracked approximately 106 thousand children. More than half of these children lived with extended families or in foster care, and approximately 32 thousand lived in public and private institutions. Living conditions have improved in most childcare institutions in recent years, including in institutions for children with severe disabilities, which were the last group to be included in the reform process. Nonetheless, NGOs and local child welfare officials reported that, despite the improvements in conditions in institutions, the new child welfare law relegated many children to prolonged institutionalization or foster care rather than placement in permanent families. There was no systematic provision of labor market information, skills training, or job placement services for children in residential care, and there was a high probability that they would gravitate to the streets, vulnerable to sexual exploitation and crime.

The legal age of marriage is 18 years of age, but girls as young as 15 may marry in certain circumstances. Illegal child marriage was common within certain social groups, particularly the Roma. There were no government programs to address child marriages.

Trafficking in girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking). There also were isolated cases of children involved in prostitution for survival without third party involvement.

A law that became effective in January requires the national agency for employment to provide up to 75 percent of the median national salary to employers for hiring persons between 16 and 25 years who are at risk of social exclusion, a category which includes youth reintegrating into society after time spent in state-care facilities or prison; young single or married parents; and other categories of youth at risk. The new law provides that youth leaving the state institutional system may receive state assistance for an additional two years, during which they receive skills training for independent living. However, fewer than one thousand youth directly benefited from this program during the year.

The abandonment of disabled children decreased steadily in recent years, as specialized rehabilitation services for children with disabilities became slightly more available. There were approximately 70 thousand children with disabilities, of which 15 thousand were in state care.

Child labor was a problem (see sections 5, Trafficking, and 6.d.).

While the government did not have official statistics on the scope of homeless children living on the streets, police, social workers, and NGOs estimated that between three thousand and five thousand children lived on the streets, depending on the season. According to a UNICEF report, issued in November in conjunction with the ministry of health and the former national authority for child protection, about nine thousand children were abandoned every year, with most going to institutions and foster homes.

In March the government approved six national programs for the protection of children's rights, as stipulated by the national strategy on child rights protection. The programs focused on the social and professional integration of youth leaving the state care system; the development of day services; the reintegration and support of repatriated and trafficked children; the prevention of child labor; the establishment of professional maternal assistance; and the creation and development of community social services to support family cohesion. NGOs implemented these programs with governmental funding from the national budget.

Trafficking in Persons.—The law prohibits trafficking; however, trafficking in persons continued to be a serious problem. Border police were involved in border-related offenses that could support trafficking activities. The law defines trafficking as the use of coercion to recruit, transport, harbor, or receive persons for exploitation. Coercion includes fraud or misrepresentation. Exploitation includes slavery, forced labor, prostitution, being a subject in pornography, organ theft, or other con-

ditions that violate human rights. For minors under the age of 18, it is not necessary to prove coercion.

In July the law was amended to provide for 5 to 15 years' imprisonment for trafficking in minors or for multiple victims; if a victim suffers serious bodily harm or health problems; or if the trafficking is done by a public servant during his or her official duties. A sentence of 5 to 25 years is mandated for trafficking that leads to the death or suicide of the victim. These penalties are increased by two to three years if the trafficker belongs to an organized crime group and by five years if coercion is applied against minors.

The government increased its efforts against trafficking, and police officers continued to pursue cases via the human trafficking task force. They continued to expand interagency and local resources assigned to trafficking, and the government participated in regional law enforcement cooperation. In December the government created the national antitrafficking agency (ANAT) to replace the functions of the national office for the prevention of trafficking in persons and monitoring the protection of victims. Created to coordinate antitrafficking measures, the ANAT was not yet operational at year's end. During the year the organized crime police reported identifying 1,444 victims of trafficking offenses, and the border police referred 104 cases to prosecutors; these cases involved 212 traffickers and 287 victims. According to statistics compiled by the national office for the prevention of trafficking in persons and monitoring the protection of victims, the courts rendered final decisions in 96 trafficking cases, and 183 defendants were sentenced for trafficking-related offenses during the first nine months of the year.

The country was an origin and transit point for trafficked women and girls from Moldova, Ukraine, and other parts of the former Soviet Union who were trafficked for the purpose of sexual exploitation to third countries including Bosnia-Herzegovina, Serbia and Montenegro (including Kosovo), Macedonia, Turkey, Albania, Greece, Cyprus, Italy, France, Germany, Hungary, the Netherlands, Poland, Spain the United Arab Emirates, Japan, and South Korea. Due to changing trafficking patterns, IOM noted that it was not possible to estimate accurately the number of trafficked women. Recent trends indicated that traffickers rented private apartments, rather than using public bars and brothels, to conduct their illicit activities. Clandestine locations complicated the already difficult task of finding the victims and allowed traffickers to operate with less concern of discovery by local authorities. In 2003 and 2004 fewer victims were trafficked to the former Yugoslavia and a higher number of victims were trafficked to Western Europe. However, trafficking routes generally ran from the border with Moldova to all Balkan countries. Iasi and Timisoara remained major transit centers. While victims were primarily women and girls trafficked for sexual exploitation, there were reports that men were trafficked to Greece for agricultural labor.

Government officials reported that trafficking rings appeared to be operated primarily by citizens; several domestic prostitution rings were also known to be active in trafficking victims into, through, and from the country.

The IOM reported assisting 100 trafficking victims, of whom all were female and 26 were minors. A number of NGOs believed that many girls from orphanages were at particular risk of being trafficked because they lacked the job skills and training necessary to support themselves independently. Most victims were women trafficked for sexual exploitation who had been recruited by persons they knew or by newspaper advertisements. A friend or relative made the initial offer, often telling the victim that she would obtain a job as a baby sitter or waitress. According to IOM, most women were unaware that they would be forced into prostitution. A minority of trafficked women was sold into prostitution by parents or husbands or kidnapped by trafficking rings. There were reports of young Romani women and girls being sold into marriage, a traditional custom in Romani communities.

Trafficking victims endured poor, cramped living conditions. Traffickers ensured the victims' compliance through threats, violence, and the confiscation of travel documents.

In November police in Targoviste charged a 50-year-old man and his 24-year-old female accomplice with trafficking following an 8-month police investigation prompted by the report of a female victim who managed to escape.

Corruption in the police, particularly the local forces, was a problem that contributed to trafficking in persons. There were frequent allegations that border police and customs agency officials accepted bribes to ignore cases of trafficking. After three months of undercover investigations, a policeman and two accomplices from Cluj county were arrested in June for the organized trafficking of children to rings in Italy. Several notaries were also reportedly involved with the creation of false documents used for crossing borders.

The law requires the government to protect trafficking victims, but does not stipulate what forms this protection must take. Reports of law enforcement officials losing contact with identified victims were common. Other identified victims reportedly chose not to press charges to avoid bureaucratic judicial procedures. Although the government trained border police to encourage victims to step forward, few victims were willing to do so. There were reports that repatriated victims faced social discrimination in their attempts to reintegrate into society.

The government made attempts to assist repatriated victims. As of June seven governmental shelters for trafficking victims out of the nine required by law were opened; even so, the shelters were underutilized, in part because no standardized system for referring victims was mandated. Only 60 victims were assisted by these shelters during the year. Although the law obligates law enforcement officials to inform victims of the services available at government-operated shelters, many victims chose to decline these services.

During the year the government worked to build public awareness of trafficking issues and to improve and expand the services offered to victims. The government cosponsored with domestic and international NGOs numerous programs to raise awareness of trafficking. Public officials, including the president, made public statements during the year about the trafficking problem.

The national authority for the protection of children's rights, together with the antidrug national agency and territorial general directorates for social assistance and children's protection, created a mechanism to monitor child labor that was operational in several cities at year's end. The project focused on setting up a system of services for the protection, rehabilitation, and social reintegration of child victims of domestic and international trafficking. Since August 60 children vulnerable to human trafficking and 140 children involved in the worst forms of child labor were referred to social services and monitored.

Persons with Disabilities.—The law prohibits discrimination on the basis of "handicap"; however, the extent to which this provision protected all persons with mental and physical disabilities was unclear, and the government did not effectively enforce this provision in practice. The law does not mandate accessibility for persons with disabilities to buildings and public transportation. In practice, the country had few facilities specifically designed for persons with disabilities.

There were approximately 20 thousand persons with disabilities in 150 specialized institutions throughout the country.

An Amnesty International (AI) report released in March expressed concern that the placement, living conditions, and treatment of patients in several psychiatric wards and hospitals violated international human rights standards. The report condemned the government for the inhumane living conditions in its overcrowded psychiatric institutions and urged the government to reform the psychiatric health system. In October AI published another report that highlighted the continued lack of protection against abuse of mentally disabled persons. The UN special rapporteur on the right to health and the European Parliament also expressed concerns about the inadequate resources devoted to the care and protection of persons with disabilities.

Following appeals and interventions by international organizations, conditions at the Poiana Mare hospital improved, and heating was fully restored to the buildings. However, the NGO Center for Legal Resources (CLR) issued several reports indicating that government measures to improve psychiatric wards were still insufficient. The placement, living conditions, and treatment of patients in many psychiatric wards and hospitals did not meet international human rights standards and fell below professional norms. Most psychiatric hospitals had poor hygiene, insufficient heating, and insufficient food rations. They were also overcrowded, with up to 60 persons in a room, and lacked a mechanism for complaints in cases of abuse.

The ministry of health adopted a mental health action plan, which included provisions regarding persons with mental disabilities. NGOs, however, asserted that the plan was not sufficient to protect persons with mental disabilities. The creation of community-based mental health care services remained inadequate.

In January Dolj county prosecutors closed an investigation into the February 2004 malnutrition and hypothermia deaths of 18 psychiatric patients in a Poiana Mare hospital. No officials were held responsible for the deaths. CRJ challenged the prosecutors' decision in court, and the lawsuit was ongoing at year's end. In November the ministry of health announced plans to close the hospital, but delayed full closure due to protests by hospital employees afraid of losing their jobs.

According to a report released by the Open Society Institute in September, only 28 percent of the approximately 52 thousand children with mental disabilities received any form of education because most remedial schools did not accept children

with serious mental disabilities. The report also cited a lack of job opportunities for persons with disabilities.

In July 2004 parliament amended the existing legislation on special protection and employment of persons with disabilities. During the year the government increased benefits for blind persons and for persons with serious disabilities. In June the government organized a job fair that reportedly offered 6,800 jobs for persons with disabilities, 795 of which required higher education.

National/Racial/Ethnic Minorities.—The CNCD is an independent governmental agency that reports directly to the prime minister's office. The CNCD received 382 public complaints of discrimination during the year, of which 280 were resolved. In 74 cases, CNCD acted without a complaint having been submitted; 48 were resolved by year's end. Approximately 158 of the cases involved alleged discrimination on the basis of nationality and ethnicity; 14 complaints reported discrimination on religious grounds.

The CNCD gained visibility following the appointment of a new president in February, becoming more active in several awareness campaigns and in the investigation of a wide variety of discrimination cases. In February the council initiated a long-term institutional capacity-building project, and in August it participated in a high-profile campaign to paint over discriminatory graffiti on the walls of buildings in Bucharest. In October it launched a campaign to prevent and counter prejudice against Roma. Throughout the year it played a leading role, along with four NGOs, in drafting language for the proposed antidiscrimination law. However, several NGOs expressed concern that the government had allocated insufficient resources for the CNCD to carry out its mandate, particularly in areas outside of Bucharest.

Ethnic Hungarians are the largest minority, comprising 1.4 million persons according to the 2002 census. There are also approximately 60 thousand ethnic Ukrainians, 60 thousand ethnic Germans, and other minorities in smaller numbers. In the Moldova region where the Roman Catholic Csango minority resides, the community has operated government-funded Hungarian-language school groups since 2002; 725 students in 13 localities were instructed in Hungarian during the academic year. Students also participated in extracurricular courses in Hungarian, and 93 students received fellowships to study in Hungarian in other localities.

A 2004 European Commission report estimated that the Romani population numbered between 1.8 and 2.5 million persons, although the official 2002 census reported the significantly lower number of 535 thousand. In October Amnesty International published a report that highlighted as a major problem the racially motivated violence perpetrated by both individuals and law enforcement authorities against the Romani population. Romani groups complained that police brutality, including beatings and harassment, was routine (see section 1.c.). In November police forcibly beat and evicted Roma from their homes (see sections 1.c. and 1.f.). Societal violence and discrimination against Roma remained a pervasive problem.

According to an analysis of the 2002 census by the Romani NGO Impreuna (Together), approximately 35 percent of the Romani population had not graduated from primary school. Illiteracy among Roma was 25.6 percent, and approximately 60 percent were unemployed. Romani children were segregated from other students in some schools (see section 5, Children).

In November a court ruled in favor of the Steaua soccer team, which had appealed an earlier court decision that the team had encouraged the use of anti-Roma hate language during an April 13 game. The CNCD had originally fined the team approximately $1,350 (ROL 40 million) after its fans chanted anti-Roma slogans and carried anti-Roma banners against the Rapid team, which has many Romani fans. Separately, the CNCD also fined the stadium announcer approximately $670 (ROL 20 million) for making racist comments during the same game.

In August tensions escalated in Hadareni—a locality in Transylvania that was the site of deadly violence in 1993 between Roma and ethnic Romanian and Hungarian villagers—following a court ruling in a domestic lawsuit and two ECHR decisions. Four people (three Roma and a Romanian) died in the incident, and 13 Romani houses were burned down by an angry mob following the fatal stabbing of a young Romanian by a Romani man. The lawsuit in this case dragged on for years, and the victims eventually complained to the ECHR. In May a domestic relations court decided that the Romani victims should receive approximately $68 thousand (ROL 2 billion) from the perpetrators, while the ECHR ruled on July 5 and 12, that the Romanian state should pay $600 thousand (500 thousand euros) to victims. A decision to seize the property of those who had to pay the $68 thousand compensation generated tensions in the village and villagers appealed. The court postponed the ruling many times and had not made a decision at year's end.

Romani CRISS continued to monitor cases of alleged human rights violations in 10 counties and Bucharest. During the first 9 months of the year, human rights

monitors identified 19 cases of violence or abuse against Roma, including police abuse and segregation in schools.

In July the government appointed a new president to the national agency for Roma, which hired an additional dozen staff members. Observers reported that the agency had been largely inactive during the first half of the year and that its budget of approximately $1.1 million (ROL 32 billion) was insufficient. In July the government made the agency responsible for spearheading and organizing programs related to Roma issues. The agency also drafted a community development plan to improve the prospects of the Roma in Hadareni. In August the national agency for Roma collaborated with the national job agency to set up a "job caravan" that traveled to different Romani communities and offered job opportunities. The agency also offered training to Romani representatives working in its regional offices and promoted a discussion of the national strategy to improve the circumstances of the Romani community.

Romani CRISS also renewed its partnership with the MOAI to help Roma obtain official identification documents and expanded the program to five counties. Lacking identification documents significantly hindered Roma from gaining access to employment, education, and health care, and made voting and buying property prohibitively difficult.

In November construction companies contracted to rebuild houses in a poor Romani neighborhood in Ibanesti reportedly refused to work in that community. The minister of public works intervened and requested that officials in Galati county find a construction company willing to undertake the project.

In August the CNCD fined the mayor of Miercurea Ciuc, Robert Raduly, approximately $165 (ROL 5 million) for setting the Hungarian language as a requirement for the people seeking to be employed in some positions at the city hall.

Other Societal Abuses and Discrimination.—NGOs reported that police abuse and societal discrimination against homosexuals was common (see section 1.c.) and that open hostility prevented the reporting of some harassment and discrimination. Members of the gay and lesbian community also voiced concerns about discrimination in public education and health care systems, and about the possibility that young LGBT persons were being involuntarily referred to psychiatric institutions based on their parents' decisions.

During the "march of diversity" gay parade held in Bucharest on May 29, an unidentified person assaulted an actor who was filming for his weekly show, mistaking him for a participant in the event. The New Right (Noua Dreapta), an organization with extremist and xenophobic views, sponsored an authorized demonstration during the parade, carrying anti-gay banners and chanting deprecatory slogans. Some members of the New Right also physically assaulted participants in the parade. The police arrested and fined the New Right leader, Tudor Ionescu, and the other assailants approximately $1 thousand (ROL 30 million).

The law prohibits discrimination against persons living with HIV/AIDS. The national union of the organizations of persons affected by HIV/AIDS (UNOPA) issued two monitoring reports for the year based on interviews with persons living with HIV/AIDS. For the period between January and March, UNOPA reported that 438 out of approximately 1,000 individuals interviewed had encountered human rights violations; this figure included 156 cases of denied access to medical care on the pretext of medicine shortages at the hospital level, 269 cases of delays in the provision of subsidized food and social welfare allowances, and 8 cases of breach of confidentiality. For the period between April and September, UNOPA reported that 795 out of 2,407 individuals interviewed had encountered human rights violations.

During the year the government cooperated with international organizations to implement a national AIDS strategy by conducting conferences and disseminating brochures to raise public awareness of the disease.

Section 6. Worker Rights

a. The Right of Association.—All workers, except certain public employees, have the legal right to associate freely and to form and join labor unions without previous authorization, and they freely exercised this right. Ministry of defense, MOAI, and intelligence personnel are not allowed to unionize. The majority of workers were members of 1 of approximately 18 national trade union confederations and smaller independent trade unions. Approximately 55 to 60 percent of the workforce was unionized, according to union officials.

The right to form unions generally was respected in practice, and many employers have created enterprise-friendly unions. Many unions claimed that the government interfered in labor negotiations, trade union activities, collective bargaining, and strikes, and complained that the union registration requirements stipulated by law were excessive.

The law has specific provisions against union discrimination, which were generally respected.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides workers the right to bargain collectively, but government control of many industrial enterprises and the absence of independent management representatives at these entities hindered collective bargaining. Approximately 80 percent of the total workforce was covered by collective labor contracts at the branch and unit levels. Contracts resulting from collective bargaining were not consistently enforced. The wages of public employees are guided by a minimum wage stipulated by law and a pay scale specific to each ministry that is based on that ministry's annual budget.

While the law permits strikes by all workers except judges, prosecutors, related ministry of justice staff, ministry of defense, MOAI, and intelligence service employees, lengthy and cumbersome requirements made it difficult to hold strikes legally. Unions may strike only if all arbitration efforts have failed and if employers have been given 48 hours' notice. Unions complained that they must submit their grievances to government-sponsored conciliation before initiating a strike, and that the courts had a propensity to declare strikes illegal. In June, for the first time, the courts declared a strike legal. Companies may claim damages from strike organizers if a court deems a strike illegal.

There are no exemptions from regular labor laws in the country's 6 free trade zones and 31 disadvantaged zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor remained a problem. Although a 2004 law to protect children from exploitation went into effect January 1, the government did not consistently enforce the measure in practice.

The minimum employment age is 16 years, but children may work with the consent of parents or guardians at age 15, although only "according to their physical development, aptitude, and knowledge." Minors are prohibited from working in hazardous conditions. Working children under the age of 16 have the right to continue their education, and the law obliges employers to assist in this regard. In practice, however, many children were reported to occasionally forego attending school while working on family farms, especially in rural areas and in Romani communities. Children aged 15 to 18 may work no more than 6 hours per day, provided that their school attendance is not affected. An employer may hire minors only between 2pm and 6pm. Parents violating child labor law may be punished with either monetary fines of up to $200 (ROL 6 million) or imprisonment of 2 months to 7 years. However, the government did not consistently apply these provisions, claiming that the punishment would further harm children in certain cases. During the year the government imposed fines on only 52 sets of parents and sentenced none to prison. Factories were implicated in most cases of child labor exploitation and were also fined.

During the year inspections identified 135 children between 15 and 18 years of age and 12 children under age 15 working without legal documents.

On January 1, the protection and promotion of the rights of the child law went into force following its 2004 passage. The law includes a full section on the protection of children against economic exploitation. The law requires schools to immediately notify social services of children missing classes to go to work. Social services are authorized to work with schools to reintegrate the child into the educational system. The government also promoted awareness-raising and information campaigns to target children, potential employers, and the general public.

In January the government established the national authority for protection of children's rights under the ministry of labor, social solidarity, and family. The national authority can impose fines and close factories for child labor exploitation, but enforcement tended to be lax except in extreme cases, most notably those that attracted media attention. Despite the prevalence of child labor, there were no reports of anyone being charged or convicted during the year under any of the child labor laws.

Children were trafficked for the purpose of sexual exploitation (see section 5).

An international report released in November estimated that 3.9 million of the 5.6 million children in the country were "economically active." Over 300 thousand (approximately 7 percent) were "child laborers," working without any contractual arrangements in agriculture or low-skilled jobs, while 900 thousand (19 percent) worked in their own households, especially in rural areas. Approximately 300 thou-

sand (6 percent) were engaged in physically demanding work, while 70 thousand (approximately 1 percent) were victims of the "worst forms of child labor," including hazardous work, sexual exploitation, forced labor, trafficking, or criminal activity. This last category included more than 3 thousand "street children," the majority of whom lived in Bucharest. Child labor, including begging, selling trinkets on the street, or washing windshields, remained widespread in Romani communities; children engaged in such activities could be as young as five years old. There was official recognition of the problem, and the country continued to show progress in eliminating the worst forms of child labor. The ANPDC was in the process of establishing a coordination center with a hot line in Bucharest to address the number of street children.

During the year the government allocated $430 thousand (ROL 12.7 billion) to NGOs to implement two national interest programs to combat trafficking in children and child labor.

e. Acceptable Conditions of Work.—The minimum monthly wage of approximately $105 (ROL 3.1 million) did not provide a decent standard of living for a worker and family. Minimum wage rates generally were observed and enforced by the ministry of labor, social solidarity, and family.

The law provides for a standard workweek of 40 hours or 5 days, with overtime paid for weekend or holiday work, or work in excess of 40 hours, which may not exceed 48 hours per week averaged over one month. The law requires a 24-hour rest period in the workweek, although most workers received 2 days off per week. The ministry of labor, social solidarity, and family effectively enforced these standards.

On June 5, a new law increased the penalties for work performed without a labor contract in an attempt to protect employees and institute controls in both the formal and informal sectors of the economy. Employers who use illegal labor may be jailed or fined up to $34 thousand (ROL 1 billion).

Neither the government nor industry improved workplace health and safety conditions. The ministry of labor, social solidarity, and family had the authority to establish and enforce safety standards for most industries, but its lack of trained personnel inhibited its enforcement efforts. Employers often ignored the ministry's recommendations, which were usually only applied after an accident occurred. Workers have the right to refuse dangerous work assignments but seldom invoked it in practice.

RUSSIA

The Russian Federation has a weak multiparty political system with a strong presidency, a government headed by a prime minister, and a bicameral legislature (Federal Assembly) consisting of a lower house (State Duma) and an upper house (Federation Council). The pro-presidential United Russia party controlled more than two-thirds of the State Duma. The country had an estimated population of 143 million.

President Vladimir Putin was re-elected in March 2004 in an election process the Organization for Security and Cooperation in Europe (OSCE) determined did not adequately reflect principles necessary for a healthy democratic election, particularly in equal access to the media by all candidates and secrecy of the ballot. However, the voting itself was relatively free of manipulation, and the outcome was generally understood to have represented the will of the people. The government's human rights record in the continuing internal conflict in and around Chechnya remained poor. Both federal forces and their Chechen government allies generally acted with legal impunity. The civilian authorities generally maintained effective control of the security forces. Pro-Moscow Chechen paramilitaries at times appeared to act independently of the Russian command structure, and there were no indications that the federal authorities made any effort to rein in their extensive human rights abuses.

The most notable human rights development during the year was continued centralization of power in the executive branch, which was strengthened by changes in the parliamentary election laws and a move away from election of regional governors to their nomination by the president for confirmation by regional legislatures. This trend, taken together with continuing media restrictions and self-censorship, a compliant State Duma, continuing corruption and selectivity in enforcement of the law, political pressure on the judiciary, and harassment of some non-governmental organizations (NGOs) resulted in an erosion of the accountability of government leaders to the people. There were reports of the following additional significant human rights problems:

- alleged government involvement in politically motivated abductions, disappearances, and unlawful killing in Chechnya and elsewhere in the North Caucasus
- hazing in the armed forces, resulting in several deaths
- harassment, and in some cases, abduction, of individuals who appealed to the European Court of Human Rights (ECHR), reportedly to convince them to drop their cases
- torture, violence, and other brutal or humiliating treatment
- harsh and frequently life-threatening prison conditions
- corruption in law enforcement
- arbitrary arrest and detention
- alleged executive branch influence over judicial decisions in certain high-profile cases
- government pressure that continued to weaken freedom of expression and media independence, particularly of major national networks
- continued limitations, primarily by local authorities, on freedom of assembly and restrictions on some religious groups in some regions
- societal discrimination, harassment, and violence against members of some religious minorities
- restrictions on freedom of movement and migration
- negative official attitudes toward, and sometimes harassment of, certain NGOs involved in human rights monitoring
- violence against women and children
- trafficking in persons
- widespread governmental and societal discrimination as well as racially motivated attacks against ethnic minorities and persons from the Caucasus, Central Asia, Asia, and Africa
- instances of forced labor

There were also positive developments with regard to human rights. The judiciary demonstrated greater independence in a number of cases. Reforms initiated in previous years continued to produce improvements in the criminal justice system. The authorities sought to combat instances of racial and ethnic mistreatment through prosecutions of groups and individuals accused of engaging in this behavior. Progress was also made in combating trafficking in persons.

Anti-government forces committed numerous human rights abuses in the internal conflict in Chechnya. They continued killing and intimidating local heads of administration. There were also reports of Chechen rebel involvement in both terrorist bombings and politically motivated disappearances in Chechnya and Ingushetiya during the year. Some Chechen rebels were allegedly involved in kidnapping to raise funds. There were also reports that explosives improvised by Chechen rebels often led to civilian casualties.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports of political killings by the government or its agents, but there continued to be credible reports that federal armed forces engaged in unlawful killings in Chechnya. The use of indiscriminate force in areas of Chechnya with significant civilian populations resulted in numerous deaths (see section 1.g.). The security forces generally conducted their activities with impunity, but courts addressed a few incidents. For example, the Supreme Court overturned the acquittals of Captain Eduard Ullman and three other servicemen charged with killing six Chechen civilians in 2002 and ordered new trials. Lower courts had already acquitted the defendants twice, most recently in May. According to reports a retrial began in December and was continuing at year's end. At least one other serviceman was convicted on similar charges.

During the year the Ministry of Defense reported 16 deaths resulting from "nonstatutory relations," a phrase used to describe situations in which officers or sergeants physically assaulted or humiliated their subordinates. Many observers complained that there was little accountability for such offenses. NGOs received numerous reports of such incidents. There were also reports linking suicides in the military to hazing (see section 1.c.).

Prison conditions were frequently life-threatening (see section 1.c.).

Government forces and Chechen fighters continued to use landmines extensively in Chechnya and Dagestan. According to estimates by the UN Children's Fund (UNICEF) 3,037 victims were killed or wounded by landmines or unexploded ordnance in Chechnya since 1995. Over the last year, UNICEF noted a decline in the number of such incidents, attributed to increased awareness on the part of local inhabitants.

There were a number of killings of government officials throughout the country, some of which may have been connected with the ongoing strife in the North Caucasus or with politics. For example, Zagir Arukhov, the minister of nationalities, external relations, and information in the Republic of Dagestan, was assassinated on May 20 when a bomb exploded as he entered his apartment building. Deputy Prosecutor General Fridinskiy reported that, as of May 2004, Chechen rebels had killed 11 local administration heads since the antiterrorist operation in Chechnya began in 1999.

The press and media NGOs reported that journalists were killed during the year for reasons that appeared to be related to their work (see section 2.a.).

Violent and sometimes fatal attacks by skinhead groups were a problem. On November 13, Timur Kacharava, a university student and a member of an anti-fascist youth movement, was stabbed to death. Approximately 10 to 15 people attacked Kacharava and a friend in St. Petersburg. His friend survived the attack and was hospitalized with serious injuries. Kacharava's friends stated that the attackers were members of a neo-Nazi group that had previously attacked Kachavara. Observers believed that the attack may have been motivated by his activism in the youth anti-fascist movement. In December the authorities reported progress in the investigation of Kacharava's death. According to different sources, 5 to 11 people were arrested and five of them confessed to taking part in the attack. One of the suspects reportedly confessed that he stabbed Kacharava in the neck. All the arrested individuals allegedly claimed that they were members of a skinhead group.

As of year's end there were no indications that suspects had been apprehended in the June 2004 killing of hate-crimes expert Nikolay Girenko. His colleagues believed that the motive for the killing was Girenko's activity as an official expert witness in a number of high-profile court cases involving ethnic and religious issues.

No progress was reported in the investigation of the 2003 killing of Yuriy Shchekochikhin, a member of the State Duma and deputy editor of the newspaper *Novaya Gazeta*. At the time of his death, Shchekochikhin had begun to investigate allegations of Federal Security Service (FSB) responsibility for a series of 1999 apartment building bombings.

In June two of the initial six defendants were found guilty of terrorist acts and sentenced to 20 and 23½ years in jail in a case involving the 1998 killing of Galina Starovoytova, a prominent State Duma deputy. The other four defendants were released. At year's end hearings were still ongoing for two additional defendants who were identified later in the investigation. The individual who ordered the killing has not been identified.

In June the Supreme Court rejected an appeal by the parents of Dmitriy Kholodov, military affairs correspondent for the daily newspaper *Moscovskiy Komsomolets*, who was killed in 1994. Kholodov's killing was believed to have been associated with his investigation of corruption in the military. The parents had appealed a March 14 decision by the Military Collegium of the Supreme Court to uphold a June 2004 acquittal of the defendants. Initial litigation began in 2000 (see section 2.a.).

During the September 2004 terrorist attack on a school in Beslan, North Ossetia, at least 330 hostages were killed. At least half of them were children (see section 1.g.).

Chechen rebels assassinated Chechen president Akhmed Kadyrov in May 2004, killed numerous civilian officials and militia associated with the federally appointed Chechen administration, and threatened to kill Kadyrov's successor Alu Alkhanov, who was elected in August 2004 (see section 1.g.). Chechen fighters killed a number of federal soldiers whom they had taken prisoner (see section 1.g.). Many other individuals were kidnapped and then killed in Chechnya during the year (see sections 1.b., 1.c., and 1.g.); both sides to the conflict, as well as criminal elements, were involved in those activities. Authorities often attributed bombings and other attacks on police or civilian officials in Dagestan and other areas in the southern part of the country to Chechen "bandits."

Societal violence against members of national, ethnic, and racial minority groups resulted in a number of killings (see section 5).

b. Disappearance.—There were reports of government involvement in politically motivated disappearances in Chechnya and Ingushetiya, although the number of

disappearances declined as compared to 2004. There were also reports of disappearances of individuals who had appealed court cases to the ECHR (see section 1.g.).

Criminal groups in the Northern Caucasus, possibly having links to rebel forces, frequently resorted to kidnapping. The main motivation behind such cases apparently was ransom, although some cases had political or religious overtones. The hostage-takers held many of their victims in Chechnya or Dagestan.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were credible reports that law enforcement personnel frequently engaged in torture, violence, and other brutal or humiliating treatment or punishment to coerce confessions from suspects and that the government did not consistently hold officials accountable for such actions. Although prohibited in the constitution, torture is defined neither in the law nor the criminal code. As a result, the only accusation prosecutors could bring against police suspected of such behavior was that they exceeded their authority or committed a simple assault.

Cases of physical abuse by police officers usually occurred within the first few hours or days of arrest. Some of the methods reportedly used were: beatings with fists, batons, or other objects; asphyxiation using gas masks or bags (at times filled with mace); electric shocks; or suspension by body parts (for example, suspending a victim from the wrists, which are tied together behind the back). Allegations of abuse were difficult to substantiate because of limited access by medical professionals. There were credible reports that both government forces and Chechen fighters in Chechnya tortured detainees (see section 1.g.).

Reports by refugees, NGOs, and the press suggested a pattern of police beatings, arrests, and extortion directed at persons with dark skin or who appeared to be from the Caucasus, Central Asia, or Africa, and at Roma. For example in June 2004 the press reported that in Novosibirsk 4 policemen were arrested on suspicion of extorting over $1 million (28 million rubles) from a Romani family by kidnapping and torturing family members until their demands were met. The policemen were reportedly later tried and convicted.

Police reportedly harassed defense lawyers by calling them in for questioning regarding their conversations with their clients and continued to intimidate witnesses (see section 1.e.).

In December 2004 in the course of a massive "crime prevention" crackdown in the town of Blagoveshchensk, Bashkortostan, police and masked OMON troops (members of a special police detachment) detained over one thousand persons; the police beat many of them. According to human rights activists who carried out an investigation of the events, at least 32 of those detained had to seek medical help afterward. Individuals were apprehended on the streets, in their homes, and in their places of business and brought to the cellar of the police headquarters building in Blagoveshchensk. Bashkortostan authorities claimed that the police actions were in response to a "crowd of rowdies" who had attacked a police patrol. On August 1, the Bashkortostan prosecutor's office filed a case against eight officials on the charge of abuse of office. Defendants included the chief of Blagoveshchensk police and the OMON unit commander. Preliminary hearings opened on September 14 and went on until November 17. The first substantial hearing took place on November 18. Defense attorneys said the court case could continue until 2008. Most of the defendants continued working in their positions. In May human rights groups said that during their investigation of these events they discovered instructions, which they linked to the federal Ministry of Internal Affairs (MVD), granting police the authority to use extreme force and set up detention centers in the event of large-scale protests. In December hecklers disrupted a meeting between human rights activists and some of the individuals beaten in Blagoveshchensk; at least one of human rights activist accused the authorities of being linked the disruption.

Various abuses against military servicemen, including but not limited to the practice of *dedovshchina* (the violent, at times fatal, hazing of new junior recruits in the armed services, MVD, and border guards) continued (see section 1.a.). Press reports cited serving and former armed forces personnel, the Main Military Prosecutor's Office (MMPO), and NGOs monitoring conditions in the armed forces as indicating that such mistreatment often included the use of beatings or threats of increased hazing to extort money or material goods. Government officials announced that approximately 25 percent of the 11,500 crimes committed in the army during 2004 were related to hazing. On May 24 the main military prosecutor stated that in 2004 246 servicemen committed suicide and that many of these deaths were linked to hazing. According to defense ministry figures, there were 218 suicides through October 2005. As of October, the Moscow Committee of Soldiers' Mothers registered 700 complaints from conscripts, mostly related to beatings. Servicemen also complained about sexual abuse, torture, and enslavement. Soldiers often did not report hazing

to either unit officers or military prosecutors due to fear of reprisals, since in some cases officers reportedly tolerated or even encouraged such hazing as a means of controlling their units. Officers reportedly also used beatings to discipline soldiers.

Hazing reportedly was a particularly serious problem in units that had previously served in areas of military conflict.

Both the Union of Soldiers' Mothers Committee (USMC) and the MMPO received numerous reports about "nonstatutory relations," in which officers or sergeants physically assaulted or humiliated their subordinates. Despite the acknowledged seriousness of these problems, the leadership of the armed forces made only superficial efforts to implement substantive reforms in training, education, and administration programs within units to combat abuse.

During the year federal and pro-Moscow Chechen forces, as well as Chechen rebel forces, violated the human rights of civilians, inflicting widespread civilian casualties, abductions, and other abuses (see section 1.g.).

Prison and Detention Center Conditions.—Prison conditions remained extremely harsh and frequently life-threatening. The Ministry of Justice's (MOJ's) Federal Service for the Execution of Sentences (formerly the Main Division for the Execution of Sentences) administered most of the penitentiary system centrally from Moscow. The FSB ran the Lefortovo pretrial detention center in Moscow and seven other pretrial detention centers. There were five basic forms of custody in the criminal justice system: police temporary detention centers; pretrial detention facilities, known as investigation isolation facilities (SIZOs); correctional labor colonies (ITKs); prisons designated for those who violate ITK rules; and educational labor colonies (VTKs) for juveniles. As of July 1, approximately 797,500 persons were in the custody of the criminal justice system, including 48,600 women and 14,500 juveniles. On December 16, the MOJ reported that the number of the people held in custody in 2005 exceeded 800 thousand. In most cases juveniles were held separately from adults.

In 2004 according to official statistics approximately two thousand persons died in SIZOS. Most died as a result of poor sanitary conditions or lack of medical care (the leading cause of death was heart disease). The press reported on individuals who were mistreated, injured, or killed in various SIZOs. Some of the reported cases indicated habitual abuse by officers.

Abuse of prisoners by other prisoners continued to be a problem. Violence among inmates, including beatings and rape, was common. There were elaborate inmate-enforced caste systems in which informers, homosexuals, rapists, prison rape victims, child molesters, and others were considered to be "untouchable" and were treated very harshly, with little or no protection provided by the prison authorities.

Penal institutions frequently remained overcrowded, but there were reports of some improvements. For example, while many penal facilities remained in urgent need of renovation and upgrading, some reports indicated that these facilities were closer to meeting government standards, which include the provision of four square meters per inmate.

Inmates in the prison system often suffered from inadequate medical care; however, there were some signs of improvement. The Public Council in the MOJ reported that during the 3 years ending in 2004, the number of sick prisoners and detainees decreased by 27 percent. According to the MOJ, as of September 1, 2005, there were approximately 49 thousand tuberculosis-infected persons and 31 thousand HIV-infected persons in SIZOs and correction colonies. Tuberculosis infection rates were far higher in detention facilities than in the population at large. The Moscow Center for Prison Reform (PCPR) reported that conditions in penal facilities varied among the regions.

Conditions in SIZOs, where suspects were held until the completion of a criminal investigation, trial, sentencing, or appeal, remained extremely harsh and posed a serious threat to health and life. However, conditions within different SIZOs varied considerably. Health, nutrition, and sanitation standards remained low due to a lack of funding. Poor ventilation was thought to contribute to cardiac problems and lowered resistance to disease. According to the Federal Prison Service, the total of detainees in the system increased by 31 thousand as of September 1. As a result, facilities originally designed to house 130 thousand held approximately 157 thousand suspects.

ITKs held the bulk of the nation's convicts. As of September 1, there were 633,500 inmates in 762 ITKs, which provided greater freedom of movement; however, at times, guards humiliated, beat, and starved prisoners to break down their resistance. The country's "prisons"—distinct from the ITKs—were penitentiary institutions for those who repeatedly violated the rules in effect in the ITKs.

The 62 VTKs held juvenile prisoners from 14 to 20 years of age. As of July 1 there were 62 such institutions. Conditions in the VTKs were significantly better than in the ITKs, but juveniles in the VTKs and juvenile SIZO cells reportedly also suffered

from beatings and rape. The PCPR reported that such facilities had a poor psychological atmosphere and lacked educational and vocational training opportunities. Many of the juveniles were from orphanages, had no outside support, and were unaware of their rights. While juveniles were generally held separately from adults, there were two prisons in Moscow where children and adults were not separated and boys were held with adults in small, crowded, and smoky cells. Schooling in the prisons for children was sporadic at best.

In August the NGO For Human Rights reported that it had been able to monitor prisons in 40 of the country's 89 regions; however, according to the group's executive director, it has become increasingly difficult for domestic observers to monitor prison conditions in the last five years. Beginning in September 2004, authorities refused to grant the International Committee of the Red Cross (ICRC) access, under ICRC's standard criteria, to those detained as part of the conflict in Chechnya, and the ICRC subsequently suspended its detention visits.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, they remained problems.

Role of the Police and Security Apparatus.—The MVD, the FSB, and the Office of the Prosecutor are responsible for law enforcement at all levels of government. The FSB's core responsibilities are security, counterintelligence, and counterterrorism, but it also has broader law enforcement functions, including fighting crime and corruption. The FSB operated with limited oversight by the office of the prosecutor general and the courts.

The national police force, which falls under the MVD, is organized on the federal, regional, and local levels. Although regulations and national laws prohibit corrupt activities, corruption was widespread and with few crackdowns on illegal police activity. The government reportedly addressed only a fraction of the crimes that federal forces committed against civilians in Chechnya (see section 1.g.). Although government agencies, such as the MVD, have continued to educate officers about safeguarding human rights during law enforcement activities through training provided by foreign governments, the security forces remained largely unreformed.

There were credible reports that security forces continued regularly to single out persons from the Caucasus for document checks, detention, and the extortion of bribes (see section 2.d.). According to NGOs, federal forces and pro-Moscow Chechen militias commonly detained Chechen men at checkpoints along the borders between Chechnya and Ingushetiya in targeted operations known as "night raids," or during "mopping-up" operations following military hostilities. Detainees were often beaten or tortured. Human rights groups also reported that security forces increasingly detained women.

Arrest and Detention.—Under the law an individual may be taken into custody for 48 hours without court approval if arrested at the scene of a crime, provided there is evidence of the committed crime on the individual's person or in his house or when the crime victims or witnesses identify the person as a perpetrator. Otherwise, a court-approved arrest warrant is required. According to statistics provided by the Supreme Court's Judicial Department in 2004, courts approved approximately 91 percent of arrest requests from law enforcement authorities. A detainee is then typically taken to the nearest police station where a detainee should receive a warning of his rights, and police are obliged to write an official protocol signed by the detainee and the police officer within three hours of detention, which states the grounds for the detention. The police must interrogate the detainee within the first 24 hours, but prior to the interrogation the detainee has the right to meet with an attorney for 2 hours. No later than 12 hours after a detention, the police must notify the prosecutor and the detainee's relatives about the detention unless a prosecutor's warrant to keep the fact of detention secret is obtained. The detainee must be released after 48 hours, either subject to bail conditions or on their own recognizance, unless a court decides to keep the person in custody in response to a motion filed by the police no later than 8 hours before the expiration of the 48 hour detention period. The defendant and his/her attorney must be present at the court hearing.

The law specifies that within two months of a suspect's arrest, police should complete their investigation and transfer the file to the prosecutor for arraignment, although a court may extend the criminal investigation for up to six months in "complex" cases. With the personal approval of the prosecutor general a judge may extend that period up to 18 months.

These limitations on detention were generally respected; however, there were reports of occasional violations of the 48-hour time limit following an arrest. Most frequently, the authorities failed to write the official protocol of detention within three hours after the actual detention and held suspects in excess of detention limits. In

addition there were reports that the police obtained defense counsels friendly to the prosecution. These "pocket" defense counsels allowed interrogation of their clients. The general ignorance of legal rights by both citizens and their defense counsels contributed to the persistence of these violations. The government continued to engage in public education programs to inform citizens of their rights and responsibilities under the law, such as the right to a lawyer and the obligation to serve on juries. The Council of Judges together with the Supreme Court and the Russian Information Agency Novosti continued an educational program called "Public Trust" that explained the work of the judicial system and citizens' rights.

Judges suppressed confessions of suspects whose confessions were taken without a lawyer present. They also freed suspects who were held in excess of detention limits, although they usually granted prosecutors' motions to extend the detention period for good cause. The Supreme Court overturned a number of cases in which lower court judges granted permission to detain individuals on what the Supreme Court deemed inadequate grounds.

Some regional and local authorities continued to use provisions of the code to arrest persons for expressing views critical of the government. Human rights advocates in some regions were charged with libel, contempt of court, or interference in judicial procedures in cases with distinct political overtones. Journalists, among others, have been charged with other offenses and held either in excess of normal periods of detention or for offenses that do not require detention at all (see section 2.a.).

There were several reports of political detainees at various times during the year. Despite significant reforms in law enforcement in recent years, instances in which the government apparently pursued selective prosecution against political adversaries raised concerns over the arbitrary use of the judicial system. For example many observers considered the arrest, detention, and conviction on charges of fraud of prominent businessman Mikhail Khodorkovskiy to be an illustration of this problem, regardless of his guilt or innocence on the specific charges. In the months before his arrest in 2003, Khodorkovskiy had reportedly supported organizations, political parties, and media critical of the Putin administration. However, other observers believed that the case was driven by economic rather than political motives. Some human rights groups considered Svetlana Bakhmina, a lawyer who worked for Yukos Oil Company (Yukos), to be a political detainee. She was arrested in December 2004 on fraud charges and held without bail. Several organizations expressed concern about reports regarding Bakhmina's lack of access to her family and medical treatment while in custody. Some observers stated that she was being held in an attempt to pressure Dmitriy Gololobov, her former boss at Yukos, to return from London. On September 5, a Moscow city court ruled that she could be held in detention until October 7. In October her trial began in Moscow, and the case was ongoing at year's end. Many observers saw the treatment of Bakhmina as linked to the Khodorkovskiy case.

On two occasions the authorities held relatives of a wanted Chechen rebel leader, apparently attempting to force his surrender. Eight relatives of Chechen leader Aslan Maskhadov were abducted in December 2004. On May 31, seven of them were released, several weeks after Maskhadov was killed on March 8. The human rights NGO, Memorial, reported that the detainees were held in an unfurnished concrete cell with a single window. They were allowed to exit the cell only to go to the toilet. They were never interrogated nor charged with any crime. An eighth relative, Movladi Aguyev, was reportedly charged with being a member of an illegal armed group. Witnesses to the initial detention believed the abductors were members of the forces under command of the Chechen Deputy Prime Minister Ramzan Kadyrov (see section 1.g.).

In May, according to Memorial, Chechen security forces seized relatives of Chechen commander Doku Umarov, including his 70-year-old father, his wife, and his 6-month-old son. They later released the wife and child, but the father's location remained unknown. According to the Chechen Ministry of Interior, unknown gunmen abducted Umarov's sister, Natasha Khumadova, in August. At year's end there was no further information on the whereabouts of Umarov's relatives.

In September 2004 several of Maskhadov's and Chechen terrorist Shamil Basayev's relatives were taken into what authorities claimed to be protective custody during the Beslan school seizure, although human rights groups said this action was intended as retaliation for the seizure of the school; they were released shortly after the end of the school seizure. Domestic and foreign human rights observers criticized an October 2004 suggestion by the prosecutor general that a policy of seizing the relatives of hostage-takers would reduce the incidence of hostage taking.

Beginning in September 2004, authorities refused to grant the International Committee of the Red Cross (ICRC) access, under ICRC's standard criteria, to those de-

tained as part of the conflict in Chechnya, and the ICRC subsequently suspended its detention visits.

An international NGO delegation that visited two psychiatric hospitals in 2004 noted that there was no judicial process for commitment that provided individuals subject to commitment with the right to appear before a court for a determination of the legality of their commitment.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and there were a number of indications of judicial independence; however, the judiciary did not consistently act as an effective counterweight to other branches of the government. The law provides for strengthening the role of the judiciary in relation to the prosecutor general by requiring judicial approval of arrest warrants, searches, seizures, and detentions (see section 1.d.). Judges allegedly remained subject to influence from the executive, military, and security forces, particularly in high profile or politically sensitive cases. While judges' salaries have increased significantly, the judiciary remained susceptible to corruption. Judges accepted bribes from officials and others. From 2001 to 2004, 196 judges were fired for unprofessional behavior, 513 received "warnings," 12 were convicted of criminal offences. One NGO specializing in issues of corruption estimated that in 2005 judges received $209 million (5.9 billion rubles) in bribes annually for favorable rulings.

Authorities did not provide adequate protection from intimidation or threats from powerful criminal defendants.

The judiciary is divided into three branches. The courts of general jurisdiction, including military courts, are subordinated to the Supreme Court. These courts hear civil and criminal cases and include district courts, which serve every urban and rural district, regional courts, and the Supreme Court. Decisions of the lower trial courts can be appealed only to the immediately superior court unless a constitutional issue is involved. An arbitration (commercial) court system under the High Court of Arbitration constitutes a second branch of the judicial system. Arbitration courts hear cases involving business disputes between legal entities and between legal entities and the State. The federal constitutional court (as well as constitutional courts in a number of administrative entities of the Russian Federation) constitutes the third branch.

The president approves judges after they have been nominated by the qualifying collegia, which are assemblies of judges (including some public members). After a three-year trial period, the president must reconfirm the judges. Judicial watchers have alleged that the executive's role in approving and reconfirming judges has ensured an increasingly pro-Kremlin judiciary. The collegia also have the authority to remove judges for misbehavior and to approve prosecutors' requests to prosecute judges.

Justices of the peace deal with criminal cases involving maximum sentences of less than three years and with some civil cases. In some regions where the system has been fully implemented, justices of the peace assumed 65 percent of federal judges' civil cases and up to 32 percent of their criminal matters. Justices of the peace worked in all regions except Chechnya and Nenetskiy Autonomous Okrug.

Trial Procedures.—Trials typically are conducted before a judge without a jury. The defendant is presumed innocent. The defense is not required to present evidence and is given an opportunity to cross-examine witnesses and call defense witnesses. Defendants who are in custody during the trial are confined to a caged area and must consult with their attorneys through the bars in whispers. Defendants have the right of appeal.

The law provides for the nationwide use of jury trials for a limited category of "especially grave" crimes, such as murder, in higher-level regional courts. These jury trials constituted approximately 1 percent of all criminal trials in 2004. By January 1 all regions except Chechnya implemented jury trials, and Chechnya is scheduled to introduce jury trials in 2007. In contrast to trials conducted by a judge, 0.7 percent of which ended in acquittal in 2004, approximately 15 percent of cases tried by juries ended in acquittals, although one-quarter of those acquittals were later reversed on appeal.

Prior to trial, defendants are provided a copy of their indictment, which describes the charges in extensive detail. They are also given an opportunity to review the criminal file following the completion of the criminal investigation. Defense attorneys are allowed to visit their clients in prison, although prison conditions reportedly make it difficult for the attorneys to conduct meaningful and confidential consultations with their clients.

The law provides for the appointment of a lawyer free of charge if a suspect cannot afford one; however, this provision often was not effective in practice. The high cost of competent legal representation meant that lower-income defendants often

lacked competent legal representation. There were no defense attorneys in remote areas of the country. Public centers, staffed on a part time basis by lawyers, continued to offer free advice on legal rights and recourse under the law; however, they were not able to handle individual cases. In August the government issued regulations to govern an experimental program creating state legal aid offices in ten regions to operate on an experimental basis beginning in January 2006.

According to the NGO the Independent Council of Legal Expertise, defense lawyers were the targets of police harassment. Professional associations at both the local and federal levels reported police efforts to intimidate attorneys and cover up their own criminal activities. In March 2004 Yevgeniy Baru, lawyer for Khodorkovskiy's codefendant Platon Lebedev, was attacked after a visit with his client. Baru reported that prison officials, including the warden, confiscated written and printed materials from his briefcase. In April 2004 five men who reportedly shouted, "You got what you're asking for. No more speeches [in court] for you," knocked human rights lawyer Stanislav Markelov unconscious on the Moscow metro. After regaining consciousness, Markelov discovered that his mobile phone containing the phone numbers of his clients, his lawyer's license card, and other identity documents and case files were missing, but his money had not been stolen. Amnesty International (AI) expressed concern that he was targeted due to his work on behalf of victims in several human rights cases that relate to Chechnya. On September 23, Robert Amsterdam, a member of Khodorkovskiy's international legal team had his visa revoked by the authorities and had to leave the country.

Authorities abrogated due process in continuing to pursue several espionage cases involving foreigners who allegedly obtained information considered sensitive by security services; in some instances prosecutors pursued such cases after earlier courts had rejected them. The proceedings in some of these cases took place behind closed doors, and the defendants and their attorneys encountered difficulties in learning the details of the charges. Observers believed that the FSB was seeking to discourage citizens and foreigners from investigating problems that the security services considered sensitive.

In February the FSB detained Oskar Kaibyshev on charges linked to exporting sensitive technological information to South Korea while working as a research scientist. Several scientific panels stated that the information Kaibyshev gave the South Koreans was not subject to export controls. The espionage charges initially brought against Kaibyshev were later dropped, but he still faced other criminal charges related to the case. Kaibyshev was later charged with unsanctioned export of technologies and theft. Court hearings opened in Ufa on October 31 behind closed doors. The trial was ongoing at year's end.

Political Prisoners.—Many human rights organizations stated that Igor Sutyagin was a political prisoner, and the representatives of various domestic human rights organizations also characterized several other individuals, such as Valentin Danilov, Mikhail Khodorkovskiy, Platon Lebedev, Zara Murtazaliyeva, and Mikhail Trepashkin, as political prisoners.

On May 31, Mikhail Khodorkovskiy and co-defendant Platon Lebedev were convicted on six charges of fraud, tax evasion, and embezzlement and sentenced to 9 years in prison after an 11-month trial. Khodorkovskiy's conviction was upheld on appeal on September 21, with the sentence reduced to eight years. Both Khodorkovskiy and Lebedev continued to appeal their convictions. The arrest and conviction of Khodorkovskiy raised concerns about the rule of law, including the independence of courts, the right to due process, the sanctity of contracts and property rights, and the lack of a predictable tax regime. Many observers believed that Khodorkovskiy's conviction was the most recent of a number of politically-motivated moves against wealthy "oligarchs" who represented centers of actual or potential political and media opposition to the president. Some observers believed that despite the possibility that the charges against Khodorkovskiy may have had some merit, he was selectively targeted for prosecution because of his own politically-oriented activities and as a warning to other oligarchs against involvement in political affairs or providing financial support to independent civil society. In October the authorities transferred Khodorkovskiy to a prison in Chita Oblast and Lebedev to a prison in Yamalo-Nenetskiy Autonomous Okrug. In December Lebedev's defense team filed an appeal stating that sending him to a prison that was not in the area where Lebedev lived or was sentenced violated Russian law. Some human rights activists have objected to sentencing both men to prisons that were not in the area where they lived or were sentenced.

The May 2004 conviction of Mikhail Trepashkin, who had been a consultant to a parliamentary commission investigating possible FSB involvement in a series of 1999 apartment bombings, gave further cause for concern about the undue influence of the FSB and arbitrary use of the judicial system. The bombings were officially

blamed on Chechens and served as partial justification for the government's resumption of the armed conflict against Chechen fighters. Trepashkin, an attorney and former FSB official, was arrested in 2003 and charged with disclosing state secrets and with illegal possession of a handgun and ammunition. The Moscow circuit military court sentenced him to four years of forced labor, but he was not expected to start serving his term until the conclusion of a hearing on the handgun charge. The trial reconvened in December 2004. Trepashkin's arrest came a month after his charges of FSB responsibility for the bombings were cited in a book and a week before he was scheduled to represent the relatives of a victim of one of those bombings. On April 15, a Moscow court found Trepashkin guilty of illegal possession of a handgun and added one year to his four-year term, although this additional ruling was later reversed on appeal. At the end of July, Trepashkin began serving his prison term in Nizhniy Tagil. On August 19, Trepashkin appealed for an early release from prison, and on August 29, a Nizhniy Tagil court granted him early release. On September 16, however, a Sverdlovsk regional court overturned the August 29 ruling. On September 22, according to reports, Trepashkin was again taken into custody. He was sent back to the Nizhniy Tagil prison camp. A new hearing on his early release was held on November 24, and the Nizhniy Tagil court turned down his application for release on parole. Trepashkin's attorneys had an appeal pending before the Sverdlovsk regional court at year's end. In a letter to State Duma deputy Yevgeniy Roizman, Trepashkin said he feared for his life since he was kept together with convicts who had committed capital crimes. In other statements, Trepashkin said that he was receiving no treatment for his severe asthma and that he was concerned about his health.

In June 2004 the Supreme Court overturned the 2003 jury acquittal of Valentin Danilov, who had been charged with spying for China while working on a commercial contract. In November 2004 Danilov was convicted by a judge and sentenced to 14 years. On June 29, the Supreme Court reduced his sentence to 13 years. Danilov has an appeal before the Supreme Court and the ECHR. In August he was transferred from a pretrial detention center to a prison.

In August the Supreme Court rejected an appeal by Igor Sutyagin, a disarmament researcher with the US and Canada Institute, against his conviction for espionage related charges. Prosecutors accused Sutyagin of passing classified information about the country's nuclear weapons to a London-based firm, but the Kaluga regional court ruled in 2001 that the evidence presented by the prosecutor did not support the charges brought against him and returned the case to the prosecutor for further investigation. In April 2004 a Moscow city court found Sutyagin guilty and sentenced him to 14 years in a maximum security facility (the sentence included time served since his arrest in October 1999). Sutyagin claimed the decision was unjust and insisted that he had no access to confidential information. Some observers agreed that he had no access to classified information and described the severe sentence as an effort to discourage citizens from sharing sensitive information with professional colleagues from other countries. Russian government officials asserted that Sutyagin had wittingly or unwittingly entered into a paid arrangement with a foreign intelligence service. Because of the conduct of the trial and lengthy sentence, a number of domestic and international human rights NGOs raised concerns that the charges were politically motivated. At year's end Sutyagin was allegedly in a penal facility in Arkhangelsk Oblast and his attorneys were reportedly appealing the move.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law states that officials may enter a private residence only in cases prescribed by federal law or on the basis of a judicial decision; however, authorities did not always observe these provisions. The law permits the government to monitor correspondence, telephone conversations, and other means of communication only with judicial permission and prohibits the collection, storage, utilization, and dissemination of information about a person's private life without his consent. While these provisions were generally followed, problems remained. There were accounts of electronic surveillance by government officials and others without judicial permission, and of entry into residences and other premises by Moscow law enforcement without warrants. There were no reports of government action against officials who violated these safeguards.

On September 1, the press reported that the government, citing concerns about terrorism, approved new regulations, which were scheduled to come into effect on January 1, 2006, for interactions between communication companies and certain government agencies. The new regulations would give law enforcement agencies greater access to telephone and cellular phone company clients' personal information and require providers to grant the MVD and FSB 24-hour remote access to their client databases. Some experts believed these new rules contradict the constitution.

Internet service providers are required to install, at their own expense, a device that routes all customer traffic to an FSB terminal, called the "System for Operational Investigative Measures." However, there appeared to be no mechanism to prevent unauthorized FSB access to the traffic or private information without a warrant. The FSB was not required to give telecommunications companies and individuals documentation on targets of interest prior to accessing information.

Human rights observers continued to allege that officers in the special services used their services' power to gather compromising materials on public figures. There were credible charges that regional branches of the FSB continued to exert pressure on citizens employed by foreign firms and organizations, often to coerce them into becoming informants.

Federal forces and pro-Moscow Chechen forces reportedly abducted relatives of rebel commanders and fighters (see section 1.g.).

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—During the year unrest continued in and around the Northern Caucasus republic of Chechnya. Federal forces and pro-Moscow Chechen forces engaged in human rights violations, including torture, summary executions, disappearances, and arbitrary detentions. Chechen rebels also committed human rights violations, including major acts of terrorism and summary executions.

The year saw a continued shift of Russian tactics away from operations involving Russian military formations and toward police operations, and from the use of federal forces toward reliance on paramilitary and police units of the Chechen Republic. There were fewer mopping-up operations, known as "*zachistki*," than in previous years, although more targeted operations, such as night raids, continued. According to Memorial, *zachistki* were often conducted with no serious human rights abuses, but Memorial noted that in some cases, *zachistki* were accompanied by abductions, looting, and beatings. Chechen security forces were nominally under the control of Chechen civilian authorities but also often conducted operations jointly with Russian federal forces. In reality, Chechen security forces were under the command of Chechen First Deputy Prime Minister Ramzan Kadyrov and often appeared to act with relative independence. The limited measures taken by the federal and Chechen leaders to rein them in have been largely ineffective.

Federal authorities—both military and civilian—have limited journalists' and human rights observers' access to war zones since the beginning of the second war in Chechnya in 1999, in part due to security concerns. In addition coverage has been restricted in government-controlled media, and the government has sought to pressure independent journalists into engaging in self-censorship (see sections 2.a. and 4). These restrictions made independent observation of conditions and verification of reports difficult and limited the available sources of information about the conflict. Human Rights Watch (HRW) reported in March that Chechnya was gripped by a climate of fear that witnesses described as "worse than war." HRW noted that victims of human rights abuses and their relatives were increasingly reluctant to speak to human rights monitors or to file complaints with the authorities because they feared further persecution, a fear HRW had not previously encountered. Despite these obstacles, however, human rights groups with staff in the region continued to release credible reports of human rights abuses committed during the year.

The indiscriminate use of force by government troops, which during the course of the conflict has resulted in widespread civilian casualties, the displacement of hundreds of thousands of persons, and massive destruction of property and infrastructure, appeared to decrease during the year. However, Memorial reported that in comparison to 2001–2002, government forces used less indiscriminate force in 2004 against civilian areas and this trend appeared to continue in 2005.

Nonetheless, there continued to be instances of indiscriminate use of force by government troops. According to Memorial, the mountain village of Zumsoi was subjected to repeated artillery shelling and aerial bombardment as well as sweeps by security forces during the year. In January the village was bombed for several days. Airborne forces then arrived in the village and took three men and a teenaged boy into custody. Their whereabouts remain unknown. Federal servicemen also allegedly robbed villagers, desecrated the village mosque, and killed cattle. In July unknown perpetrators, who were believed to be Chechen rebels, killed the head of the village administration. Also in July all but one of Zumsoi's residents left the village citing the continuing insecurity there.

In June members of the pro-Moscow Vostok (East) Battalion conducted a security sweep in the village of Borozdinovskaya. During that operation 11 men from the village were detained. Some homes in the village were burned and two villagers were killed. Subsequently villagers left en masse and crossed into the neighboring republic of Dagestan. Although prosecutors announced an investigation, and federal and Chechen officials publicly called for those responsible to be held accountable, the

whereabouts of the men remain unknown. Military prosecutors initiated criminal proceedings against one Vostok commander Mukhadi Aziyev. A military court in Chechnya convicted him in October of abuse of power, and he received a three-year suspended sentence.

In most cases security actions affecting civilians were undertaken with impunity. Even the limited efforts of the authorities to impose accountability were frequently timid. On March 29, a Groznyy court convicted Lt. Sergey Lapin, a member of an OMON riot police unit, of inflicting serious harm to health and other charges related to the torture and disappearance of Chechen citizen Zemlikhan Murdalov in 2001. AI noted, however, that none of the charges against Lapin related to Murdalov's actual disappearance, nor were any others charged in the case.

Despite the opening of a criminal case, a human rights organization reported that no charges were filed after a federal warplane bombed Maidat Tsintsayeva's house in April 2004, killing her and her five children. According to a human rights NGO, there were no indications of progress in investigating the launching of several missiles at the village of Tevzen-Kale in December 2004. One of the missiles hit the house of the Suleymanov family, killing one family member and wounding two others. The Chechen interior ministry told the press that the federal military refused to acknowledge that it had bombed the village and was impeding all investigation efforts.

There were no reliable estimates of civilian casualties as a result of military operations. Chechen State Council Chairman Taus Dzhabrailov reportedly told the press in June that more than 160 thousand persons had been killed in Chechnya since 1994. Memorial has estimated that 75 thousand civilians and up to 14 thousand servicemen have died during the two Chechen conflicts.

Likewise, there were no reliable estimates of the number of those detained, abducted, or made to disappear. While Chechen rebels and criminals seeking ransom carried out many abductions and disappearances, federal and pro-Moscow Chechen forces were also involved. Government sources indicated that 67 people were abducted through mid-December compared to 168 in 2004, according to press reports. Chechen President Alu Alkhanov said 77 people were abducted in 2005, compared to 213 in 2004. Memorial reported that in the 25 to 30 percent of Chechnya to which its monitors had access, 316 persons were abducted during the year, of whom 151 were freed or ransomed, 23 were found dead, 15 were thought to be in detention, and 127 disappeared. Memorial reported that 448 persons were abducted in 2004 and has estimated that 3 thousand to 5 thousand have gone missing in Chechnya since 1999. Memorial reported that it has information on 1,200 cases where people disappeared after being detained by federal security forces since fall 1999. The federal prosecutor's office reported in December 2004 that 2,437 persons had been abducted in Chechnya in that period.

Abductions and disappearances continued to occur following operations conducted by federal forces, pro-Moscow Chechen forces, and joint operations involving Chechen and Russian units, according to various sources. Presidential Advisor Aslanbek Aslakhanov was cited in the press as saying that he could not rule out the involvement of forces under command of Chechen First Deputy Prime Minister Ramzan Kadyrov or federal forces in such activities. Colonel General Arkadiy Yedelev, head of the Russian forces general staff in the Northern Caucasus, acknowledged in February that federal forces and pro-Moscow Chechen forces had taken part in disappearances of civilians.

On April 15, security forces detained Murad Muradov, the director of the Chechen NGO "Let's Save the Generation" during a firefight between federal forces and Chechen fighters in Groznyy. According to human rights groups, Muradov was detained because he lived near the apartment where rebels were hiding. His whereabouts are unknown.

Following the numerous arrests made after the October attack on Nalchik, HRW reported that there were at least eight cases where detainees were ill treated and that lawyers for five detainees were barred from representing their clients on spurious grounds. Additionally, Ruslan Nakhushev, the head of the Islamic Research Institute in Nalchik who sought to promote dialogue between authorities and the Muslim community, disappeared on November 4 after being questioned by the Federal Security Service. Authorities had opened a criminal case against him in October for allegedly organizing the attack on Nalchik

There were no indications that the authorities intended to take action as a result of a January 2004 sweep of the town of Argun which resulted in the abduction and torture of a many residents and the killing of two. Only after mass protests in Argun were most of the detainees released. All showed signs of physical abuse and required medical attention.

Although incidents continued, the statistics of both the authorities and Memorial appeared to point to a decline in abductions and disappearances compared to previous years, but human rights groups and the authorities interpreted the data differently. Government spokesmen attributed the apparent decline in abductions to efforts begun by the Chechen government in June 2004 to reinforce existing requirements that military forces have license plates on their vehicles when entering a village, be accompanied by a representative of the prosecutor's office and local officials, identify themselves when entering a house, prepare lists of all persons arrested during the operation, and share those lists with local authorities. Chechen officials subsequently declared a ban on law enforcement officers wearing masks. Colonel General Arkadiy Yedelev, chief of counterterrorist operations in the Northern Caucasus, asserted that requirements that regional security headquarters approve all raids to detain suspected rebels and that Chechen prosecutors be notified of such operations in advance had led to a decrease in abductions.

Human rights groups attributed at least part of the statistical decline to the reluctance of detainees' relatives to complain to the authorities or human rights groups out of fear of reprisals. Citing numerous incidents in which unidentified armed men wearing camouflage broke into houses and abducted civilians, they expressed skepticism about government assertions that regulations governing the behavior of security forces were being more closely observed.

Although federal forces were believed to have engaged in fewer abductions, this was to some extent offset by the increasing role of the pro-Moscow Chechen security forces under the command of Deputy Prime Minister Ramzan Kadyrov, either by themselves or in joint operations with federal forces. Human rights groups reported that these forces were frequently suspected of disappearances and abductions, including those of family members of rebel commanders and fighters. The International Helsinki Foundation for Human Rights estimated in a February report that Kadyrov's militia was responsible for up to 75 percent of the crimes in Chechnya. For example the press reported that a 25-year-old resident of Argun was found dead in a rock quarry in June after members of the militia arrested him. Two days after being arrested, the victim was released after having been badly beaten. A few days later, he was ordered to return for further questioning and was not seen again until his body was discovered.

According to human rights observers, government forces responding to Chechen attacks at times engaged in indiscriminate reprisals against combatants and noncombatants. Federal forces were believed to be responsible for the June 2004 killing of Umar Zabiyev, a civilian, near the Ingush village of Galashki.

AI reported federal and Chechen security forces increasingly targeted female civilians, both in response to terrorist bombings carried out by Chechen women and to put pressure on male relatives suspected of being rebels. According to AI security forces detained 70-year-old Maret Khutsaeva and her teenaged granddaughter on May 10. Armed men in camouflage, without masks and speaking Chechen, arrived at her home and reportedly asked her where her son Arbi Khutsayev was. The two were held for one day and released on the condition that Khutsayev give himself up, with the warning that they would be detained again if he did not do so. Security forces also detained Natasha Khumadova, the sister of Chechen field commander Doku Umarov.

The whereabouts of Milana Ozdoyeva, whom the security forces questioned twice in January 2004 about her alleged plans to become a suicide bomber, were unknown. In January 2004 several men entered her house and took her away, leaving her two children behind.

Troops also reportedly kidnapped and otherwise mistreated children (see section 5).

Abductions reportedly continued in Ingushetiya. Memorial stated that 33 people were reported abducted during the year. Of them, 9 were freed, 4 were found dead, and 10 others disappeared. The remaining 10 were later found in the custody of law enforcement agencies.

AI and other human rights groups reported that Adam Gorchkhanov disappeared from the village of Plievo, Ingushetiya, on May 23. Gorchkhanov was reportedly detained in a raid involving 40 members of an unknown security service. He and his younger brother were beaten and the house searched, although security forces presented no warrant. Relatives subsequently learned that he had been held in the pretrial detention center in Vladikavkaz, North Ossetia, and later transferred to the Regional Department for the Fight Against Organized Crime under the MVD. On May 28, relatives learned that he had been taken to a hospital where, according to police statements, he jumped from a fourth floor window. A doctor, however, later told Memorial that Gorchkhanov had been admitted with a serious head injury. He died on May 30 from his injuries.

AI reported that prosecutors were continuing their investigation into the March 2004 disappearance of Ingush deputy prosecutor Rashid Ozdoyev after he submitted a report on alleged FSB abuses in Ingushetiya. Ozdoyev's whereabouts remain unknown, and no suspect has been identified in the case.

Throughout the year security forces continued to conduct security sweeps and passport checks at temporary settlements in Ingushetiya housing internally displaced persons IDPs from Chechnya. These sweeps sometimes led to reports of human rights abuses or disappearances.

Following rebel attacks across Ingushetiya in June 2004, federal forces conducted sweeps in several settlements housing IDPs from Chechnya. Human rights groups reported cases in which military personnel beat or verbally abused persons during these sweeps; however, the 20 IDPs they arrested were all released. Human rights groups also reported that several dozen Ingush and Chechens disappeared in Ingushetiya. As with similar operations in Chechnya, reports of beatings, arbitrary detentions, and looting usually followed security sweeps. Five men remain missing following a 2003 incident in which, according to HRW, pro-Moscow Chechen police burst into a clinic in Ingushetiya and abducted the men, one of whom was injured. One of the policemen struck a doctor with a rifle.

Pro-Moscow Chechen forces commanded by Ramzan Kadyrov and federal troops continued to arrest relatives of Chechen separatist leaders and fighters in an effort to force them to surrender, according to human rights groups. They noted that this practice may be linked to an October 2004 speech by Prosecutor General Ustinov suggesting that authorities detain relatives of alleged members of armed opposition groups in response to their hostage-taking (see section 1.d.).

On March 28, according to Memorial, Zaudi Sadulayev, aged 65, and his son were detained by forces under the command of Kadyrov in the village of Mairtup. Another of Sadulayev's sons was allegedly a member of the Chechen resistance. Similar cases cited by Memorial included the detention of a 13-year-old boy in the village of Noviye Atagi by Kadyrov's forces and the abduction of four members of the Sirazhdiyev family on May 26 by unknown security forces in revenge for the killing of a member of the Vostok battalion.

Press and human rights groups reported that in September 2004, during the hostage taking in Beslan, federal forces took into custody relatives of Aslan Maskhadov, Shamil Basayev, and Doku Umarov, whom authorities accused of organizing the terrorist attack. Federal forces stated this was for the relatives' protection, but human rights groups alleged that the relatives would be used in a potential trade for hostages at the school. The relatives were subsequently released, but in December 2004, according to Memorial, eight relatives of Chechen leader Aslan Maskhadov were abducted. Maskhadov's relatives were released in May 2005, after federal forces killed him in March (see section 1.d.).

Government forces and Chechen rebel fighters have used landmines extensively in Chechnya and Dagestan since 1999; but there were fewer civilian landmine victims in Chechnya during the year. Federal forces and their opponents continued to use antipersonnel mines in Chechnya, although the publication, *Landmine Monitor*, reported that Chechen fighters increasingly used improvised explosive devices. Reports suggested that the number of landmine casualties was declining over time. According to 2005 statistics, UNICEF recorded 24 new civilian mine/UXO (unexploded ordinance) casualties, including 14 killed and 10 injured; 7 were children (5 killed and 2 injured). According to UNICEF, as of December 31, there were 3,037 landmine and UXO casualties in Chechnya since 1995. Of these, 2,338 were wounded and 699 killed. Among the casualties were 739 children, 607 of whom were wounded and 132 were killed. Unlike previous years, there were no reports that Chechen rebels used children to plant mines and explosives.

Chechen officials acknowledged the presence of mass graves and dumping grounds for victims, but there were no reports that new mass graves were discovered during the year. Nurdi Nukhazhiyev, head of the Chechen administration's Committee for Protecting the Constitutional Rights of Citizens, reported as many as 52 mass graves in the republic, although this report resulted in no investigations. In April 2004 local residents near the village of Serzhen Yurt found the bodies of nine men in a ravine. According to AI, the bodies bore gunshot wounds and marks of torture. Federal forces had detained eight of the men in March 2004 in the village of Duba Yurt. The ninth man had disappeared from his home in Groznyy, according to AI. There were no reports by year's end that the government had initiated any criminal cases related to the mass grave discoveries. Memorial reported that it was unaware of any charges brought against federal security officers in response to the discovery of any mass graves.

Armed forces and police units were reported to have routinely abused and tortured persons in holding facilities where federal authorities sorted out fighters or

those suspected of aiding the rebels from civilians. For example, Timur Khambulatov, arrested in March 2004 for allegedly belonging to an illegal armed group, died in police custody in March 2004 reportedly due to mistreatment.

Federal forces and police units reportedly ransomed Chechen detainees (and, at times, their corpses) to their families for prices ranging from several hundred to thousands of dollars.

Citing antiterrorism laws, federal authorities refused to return the body of Chechen separatist leader Aslan Maskhadov after security forces killed him on March 8. In October the authorities also refused to return bodies of fighters who attacked the city of Nalchik.

Since the start of the Chechen conflict, there have been widespread reports that federal troops killed or tortured suspected rebel fighters they had detained and that rebel fighters killed or abused captured federal troops and pro-Moscow Chechen security forces. A policy of "no surrender" appeared to prevail in many units on both sides.

According to human rights NGOs, federal troops on numerous occasions looted valuables and foodstuffs in regions they controlled. Many IDPs reported that guards at checkpoints forced them to provide payments or harassed and pressured them. The indiscriminate use of force by federal troops caused destruction of housing and commercial and administrative structures.

A climate of lawlessness and corruption flourished in Chechnya. The government investigated and tried some members of the military for crimes against civilians in Chechnya; however, there were few convictions and reports concerning the number of convictions differed. President Putin stated in a May interview that hundreds of criminal cases had been opened into alleged crimes by Russian servicemen and that over 50 persons had been convicted and given various prison terms, but he provided no further details.

Authorities reportedly arrested four Russian servicemen for the November 16 killing of 3 Chechen civilians in the village of Staraya Sunzha. According to press reports, the victims were shot and stabbed by drunken soldiers, who were stopping vehicles and demanding money at a checkpoint.

A human rights NGO reported that during the year a Groznyy garrison military court convicted serviceman Sergey Belyayev in a retrial on charges related to the death of 16-year-old Dzhandar Arsanov in April 2000. He was sentenced to five years in prison.

According to statistics compiled by the general prosecutor's office, through midyear, verdicts had been rendered in 103 cases involving federal servicemen charged with crimes against civilians since 1999. Of these, 27 were given prison sentences of from 1 to 18 years, 8 were acquitted, and 20 were amnestied. Sentences in the remainder were suspended or the guilty were fined, according to Memorial. Government statistics also showed that 34 law enforcement officers were charged with crimes against civilians, with 7 sentenced to prison and the rest convicted and given suspended sentences.

The general prosecutor's office released statistics to the press in early December 2004 indicating that since 2001, 1,749 criminal cases were initiated in Chechnya to investigate approximately 2,300 cases involving disappeared persons. Of these, only 50 cases reached the courts. Memorial concluded that the majority of cases opened for alleged crimes by federal servicemen against civilians resulted in no charges because of the absence of the bodies or an inability to identify a suspect.

According to Minister of Justice Yuriy Chayka, from the start of the conflict through November 2003, 54 servicemen, including 8 officers, had been found guilty of crimes against civilians in Chechnya. A third trial was ordered for Captain Eduard Ullman and three others for the 2002 murder charges of six Chechen civilians after a military appellate court overturned their acquittals for the second time (see section 1.a.).

In May a retrial began of interior ministry officers charged with murdering three civilians in Chechnya in 2003. The retrial of Yevgeniy Khudyakov and Sergey Arakcheyev began after the Supreme Court overturned the north Caucasus military district court's June 2004 acquittal of the two officers. A news service reported that the court found the jury for the trial was convened improperly. Khudyakov and Arakcheyev allegedly shot the three civilians in January 2003 after forcing them out of a truck near Groznyy. The suspects then allegedly doused the victims' bodies with gasoline and ignited them in attempt to cover up the crime. A jury acquitted them again in October.

In April 2004 then-Chechen president Akhmed Kadyrov asked that the State Duma extend an amnesty that had expired in September 2003. In June 2004 following his assassination, his son Ramzan stated that the amnesty program should be ended and gave fighters three days to turn in their weapons. Ramzan Kadyrov

subsequently made claims that rebels who surrendered had been amnestied, although there is no longer any official amnesty program.

On February 25, the ECHR found in favor of six Chechen applicants to the court. The ECHR found Russia in violation of several articles of the European Convention on Human Rights and Fundamental Freedoms. Two of the cases concerned the killing and mutilation of the applicants' relatives in Groznyy in 2000. Three others were brought in response to the bombing of a convoy of civilians in 1999 by Russian military aircraft. The sixth case involved the artillery and aerial bombardment of the village of Katyr Yurt in 2000 that resulted in the death of one applicant's son and three other relatives (see section 4).

Government forces continued to abuse individuals seeking accountability for abuses in Chechnya and continued to harass applicants to the ECHR. AI and other human rights groups have reported reprisals against applicants to the court, including killings, disappearances, and intimidation. According to press reports and human rights NGOs, at least five applicants to ECHR have been killed or abducted. In April armed men took two ECHR applicants from their homes. The body of one of them was found in May, and the other person was still missing. Other applicants reported that they were offered pay-offs or were threatened in an effort to have them drop their cases.

The authorities continued to target the Russian-Chechen Friendship Society (RCFS). The RCFS has urged negotiations with Chechen separatists to settle the conflict and has reported on human rights abuses by security forces. RCFS offices in Nizhniy Novgorod were raided in January and separate criminal and tax cases were opened against RCFS' executive director and the organization (see section 4). In January 2004 human rights activist Aslan Davletukayev, an RCFS volunteer, was kidnapped, tortured, and killed in Chechnya under circumstances that suggested the involvement of government forces. He was the third volunteer with the RCFS to have been killed since December 2001. According to AI and other human rights groups, he had been in the custody of federal forces. A criminal investigation into the incident was inconclusive and no charges were brought. The RCFS reported that it received anonymous threats following the September 2004 seizure of the school in Beslan.

In 2003 Memorial reported that federal forces abducted Fatima Gazayeva of the human rights organization Echoes of War, a regional organization that reported on human rights abuses, and her husband Ilyas Atayev. They were released two days later but indicated they had no idea where they had been kept and by whom. They indicated that their captors had not treated them abusively.

Government oversight over human rights conditions in the Northern Caucasus remained weak. In January 2004 President Putin abolished the post of presidential Human Rights Representative to Chechnya on the grounds that no other region had an analogous representative and Chechnya no longer warranted special treatment. Putin handed full responsibility for the issue to then-Chechen president Akhmed Kadyrov. In June 2004 Chechen President Alu Alkhanov appointed Lema Khasuyev as the republic's human rights ombudsman. On June 15, 2005 Khasuyev said he would not cooperate with the human rights NGO Memorial, claiming that it was biased and was working in the interests of foreign donors.

The Independent Commission on Human Rights in the Northern Caucasus headed by the Chairman of the State Duma Committee on Legislation maintained a number of offices in Chechnya and Ingushetiya. It heard hundreds of complaints, ranging from destruction or theft of property to rape and murder; however, it was not empowered to investigate or prosecute alleged offenses and had to refer complaints to military or civil prosecutors. Almost all complainants alleged violations of military discipline and other crimes by federal and Chechen government forces.

Chechen rebel fighters also committed numerous serious human rights abuses. They committed terrorist acts against civilians in Chechnya and elsewhere in the country, killed civilians who would not assist them, used civilians as human shields, forced civilians to build fortifications, and prevented refugees from fleeing Chechnya. In several cases Chechen fighters killed elderly ethnic Russian civilians for no apparent reason other than their ethnicity. Verifying or investigating these incidents was difficult. Chechen Minister of Internal Affairs Ruslan Alkhanov identified 120 attacks that he characterized as terrorist in Chechnya in 2004, but it was unclear what methodology he used to cite that figure. Alkhanov said this figure was lower than in 2003.

Chechen rebels committed a number of terrorist acts involving bombings during the year. On July 19, a bomb planted by fighters killed 15 people including a number of civilians, and injured nearly 30 others in the Chechen village of Znamenskoye. Police were lured to the scene of the explosion after rebels placed a corpse in a stolen police car and made it appear as though a shooting was taking

place. On August 15, a woman and a 12-year-old boy were killed in central Groznyy when a car bomb exploded near the government compound. Eleven others were wounded.

Chechen terrorist Shamil Basayev continued to take responsibility for rebel attacks outside Chechnya and to threaten new ones. In an interview in which he acknowledged he was a terrorist, Basayev said that attacks similar to that on the Beslan school were possible.

According to authorities, 12 civilians were killed during a large-scale rebel attack on Nalchik, capital of the Republic of Karbardino-Balkariya. The attackers, who numbered as many as 300, targeted military garrisons and police stations throughout the town. The death toll among military and law-enforcement personnel was reported to be 34. Chechen rebel leader Shamil Basayev claimed responsibility. Most observers appeared to believe that a majority of the attackers were natives of Karbardino-Balkariya.

There were also rebel attacks in other parts of the Northern Caucasus. Chechen rebels continued to launch attacks on government forces and police in Ingushetiya during the year.

These attacks follow a number of terrorist acts in 2004. In February 2004 Basayev claimed responsibility for an attack in which a suicide bomber blew up a car on the Moscow metro, killing 40 persons. In March 2004 terrorist Abu al-Walid stated that further attacks should be expected. In August 2004 suicide bombers from Chechnya were believed to have carried out the near-simultaneous downing of two civilian aircraft, killing 89 persons, and a suicide bombing later that month at a metro station in Moscow that killed ten persons. In September 2004 terrorists took an estimated 1,200 teachers, children and parents hostage in a school in Beslan, North Ossetia. During the hostage-taking and the rescue effort by troops and security forces, at least 330 hostages died. Security forces subsequently killed most of the hostage takers in a firefight that lasted several hours.

In other incidents, rebels took up positions in populated areas and fired on federal forces, thereby exposing civilians to federal counterattacks. When villagers protested, the rebels sometimes beat them or fired upon them. Chechen fighters also targeted civilian officials working for the pro-Moscow Chechen Administration. On November 29, about 100 Chechen rebels raided the village of Avtury, killing the head of the village administration Ibragim Umpashayev and his son Isa. In May 2004 Chechen president Akhmed Kadyrov was assassinated while attending a Victory Day celebration in Groznyy. Chechen fighters also reportedly abused, tortured, and killed federal soldiers whom they captured. Rebels continued a concerted campaign, begun in 2001, to kill civilian officials of the government-supported Chechen Administration. According to Chechen sources, rebel factions also used violence to eliminate economic rivals in illegal activities or to settle personal accounts.

Rebel field commanders reportedly resorted to drug smuggling and kidnapping to fund their units. As a result, distinguishing between rebel units and criminal gangs was often difficult if not impossible. Some rebels allegedly received financial and other forms of assistance from foreign supporters of international terrorism. Government officials continued to maintain that there were two to three hundred foreign fighters in Chechnya.

International organizations estimated that the number of IDPs and refugees who left Chechnya as a result of the conflict reached a high of approximately 280 thousand in the spring of 2000 (see section 2.d.). At various times during the conflict, authorities restricted the movement of persons fleeing Chechnya and exerted pressure on them to return there (see section 2.d.).

At year's end, the Office of the UN High Commissioner for Refugees (UNHCR) estimated that 26,155 IDPs remained in Ingushetiya in private accommodations and in temporary settlements. Two hundred thousand displaced persons were estimated to live within Chechnya, including thousands living in temporary accommodation centers. Conditions in those centers reportedly failed to meet international standards.

Beginning in September 2004, authorities refused to grant the ICRC access, under ICRC's standard criteria, to those detained as part of the conflict in Chechnya, and the ICRC subsequently suspended its detention visits.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, government pressure on the media persisted, resulting in numerous infringements of these rights. Faced with continuing financial difficulties, as well as pressure from the government and large private companies with links to the government, many media organizations saw their autonomy further weaken. The government used its controlling ownership interest in all national television and

radio stations, as well as the majority of influential regional ones, to restrict access to information about issues deemed sensitive. It severely restricted coverage by all media of events in Chechnya. There were indications that government pressure frequently led reporters to engage in self-censorship. Nonetheless, on most subjects, the public continued to have access to a broad spectrum of viewpoints in the print media and, for those with access, on the Internet.

While the government generally respected citizens' rights to freedom of expression, it sometimes restricted this right with regard to issues such as the conduct of federal forces in Chechnya, discussions of religion, or controversial reforms in the social sector. Some regional and local authorities took advantage of the judicial system's procedural weaknesses to arrest persons for expressing views critical of the government (see section 1.d.). With some exceptions, judges appeared unwilling to challenge powerful federal and local officials who sought to prosecute journalists. These proceedings often resulted in stiff fines.

On March 28, Yuriy Samodurov and Lyudmila Vasilovskaya, employees of the Sakharov Center, were found guilty of inciting religious hatred and fined $3,500 (100 thousand rubles) each. The prosecution stemmed from an exhibit on religious subjects which they organized. The defendants were convicted, after a lengthy litigation process, of inciting national, racial, and religious hostility by organizing an exhibit at the Sakharov Center in Moscow in January 2003, which some viewed as being provocative on religious issues.

Although all but two national newspapers remained privately owned, as did more than 40 percent of the 45 thousand registered local newspapers and periodicals, the government attempted to influence the reporting of independent publications. In June Gazprom, a company in which the government owns a controlling stake, bought the daily newspaper *Izvestiya*. In the months before the sale the newspaper's critical coverage of governmental performance, and particularly its coverage of the Beslan school massacre, had reportedly aroused the ire of the Kremlin and given rise to significant editorial changes, including an increase of non-political content at the expense of political analysis, and resignations of senior editors critical of the Kremlin. Media freedom advocates viewed the paper's acquisition by Gazprom, which in 2003 had acquired the last major independent television channel, as further evidence of continuing Kremlin efforts to expand control of media beyond national television before the 2007–08 parliamentary and presidential elections. In late 2005, after a personnel change at *Izvestiya*, the newspaper's editorial staff was reportedly told on several occasions to be careful not to provoke Kremlin authorities. *Izvestiya*'s coverage of the late-2005 elections in Chechnya was allegedly less critical than might have been expected under the previous ownership.

Approximately two-thirds of the 2,500 television stations in the country were completely or partially owned by the federal and local governments, and the government indirectly influenced private broadcasting companies through partial ownership of such commercial structures as Gazprom and Eurofinance Bank, which in turn owned controlling or large stakes of media companies. Such influence was not uniform, however. Employees continued to exercise program control at the radio station Ekho Moskviy, although it is owned in part by Gazprom. The station maintained an independent editorial position, offering political figures across the entire political spectrum the opportunity to air their views and covering issues skirted by other electronic media. A similar stance was maintained by a number of sister stations that Ekho has established in other major cities.

Of the three national television stations, the government had a direct interest in two, the Rossiya Channel, which it owned outright, and the First Channel, in which it held a majority interest (the third national television network is NTV). The only remaining television network that had exhibited independence of the Kremlin, REN–TV, was sold during the year. REN–TV ended up under the shared control of Severstal Group and Surgutneftegas Company, each with 35 percent of the shares and both under the control of Kremlin allies. The German media company RTL owned the remaining 30 percent of REN–TV. Following the sale REN–TV observers alleged that the network's editorial line became more pro-Kremlin. The network's November 24 decision to cancel the news show "*24*," which was anchored by one of Russia's most outspoken journalists, Olga Romanova, was seen as evidence of this trend. A wave of resignations of REN–TV news staff ensued, amid allegations the network had started to practice self-censorship aimed at keeping the government happy.

In February the Ministry of Defense launched a new military-patriotic channel Zvezda featuring programs and movies focusing on the armed forces. In December the English-language channel Russia Today launched by the government officially began broadcasting; when the plans for the channel were originally announced the goal of the channel was "improving Russia's image" with Western audiences.

Gazprom had a controlling ownership stake in NTV, the third national television station, which maintained a more independent editorial line. The government also maintained ownership of the largest radio stations, Radio Mayak and Radio Rossiya, and the news agencies ITAR–TASS and RIA-Novosti.

The government exerted its influence most directly on state-owned media. Journalists and news anchors of Rossiya and First Channel reported receiving "guidelines" from the management prepared by the Presidential Administration, indicating which politicians they should support and which they should criticize. The two networks promoted a positive image of President Putin and suppressed reporting on the war in Chechnya, the government's legal prosecution of Yukos, the electoral crisis in Ukraine, the nationwide public protests against unpopular welfare reform, and the elimination of gubernatorial elections. Apparently as a result of government influence, criticism of presidential policies was also muted on NTV. The federal government and some regional governments also sought through various means to dampen criticism in many privately owned print publications, although with little apparent effect.

During the year the government continued to circumscribe the editorial independence and political influence of NTV. On March 10, NTV management prohibited the airing of an investigative program about the 2000 killing of Ukrainian journalist Georgiy Gongadze. Media reports cited NTV sources as saying the program contained interviews with Ukrainian politicians and former senior government officials who made allegations of possible Russian government involvement in the killing. According to media freedom advocates, the program was pulled by order of Presidential Administration officials, who also demanded that NTV abstain from further reporting on Gongadze's case.

Government-controlled media exhibited considerable bias in favor of President Putin in its coverage of the March 2004 presidential campaign. President Putin did not actively campaign, but, as the OSCE election observation mission noted, he received coverage on the state-controlled television channels far beyond what was reasonably proportionate to his role as head of state. For example, the OSCE election observation mission reported that First Channel provided him with more than 4 hours of all-positive political and election coverage; the next most covered candidate received approximately 21 minutes of prime time coverage (see section 3).

The Ministry of Internal Affairs controlled media access to the area of the Chechen conflict.

In February the Ministry of Culture and Mass Communications issued a warning to the daily newspaper *Kommersant* for publishing on February 7 an interview with Chechen rebel leader Aslan Maskhadov. The ministry claimed the interview "justified extremist activities." Under legislation governing the media, multiple warnings might allow the ministry to suspend the newspaper's publication. On April 19, the Moscow arbitration court rejected the newspaper's appeal of the warning.

On June 1, police and FSB agents in Nazran, Ingushetia, detained Mariusz Pilis, Marcin Mamon, and Tomasz Glowacki, journalists of the Polish state television station TVP. The journalists, who were working on a documentary about Chechnya, had valid Russian visas and the necessary accreditation. After 14 hours in detention, the journalists' tapes were confiscated, and they were told their visas and accreditation cards were no longer valid and that they had to leave Ingushetia within 24 hours.

On July 28, a well-known foreign television company aired an interview with Chechen terrorist Shamil Basayev, despite requests from the Russian Government that the network cancel the broadcast. The Ministry of Foreign Affairs (MFA) said in a statement that the interview, recorded by journalist Andrey Babitskiy at the end of June, "allowed terrorists to use the media to intimidate the international community." The ministry declared any further contacts between the network and governmental agencies undesirable, and said its staff's accreditation would not be renewed. Foreign journalists are required to obtain accreditation from the ministry to work in the country. Minister of Defense Sergey Ivanov ordered all military personnel to avoid contact with the network.

Mistreatment of journalists by the authorities was not limited to Caucasus-related coverage. The Glasnost Defense Fund (GDF) and other media freedom monitoring organizations reported numerous abuses of journalists by police and other security personnel elsewhere, including physical assault and damaging of equipment. In most instances, however, the mistreatment appeared to have been at the initiative of local or provincial officials.

For example, on March 30 police in Voronezh beat Vladimir Lavrov, photographer of the newspaper *Moyo*, who attempted to take pictures of police searching a group of young soccer fans near a stadium. Although Lavrov showed the police his press credentials, they knocked him down, beat him, and seized his digital camera's mem-

ory card. On May 31, police in Moscow's Red Square beat Aydar Buribayev, a correspondent for the daily *Gazeta*, and Shagen Ogandzhanyan, a correspondent for the daily *Novaya Gazeta*, who were covering a rally by a radical youth group. Buribayev, Ogandzhanyan, and *Novaya Gazeta* correspondent Irina Gordiyenko were subsequently taken to a police station, interrogated, and released after several hours. According to Oganidzhan, an officer of the Federal Guard Service whom he met at the police station threatened to withdraw *Novaya Gazeta*'s Kremlin accreditation.

According to the GDF, 60 journalists were physically attacked during the first 11 months of the year and 6 were killed. At least three of the deaths may have been related to their work in journalism. In most cases authorities and observers were unable to establish a direct link between the assault and those who reportedly had taken offense at the reporting in question.

Independent media NGOs still characterized beatings of journalists by unknown assailants as "routine," noting that those who pursued investigative stories on corruption and organized crime found themselves at greatest risk.

In May Pavel Makeyev, a reporter from the local Rostov-on-Don TV company TNT-Plus, was found dead with multiple bruises and fractures on his body. His body was discovered in a ditch, and his equipment and cell phone were missing. He died shortly after beginning work on a story about illegal drag races. Some of his colleagues stated that Makeyev's death was linked to his work.

On June 28, unknown assailants in Makhachkala shot Magomedzagid Varisov, director of Center for Strategic Initiatives and Political Technologies and a columnist of the local weekly *Novoye Delo*. Varisov's colleagues said he received numerous threats in connection with his commentary on local politics. No progress in the investigation of Varisov's killing has been reported.

In October Tamirlan Kazikhanov, the Head of the Press Service of the Counter Terrorist Center of the Ministry of Interior in the Southern Federal District was killed by rebels during an assault on the center's office in Nalchik. A sniper fatally shot Kazikhanov after he took a camera and started to film the attack on the building. Kazikhanov had worked on several documentaries about counter-terrorist operations in the Northern Caucasus.

Other investigative journalists attacked during the year in circumstances suggesting that their professional work may have provided the motive for their attackers included Dmitriy Suryaninovii, General Director of Media-Samara company; Viktor Naikhin, *Komsomolskaya Pravda* correspondent in Voronezh; Yelena Rogacheva, correspondent of Radio Free Europe/Radio Liberty in Mari-El Republic; Sergey Lyubimov, correspondent of the newspaper *Bogatey* in Saratov; Aleksandr Boyko, *Komsomolskaya Pravda* correspondent in Moscow; Maksim Leonov, correspondent of the daily *Delo* in St. Petersburg; Andrey Zakharov, investigative reporter of *Pravda Severa* in Arkhangelsk; and Olga Kiriy, First Channel correspondent in Pyatigorsk.

High-profile cases of journalists killed or kidnapped in earlier years remained unsolved. The government announced that it had detained two of five Chechens suspected in the 2004 killing of Paul Klebnikov, the editor-in-chief of the magazine *Forbes Russia.* The others are fugitives. One of the suspects, former separatist Chechen figure Khoz-Akhmed Nukhayev was charged with ordering the killing. The trial of the two suspects in custody began on December 29. In accordance with the criminal code, a representative of the Klebnikov family was given access to the file on the case and President Putin met with the family in September to discuss the case.

No progress was reported in the investigations of the 2004 killing of Shangysh Mongush, a newspaper journalist in the Tuva Republic, or the 2003 killing of Aleksey Sidorov, editor-in-chief of daily newspaper *Tolyattinskoye Obozreniye* in Togliatti, Saratov. Other unresolved cases of missing or killed journalists from 2003 include: Dmitriy Shvets, deputy head of TV–21 in Murmansk; Alikhan Guliyev, a freelance journalist covering Chechnya for Television Center and the daily newspaper *Kommersant*; and Ali Astamirov, an Agence France-Presse correspondent kidnapped in Ingushetiya.

On March 11, the Military Collegium of the Supreme Court rejected the general prosecutor's appeal of the June 2004 Moscow circuit military court's acquittal of all the defendants accused of organizing the 1994 killing of Dmitriy Kholodov, military affairs correspondent for the daily newspaper *Moskovskiy Komsomolets* (see section 1.a.).

Authorities at all levels employed administrative measures to deter critical coverage by media and individual journalists. One method was to deny the media access to events and information, including filming opportunities and statistics theoretically available to the public. For example, under the new media accreditation regulations adopted by the government of Karachayevo-Cherkesiya Republic in

March, only media outlets providing "objective" reporting on the local government are allowed access to government media events. On June 8, traffic police in Kabardino-Balkariya stopped a vehicle taking a Ren-TV film crew to the town of Tyrnauz to report on a public rally. When the journalists pressed the police for an explanation, they were told that an order had been received not to allow the press into town. Fatima Tlisova, a correspondent of the Regnum information agency, who was also going to report on the rally, was stopped by two police officers, who got into her car and forcibly drove her back to the nearby town of Nalchik. On June 17, authorities in Yoshkar Ola, Mari-El Republic, denied Radio Liberty correspondent Yelena Rogacheva access to a press conference with Estonian, Finnish, and Hungarian ambassadors at the conclusion of their visit to the republic. According to Rogacheva, local authorities in Mari-El rarely allowed non-state media representatives to attend official press events. In August the Moscow city court introduced special accreditation for journalists to attend open court sessions. The accreditation rules allow authorities to deny journalists access to the court for "criticism devoid of evidence of judges and other court employees," and require journalists to give one-day advance notice of their visits.

At times officials or unidentified individuals used force or took extreme measures to prevent the circulation of publications that were not favored by the government. For example, on February 23 the administration of Krasnodar Kray purchased and destroyed the entire local issue of *Versiya* newspaper, which carried an article critical of Governor Aleksandr Tkachev. On March 17, police in Gus Khrustalniy, Vladimir Oblast, seized the entire issue of *Vladimirskiy Kray* daily. The newspaper's editor-in-chief, Irina Tabatskova, linked the seizure to the newspaper's criticism of local officials affiliated with the pro-Kremlin United Russia party. On May 26, unidentified individuals in Sokol, Vologda Oblast, forcibly seized from a distributor all the copies of the local newspaper *Nash Regyon*. The newspaper's employees said the issue contained articles critical of the mayor of Sokol and favorable to his rival in an upcoming election.

Legal actions against journalists and journalistic organizations were another tool employed by authorities at the federal and local levels, primarily in response to unfavorable coverage of government policy or operations. The GDF estimated that more than 100 such cases were brought during the first 6 months of the year. However, the utility of this tool was partially diminished as a result of a decision by the Supreme Court in December 2004 prohibiting courts from imposing sentences in libel and defamation cases that would bankrupt the media organization being sued. However, one NGO reported that the decision was not always implemented properly on the local level. The court's order stated that compensations "should be commensurate with the damage and not infringe upon press freedom."

In February Eduard Abrosimov, Public Relations Adviser to the governor of the Saratov Oblast and a columnist with a number of local newspapers, was arrested on libel charges for having publishing in December 2004 in *Sobesednik* newspaper a negative article about State Duma Deputy Chairman Vyacheslav Volodin. Investigators confiscated Abrosimov's computer and claimed to have found articles besmirching Volodin and a number of senior Saratov officials. The articles included a draft of a 2004 story accusing an official with the Saratov prosecutor's office of corruption. Although that accusation was edited out prior to the publication of the article, investigators used the unedited draft to bring libel charges against Abrosimov. According to an NGO that monitors press freedom, on June 23 Abrosimov was sentenced to seven months' imprisonment, and was later released in October for time served.

On June 1, the Moscow arbitration court reversed a 2004 decision and ordered Alpha-Bank to repay the newspaper *Kommersant Daily* $9.5 million (270 million rubles) of the original fine of $10.9 million (310.5 million rubles) fine it had been awarded as compensation for losses and damage to its reputation brought about by a July 2004 story about the bank's financial problems.

On June 6, a Smolensk district court sentenced Nikolay Goshko, deputy editor-in-chief of the local weekly *Odintsovskaya Nedelya*, to five years of hard labor as a result of a libel suit filed in 2000 by the governor and vice governor of Smolensk region. Goshko's articles and a radio program aired in 2000 accused the officials of masterminding the murder of Sergey Novikov, a Smolensk radio journalist who investigated corruption by local officials. Novikov's killers have never been found. Following Goshko's appeal of the sentence, the charge was reduced to criminal insult and in August he was released.

Authorities at various levels took advantage of the financial dependence of most major media organizations on the government or on major financial-industrial groups to undermine editorial independence and journalistic integrity in both the print and broadcast media. Government structures, banking interests, and the

state-controlled energy giant Gazprom continued to dominate the Moscow media market and extend their influence into the regions. Most news organizations experienced continued financial difficulties during the year, which reinforced their dependence on private sponsors and, in many cases, on the federal and regional governments. As a result, the autonomy of the media and its ability to act as a watchdog remained weak.

The authorities also made use of the media's widespread dependence on governments for transmission facilities, access to property, and printing and distribution services to discourage critical reporting, according to the GDF and media NGOs. The GDF reported that approximately 90 percent of print media organizations relied on state-controlled organizations for paper, printing, or distribution, and many television stations were forced to rely on the government (in particular, regional committees for the management of state property) for access to the airwaves and office space. The GDF also reported that officials continued to manipulate various other "instruments of leverage," including the price of printing at state-controlled publishing houses, to apply pressure on private media rivals. The GDF noted that this practice was more common outside the Moscow area than in the capital. For example, on January 13, city authorities in Petropavlovsk-Kamchatskiy abruptly cancelled a lease contract with Troyka media company, which includes three newspapers, a television station and a radio station, and demanded that the media outlets leave their city-owned premises in five days. Troyka's management said the company was being persecuted for its frequent criticism of local authorities. In June a printing plant in Prokhladniy, Kabardino-Balkariya Republic, refused to print the local newspaper *Islam and Society*, citing instructions from the republic's prosecutor general. According to GDF, law enforcement authorities accused the newspaper of supporting religious extremism. The journalists argued that the newspaper came under pressure when it began to reprint articles from the national press about the political and economic situation in the republic.

According to the GDF and other media NGOs, there were numerous instances of the use of taxation mechanisms to pressure media across the country.

The government generally did not restrict access to the Internet; however, it continued to require Internet service providers to provide dedicated lines to the security establishment so that police could track private e-mail communications and monitor Internet activity (see section 1.f.).

The government did not restrict academic freedom; however, human rights and academic organizations questioned whether the convictions of Sutyagin, Danilov, and others inhibited academic freedom and contact with foreigners on subjects that the authorities might deem sensitive (see section 1.e.).

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly and the government generally respected this right in practice; however, at times authorities restricted this right.

Organizations are required to obtain permits in order to hold public meetings. They must apply for these permits between 5 and 10 days before the scheduled event. Such permits were generally granted to both supporters and opponents of the government. For example early in the year groups that were opposed to a large-scale government program of welfare reforms demonstrated nationwide against the measures. Opponents of the reform also held some rallies without permits, and the authorities reportedly did not interfere. While the police often granted demonstration permits to both opponents and supporters of the government, local elected and administrative officials at times denied some groups permission to assemble. Religious gatherings and assemblies do not require permits, but in several instances the authorities denied religious groups access to venues where they could hold assemblies (see section 2.c.).

On May 30, Moscow police, after breaking up a demonstration in front of city hall, detained 10 congregants and supporters of the Emmanuel Pentecostal Church. Members and supporters of the church continued to demonstrate, alleging discrimination by authorities who had refused the church permission to construct a church and renovate buildings in Moscow and another district. In June several of these demonstrators were arrested during a demonstration. City authorities contended that the demonstrations were illegal and that they had advised the demonstrators to hold their protests at an alternative site. Protesters said that the demonstration was legal and that they had never received such instructions from city authorities. Several protesters were charged with holding an illegal demonstration and sentenced to five-day jail terms.

In September Moscow officials denied the request of the youth organization "We" to hold a protest. The youth organization's leader alleged that the request was denied because the organization had called for President Putin's resignation.

Some controversial political gatherings resulted in violence. On August 12, a group of young men reportedly attacked protesters rallying in support of Mikhail Khodorkovskiy. Also in August, individuals allegedly armed with clubs attacked a gathering of left-wing youth organizations in Moscow. Police reportedly confirmed that at least three persons were injured in the attack.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right; however, the government increasingly harassed several organizations of whose policies it disapproved. Public organizations must register their bylaws and the names of their leaders with the MOJ. There was no clear evidence that these registration requirements were being used to discourage or prevent the formation of associations; however, they afford an opening for abuse on the part of the authorities. The law requires that political parties have 50 thousand members nationwide, at least 500 representatives in each of half of the country's regions, and no fewer than 250 members in each of the remaining regions in order to be registered (see section 3). In addition the finances of registered organizations are subject to investigation by the tax authorities and foreign grants must be registered. The authorities subjected some NGOs to lengthy investigations of their finances or delayed the registration of their foreign financed programs. Some NGOs said that these actions were intended to restrict their activities (see section 4).

A number of senior officials made critical statements during the year that contributed to, and reflected, increased suspicion of NGO activity. For example, at a July 20 meeting of the Presidential Council on Promoting the Development of Institutions of Civil Society and Human Rights, President Putin stated that he objected to foreign financing of "political activity" in Russia. On May 12, FSB Director Nikolay Patrushev said that foreign NGOs were often used for espionage. In his May 2004 State of the Nation address, President Putin charged that some foreign-funded NGOs existed "to serve dubious groups."

On November 23, the State Duma passed an initial version of controversial NGO legislation. Elements of the legislation raised concerns that it would hinder the work of NGOs and the continued development of civil society in Russia. The final version of the legislation that was passed by the State Duma on December 23 and the Federation Council on December 27 contained a number of changes from the original version of the legislation. However, many international and domestic NGOs did not believe that the amended legislation fully addressed the concerns that were raised by them and foreign governments. At year's end President Putin had not signed the legislation.

Authorities in a number of regions continued operations against Hizb ut-Tahrir, which had been banned by the Supreme Court in 2003 as a terrorist organization, despite the organization's denials that it supported terrorism. For example, in Bashkortostan Republic, Tyumen and Chelyabinsk Oblasts, there were arrests and trials of alleged Hizb ut-Tahrir members. In August eight Hizb ut-Tahrir defendants were sentenced in Ufa, Bashkortostan to prison terms ranging from 3½ to 8½ years on charges of terrorism, forming a criminal group, involving others in terrorist crimes, illegal possession of arms, and sabotage. A ninth defendant was given a suspended sentence. The court hearings started in April.

On August 16, the Supreme Court overturned a June decision by a lower court forcing the closure of the radical National Bolshevik Party. On October 5, the Presidium of the Supreme Court canceled the August 16 decision of the Supreme Court and sent the case back for new hearings. On November 15, the Supreme Court ruled in favor previous Moscow Regional Court's decision to ban the party.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, the authorities imposed restrictions on some groups. Although the law provides for the equality of all religions before the law and for the separation of church and state, the government did not always respect these provisions in practice.

On April 14, masked paramilitary troops stormed the Work of Faith Church in Izhevsk, Udmurtiya Republic, during a worship service. They reportedly took the worshippers outside, searched them without a warrant, and threatened some of the women with rape. Forty-six persons were detained for as long as 24 hours. Udmurtian officials claimed that there had been no time to get a warrant and that some police officials had been reprimanded for procedural irregularities. According to Udmurtian authorities, the raid was part of a murder investigation involving two former parishioners of the Work of Faith Church.

A 1997 law on "Freedom of Conscience" requires all religious organizations registered under the previous 1990 law to reregister by December 31, 2000. The law provides that a religious group that has existed for 15 years and has at least ten citizen members may register as a "local organization." It acquires the status of a juridical person and receives certain legal advantages. A group with three functioning local organizations in different regions may found a "centralized organization," which has the right to establish affiliated local organizations without meeting the 15-year-rule requirement. In practice the law places a hardship on groups that were previously unregistered and less well established, including groups new to the country. The process, which involves simultaneous registration at the federal and local levels, requires considerable time, effort, and legal expense.

A January amendment to the law requires all registered local religious organizations to inform the Federal Registration Service Department (FRSD) within three days of any change in leadership or legal address, which brought the treatment of religious organizations into conformity with that of other nongovernmental organizations. If a local organization fails to meet this requirement on two occasions, the FRSD may file suit to have it dissolved and stricken from the registry. The law accords no explicit privileges or advantages to the Russian Orthodox Church (ROC) or the other groups formally designated as traditional religions—Judaism, Islam and Buddhism. However, many politicians and public figures argued for closer cooperation with those religions, above all with the ROC's Moscow Patriarchate. Many government officials and citizens appeared to equate Russian Orthodoxy with the Russian national identity. The ROC has a number of formal and informal agreements with government ministries on matters such as guidelines for public education, religious training for military personnel, and law enforcement and customs decisions. These agreements have given the ROC far greater access than other religious groups to public institutions such as schools, hospitals, prisons, the police, the FSB, and the army. Public statements by some government officials and anecdotal evidence from religious minorities suggest that the ROC has increasingly enjoyed a status that approaches official.

The MOJ reported that, as of May 2004, there were 21,664 registered organizations. Local courts largely upheld the right of nontraditional groups to register or reregister. Nonetheless, some religious groups continued to battle denials of registration in the courts. While such cases were often successful, administrative authorities were at times unwilling to implement court decisions. For example, the Moscow regional office of the MOJ has still not reregistered the Moscow branch of the Salvation Army, although the constitutional court found in 2003 that earlier rulings by Moscow courts dissolving the Moscow branch of the Salvation Army were unconstitutional. A court ruling against the Salvation Army's registration in Moscow's Presnenskiy District referred to the Salvation Army as a "militarized organization." A lawyer from the Slavic Center for Law and Justice was working with the Salvation Army at year's end to assist it in registering. The ECHR ruled in June 2004 that the group's complaint that it had not been allowed to reregister was admissible but did not rule on the complaint itself during the year.

The Moscow branch of the Church of Scientology has continued to be denied reregistration by the Moscow authorities and is facing threats of dissolution. On February 4, a Moscow appeals court ordered regional officials to permit the Church to apply for reregistration and to examine the application on the merits. Since 1997, the Scientology Church in Moscow has been refused reregistration 15 times. In 2003 the Church of Scientology in St. Petersburg filed suit in response to local authorities' repeated refusal to register their branch. A June hearing was postponed for an unspecified time due to the illness of the presiding judge. The latest hearing took place on December 20 during which the judge ruled in favor of local authorities' refusal to register the branch. The ECHR found admissible a suit filed jointly by the Church of Scientology in Surgut, Khanty-Mansiyskiy Autonomous Okrug, and by the Church of Scientology in Nizhnekamsk, Tatarstan Republic, against Russian officials' refusal to register their branches of the church. Local officials continued to refuse to register the Church in Dmitrograd, Izhevsk, Magnitogorsk, and Ufa.

The Church of Jesus Christ of Latter-day Saints has sought without success to register a local religious organization in Kazan, Tatarstan, since 1998.

A more serious legal step than denying registration to an organization is banning, which prohibits all of the activities of a religious community. The June 2004 decision of the Moscow city court resulted in a city-wide ban of the Jehovah's Witnesses. The ban has had far-reaching consequences not just in Moscow. Many local congregations throughout the country reported that rental contracts on their buildings had been cancelled or appeared to be at risk of cancellation. In other instances, such as in 2004 in the Tatarstan Republic and Primorskiy Kray, the Witnesses won appeals that overturned dissolution orders issued by lower courts. The ban on the Is-

lamic organization Hizb ut-Tahrir, which was declared to be a terrorist organization, remained in effect and a number of prosecutions were undertaken (see section 2.b.).

Treatment of religious organizations, particularly minority denominations, varied widely in the regions, depending on the decisions of local officials. In some areas local authorities prevented minority religious denominations from reregistering as local religious organizations, subjecting them to campaigns of legal harassment.

Contradictions between federal and local law in some regions and varying interpretations of the law provided some regional officials with opportunities to restrict the activities of religious minorities. According to many observers, an increasing susceptibility of local governments to discriminatory attitudes and lobbying by majority religions led to discriminatory practices at the local level. However, instances in which local officials detained individuals engaged in public discussion of their religious views remained isolated and were usually resolved quickly.

The issue of juridical status was not the only one faced by minority religious groups. Some local and municipal governments prevented minority religious groups from using venues for large gatherings and from acquiring property for religious uses. Regional and local authorities, as well as businessmen, on a number of occasions refused to lease facilities to local Jehovah's Witnesses communities. Longstanding rental contracts for Witnesses' meeting rooms were cancelled in Moscow, Sochi, Roshchino, Yekaterinburg, Chelyabinsk, Khabarovsk, and Ufa after the ban came into effect. During the year Jehovah's Witnesses religious assemblies were also disrupted or prevented in Yekaterinburg and Archangelsk. Witnesses reported that during the year, in Yekaterinburg, Arkhangelsk and elsewhere, authorities consulted with the ROC concerning meeting requests.

Jehovah's Witnesses reported continuing difficulties obtaining construction permits in Sosnovyy Bor, Leningrad Oblast. Local authorities there refused to let a Witnesses community use land to construct a prayer center, basing their refusal on a March 2004 referendum, in which 90 percent of voters opposed the construction. In Zlatoust, Chelyabinsk Oblast, local authorities withdrew a building permit issued to the Witnesses, and threatened to tear down a new Witnesses' prayer hall.

Various minority religious organizations encountered similar difficulties in obtaining or renovating property. The mayor's office in Krasnodar failed to authorize the Muslim community to build a mosque in the city of Sochi. The Muslim community in Kaliningrad has sought unsuccessfully since 1993 to obtain permission to construct a mosque.

Human rights groups and religious minority groups criticized the federal prosecutor general for encouraging legal action against some minority religions and for giving an official imprimatur to materials that were biased against Jehovah's Witnesses, Mormons, and others. The FSB, the Office of the Prosecutor General, and other agencies conducted campaigns of harassment against some individual Muslims and Roman Catholics, as well as members of some Protestant groups and newer religious movements. Security services continued to treat the leadership of some minority religious groups, particularly Muslims and nontraditional religions, as security threats. Some religious groups were investigated for alleged criminal activity and violations of tax laws, landlords were pressured to renege on contracts, and in some cases the security services were thought to have influenced the MOJ to reject registration applications.

The authorities generally prohibited Islamic services at military facilities, and Muslim conscripts were generally not given time for daily prayers or alternatives to pork-based meals. The authorities permitted ROC chapels and priests on bases. Protestant groups were given limited access to military facilities.

There were occasional reports of short-term detentions on religious grounds, but such incidents were generally resolved quickly. The Jehovah's Witnesses organization reported a number of incidents in which its members were assaulted by other citizens or briefly detained by authorities while conducting lawful preaching activities. From January to April, Moscow police reportedly detained nine Jehovah's Witnesses in five separate incidents.

Human rights groups reported that following the 2004 hostage-taking in Beslan, police activity was stepped up in the northern Caucasus. Increasing numbers of Muslims, both Russian citizens and citizens of the predominately Muslim states bordering Russia, were charged with extremism. Memorial described 23 cases involving more than 80 individuals charged with extremism as "trumped-up." Of these, Memorial reported, 18 resulted in verdicts, only one of which was an acquittal. Some observers said that police harassment of Muslim clerics and alleged militants in the Republic of Kabardino-Balkariya, including torture and the closure of all but one of Nalchik's mosques, were part of the government's reaction to the October 13 rebel attack on Nalchik (see section 1.g.).

Nine female Muslim students at the Kabardino-Balkariya State University were reportedly detained in June and interrogated because they were wearing *hijab* and practicing group study of the Koran, which are against University statutes. The students were subsequently released. On October 22, in Maykop, Adygea Republic, police officers allegedly assaulted and apprehended a group of young Muslims, including the Maykop mosque's imam, as they were leaving a mosque. The imam told a journalist that masked policemen dragged the group to minibuses and took them to the Interior Ministry's Anti-Organized Crime Department where they were beaten and questioned about why there were wearing beards and why they were observing Islamic norms of hygiene. After a night in prison they were taken before a judge who ordered their immediate release.

Some religious personnel experienced visa difficulties while entering or leaving the country. On September 27, border guards at a Moscow airport denied reentry to the rabbi of the Moscow Choral Synagogue, Pinchas Goldschmidt. He has lived in Moscow since 1989 and his family resides in Moscow. The authorities did not tell Goldschmidt why they had annulled his visa. On December 2, Goldschmidt was issued a one-month religious worker's visa and returned to Moscow. His application for a one-year religious worker's visa was pending at year's end. Also by year's end the authorities had not responded to a request by the Dalai Lama for a visa to visit the Republic of Tuva. The Dalai Lama was permitted to visit the Republic of Kalmykia in 2004 after many years of denials. Catholic authorities reported a decrease in visa problems for Catholic priests during the year, although there was a report of one foreign priest whose visa was not renewed.

In March the government denied entry to high-ranking British and Danish Salvation Army officials who sought to attend a church congress. In explaining its decision to deny entry, the Moscow city branch of the federal MVD cited the provision of law under which foreigners may be denied entry "in the interests of state security."

Laws in three regions, Belgorod, Kursk, and Smolensk, forbid foreign visitors from engaging in missionary activity or preaching unless specifically authorized by their visas. According to local religious officials the laws were not enforced.

Restitution of religious property seized by the Communist regime remained an issue. Many properties used for religious services, including churches, synagogues, and mosques, have been returned, and more restitution cases were ongoing. The ROC appeared to have had greater success in gaining restitution of pre-revolutionary property than other groups, although it continued to pursue property claims. The Jewish community was still seeking the return of a number of synagogues, religious scrolls, and cultural and religious artifacts, such as the Schneerson book collection, a revered collection of the Chabad Lubavitch.

Societal Abuses and Discrimination.—While religious matters were not a source of societal hostility for most citizens, members of minority and "nontraditional" religions continued to encounter prejudice, societal discrimination, and in some cases physical attacks. Conservative activists claiming ties to the ROC disseminated negative publications and staged demonstrations throughout the country against minority religions. Some ROC leaders publicly expressed similar views. Authorities usually investigated incidents of religious vandalism and violence, but arrests of suspects were extremely infrequent and convictions were rare. Relations between nontraditional religious organizations and traditional ones frequently were tense, particularly at the leadership level.

Tensions between the ROC and the Catholic Church continued. The ROC often accused the Catholic Church of deliberately proselytizing among ROC faithful.

Popular attitudes toward traditionally Muslim ethnic groups remained negative in many regions, and there were manifestations of anti-Semitism as well as societal hostility toward Catholics and adherents of newer, non-Orthodox, religions. Racially or ethnically motivated attacks have increased significantly in recent years, although it has often been difficult to determine whether xenophobia, religion, or ethnic prejudices were the primary motivation. Ethnic tensions ran high in the predominantly Muslim northern Caucasus, and there were problems in some cities outside that region. Anti-Chechen and anti-"Wahhabist" sentiment increased after each terrorist attack tied to Chechen rebels and spiked in some regions after the September 2004 seizure of a school in Beslan, North Ossetia, in which hundreds of persons, including many children, died at the hands of terrorists (see section 1.g.). Government officials, journalists, and the public were quick to label Muslim organizations "Wahhabi," a term that has become associated with extremism. Such sentiment led to a formal ban on Wahhabism in Dagestan and Kabardino-Balkariya.

Muslim cemeteries and buildings were vandalized in Moscow and other regions. In January and February tombs in Muslim cemeteries in Moscow and Yoshkar-Oly, Mari-El Republic were desecrated. Although several teenagers were detained in the

January incident, the suspects were not charged due to their age. Vandals continued to attack the Tauba mosque in Nizhniy Novgorod. In January swastikas were painted on the mosque walls. The local prosecutor's office did not find grounds to initiate a criminal case. The local Muslim Spiritual Administration appealed to local authorities to guard the mosque. A mosque in Penza was reportedly vandalized on August 22. Anti-Muslim slogans were painted on the wall and a brick was thrown through the window.

The number of underground nationalist-extremist organizations (as distinguished from such quasi-public groups as Russian National Unity) appeared to be growing (see section 5). Their targets included Muslims, Jews, and adherents of minority faiths they considered to be foreign in origin.

There was no progress in the investigation of the January 2004 explosion in a building belonging to a congregation of unregistered Baptists (known as *Initsiativniki*) in Tula Oblast. In September 2004 an *Initsiativniki* church in Lyubuchany, Moscow Oblast burned down. This followed efforts by local law enforcement officers to intimidate participants in an open air gathering for several thousand *Initsiativniki* from all over central Russia sponsored by the Lyubuchany church. The official investigative report on the fire attributed it to arson, but no one was charged in the incident.

Reports of harassment of evangelicals and Pentecostals continued during the year. Observers testified that churches and prayer houses were vandalized in several regions. A group of Pentecostals holding a demonstration on August 10 in Moscow reported being attacked by a group of youths who yelled "Burn the heretics," while assaulting them and destroying their posters. The Slavic Law Center reported that a Baptist Church in Chelyabinsk Oblast was firebombed on April 30. The Jehovah's Witnesses organization reported two incidents in March in which members were physically assaulted by residents where the Witnesses were preaching, leaving one member with a concussion.

An estimated 600 thousand to 1 million Jews live in the country. The Federation of Jewish Communities (FJC) estimates that up to 500 thousand Jews live in Moscow and 100 thousand in St. Petersburg. These estimates significantly exceed the results of the official government census.

Many in the Jewish community said that conditions for Jews have improved, primarily due to the absence of official "state-sponsored" anti-Semitism and because the Jewish community has undergone a major institutional revival. Nonetheless, anti-Semitic incidents continued to occur. The FJC reported an increase in anti-Semitic attacks in late 2004 and the first months of 2005, but reported that this trend did not continue through the rest of the year. The Anti-Defamation League (ADL) reported the overall number of violent attacks against Jews did not rise throughout the year, but that a new trend of increasing public actions, demonstrations, and political statements against Jews had appeared.

On the evening of January 18, in two separate incidents 15 minutes apart, several Orthodox Jews were attacked by a group of skinheads while walking in the vicinity of the Marina Roscha Synagogue. One of the victims required hospitalization. Although police arrested and convicted two suspects of disorderly conduct and of inflicting bodily injuries, the judge found insufficient evidence to recognize racial hatred as an aggravating circumstance. After this incident, and at the request of Jewish leaders, Moscow authorities increased the police presence in the vicinity of Marina Roscha Synagogue.

Several synagogues and Jewish community centers were damaged during the year. On May 10, a fire deemed by the authorities to be arson destroyed the historic synagogue of Malakhovka on the outskirts of Moscow. In December, according to a press report, a suspect was sentenced to four years in prison in connection with the arson. The Jewish community center in the Moscow suburb of Saltykovka was hit by arson on two separate occasions, once in January and once in February. The synagogue in the Perovo district of Moscow was vandalized in January and again in February. In July unknown culprits attempted to start a fire at the Jewish center in Penza and the Jewish Center in Taganrog was vandalized. Many Jewish cemeteries were desecrated, including in Izhevsk, Kazan, Moscow, Tambov, Tver, Smolensk, and St. Petersburg. Authorities in Kazan and Moscow judged the incidents there as hate crimes rather than hooliganism.

Nazi posters reportedly appeared in Petrozavodsk, Karelia Republic, on April 20, the anniversary of Hitler's birthday, and two students were arrested five days later.

In April 2004, according to ADL, two skinheads were arrested for the attack earlier in the month on Aleksey Kozlov in Voronezh. Kozlov is a human rights activist and anti-Semitism monitor. The crime was treated as a misdemeanor, and the case was later closed with no further action taken by the police.

Some State Duma deputies and other prominent figures expressed anti-Semitic sentiments. On January 24, some 500 persons, including 20 State Duma members, wrote to the Office of the Prosecutor General asking that he conduct an investigation of the country's Jewish organizations with the possibility of initiating proceedings to ban them. The letter charged that a Russian translation of a compilation of ancient Jewish law, the *Kitzur Shulchan Arukh*, incited hatred against non-Jews; the letter also accused Jews of ritual murders. The MFA condemned the letter on January 25, as did President Putin in remarks delivered in Krakow on January 27. On February 4, the State Duma passed a resolution condemning the January 24 letter. On March 21, approximately five thousand persons, reportedly including a number of ROC clerics and some prominent cultural figures, signed a similar anti-Semitic letter sent to the Office of the Prosecutor General. A Moscow district prosecutor opened an investigation into the Jewish organization that published the translation, as well as into charges brought by Jewish and human rights organizations that the letters violated federal laws against ethnic incitement, but closed both investigations on June 10 without bringing charges. Later in June, the Moscow city prosecutor ordered the district prosecutor to reopen the investigation into the Jewish organization. The prosecutor closed the investigation again on June 29.

According to the ADL there were several cases against the editors of regional newspapers for publishing anti-Semitic articles. In Ulyanovsk, in January preliminary hearings were held arising out of a criminal case initiated in 2002 against the editor of the local newspaper, *Orthodox Simbirsk*, who ran a number of articles demonizing Jews. The FJC reported that the editor of the newspaper was fired, although the ADL noted that on March 14, Ulyanovsk Governor Morozov promised to provide government financial support to keep the newspaper from going bankrupt. According to ADL, in February the St. Petersburg prosecutor's office reopened a case against "Our Fatherland" which has reportedly published anti-Semitic articles.

Anti-Semitic statements have been legally prosecuted and the government has publicly denounced nationalist ideology and expressed support for legal action against anti-Semitic acts; however, some lower-level officials remained reluctant to call such acts anything other than "hooliganism."

The support of federal authorities, and in many cases of regional and local authorities, facilitated the establishment of new Jewish institutions. Work began on the construction of a complex, on land donated by the Moscow city government, that will house Jewish community institutions including a school, a hospital, and a major new museum devoted to the history of Russia's Jews, the Holocaust, and tolerance.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government placed restrictions on freedom of movement within the country and on migration.

All adults are issued internal passports, which they must carry while traveling internally, and they are expected to register with the local authorities within a specified time of their arrival at their new location. The authorities often refused to provide governmental services to individuals without internal passports or the proper registration. A government decree enacted in December 2004 extended the grace period for registration given to an individual arriving in a new location from 3 to 90 days; however, immediately following the law's announcement, the Moscow police chief ordered the police to continue its document checks on the streets to verify document authenticity. Darker skinned persons from the Caucasus or Central Asia were often singled out for document checks. There were many credible reports that police arbitrarily imposed fines on unregistered persons in excess of legal requirements and/or demanded bribes from them. The new law does not affect foreigners, who are still required to register within three business days of their arrival in a locality.

Although the law gives citizens the right to choose their place of residence freely, many regional governments continued to restrict this right through residential registration rules that closely resembled the Soviet-era "*propiska*" (pass) regulations. Citizens must register to live and work in a specific area within seven days of moving there. Citizens changing residence within the country, as well as persons with a legal claim to citizenship who decide to move to the country from other former Soviet republics, often faced great difficulties or simply were not permitted to register in some cities. Corruption in the registration process in local police precincts remained a problem. There were frequent reports of police demanding bribes when processing registration applications and during spot checks for registration documentation. The fees for permanent and temporary registration remained low. Moscow's registration requirement—which some police reportedly used to extort

money—remained in force at year's end. In 2004 Krasnodar Kray authorities enacted a law that extended the definition of "illegal migrant" to include Russian citizens as well as foreign citizens and stateless persons.

While federal law provides for education for all children, regional authorities frequently denied access to schools to children of unregistered persons, asylum seekers, and migrants because they lacked residential registration.

Following the school tragedy in Beslan in September 2004, Moscow police rounded up more than 11 thousand citizens and foreigners on suspicion of living in the city without registration. The round-up led to 840 deportations (see section 1.g.).

Federal authorities restricted the entry of foreigners into many cities, including Norilsk and Novoye Urengoy. While the federal law permits entry restrictions for reasons of state security, according to press reports these cities sought the restrictions because of what authorities described as threats migrants posed to the local economy and society.

Krasnodar Kray authorities continued to deny the 10 thousand to 12 thousand Meskhetian Turks there the right to register as permanent residents, which deprived them of all rights of citizenship to which they were entitled under the law. They and some other small ethnic minorities living in Krasnodar were permitted only temporary registration and were subjected to special restrictions, such as being required to reregister every 45 days.

Krasnodar authorities also attempted to use economic measures to drive out the Meskhetian Turks who were not registered in Krasnodar. According to Memorial, they prohibited the Meskhetian Turks from leasing land, obtaining employment or engaging in commercial activity. The Meskhetian Turks have subsisted by leasing land through local residents with registration, doing so primarily in other districts of Krasnodar Kray but also other regions including Rostov, Volgograd, and Kalmykia. Because of the difficult conditions in Krasnodar, several thousand Meskhetian Turks applied for emigration to a third country, and Krasnodar officials cooperated in facilitating their departure. There have been reports, however, that police continued to arbitrarily fine those who were not emigrating. Human rights NGOs reported that the police stopped and checked persons who looked like Meskhetian Turks, immediately releasing those who declared their intention to emigrate and penalizing others.

The law provides for freedom to travel abroad and citizens generally traveled without restriction; however, there were exceptions. If a citizen had been given access to classified material, police and FSB clearances were necessary to receive an external passport. Persons denied travel documents on secrecy grounds could appeal the decision to an Interagency Commission on Secrecy chaired by the first deputy minister of foreign affairs.

The law prohibits forced exile, and the government did not employ it.

Emigrants who had resettled permanently abroad but were traveling on Russian passports generally were able to visit or repatriate without hindrance.

The law provides all citizens with the right to emigrate, and this right was generally respected. In some cases those trying to depart for countries that had granted them refugee status experienced logistical delays in gaining exit permission.

As of August 31, 15,615 Russian citizens had sought asylum in foreign countries a drop from the 22,046 appeals filed during the first three quarters of 2004. Many persons fleeing Chechnya applied for refugee status.

A 2002 Law on Citizenship, as amended in 2003, made access to citizenship more difficult for most foreigners by requiring possession of a residence permit or *propiska* and five years of uninterrupted residence after the *propiska* is issued. Applicants for citizenship must also demonstrate a lawful source of income, complete an application renouncing any previous citizenship, and establish a knowledge of the Russian language.

Amendments passed in 2002 and 2003 exempted the estimated 1.5 million former Soviet citizens residing in Russia without benefit of citizenship from having to meet most of these requirements. In essence, this reaffirmed earlier provisions that granted citizenship to those with Soviet citizenship who were legally in the Russian Federation as of February 6, 1992. However, the authorities have not always been willing to recognize the acquisition of citizenship on this basis. In December the State Duma and Federation Council passed amendments to the law, extending the deadline for former Soviet citizens to obtain Russian citizenship until January 1, 2008 and simplifying some of the earlier requirements. In addition the legislation extended the right to seek citizenship to those who obtained a resident permit in Russia after January 1, 2002, increasing the number of those potentially eligible for citizenship. At year's end the legislation was awaiting President Putin's signature.

The federal law on the legal status of foreign citizens permits foreigners to stay in the country for the duration of the validity of their visas. Those arriving under

a visa-free regime are permitted to stay for 90 days. The law provides that those wishing to stay in the country may seek permission for a temporary stay of up to three years. This permission is the first step in seeking permanent resident status. In practical terms, however, this option is not available to those arriving without visas, as the process can take six months to complete, well beyond their allowed stay in the country. The law also requires that foreign citizens, with the exception of those from Ukraine, register with those local authorities within three days of their arrival. The law does not include an exhaustive list of documents required for official registration, leaving the MVD considerable discretion in registration matters.

International agreements permit persons with outstanding warrants from other former Soviet states to be detained for periods of up to one month while the prosecutor general. investigates the nature of those warrants. This system was reinforced by means of informal links among senior law enforcement and security officials in many of the republics of the former Soviet Union. Human rights groups continued to allege that this network was employed to detain opposition figures from the other former Soviet republics without legal grounds. According to Memorial, some detainees were kept in custody for more than one month. Authorities detained 12 Uzbek citizens, 1 Kyrgyz citizen, and 1 ethnic Uzbek with Russian citizenship in June on a request from Uzbek authorities. The arrests occurred in the aftermath of violence in the Uzbek city of Andijon. Their relationship to events in Andijon was unclear. They requested asylum in Russia because they feared persecution if they were sent back to Uzbekistan. At year's end the 13 were still in detention, with a judge rejecting their claims that the detentions were illegal. The Russian citizen was released and apparently fled the country. Two other Uzbek citizens were detained in Novosibirsk in November under a similar request from Uzbek authorities. A teacher of Arabic from Uzbekistan was detained in Saratov Oblast and spent a year in custody from 2002 to 2003 before the authorities decided not to carry out the Uzbek warrant of extradition. He was then released, but abducted by unknown parties in July 2004 and transported back to Uzbekistan where he was jailed.

Internally Displaced Persons (IDPs).—As of November 30, 26,883 IDPs from Chechnya were in temporary settlements or in the private sector in Ingushetiya; approximately 30 thousand Chechen IDPs reportedly were elsewhere in the country, and an estimated 200 thousand Chechens were living as IDPs within Chechnya itself. In addition to ethnic Chechen IDPs, almost the entire population of ethnic Russians, Armenians, and Jews left Chechnya during the strife of the past decade.

Throughout 2004 federal and local authorities consistently stated their determination to repatriate all IDPs back to Chechnya as soon as possible. Officials stated publicly that they would not pressure or compel IDPs to return to Chechnya, and Ingush president Zyazikov, whose republic is home to the largest number of Chechen IDPs, promised that accommodation would be found for those remaining in Ingushetiya. However, representatives of the Chechen administration visited camps in Ingushetiya to encourage IDPs to return to Chechnya, usually to temporary IDP facilities. In 2004 the authorities closed the last remaining three tent camps in Ingushetiya, which had housed 5,978 persons. The UNHCR reported that government officials stated their intention to de-register those IDPs who had received compensation from federal assistance lists and indicated that 52 families were de-registered in June. Those who were de-registered faced the threat of eviction from their accommodations in temporary settlements, despite their willingness to pay for the accommodation. Although some of the inhabitants chose to remain in Ingushetiya, the UNHCR estimated that 70 to 75 percent chose to return to Chechnya despite the inadequacy of the temporary lodging.

The UNHCR reported that despite passport checks and occasional security sweeps that continued in IDP settlements, the IDPs were generally able to remain in Ingushetiya without any pressure to return (see section 1.g.). However, other international and domestic organizations expressed concerns during the year over the government's treatment of Chechen IDPs in Ingushetiya. The Norwegian Refugee Council noted that IDPs were frequently denied status as "forced migrants" under Russian law, which severely limited their access to social benefits and protection. Others living in regions outside Chechnya were often denied residential registration by local authorities, in what the council characterized as discriminatory practices against Chechens.

The UNHCR also reported that pro-Russian Chechen authorities undertook an extensive campaign to return Chechen refugees from Georgia, with the first returnees arriving in Chechnya in May. The UNHCR reported that the returns were voluntary.

Protection of Refugees.—The law provides for granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice, the government generally provided protection against *refoulement*, the return of persons to a country where they feared persecution; however, it rarely granted asylum. Individuals who sought entry into the country without proper documentation and who sought to claim asylum were often denied access to the Federal Migration Service by border guards and Aeroflot airlines and often returned them to their countries of origin, including in some cases to countries where they demonstrated a well-founded fear of persecution. The UNHCR stated that many refugee seekers at times faced detention, deportation, fines by the police, and racially motivated assaults, which sometimes even led to the loss of life.

The government cooperated with the UNHCR and the International Organization for Migration (IOM); both organizations assisted the government in trying to develop a more humane migration management system. The UNHCR reported improved communication with the Federal Migration Service on regulatory provisions and practices that do not meet international standards. Through August 31, the UNHCR had registered 414 new cases, or 606 persons, as asylum seekers or refugees. In total it had 3,789 active, registered cases. The government acted more expeditiously and with greater leniency in cases involving applicants who had been citizens of the former Soviet Union. Officials and would-be applicants continued to demonstrate widespread ignorance of refugee law.

According to the UNHCR from the beginning of the year through June, the Federal Migration Service granted refugee status to 16 people. From 1993 through June, Russian authorities granted refugee status to 568 persons. From the beginning of the year through July 31, two cases of deportation proceedings were reported to the UNHCR. In one case the deportee successfully appealed to the courts to block the deportation through the intervention of a UNHCR-provided lawyer. In another example, authorities in Tatarstan deported an Uzbek student to Uzbekistan, where he was held incommunicado for 10 days, after he refused to cooperate with them, according to the migrants' rights NGO Civic Assistance. The student was reportedly being pressured to provide false evidence against classmates who were accused of being members of the banned Hizb ut-Tahrir.

A number of workers and students from Africa and Asia who came to work or study in accordance with treaties between their countries and the former Soviet Union remained in the country. The government did not deport them but continued to encourage their return home. Through September 30, the UNHCR resettled a total of 288 persons.

A group of approximately 1,000 to 1,500 ethnic Armenian refugees evacuated from Azerbaijan in the late 1980s due to ethnic violence remained housed in "temporary quarters," primarily in Moscow hotels or workers' dormitories. However, as a result of a UNHCR project that had been providing legal assistance to the Baku Armenians since 2002, by the end of September 2005, approximately 250 of them had received Russian citizenship. An estimated 800 individuals were resettled under a resettlement project run by another government UNHCR's legal assistance project closed in October because all eligible Baku Armenians who were assisted by this project obtained Russian citizenship.

The UNHCR continued to be concerned about the situation of asylum seekers and refugees in the country. The UNHCR reported that undocumented asylum seekers continued to face problems with law enforcement bodies over their status in the country. The government does not issue documents to asylum seekers who are awaiting review of their requests for asylum; consequently, they remain vulnerable to fines and detention, as well as being denied access to government-provided assistance. At Sheremetyevo Airport, authorities systematically deported improperly documented passengers before they were able to file asylum claims with the Federal Migration Service, including persons who demonstrated a well-founded fear of persecution in their countries of origin. Legally bound to provide food and emergency medical care for undocumented travelers, the airlines returned them to their point of departure as quickly as possible; airlines were fined if an undocumented passenger was admitted to the country but not if the passenger was returned to the country of origin. The treatment of asylum seekers in the transit zone reportedly was harsh.

During the year the UNHCR reported that there were continued instances of would-be asylees becoming stranded at the Sheremetyevo-2 airport, although authorities began housing them in a nearby hotel rather than requiring they remain in the transit zone. According to the UNHCR there were three cases involving six people who sought asylum upon entering the transit zone of the airport. None of these cases were recognized by either the Federal Migration Service or the UNHCR

as a refugee. Russian authorities deported two people, and the remaining four were transferred to the hotel, where they remained at year's end.

There were 114 points of immigration control (PICs) at border crossings and international airports. To the UNHCR's knowledge, no asylum seeker arriving at Sheremetyevo-2 airport had been accepted as such by the PICs since at least 1999. Most such cases involved labor migrants entering or leaving the country, but a few cases involved asylum seekers. During the year, the UNHCR continued to examine each case and seek resettlement on an emergency basis for those deemed to be in need of international protection.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully; while citizens generally have exercised this right in practice, the March 2004 presidential elections that did not adequately reflect principles necessary for a healthy democratic election, particularly in equal access to the media by all candidates and secrecy of the ballot. A move away from the election of governors to their nomination by the president, subject to confirmation by regional legislatures, led some observers to complain about reduced accountability of regional leaders to those whom they govern. The fact that the president could dissolve a regional parliament that rejected presidential nominations three times further increased this concern. Corruption also limited accountability.

Elections and Political Participation.—Incumbent President Vladimir Putin, who was first elected president in 2000, was reelected in March 2004 by a wide margin. The OSCE, which observed the elections, offered a positive evaluation of the technical conduct of the balloting but concluded that the overall election process, marred by widespread misuse of administrative resources, systematically biased campaign coverage, and inequitable treatment of political parties, failed to meet international standards. Although the legal requirements for televised political debates and free time for party candidates to present their views were observed, the government used its influence over the media, particularly the electronic media, to promote President Putin, resulting in coverage that was heavily biased (see section 2.a.).

In the 2003 parliamentary elections, opposition parties were allegedly hampered in their ability to obtain funding because of fears among potential donors elicited by the investigation and arrest of Yukos CEO Mikhail Khodorkovskiy, a step widely believed to have been prompted, at least in part, by the considerable financial support he provided to opposition groups. The progovernment forces, in contrast, drew heavily on "administrative" resources, using the power and influence of regional and local officials to maximize media coverage and campaign financing. In addition, in some instances local electoral commissions appeared to use it selectively to disqualify local opposition State Duma candidates, leading to a small number of questionable disqualifications. As a result, as noted by the OSCE, the parliamentary elections failed to satisfy a number of international criteria for democratic elections.

In the November 27 parliamentary elections in Chechnya, human rights groups and members of a Parliamentary Assembly of the Council of Europe fact-finding mission who were present on election day alleged that the official voter turnout numbers were artificially high. Human rights groups also concluded that poor security and continuing human rights violations did not allow for a free and fair election in Chechnya. Other reports suggested that results of the election were predetermined in favor of candidates loyal to then Acting Chechen Prime Minister Ramzan Kadyrov, although the Chechen Central Election Commission reported there were no complaints of election law violations filed by parties or candidates.

In the December 4 Moscow City legislative election, most observers did not identify significant electoral violations that would put the electoral results in question, but did note minor violations, such as the expulsion of some observers from polling stations before the final vote count. Some observers criticized Moscow Mayor Yuriy Luzhkov's use of administrative resources to support the United Russia party. Two days before the election, the Supreme Court upheld a Moscow city court decision to bar the Rodina party from the election due to a controversial campaign ad judged to have violated laws about inciting ethnic hatred.

Competitive elections for other regional and local offices were held throughout the year. Most observers viewed these elections as generally free and fair, although there were problems in some regions involving unequal access to the media and the use of administrative resources by incumbents to support their candidacies. The counting of the votes in most locations was professionally done.

Laws enacted and executed during the year, particularly the elimination of direct gubernatorial elections, continued the consolidation of political power in the Kremlin. Laws enacted in May and July changed the electoral system. They specified that

for future nationwide elections, the State Duma will be formed on a strictly party list basis. Electoral blocs will be banned and the requirement for a party seeking representation in the State Duma will be raised from 5 to 7 percent of the vote. According to some experts, the new laws work to the disadvantage of those parties not currently represented in the State Duma. In addition, the electoral legislation limits the domestic observation of federal elections, a provision that may have already created difficulties for NGOs hoping to observe one regional election. The new laws also provide that all regional legislative elections will be held on the same date and established a maximum barrier of 7 percent for parties to enter regional legislatures starting in 2006. Some commentators viewed these new laws as primarily benefiting the pro-presidential United Russia party and as limiting the ability of independent observers to monitor future elections.

The May and July laws followed another Kremlin-backed law enacted in December 2004 that eliminated the direct election of the country's regional leaders. That law provides that republic presidents and regional governors be nominated by the president subject to confirmation by regional legislatures. If a regional legislature fails to confirm the president's nominee three times, the legislature may be dissolved. Regional leaders in power at the time the law entered into force were given the option of either serving out their elected terms or resigning early and seeking a presidential appointment to serve a new term. The president also acquired the power to remove the regional leaders in whom he had lost confidence, including those who were popularly elected. At year's end the new system of choosing regional heads had been used in almost half of the country's regions. The law also increased the president's influence over the federal legislative branch since regional leaders appoint half of the upper house of that legislature, the Federation Council. On December 31, President Putin signed a new law which allows political parties that have won elections to regional parliaments to propose their own candidates for head of a region subject to approval by the president and that region's legislature.

Political parties historically have been weak. Although laws enacted in 2001 and 2002 included a number of measures that enlarged the role of political parties, particularly of established political groupings, they also gave the executive branch and prosecutor general broad powers to regulate, investigate, and close down parties. Other changes increased campaign spending limits, shortened the campaign period, limited the conditions under which candidates could be removed from the ballot, and imposed restrictions on media coverage. A law enacted in December 2004 raised the official membership requirements for political parties from 10 thousand to 50 thousand with at least 500 representatives in half of the country's regions, and no fewer than 250 members in the remaining regions, which may make it difficult for smaller parties to register.

There were 44 women in the 450-member State Duma and 10 in the Federation Council.

National minorities took an active part in political life; however, ethnic Russians, who by some estimates constitute approximately 80 percent of the population, dominated the political and administrative system, particularly at the federal level.

Government Corruption and Transparency.—The country is still to complete the transition from a former communist state to a modern democratic society based fully on the rule of law and a free market economy. Corruption was widespread throughout society, a conclusion supported by domestic opinion surveys, and was extensive in the executive and legislative branches of government. Manifestations included bribery of officials, misuse of budgetary resources, theft of government property, extortion, and official collusion in criminal acts. International organizations gave the country poor marks on corruption issues. Many public institutions remained weak. The media lacked a strong tradition of investigative journalism, although a number of journalists throughout the country reported on corruption cases, sometimes resulting in prosecution of the alleged offenders. In general, however, citizens lacked a broad range of outlets to voice their views concerning corruption or to lodge complaints about its existence.

President Putin and senior government officials frequently addressed the issue in public statements, and many jurisdictions throughout the country established local anticorruption committees. Various initiatives were undertaken at the federal level, with indeterminate results. Most anticorruption campaigns tended to be limited in scope and focused mainly on lower level officials. Allegations of corruption were also used as a political tactic, which made it more difficult to determine the actual extent of corruption. No new major corruption convictions occurred during the year. However, there was a widely publicized allegation of major corruption in October involving the videotaped handover of $1 million (28.5 million rubles) to a federal tax inspector by an official with the Central Bank. Both individuals were charged and remained in detention, but the case had not yet reached court. In June a senior audit-

ing official in the Ministry of Industry and Energy was arrested and indicted for allegedly accepting a bribe; the official was still awaiting trial.

The law authorizes public access to all government information resources unless the information is designated confidential or classified as a state secret, and refusal to provide access to open information or the groundless classification of information as a state secret has been successfully contested in court. However, access to information is often difficult and subject to prolonged bureaucratic procedures.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Although a number of domestic and international human rights groups operated in the country, investigating and publicly commenting on human rights problems, official harassment of NGOs increased. Authorities harassed some NGOs that focused on politically sensitive areas during the year, and other official actions and statements indicated a declining level of tolerance for unfettered NGO activity, particularly for those NGOs that received foreign funding. NGOs operating in the Northern Caucasus were at times hampered, although these organizations had wider access than in the past.

The NGO sector in Russia consisted of an estimated 450 thousand registered public associations and non-governmental non-commercial organizations. Experts estimated that 25 percent of them operated on a regular basis. There were several dozen large NGO umbrella organizations as well as thousands of small grassroots NGOs. There was often a large gap between these two categories of NGOs in terms of their organizational capacity. In the regions, NGO coalitions continued to advocate on such issues as the rights of the disabled and of entrepreneurs, environmental degradation, violations by law enforcement authorities, and the war in Chechnya.

Authorities filed criminal charges, tax claims, and a civil suit against the Russian-Chechen Friendship Society (RCFS) in what human rights NGOs said was a campaign to close the organization. On January 11, criminal proceedings were initiated against its *Pravozaschita* newspaper for publishing the statements of Chechen separatist leaders. On January 20, officers from the FSB raided the RCFS's office in Nizhniy Novgorod, seizing documents and computers. Authorities questioned several members of its staff in Nizhniy Novgorod and Chechnya. RCFS executive director Stanislav Dmitrievskiy was charged with inciting hatred or enmity on the basis of ethnicity and religion. The charge carries a maximum of five years imprisonment. In March tax inspectors began an audit of RCFS finances, which concluded that the group owed more than $35 thousand (1 million rubles) in back taxes for grants it received from foreign donors. On August 26, tax inspectors froze its bank accounts following the RCFS's unsuccessful appeal. On September 15, a judge in Nizhniy Novgorod ordered the accounts to be reopened pending a decision in the group's suit against the tax authorities. In November authorities denied entry into the country of human rights expert William Bowring, who intended to observe Dmitrievskiy's trial. The criminal trial and tax case were continuing at year's end.

Additionally, the MOJ filed a civil suit against the RCFS for failure to provide requested documents. This MOJ request for documents was made simultaneously with an audit by tax authorities, with ministry and tax officials demanding the same sets of original documents. In November a judge ruled in favor of RCFS in the suit brought by the MOJ, upholding the organization's registration. RCFS co-editor Oksana Chelysheva was also personally threatened in leaflets distributed near her home because of her work with RCFS. Authorities opened a criminal case, but no suspects have been identified.

In June authorities ordered the closure of the Nizhniy Novgorod Human Rights Society, a partner organization of the RCFS, on the grounds that it did not submit necessary documentation of its activities to the MOJ.

Authorities pursued legal action against the human rights NGO Chechen Committee for National Salvation (CCNS) during the year. In February the Supreme Court of Ingushetiya ordered a retrial of charges that the NGO violated the law "On Countering Extremism" because its press releases accused authorities of violating human rights. The organization had earlier been acquitted of the charges. Neither the committee's chairman Ruslan Badalov nor his lawyer were notified of the Supreme Court hearing. The retrial began in April, with the court ordering a new expert analysis of CCNS's press releases to determine if they promoted extremism or hatred. According to a human rights NGO the experts reportedly found no extremist content in the press releases and the case was ongoing at year's end.

On August 16, State Duma Deputy Nikolay Kuryanovich, who was criticized in a report by the Moscow Bureau for Human Rights (MBHR), sent a letter to the gov-

ernment asking for the MBHR to be liquidated and accusing it of collaboration with foreign intelligence.

On October 6, investigators from the general prosecutor's office accompanied by MVD officers raided the Moscow offices of Open Russia, an NGO founded and heavily funded by former Yukos CEO Mikhail Khodorkovskiy. The authorities seized documents reportedly related to an ongoing investigation of money laundering and investigation of possible embezzlement by Yukos employees. MVD officers reportedly prevented some of the employees from leaving the building during the raid. At year's end no charges had reportedly been brought against Open Russia as a result of the raid. In the regions, a few local officials harassed human rights monitors, and the government continued its 2002 refusal to renew an agreement with the OSCE Assistance Group, thus preventing the organization from conducting human rights monitoring in Chechnya. In 2003 dozens of men in camouflage raided the Moscow offices of the Soros Foundation's Open Society Institute. Some observers regarded the action as having been government-inspired, while others believed it resulted from a legal dispute between the institute and a businessman. The Open Society Institute has scaled back its presence in the country to a representational office.

Some government officials viewed the activities of some NGOs working on Chechnya with suspicion. For example, on June 15, Lema Khasuyev, the Chechen Republic's human rights ombudsman, stated that he would not cooperate with the human rights NGO Memorial, claiming that it was working in the interests of foreign donors. In his May 2004 State of the Nation speech, President Putin suggested that "far from all [NGOs] are geared toward defending people's real interests. For some of these organizations, the priority is rather different—obtaining funding from influential foreign or domestic foundations. For others it is servicing dubious group or commercial interests . . ."

On January 12, according to press reports, armed men broke into the office of the Information Center of the Council of NGOs in Nazran, Ingushetiya, searching the office without presenting a search warrant and claiming that they had entered because a group of bandits had been seen in the council's office. A man wearing civilian clothes, who claimed to be a member of the regional FSB office, checked the passports of four employees and three visitors in the office. The men also took away some office computers.

A foreign NGO reported that central authorities continued to pressure it and its domestic partner, the VOICE Association for Voters' Rights, during the year. Prosecutors opened an investigation of the Committee of Soldiers' Mothers in November 2004 following the committee's announcement that it intended to meet with Chechen rebel leader Aslan Maskhadov or his emissary Akhmed Zakayev. State Duma deputies had called for an investigation of the group and its finances. Tax inspectors later conducted an investigation, but reportedly found no violations.

At times the government's attitude towards human rights NGOs appeared to depend on the perceived threat to national security or level of criticism that an NGO might offer. In the view of some observers, NGOs working in the Caucasus were especially vulnerable to interference. For example, in April two expatriate staff members of the humanitarian aid NGO International Rescue Committee were denied entry into the country although they had valid passports, visas, and other necessary documents. Officials provided various explanations for the denial, and the two individuals were eventually told they could re-enter the country.

Officials, such as Human Rights Ombudsman Vladimir Lukin, regularly interacted and cooperated with NGOs. Government and legislative officials recognized and consulted with some NGOs on account of their expertise in certain fields, and such groups participated, with varying degrees of success, in drafting legislation and decrees. For example, a network of disability NGOs has worked successfully with local authorities in Moscow and elsewhere in the country on promoting the mainstreaming of students with disabilities into the school system and has engaged closely with both the Ministry of Education and a State Duma working group drafting education legislation.

Regional human rights groups, which generally received little international support or attention, often suffered from inadequate funding. They reported that at times local authorities obstructed their work. They were generally free to criticize government and regional authorities; however, in some areas, the authorities were intolerant of criticism. Local human rights groups in the regions had some opportunities to interact with legislators to develop draft laws; however, local authorities excluded some organizations from the process entirely.

The Siberian Civic Initiatives Support Centers in Omsk and Irkutsk worked with local governments to develop social policies on education, health care, and communal reforms. In the Jewish Autonomous Republic, Amur Oblast, and selected regions in Primorskiy Kray, NGOs worked with local governments to encourage cit-

izen participation in local self-governance on issues related to implementation of the new law on local governance.

Some domestic NGOs involved in human rights advocacy reported receiving death threats from nationalist organizations.

Some international NGOs maintained small branch offices staffed by local employees in Chechnya; however, all of them were based outside of Chechnya (see section 1.g.).

By law every person within the jurisdiction of the Russian Federation may appeal to the ECHR about alleged human rights violations that occurred after May 1998, as long as they have exhausted "effective and ordinary" appeals in the Russian courts. This provision was usually satisfied by two appeals (first and cassation) in courts of ordinary jurisdiction or three (first, appeal, and cassation) in the commercial court system. As of July the ECHR had received more than approximately 22,500 complaints from Russia. Of those, about 14 thousand were declared inadmissible and about 8,500 were pending. More then 600 complaints were communicated to the Federation government, and the court found about 100 complaints admissible. Forty-nine final judgments were rendered, of which 43 were findings of violations. On February 25, the ECHR ruled in favor of six Chechen applicants to the court, finding Russia in violation of several articles of the European Convention on Human Rights and Fundamental Freedoms. In these cases the ECHR found the applicants had no effective remedy in domestic courts. The ECHR rejected a Russian government appeal of the rulings in July (see section 1.g.). The government generally paid money judgments ordered by the ECHR in a timely fashion; however, the Russian government issued blanket refusals in response to ECHR requests for disclosure of the domestic case files relating to alleged gross violations in Chechnya. The ECHR criticized this failure of disclosure.

Human rights institutions that were a part of the government itself rarely challenged government activities, but sought to promote the concept of human rights and to deal with specific complaints of abuses. Human Rights Ombudsman Vladimir Lukin commented on a broad range of human rights problems, such as the treatment of children and the rights of prisoners. Lukin's office had approximately 200 employees and several specialized sections responsible for investigating complaints. During the year the office published various reports on human rights issues such as the rights of conscript soldiers. However, Lukin's role remained primarily consultative and investigatory, without powers of enforcement. At the end of August, 31 of the country's 89 regions had regional human rights ombudsmen with responsibilities similar to Lukin's. However, the effectiveness of the regional ombudsmen varied significantly. In April Lukin reportedly criticized electoral legislation before the Federation Council, stating that his office should retain the right to independently invite election observers. Lukin also expressed concern about the initial drafts of the controversial NGO legislation.

The Presidential Council on Promoting the Development of Institutions of Civil Society and Human Rights, headed by Ella Pamfilova, and including a number of human rights activists, promoted NGO concerns and worked across a spectrum of contacts to advance human rights throughout the country. For example, at a meeting with President Putin in November, Pamfilova spoke out against controversial draft legislation that would that would impose restrictions on the work of NGOs. The council, established to replace the president's Human Rights Commission, was widely respected in the NGO community. President Putin met with members of the council and with Pamfilova during the year.

During the year legislation passed creating a Public Chamber of civil society representatives to serve as a link between the government and civil society. The Public Chamber's tasks were to include conducting studies and giving non-binding recommendations to the government and legislature. President Putin chose the first one-third of its members in October. They consisted of a wide range of individuals representing various aspects of civil society. Many observers noted that most of those members were generally supportive of the government. The first 42 members chose the second group in November, and the first two groups chose the final 42, who represented regional organizations, in December. Some prominent human rights groups said they would not participate in the Public Chamber out of concern that the government would use it to increase control over civil society. In December members of Public Chamber spoke out against the initial draft of controversial NGO legislation and asked that the chamber be granted time to examine it.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, language, social status, or other circumstances; however, both governmental and societal discrimination persisted.

Women.—Domestic violence, including spousal abuse, remained a major problem, and law enforcement authorities frequently failed to respond to incidents of domestic violence. An AI report estimated that approximately 36 thousand women were beaten by a husband or partner every day. Official estimates indicated that, on average, more than 250 thousand violent crimes were committed against women annually; however, such crimes usually were not reported. In 2003 32 percent (9,500) of all murder cases were committed by family members against other family members. Research by two sociologists cited in a 2004 report found that 18 percent of respondents were regularly beaten by their husbands, and that more than 60 percent of the beaten women suffered traumas of varying severity. Law enforcement personnel, the legal community, and society as a whole, lacked understanding of domestic violence as a public problem.

There is no legal definition of domestic violence. While the law prohibits battery, assault, threats, and murder, those of its provisions most commonly applied to cases of domestic violence (such as light injury) are not within the jurisdiction of the prosecutor's Office. Following amendments to the law in 2003, victims are required to prosecute such cases without state assistance, and their complaints must meet certain legal requirements, which victims without legal knowledge have difficulty meeting. As a result, few victims were prosecuted and there were few convictions. There are minimal remedies for domestic violence in the civil law; the most common are administrative fines and divorce.

There were 23 crisis centers for women that operated as part of a broader structure of social protection institutions. Crisis services are not focused exclusively on violence against women, although some do offer services to domestic violence victims. NGOs operated centers for victims of domestic violence throughout most of the country. An informal informational network affiliated with the NGO National Center for Prevention of Violence "Anna," received 85 thousand complaints of domestic violence in 2004. During the year "Anna" reported that 22 of the 170 organizations in its network closed, primarily due to lack of financing.

Rape was a problem. Rape, including theoretically spousal rape since the Criminal Code makes no distinction based on the relationship between the rapist and victim, is illegal. In 2004 8,795 rapes were registered, and in the first half of the year, 5,007 rapes were registered. However, according to NGOs, many victims never reported rape due to social stigma and lack of government support. Rape victims can act as full legal parties to criminal cases brought against alleged assailants and can seek legal compensation as part of the verdict without seeking a separate civil action. Although some crisis centers may provide support to rape victims, anecdotal information suggested that women were discouraged from reporting rape cases by crisis center psychologists, who considered the investigation and prosecution process traumatizing; such advice did not reflect official policy. Members of the medical profession, including at hospitals and elsewhere, assisted women who were assaulted. However, to avoid spending long periods in court, some doctors were reluctant to ascertain the details of a sexual assault or collect physical evidence.

Spousal or acquaintance rape was not widely perceived as a problem by society or law enforcement; studies suggested that up to half of women and more men think that women cannot refuse sex in marriage. Women were unlikely to report cases of rape by people they know. Law enforcement and prosecutors held many of the same notions and allegedly did not encourage reporting or prosecution of such cases.

The organization and operation of a prostitution business is a crime, but selling sexual services is only an administrative offense. Prostitution remained widespread in the country, and some observers expressed concern about sex tourism. In addition, there were reports of the police taking bribes from prostitutes and of violence against prostitutes by police.

Trafficking of women for sexual exploitation or forced labor was a serious problem (see section 5, Trafficking).

No law prohibits sexual harassment, and women have no recourse when sexually harassed. Sexual harassment remained a widespread but mostly unacknowledged problem. NGOs operating hotlines reported that women routinely sought advice on the problem. However, due to the lack of legal remedies and limited economic opportunities, many women tolerated the harassment.

Although the law states that men and women have equal rights and opportunities to pursue those rights, credible evidence suggested that women encountered discrimination in employment. Job advertisements sometimes specified sex and age groups, and some ads specified desired physical appearance as well as a preference for applicants open to intimate relations with the prospective supervisor. Employers often preferred to hire men, thereby saving on maternity and childcare costs and avoiding the perceived unreliability that accompanies the hiring of women with small children. According to a 2001 report by the International Labor Organization

(ILO), women accounted for approximately 47 percent of the working-age population but on average earned only two thirds as much as their male counterparts. Professions dominated by women were much more poorly paid than those dominated by men.

Children.—The government was committed to children's rights and welfare; however, the resources it devoted to the welfare of children were limited. Children have the right to free education until grade 11 (or approximately age 17), and school is compulsory until approximately age 15 or 16. Primary education is compulsory, free, and, by law, universal. According to UNICEF statistics, 93 percent of school-age children attended school. The highest level achieved by most children was secondary education. Boys and girls were treated equally in the school system. While federal law provides for education for all children in the country, regional authorities frequently denied school access to the children of unregistered persons, including Roma, asylum seekers, and migrants (see section 2.d.).

Under the law health care for children is free; however, the quality varied, and individuals often incurred significant out-of-pocket expenses. More than five years after the start of the second conflict in Chechnya, much of that republic's social and physical infrastructure remains destroyed or seriously damaged. As a result, social services for children were inadequate, especially in the education, health and water, and sanitation sectors. These inadequacies, and the continued instability in the region, continued to threaten the health and well-being of children.

Although child abuse was a widespread problem, the majority of child abuse cases were not subject to legal action. The Moscow Human Rights Research Center estimated that approximately 50 thousand children run away from home annually to avoid domestic violence. The Moscow Helsinki Group indicated that each year approximately 2 million children under 14 years of age were victims of domestic violence.

Trafficking in children was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

There were reports that boys under 18 were detained as part of targeted raids and security sweeps conducted by Russian and pro-Moscow Chechen forces in Chechnya.

Troops in Chechnya reportedly placed Chechen boys ages 13 and older in filtration camps where some reportedly were beaten and raped by guards, soldiers, or other inmates. The women's action group White Kerchief (Belyy Platok) reported that some federal forces kidnapped children in Chechnya for ransom. In September 2004 at least 338 hostages, about half of them children, were killed after terrorists took an estimated 1,200 hostages at a school in North Ossetia (see section 1.g.).

Estimates of the number of homeless children ranged from 2 million to 5 million. According to the MVD, approximately 109 thousand vagrant minors were removed from the streets and public places in the first quarter of 2004 alone.

According to the Moscow Department of Social Security, 12 percent of street children who ended up in shelters have run away from orphanages or boarding schools. Law enforcement officials reportedly often abused street children, pinned the blame for otherwise unsolved crimes on them, and committed acts including extortion, illegal detention, and psychological and sexual violence against them. According to the Public Verdict Foundation, prosecutors refused to bring charges in 80 percent of cases of alleged police misconduct towards such minors. Homeless children often engaged in criminal activities, received no education, and were vulnerable to drug and alcohol abuse. Some young girls on the streets turned to, or were forced into, prostitution to survive.

Local and international NGOs provided a variety of services for the homeless. Many Moscow charitable organizations established productive relations with the city government to address the needs of children with disabilities, as well as other vulnerable groups. In St. Petersburg, local government and police ran various programs for homeless children and cooperated with local NGOs; however, resources were few and overall coordination remained poor. In St. Petersburg, NGOs ran seven drop-in centers.

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking continued to be a problem. Allegations continued that corrupt government officials facilitated trafficking, although it remained difficult to ascertain the scope of such corruption. The government at all levels remained committed to combat trafficking and prosecutions have increased since the State Duma amended the criminal code in 2003 to specifically outlaw human trafficking and the use of forced labor.

Under the law, if certain aggravating factors are established, trafficking and forced labor are punishable by a maximum of 15 years' imprisonment, recruitment into prostitution by a maximum of 8 years, organization of a prostitution business

by a maximum of 10 years, and manufacture and distribution of child pornography by a maximum of 8 years. On January 1, new witness protection legislation went into effect that provides a mechanism to protect cooperating trafficking victims and their families against traffickers.

Law enforcement agencies increasingly investigated and prosecuted trafficking cases. A senior MVD official reported that he was aware of seven criminal cases involving 36 defendants in the first 6 months of the year; 4 cases involved sex trafficking and 3 involved labor trafficking. The MVD worked closely with foreign governments and continued to assist international human trafficking prosecutions. The MFA developed guidance for consular officers abroad on dealing with trafficking victims and expressed a commitment to assist with the repatriation of trafficking victims. The government cooperated with international trafficking investigations.

There were no reliable estimates of the scope of trafficking, but observers believe it remained widespread. The country continued to be a source, destination and transit country for human trafficking, particularly of women. While women and children were trafficked for sexual purposes, men were also trafficked into the country on a significant scale from former CIS countries, particularly for the construction industry.

According to the IOM, women have been trafficked to almost 50 countries, including every West European country, the United States, Canada, former Soviet republics, and Middle Eastern and Asian countries. Women who were trafficked abroad and returned to Russia seldom reported their experiences to the police, because they feared retaliation by traffickers. Traffickers usually targeted unemployed females between the ages of 14 and 45, with females between the ages of 15 and 25 being the primary targets. Traffickers often lured women with promises of economic opportunities. Some trafficking victims knowingly agreed to work in sex industries. However, all the victims interviewed in the IOM study stated that they never suspected the severity of the conditions and abuse to which they would be subjected.

Reports indicated that internal trafficking, fueled by poverty and unemployment, remained a problem. Women were recruited and transported from rural areas to urban centers typically to work in sex industries.

There were continued reports of child trafficking, primarily for sexual exploitation. The victims were usually homeless children or children in orphanages. There are no reliable estimates of how many children were trafficked. The country has become a major producer and distributor of Internet child pornography, leading to confirmed cases of child sex trafficking and child sex tourism.

Information from foreign prosecutions, academic researchers, and law enforcement sources suggested that criminal groups carried out most trafficking with the assistance of front companies and more established organized crime groups. Typically, the traffickers used a front company—frequently an employment agency, travel agency or modeling company—to recruit victims with promises of well-paying work overseas. Many placed advertisements in newspapers or public places for overseas employment, some employed women to pose as returned workers to recruit victims, some placed Internet or other advertisements for mail order brides, and some victims were recruited by partners or friends. Once the victims reached the destination country, the traffickers typically confiscated their travel documents, kept them in a remote location, and forced them to work.

Reports indicated that employers or traffickers withheld workers' passports or other documentation. They threatened workers with deportation or prosecution if they demanded compensation. One trafficking researcher indicated that some local police cooperated with employers to "shake down" such workers to deprive them of their wages. Traffickers often used their ties to organized crime to threaten victims with harm to their families should they try to escape. They also relied on ties to organized crime in the destination countries to prevent the victims from leaving and to find employment for the victims in the local sex industry. Trafficking organizations typically paid domestic organized crime entities a percentage of their profits in return for "protection" and for assistance in identifying victims, procuring false documents, and corrupting law enforcement.

Journalists, politicians, NGOs, and academic experts stated that corrupt elements in the MVD and other law enforcement bodies facilitated and, in many cases, controlled trafficking. In addition, individual government officials reportedly took bribes from traffickers in return for false documents and facilitating visa fraud. Law enforcement sources agreed that document fraud was often committed in the process of obtaining external passports and visas, but they were uncertain to what extent this involved official corruption rather than individual or organized criminal activity. There were reports of prosecutions of officials involved in such corruption.

Many of the more than 120 crisis centers and antitrafficking NGOs throughout the country disseminated information on trafficking, and many provided assistance

to victims. NGOs rescued victims and helped them to reintegrate upon return to the country. Such NGOs received varying degrees of support from regional and local governments. Some were invited to brief local officials and law enforcement personnel, and some provided training to local crisis centers and hospital staff. The State Duma Committee on Legislation involved a variety of NGOs in developing antitrafficking legislation.

Shelters run by local NGOs provided assistance to trafficking victims.

The government had no official comprehensive trafficking prevention program but continued to sponsor events designed to raise public awareness of the dangers of trafficking. The State Duma, with the support of the Presidential Administration, sponsored seven regional conferences designed to teach law enforcement officers, NGOs, and public officials about relevant laws and to encourage closer cooperation between police and NGOs. The MVD sponsored three "Train the Trainer" conferences for MVD training officers from regional academies throughout the country employing experts to develop well-trained antitrafficking investigators.

Persons with Disabilities.—Several existing laws are intended to prohibit discrimination against persons with disabilities or to establish conditions of equal rights for them; however, the government generally did not enforce these laws. Citizens with disabilities continued to face discrimination and were denied equal opportunity to education, employment, and access to social life. Overall, the situation for persons with disabilities has reportedly worsened since the passage in August 2004 of a law which replaced government subsidies for such items as transportation and medicine with cash payments. Some affluent regions like Moscow preserved benefits for the disabled at preexisting levels, but other regions discontinued them.

According to the ministries of education and of health and social development, there were an estimated 12.2 million persons with disabilities, of whom approximately 640 thousand were minors. Persons with disabilities were generally excluded from the social and political life of their communities and isolated from the mainstream community.

The residents of disabled adult institutions were mainly "graduates" of the institutions for children. Institutions often did not attempt to develop the abilities of the interned persons. The residents were frequently confined to the institutions and sometimes movement within the institutions was restricted. The use of psychotropic drugs as punishment was allegedly widespread. Conditions in the institutions were often poor, with unqualified staff and overcrowding.

Laws prescribe penalties for enterprises that fail to build ramps or other accessible features but contain no enforcement mechanisms. Federal law on the protection of persons with disabilities requires that buildings be made accessible to the disabled, but the penalties for enterprises that failed to observe these requirements were not enforced and in practice most buildings were not accessible.

Approximately 90 percent of disabled persons were unemployed. Legislation providing employment quotas exists at the federal and local levels; however, some local authorities and private employers continued to discourage persons with disabilities from working, and no fine was mandated for not honoring these quotas.

The authorities generally segregated children with disabilities from mainstream society. A complex and cumbersome system has developed to manage the institutionalization of children until adulthood. Observers concluded that issues of children's welfare were lost within the bureaucracy, and little clear recourse existed in instances of abuse by the system. Human rights groups alleged that children in state institutions were provided for poorly and in some cases were physically abused by staff members. Life after institutionalization also posed serious problems; "graduates" often lacked the necessary social, educational, and vocational skills to function in society.

The assignment of categories of disability to mentally disabled children often followed them throughout their lives. The labels "imbecile" and "idiot," which are assigned by a commission that assesses all children with developmental problems at the age of three, and which signified that a child was uneducable, almost always was irrevocable. Even the label of "*debil*"—lightly retarded—followed an individual on official documents, creating barriers to employment and housing after graduation from state institutions. This designation was increasingly challenged in the case of children with parents or caregivers, but no one advocated for the rights of institutionalized children.

Youths with disabilities not in institutions faced significant barriers to education, including lack of access to schools. Education authorities often tried to keep youths with disabilities out of school due to lack of special programs. At the same time, the "home program" for children with disabilities was highly inferior to school classes. The majority of teachers and administrators in schools and universities had little

or no understanding of disability issues. Parents of children without disabilities were often averse to their children studying with children with disabilities.

According to government reports, of approximately 400 thousand school-aged children with disabilities, approximately 170 thousand did not receive any education. Of the approximately 230 thousand who received an education, 137 thousand attended regular schools, 33,500 studied at home, and 60 thousand attended special schools. Because special schools comprised only 3 percent of all schools, most children with disabilities could not study in the community where they lived, were isolated from other members of the community, and received an inadequate education.

Disabled persons faced barriers to participation in political life, including inaccessible government buildings. The election laws contain no special polling-place accessibility provisions for persons with disabilities, and the majority of polling places were not accessible to them. However, the use of mobile ballot boxes permitted them to vote at home, although they thus lacked the access to information about candidates that was available at the voting place.

The government bodies specifically charged with protecting human rights also protect the rights of persons with disabilities. These include the human rights ombudsman and the regional ombudsmen, the Presidential Council on Promoting the Development of Institutions of Civil Society and Human Rights, and the prosecutor's office. These bodies have carried out a number of inspections in response to complaints from disability organizations and in some cases have subsequently appealed to the responsible agencies to remedy the situation. For example, the human rights ombudsman has conducted inspections of children's homes for mentally disabled children, which disclosed severe violations of children's rights and the existence of substandard conditions.

National/Racial/Ethnic Minorities.—The law prohibits discrimination based on nationality; however, Roma, persons from the Caucasus and Central Asia, and dark skinned persons and foreigners faced widespread governmental and societal discrimination, which was often reflected in official attitudes and actions (see section 1.c.). Skinhead groups and other extreme nationalist organizations fomented racially motivated violence. Muslims and Jews continued to encounter prejudice and societal discrimination, although it was often difficult to separate religious from ethnic motivations (see section 2.c). Human rights observers noted that racist propaganda and racially motivated violence are punishable by law, but despite some increases in law enforcement efforts, the law was employed infrequently. However, the authorities demonstrated an increased awareness of the problem. For example, on September 27, President Putin stated: "We will step up the law enforcement agencies' work in this area and will do all we can to make sure that skinheads and fascist-minded groups are no longer a part of this country's political landscape."

Federal and local measures to combat crime continued to be applied disproportionately to persons appearing to be from the Caucasus and Central Asia. Police reportedly beat, harassed, and demanded bribes from persons with dark skin, or who appeared to be from the Caucasus, Central Asia, or Africa. Ethnic Azerbaijani vendors alleged that police frequently used violence against them during document checks at markets in St. Petersburg.

Authorities in Moscow subjected dark-skinned persons to far more frequent document checks than others and frequently detained them or fined them in amounts that exceeded legally permissible penalties. Police often failed to record infractions against minorities or to issue a written record to the alleged perpetrators. Law enforcement authorities also targeted such persons for deportation from urban centers. In March the Institute for War and Peace Reporting noted that police arrested illegal migrant workers from Central Asia and illegally took their money and then took the workers to the outskirts of Moscow instead of deporting them. This practice reportedly allowed the police to pocket the cost of the deportation and leave the workers in Moscow for future arrests.

A report by the European Roma Rights Center issued in May noted "alarming patterns" of human rights abuse of Roma in the country. The report also asserted that the magnitude of the abuse was only comparable to that of the impunity of the perpetrators. The report said that the media's frequent association of Roma with drug dealing provided the context for many of the human rights violations against them. It provided evidence of widespread police violence against Roma and noted that the abuse was rarely reported to higher authorities.

On February 14, approximately 400 members of the Romani community fled the village of Iskitim, Novosibirsk Oblast, after a group of armed men attacked and burned a number of Romani houses in the village. According to NGOs, similar attacks took place in the village in January 2005 and December 2004. Members of the Romani community indicated that in the aftermath of those incidents, law enforcement and municipal authorities had done nothing to prevent further attacks. The

police eventually arrested seven suspects and the Novosibirsk regional prosecutor's office took over the investigation. The case had reportedly not gone to court by year's end. There were also reports that warrants were issued for nine other suspects. On the night of November 10 two more Romani houses in Iskitim suffered arson attacks, in which a Romani women and her child sustained injuries. The child later died from the injuries received during the attack.

There was also evidence of hostility on ethnic and racial grounds within the society at large. Despite appeals for tolerance during the year by senior officials, violence and societal prejudice against ethnic and national minorities, as well as against foreigners, remained a problem. In the view of some experts and human rights leaders, this phenomenon worsened, but others insisted that it reflected better reporting and greater media attention.

During the year numerous racially motivated attacks took place against members of minority groups and foreigners, particularly Asians and Africans. In some cases, observers believed the attacks were racially motivated. According to MVD statistics, 11,100 crimes were committed against foreign citizens and persons without citizenship from January to October. For example it was reported that on July 9, about a dozen skinheads beat a Vietnamese man to death in a Moscow park. On September 14, a Congolese student was killed in St. Petersburg. A year ago the same student was attacked and hospitalized, at which time he gave evidence that the attack was racially motivated. On October 9, in Voronezh, a Peruvian student was killed and two other students, from Spain and Peru, were badly injured when a group of youths attacked them. There had been several previous attacks on attacks on foreigners in Voronezh. Later in October, the authorities charged a Russian student with murder and another 13 youths with lesser crimes for participating in the attack.

Not all of the attacks against foreigners were fatal. On February 11, two Korean students were attacked and hospitalized in St. Petersburg. On March 14, four skinheads attacked an African student of a pedagogical university in Lipetsk. On March 26, a Chinese student was attacked during daylight on a major city street in St. Petersburg. According to the MVD, 557 crimes against foreigners were registered in St. Petersburg during the first seven months of the year. The city administration appeared to have begun to take hate crimes more seriously, but law enforcement agencies did not do enough to address the issue, in part because they lacked the necessary resources and, in some cases, because some working-level staff sympathized with the nationalistic causes.

Private individuals or small groups that espoused racial hatred generally carried out such attacks. Law enforcement authorities knew the identity of some of the attackers based on their racial intolerance or criminal records. During the year members of ethnic or racial minorities were the victims of beatings, extortion, and harassment by skinheads and members of other racist and extremist groups. Police investigations of such cases were frequently ineffective and authorities were often reluctant to acknowledge the racial or nationalistic element in the crimes. Many victims, particularly migrants and asylum seekers who lacked residence documents recognized by the police, chose not to report such attacks or experienced indifference on the part of police.

Skinhead activity continued to be a serious problem. Skinheads primarily targeted foreigners and individuals from the Northern Caucasus, although they also expressed anti-Muslim and anti-Semitic sentiments and hostility toward adherents of "foreign" religions (see section 2.c.). According to the MVD, neofascist movements have approximately 15 thousand to 20 thousand members, of which over 5 thousand were estimated to live in Moscow. According to the MHBR, there were approximately 50 thousand skinheads in 85 cities. Skinhead groups were particularly numerous in Moscow, St. Petersburg, Nizhniy Novgorod, Yaroslavl, and Voronezh. According to one report, from January to early December skinheads attacked 125 people in Moscow, and 8 of the victims died.

There were indications that the authorities were increasingly willing to acknowledge racial, ethnic, or religious motivations for such criminal acts. For example, in St. Petersburg authorities have recently been willing to acknowledge the role of ethnic hatred in such crimes. Between January and July, 13 physical attacks were officially declared to have been motivated by racial or ethnic hatred. In all cases the attackers wore skinhead attire or proclaimed nationalist slogans. In September, for the first time, a Primorskiy Kray jury convicted a defendant of a crime motivated by ethnic hatred. Skinhead leader Ivan Nazarenko was found guilty of murder motivated by ethnic hatred for the killing of a Korean man in September 2004 and sentenced to 13 years' imprisonment. The same jury acquitted Nazarenko of the 2004 murder of a Chinese citizen.

In August five skinheads were convicted of murdering migrants in Surgut, Khanty-Mansiysk Okrug. Two of the teenage defendants were sentenced to 9 years, the rest to 8½ years for murdering an Azeri and four Tajiks in separate incidents December 2003 and September 2004. The skinheads reportedly attacked and beat to death or stabbed people of a non-Slavic appearance on the streets with the aim of "cleansing the city." They allegedly confessed to the killings during the investigation but withdrew their confessions in court.

Also in August three skinheads were sentenced to one year imprisonment for assaulting ethnic Yakuts in Yekaterinburg. According to media reports, this was the first conviction for a hate crime in Sverdlovsk Oblast. In St. Petersburg, the trials of eight young men accused of attacking a Tajik family of three in 2004 continued, stabbing a 9-year-old Tajik girl to death. Only one of the men alleged to have been involved was being tried for murder.

In June 2004 Nikolay Girenko, an expert on hate crimes and senior researcher of the Museum of Anthropology and Ethnography at the Russian Academy of Sciences, was killed in his apartment in St. Petersburg. Shortly after his killing, a previously unknown organization, "Russian Republic," pronounced a death sentence on Girenko on its website and announced that the sentence had been carried out. St. Petersburg prosecutors reportedly issued a summons to the authors of the "Russian Republic" website, but according to an NGO, those behind the website had decided to ignore the summons. There continued to be no indication that the authorities had arrested any suspects in connection with Girenko's killing.

In March Pavel Ivanov resumed publication of *The Russkoye Veche,* a Velikiy Novgorod newspaper that printed articles hostile to minorities. Ivanov had been charged in 2002 with inflaming ethnic hatred and in February 2004 the court found him guilty and banned him from publishing for three years. Ivanov appealed the ruling and the ban was replaced with a $350 (10 thousand rubles) fine.

Indigenous People.—The law provides for support of indigenous ethnic communities; it permits them to create self-governing bodies and allows them to seek compensation if economic development threatens their lands. In some regions local communities organized to study and make recommendations regarding the preservation of indigenous cultures. Groups such as the Buryats in Siberia and ethnic groups of the North (including the Enver, Tafarli, Chukchi, and others) continued to work actively to preserve and defend their cultures as well as the economic resources of their regions. Most affirmed that they received the same treatment as ethnic Russians, although some groups believed they were not represented or were underrepresented in regional governments. The principal problems of indigenous people remained the distribution of necessary supplies and services, particularly in the winter months for those who lived in the far north, and claims to profits from exploitation of natural resources.

According to an NGO in the Russian Far East, Aleuts on the remote Commander Islands were beginning to work in partnership with the local nature preserve. The local Aleut population and the nature preserve had been in dispute over the Aleuts' right to hunt protected seals.

Members of the Finno-Ugric Mari ethnic group were subjected to attacks. In late May a website reported that a group of 30 Russian skinheads beat up 15 leading Mari cultural figures in the republic's capital, Yoshkar-Ola. Mari opposition figures claimed that officials of the Mari-El Republic had instigated the attacks through the extremist Russian National Unity organization. On August 27, unidentified assailants attacked Vasiliy Petrov, chairman of the Youth Organization of Finno-Ugric Peoples, in his home village in Mari-El, according to the Information Center of Finno-Ugric Peoples. In May the European Parliament adopted a resolution criticizing Russia for violating the rights of the Mari. According to press reports, Russia in June blocked the release of a report by the Parliamentary Assembly of the Council of Europe that was critical of human rights abuses in the Republic of Mari-El.

Other Societal Abuses and Discrimination.—Persons with HIV/AIDS often encountered discrimination. Federal AIDS law contains antidiscrimination provisions, but these were frequently not enforced. HRW reported that HIV-positive mothers and their children faced discrimination in accessing healthcare, employment, and education. Persons with HIV/AIDS found themselves alienated from their families, employers, and medical service providers. For example, a 2003 study of 470 citizens with HIV found that 10 percent had been forced to leave home by their families, 30 percent had been refused health care and 10 percent had been fired.

Although homosexuality is not illegal, many male homosexuals continued to suffer discrimination from all levels of society. Medical practitioners continued to limit or refuse their access to health services due to intolerance and prejudice. According to recent studies, male homosexuals were often refused work due to their sexuality.

Openly gay men were targets for skinhead aggression, which was often met with law enforcement indifference.

Section 6. Worker Rights

a. The Right of Association.—Although the law provides workers with the right to form and join unions, in practice government policy and the dominant position of the Federation of Independent Trade Unions of Russia (FNPR) limited the exercise of this right. Approximately 46 percent of an estimated work force of 69 million workers was unionized, and approximately 90 percent of union members belonged to the FNPR.

The FNPR and other trade union federations acted independently on the national political level, but in some cases FNPR unions were affiliated closely with local political structures, giving FNPR advantages over unions without such established political ties. FNPR unions frequently included management as part of the bargaining unit or elected management as delegates to its congresses.

While the law requires unions to register and specifies that registration requires a simple "notification" and submission of documents to the authorities, in practice many unions remained unregistered because local departments of the MOJ throughout the country continued to ignore the established procedures and refused to register new unions without changes in charter documents or confirmation of attendance at founding conferences. As a result, new organizations remained unregistered and existing organizations that had been required to reregister had not done so. Unregistered unions faced operational constraints, such as difficulty in opening bank accounts and collecting fees.

The law specifically prohibits antiunion discrimination, but it remained a problem. Union leaders were at times followed by the security services, detained for questioning by police, and subjected to heavy fines, losses of bonuses, and demotions.

b. The Right to Organize and Bargain Collectively.—The rights of unions to conduct their activities without interference and the right to bargain collectively are recognized in law but other legal provisions give employers a strong role in dealing with labor relations. The law makes collective bargaining mandatory if either employer or employees request it; it obliges both sides to enter into such negotiations within seven days of receiving a such a request; and it sets a three-month time limit for concluding such agreements. Unresolved issues are to be included in a protocol of disagreement, which may be used to initiate a collective labor dispute. Despite these requirements, however, employers continued to ignore union requests to negotiate collective bargaining agreements. In July St. Petersburg dockworkers went on strike to protest management's refusal to sign a collective bargaining agreement.

Labor experts have criticized provisions in the law that favor the designation of a majority union as the exclusive bargaining agent, a provision that favors larger unions. They have also voiced concern about such provisions of the Labor Code as the stipulation that there be only one collective agreement per enterprise, covering all employees, which limits the ability of professional or "craft" unions (the majority of new unions in the country) to represent their members' interests. In May the ILO Committee on Freedom of Association renewed its request to the government that it amend the Labor Code to allow collective bargaining at the occupational level.

According to the International Confederation of Free Trade Unions, a 2004 law on commercial secrets specifies that information on wages in commercial companies is a commercial secret. Lack of access to this information disadvantaged unions engaged in collective bargaining.

Although collective bargaining agreements had been officially registered only by an estimated 16 to 18 percent of enterprises, the FNPR claimed that approximately 80 percent of its enterprises had concluded such agreements. This apparent discrepancy appeared to be due in part to agreements that were concluded but not registered with the Ministry of Labor. The law states that collective agreements become effective upon signature, regardless of whether they are registered or not.

The law provides for the right to strike; however, this right remained difficult to exercise. Most strikes were considered technically illegal because they violated one or more of the exceedingly complex procedures governing disputes. A strike may be called at an enterprise only after approval by a majority vote at a conference composed of at least two-thirds of all personnel, including management.

The law specifies that a minimum level of essential services must be provided if a strike could affect the safety or health of citizens. Under this definition, most public sector employees could not strike and other provisions were often manipulated to prevent many would-be strikers from walking off the job. Strike actions were further discouraged by the fact that civil courts have the right to order confiscation of union property to settle damages and losses to an employer if a strike is found

to be illegal and not discontinued before the decision goes into effect. As a result, labor actions were often organized by strike committees rather than by unions.

Although there were several strikes during the year, there were no prolonged strikes. Statistics were not available for the informal labor actions, which were more common. Court rulings have established the principle that nonpayment of wages—estimated to be the cause of 90 percent of labor disputes—is an individual matter and cannot be addressed collectively by unions. As a result a collective action based on nonpayment of wages was not recognized as a strike. The law does not protect individuals against being fired while on strike.

The law prohibits strikes in the railway and air traffic sectors, at nuclear power stations, and by members of the military, militia, government agencies, and disaster assistance organizations. As a result, workers in these professions at times resorted to other forms of protest, such as rallies, days of action, or hunger strikes. The law prohibits reprisals for strikes, but reprisals were common and included threats of night shifts, denial of benefits, blacklisting, and firing.

There are no export processing zones. There are no special labor laws or exemptions from regular labor laws in the special economic zones and free trade zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. According to credible reports, significant numbers of illegally employed migrants from other countries of the former Soviet Union were forced to work without pay because the firms that brought them into the country held their passports (see section 5). According to an ILO study, employers of illegal migrants withheld passports in 20 percent of forced labor cases.

Most wages of the 7,500 North Koreans reported by the authorities to be employed in the Russian Far East were withheld until the laborers returned home, making the workers vulnerable to deception by North Korean authorities who promised relatively high payments. There were reported incidents throughout the year of military officers forcing soldiers under their charge to work for private citizens or organizations, often under abusive conditions. AI has charged that a 1995 bilateral agreement with North Korea allowed the exchange of free labor for debt repayment, although the government claimed that a 1999 intergovernmental agreement gave North Koreans working in the country the same legal protections as citizens.

In August 2004 the television station Rossiya reported that dozens of workers died at a slave labor camp in Western Siberia, where the owners of a logging company reportedly decided to increase their profits by using slave labor. The Kemerovo regional prosecutor's office was trying the case at year's end.

The law prohibits forced or bonded labor by children; however, such practices reportedly occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government did not effectively implement laws and policies to protect children from exploitation in the work place. The law prohibits most employment of children under the age of 16 and regulates the working conditions of children under the age of 18, including banning dangerous nighttime and overtime work; however, the Federal Labor and Employment Service and the MVD, which are responsible for child labor matters, did not enforce these laws effectively. Children are permitted, under certain conditions and with the approval of a parent or guardian, to work at the age of 14. Such work must not threaten the health or welfare of the children. The Federal Labor and Employment Service, under the auspices of the Ministry of Health and Social Development, is responsible for routinely checking enterprises and organizations for violations of labor and occupational health standards for minors. In 2004 approximately 8,300 cases of child labor violations were reported. Most serious violations of child labor and occupational health standards were believed to occur in the informal sector. Local police investigations only occurred in response to complaints.

Accepted social prohibitions against employment of children and the availability of adult workers at low wages generally prevented widespread abuse of child labor. Nonetheless, children working and living on the streets remained a problem. Parents often used their children to lend credence to their poverty when begging or had them beg. Homeless children were at heightened risk for exploitation in prostitution or criminal activities (see section 5). Trafficking of children was also a problem (see section 5).

e. Acceptable Conditions of Work.—The monthly minimum wage, essentially an accounting reference for calculating transfer payments, increased to $28 (800 rubles) on September 1, up from $26 (720 rubles). The monthly official subsistence level of approximately $86 (2,451 rubles) was not sufficient to provide a decent standard of living for a worker and family. Approximately 18 percent of the population had in-

comes below the official subsistence minimum. Average wages rose to approximately $304 (8,655 rubles) per month, compared with approximately $250 (7,126 rubles) per month in 2004.

The law provides a standard workweek of 40 hours, with at least one 24-hour rest period, and requires premium pay for overtime work or work on holidays; however, workers complained that employers required them to work in excess of the standard workweek, abrogated negotiated labor agreements, and of forced transferred them against their will.

Although nonpayment of wages declined, especially in the public sector, it continued to be the most widespread abuse of labor legislation. For example, the ITAR-Tass news agency reported on December 8 that utility workers in the town of Kimovsk, Tula Oblast, had begun a second week of "industrial action" to protest $400 thousand (11 million rubles) in unpaid wages. Wage arrears through July totaled $390 million (11.1 billion rubles), 50 percent less than the same period in 2004.

The law imposes penalties on employers who pay their employees late or make partial payments and requires them to pay two-thirds of a worker's salary if the worker remains idle by some fault of the employer. Proving that an employer was at fault, however, was difficult. Courts often were willing to rule in favor of employees seeking payment of back wages, but collection remained difficult. Courts often insisted that cases be filed individually, in contradiction to the Law on Trade Unions, thereby undercutting union attempts to include the entire membership in one case. Individually filed cases made for a lengthier process, one more difficult for the individual worker, and one that left them more exposed to possible retaliation (see section 6.b.).

Although the law establishes minimum conditions for workplace safety and worker health, the government did not allocate sufficient financial and human resources to enforce these standards effectively. In many cases, workers wore little protective equipment in factories, enterprises stored hazardous materials in open areas, emergency exits were locked, and smoking was permitted near containers of flammable substances.

The law provides workers the right to remove themselves from hazardous or life-threatening work situations without jeopardy to their continued employment; however, the government did not effectively enforce this right. The risk of industrial accidents or death for workers decreased but remained high. For the first half of the year, there were 1,960 work-related deaths, down from 2,021 in the first half of 2004.

The law entitles foreign workers residing and working legally in the country to the same rights and protections as citizens, and the law prohibits forced or compulsory labor; however, foreign workers reportedly were brought into the country to perform such labor (see section 6.c.). Foreign workers residing and working illegally in the country may be subject to deportation but may seek recourse through the court system. There were credible reports that hundreds of thousands of citizens of other CIS countries worked illegally in Moscow and other larger cities for lower wages than citizens and under generally poor conditions. There were reports that police abused and defrauded illegal migrant workers who were minorities (see section 5).

SAN MARINO

San Marino, with a population of approximately 28 thousand, is a democratic, multiparty republic. The popularly elected parliament, the Great and General Council (GGC), selects two of its members to serve as Captains Regent (co-heads of state). They preside over meetings of the GGC and the cabinet (congress of state), which has no more than ten other members (secretaries of state) who the GGC also selects. The most recent parliamentary elections held in 2001 were free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers, but there were none during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The Ministry of Interior controls the civil police, who are responsible for domestic security, traffic, and civil defense. The Ministry of Foreign Affairs controls the gendarmerie and the national guard, who are responsible for the protection of the national borders and the security of public buildings and who act in coordination with the civil police in the prevention of crime and the maintenance of public order.

The security forces are adequately staffed and effective in maintaining law and order. There were no reports of corruption involving members of the security forces. Impunity was not a problem. Investigations of police abuse are usually assigned to one of the three police forces not involved in the case. There were no instances where police failed to prevent or to respond to societal violence during the year.

Arrest and Detention.—Suspects were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. The law provides a detainee with the right to a prompt judicial determination of the legality of his detention, and the authorities generally respected this right in practice. There is a well functioning bail system. Detainees are allowed prompt access to family members and to a lawyer of their choice; the state provides legal assistance to indigent persons.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary is composed of the commissioner of the law, the judging magistrate, the appellate judge, the juvenile court, and the judge of last appeal. The commissioner tries civil and penal cases with penalties not exceeding a three-year sentence. The judging magistrates, who are appointed by parliament for a three-year term and can be indefinitely reappointed, preside over all other cases.

Reform legislation, enacted in 2004, no longer requires that the country's lower court judges be noncitizens; however, most lower court judges remained Italian citizens. A local conciliation judge handles cases of minor importance. Under the same reform, the final court of review is the judge of the last appeal. In civil matters, this judge confirms or overrules either the lower court judgment or an appellate decision; in criminal matters, he judges on the legitimacy of detention measures and on the enforcement of a judgment.

On April 28, a new act established the country's constitutional court with the following functions: 1) to verify that laws, acts, and traditions that are given the force of law conform to constitutional precepts; 2) to verify the admissibility of a referendum; 3) to decide on conflicts between constitutional institutions; 4) to control the activity of the Captains Regent. The court is composed of three standing judges and three alternate judges. They are selected by the GGC with a two-thirds majority to a four-year term. After the first selection one-third of the members of the court are reselected every two years.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public and are presided over by a single judge. There are no provisions for a jury trial. Defendants have the right to be present and to consult with an attorney even during preliminary investigations. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. They have access to government-held evidence relevant to their cases. They enjoy a presumption of innocence and have the right to two levels of appeal.

In case of legal actions against military personnel, a civil judge is temporarily given a military grade and assigned to an ad hoc military tribunal.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The Catholic Church receives direct benefits from the government through income tax revenues; taxpayers may request that 0.3 percent of their income tax payments be allocated to the Catholic Church or to "other" charities, including two religions (the Waldesian Church and Jehovah's Witnesses).

The government does not require official recognition, registration, or license for religious groups. However, it requires legal status for tax or other commercial purposes. While a concordat with the Holy See regulates relations with the Catholic Church, other religions, such as the Baha'is and Jehovah's Witnesses are included in a registry of cultural associations.

Societal Abuses and Discrimination.—There were fewer than 12 Muslims and no known Jewish citizens in the country. During the year there were no reports of any violence or discrimination against religious minorities or anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government may grant refugee status or asylum by an act of the cabinet. For humanitarian reasons, the government granted a year permit of stay to an Eritrean woman and her two children, which will expire in April 2006.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Most recent elections held in 2001 were considered free and fair. The Christian Democratic Party (DCS) obtained 25 of the 60 Parliamentary seats and confirmed the government alliance with the Socialist Party (PSS), which won 14 seats. However, a period of political instability ensued, and several short-lived governments were elected through 2003, when the present large coalition government including the DCS, PSS, and the Party of Democrats, the third largest party with 12 parliamentary seats, was elected. The next general elections are expected to take place in April or May 2006.

There were nine women in the 60-seat parliament and one woman in the eight-seat cabinet.

There were no members of minorities in the government.

Government Corruption and Transparency.—There were no reports of corruption by public officials during the year.

The law provides for public access to government activity and the government provides access for citizens and noncitizens through the GGC's Web site.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no domestic human rights organizations, although the government does not restrict their formation. The government declared itself open to investiga-

tions of alleged human rights abuses by international nongovernmental organizations, but there were no known requests during the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government effectively enforced it.

Women.—Violence against women, including spousal abuse, was rare. The law prohibits violence against women, and the government effectively enforced it. During the year there were no reports of violence against women. The penalty for spousal abuse is two to six years' imprisonment. In the case of aggravating circumstances the penalty is 4 to 10 years' imprisonment.

Rape was very rare. During the year there were no reports of rape. Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted those accused of such crimes. The penalty for rape is two to six years' imprisonment. In the case of aggravating circumstances the penalty is 4 to 10 years' imprisonment.

Prostitution is not legal, and it was not common.

Sexual harassment is illegal, and the government effectively enforced the law. There were no reports of sexual harassment during the year.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. There was no economic discrimination against women in pay, employment, or working conditions. There is no special government office to ensure the legal rights of women.

Children.—The government was committed to children's rights and welfare.

Education is free until grade 13 (usually age 18) and compulsory until age 16. Most students continued in school until age 18. No differences were apparent in the treatment of girls and boys in education.

Medical services were amply funded, and boys and girls had equal access to health care.

Violence against or abuse of children was uncommon. There were no reported cases during the year; however, the judicial investigations of a 2003 case of sexual abuse by a father against his teenage adopted daughter and a similar sexual abuse crime committed in 2004 were ongoing at year's end.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. There were no reports of societal discrimination against persons with disabilities. The ministry for territory has not fully implemented a law that mandates easier access to public buildings by persons with disabilities, and many buildings were inaccessible.

Section 6. Worker Rights

a. The Right of Association.—By law all workers (except the armed forces) are free to form and join unions, and workers exercised this right in practice. The law sets the conditions to establish labor unions. Union members constituted approximately 50 percent of the country's non-self-employed work force, which numbered approximately 15 thousand citizens plus 5 thousand nonresident Italians. A "conciliatory committee" composed of representatives from labor, business, and government generally resolved complaints of antiunion discrimination amicably.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law gives collective bargaining agreements the force of law. Negotiations were conducted freely, often in the presence of government officials by invitation from both unions and employer associations. All workers are under collective bargaining agreements. The law allows all civilian workers, including the civil police, the right to strike, and workers exercised this right by conducting legal strikes. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively enforced the laws and policies to protect children from exploitation in the workplace. The minimum age for employment and compulsory education is 16, and no exceptions were granted by the Ministry of Labor and Cooperation. The law does not limit children between the ages of 16 and 18 from any type of legal work activity. The government devoted adequate resources and oversight to child

labor policies, and the Ministry of Labor and Cooperation effectively enforced compliance with the law.

e. Acceptable Conditions of Work.—The national minimum wage of approximately $8 (6.7 euros) per hour did not provide a decent standard of living for a worker and family. However, wages generally were higher than the minimum.

The law sets the workweek at 36 hours in the public sector, and 37½ hours for industry and private businesses, with 24 consecutive hours of rest per week mandated for workers in either category. The law requires a premium payment for overtime and allows a maximum of two hours of overtime per day. There was effective enforcement of laws and industry contracts that prohibit excessive compulsory overtime.

The government set safety and health standards, and the judicial system effectively enforced these standards. Most workplaces complied with the standards; however, there were some exceptions. The construction industry did not consistently abide by safety regulations, such as work hour limitations. However, on-the-job injuries declined due to stricter safety rules and more severe penalties for violations imposed by the government, in addition to improved training for the workforce. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and the authorities effectively enforced this right.

Nearly one-quarter of the workforce is nonresident, commuting from nearby Italy. Two laws treat legal foreign workers differently from citizens of the country: the first prohibits indefinite employment status and the state grants a work permit that has to be renewed every 12 months. The second requires non-Italian foreign workers to obtain an Italian residence permit before they can apply for employment. In practice, these provisions limit unemployment benefits for foreigners to a period of less than 12 months.

SERBIA AND MONTENEGRO

Serbia and Montenegro is a state union consisting of the relatively large Republic of Serbia and the much smaller Republic of Montenegro.[1] The state union is a parliamentary democracy. The state union government's responsibilities are limited to foreign affairs, national security, human and minority rights, and internal and external economic and commercial relations. The country has a population of 10.8 million[2] and is headed by President Svetozar Marovic, who was elected by parliament in 2003.

The Republic of Serbia is a parliamentary democracy with approximately 10.2 million inhabitants. Prime Minister Vojislav Kostunica has led Serbia's multiparty government since March 2004. Boris Tadic was elected president in June 2004 elections that observers deemed essentially in line with international standards. While civilian authorities generally maintained effective control of the security forces, there were a few instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens and continued efforts to address human rights violations; however, numerous problems from previous years persisted. The following human rights problems were reported:

- police violence, misconduct, and impunity
- arbitrary arrest and selective enforcement of the law for political purposes
- lengthy pretrial detention
- corruption in the judiciary
- lengthy trials of human rights cases
- government impediments to freedom of speech and the press
- harassment of journalists
- societal violence and discrimination against religious and ethnic minorities
- housing of internally displaced persons in inadequate conditions
- widespread government corruption

---

[1] The report on Serbia and Montenegro is divided into three sections addressing the human rights situations in Serbia, Kosovo, and Montenegro. Discussion of state union-level activities and institutions affecting human rights is included in the Serbia section.

[2] For this report, Kosovo's population of 2.1 million is included as part of Serbia's population

- harassment of non-governmental organizations (NGOs), particularly those involved in human rights
- two of the International Criminal Tribunal for the former Yugoslavia's (ICTY) most wanted war crimes suspects, Ratko Mladic and Radovan Karadzic, remained at large
- violence against women and children
- trafficking in persons

The government's increased efforts in addressing human rights violations brought notable improvements. The government cooperated to a significant degree with the ICTY to turn over persons indicted for war crimes, potential witnesses, and documents; demonstrated that it could effectively prosecute high-profile crime cases in its domestic special courts; increased attention to human rights abuses of minorities; and implemented a witness protection program to help combat trafficking in persons.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces killed two persons.

On January 7, members of the armed forces shot and killed a 16-year-old ethnic Albanian while he was trying to cross the country's border with Macedonia illegally. A Ministry of Defense investigation determined that the military acted in accordance with the law.

On October 21, a man died after being beaten by a police officer in Kikinda. Authorities charged officer Sasa Mijin in the Zrenjanin district court two days later and suspended a total of eight officers in connection with the case. Mijin was in custody and awaiting trial at year's end. Another officer, Tatjana Radisic, received a reduction in pay and was demoted.

Long-delayed trials for political killings from previous years continued during the year, some with notable progress.

At year's end the Belgrade special court for organized crime continued the trial of three dozen suspects in the 2003 assassination of prime minister Djindjic. Former secret police special operations unit (JSO) commander Milorad Ulemek was charged with organizing the assassination, former JSO deputy commander Zvezdan Jovanovic-Zveki was charged with murder, and 12 other persons were charged with organization and taking part in murder. Several others were charged with lesser crimes in connection with the assassination.

On July 18, the Belgrade special court for organized crime concluded its trial of Ulemek and others for the 2000 killing of former Serbian president Ivan Stambolic. The court sentenced Milorad Ulemek and 3 persons under his command to 40 years in prison, 2 others to 15 years in prison, and 1 person to 4 years in prison. The verdict named former Federal Republic of Yugoslavia and Serbian president Slobodan Milosevic, on trial before the ICTY, as the main instigator of the political assassination.

On June 29, a Belgrade district court concluded the retrial of Milorad Ulemek and 5 other former JSO members for the 1999 attempted killing of then Serbian Renewal Movement leader Vuk Draskovic. The court sentenced the 6 to 15 years in prison and also handed down prison sentences to a former intelligence chief and a former customs administration chief for their involvement.

The government had yet to complete its investigation into the disappearance and subsequent killing of Yili, Mehmet, and Agron Bytyqi, three US citizen brothers who were executed in Serbia in 1999. The bodies of the three were discovered in 2001 in a mass grave in rural Petrovo Selo, near a Serbian police facility. The bodies were found with their hands bound and gunshot wounds to their heads. At year's end there had been no indictments in the killings.

Domestic courts and the ICTY continued to try cases arising from crimes committed during the 1991–99 conflicts in Croatia, Bosnia and Herzegovina, and Kosovo (see sections 1.e. and 4).

Several military conscripts died during the year while on guard duty in remote areas, and their families challenged the military's determination that the deaths were suicides. During the year an official commission of inquiry rejected the military's finding that two soldiers who died in October 2004 while on guard duty in Topcider were victims of a homicide and suicide without third-party involvement. Authorities referred the case to the courts for resolution; however, no court action had been taken by year's end.

In July a demining expert was killed in an unexploded ordnance removal operation in Nis.

b. Disappearance.—There were no reports of politically motivated disappearances. During the year authorities failed to investigate human rights groups' allegations that, early in the year and subsequently in July, individuals belonging to the Security Information Agency threatened witnesses to the government's alleged involvement in incinerating bodies of Kosovar Albanians at the Mackatica plant in 1999. Authorities also did not investigate mass graves on Serbian Ministry of the Interior property that were discovered in 2001.

State union and Serbian authorities continued to cooperate with neighboring countries, the International Commission on Missing Persons, and other international organizations to identify missing persons and investigate graves discovered in Serbia. However, progress was slow, and at times the government showed an unwillingness to release information to the public. During the year authorities identified 560 bodies exhumed from mass graves dating to the Kosovo conflict and returned them to Kosovo. The government had not completed the identification and return of all the remains recovered by year's end. There were 2,494 missing persons cases that remained unsolved.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, police at times beat detainees and harassed persons, usually during arrest or initial detention for petty crimes.

The Belgrade-based Humanitarian Law Center (HLC) reported that, on February 16, police hit a 17-year-old girl in the stomach at a downtown Belgrade police station and handcuffed her to a radiator for several hours while detaining her for suspected theft. Authorities had not taken action on the report at year's end.

The Helsinki Committee for Human Rights in Serbia (HCS) reported that, on June 30, traffic police ordered a family to lie on the floor of their home in a village near Nis while the police hit and threatened to kill them. Police arrested the family and took them to a police station without informing them of their rights or the charges against them and continued to threaten and harass family members. Authorities had not taken action on the case at year's end, and the family reported continued police harassment.

HLC reported that, on July 5, police entered the apartment of a Belgrade man without authorization and beat the man and a friend. Police reportedly broke the door open, punched and kicked the men, then took them to the police station without informing them of any charges against them. Authorities had not taken action on the report by year's end.

On July 31, a lawyer for the Leskovac Committee for Human Rights reported that a police officer in Leskovac, Goran Velickovic, had beaten him. The lawyer had represented a client who was severely beaten by Velickovic in 2003. Authorities were investigating the case by year's end.

The Lawyers' Committee for Human Rights (YUCOM) reported that, on September 28, Novi Sad police officers beat a man during a train ride from Belgrade to Novi Sad, mistaking him for a rowdy football fan. YUCOM also received reports during the year of police using excessive force during football games and other sports events in Belgrade. The victims in these cases decided not to file charges against the officers.

Two court decisions during the year addressed past cases of police misconduct. In February the Vrbas municipal court ordered the Serbian government to pay approximately $3,700 (260 thousand dinars) to Dragan Sijacki for police abuse in 2000. In March the first municipal court in Belgrade ordered the Serbian government to pay approximately $14 thousand (1 million dinars) to the parents of the late Milan Ristic after an investigation found that police conduct was probably responsible for his death. The court found that authorities failed to conduct an expedient and comprehensive investigation into the cause of death and that they had hastily concluded that the death was a suicide.

There was no information on whether any further action was taken during the year in the following cases of alleged police misconduct: the prosecution, reported pending in 2004, of police officers Zoran Gogic and Dragan Bojanic for beating a man in Zrenjanin while on duty in January 2004 and the prosecution, reported pending in 2004, of three police officers for beating a man while in detention in 2003. A judge dismissed the private prosecution by the HLC, reported pending before an investigative judge in 2004, of officers in the Cacak police department for allegedly hitting and threatening a man in 2003 to force him to confess to a robbery.

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however, conditions varied greatly between facilities, and some guards abused prisoners.

In some prisons, most notably the Belgrade reformatory hospital housing psychiatric prisoners, inmates complained of dirty and inhumane conditions. The quality of food varied from poor to minimally acceptable, and health care was often inadequate. Guards were inadequately trained in the proper handling of prisoners. Juveniles were supposed to be held separately from adults; however, this did not always occur in practice.

The government permitted the International Committee of the Red Cross (ICRC) and local independent human rights monitors, including HCS, to visit prisons and to speak with prisoners without the presence of a warden.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions, with some high-profile exceptions.

Role of the Police and Security Apparatus.—The approximately 43 thousand police officers in Serbia are part of the Ministry of the Interior. The police are divided into 33 regional secretariats that report to the republic government. The armed forces are under the control of the state union government and are responsible for national security. During the year responsibilities for border security were formally transferred to the Ministry of the Interior; however, in practice there has been no hand over of border post responsibilities from the military to the interior ministry, and military personnel still perform these functions.

The effectiveness of the police was uneven and generally limited. While most officers were Serbs, the force included Bosniaks (Bosnian Muslims), ethnic Hungarians, a small number of ethnic Albanians, and other ethnic minorities. The multiethnic police force in southern Serbia was composed primarily of ethnic Albanians and Serbs.

Corruption and impunity in the police force were problems, and there were only limited institutional means of overseeing and controlling police behavior. The inspector general's office, created in 2003, had increasingly limited authority, and the office had no autonomy to investigate and redress abuses. While the office recommended numerous disciplinary proceedings against interior ministry employees since its establishment, it had no means of following up on proceedings, and some secretariats completely ignored its recommendations.

During the year the interior ministry inspector general's office recommended disciplinary measures against ministry employees, leading to 856 cases that resulted in financial penalties, reassignments, and dismissals. The office filed 29 criminal complaints against 48 ministry employees on charges including forgery, misuse of public funds, corruption, accepting bribes, assault, and incompetence.

The Center of Public Security also took disciplinary measures against interior ministry employees, including submitting 1 employee for precriminal investigation, dismissing 7, opening a misdemeanor investigation of 1, reassigning 23, and reducing the salary of 9. In 63 cases, the center filed reports with department chiefs, who dismissed 33 employees, reassigned 45 to lower positions, reassigned 2 to equal positions, and reduced the salary of 141.

During the year the government and the Organization for Security and Cooperation in Europe (OSCE) trained police, including on community relations. A foreign government also sponsored police training programs on witness protection and corruption.

Arrest and Detention.—Arrests were generally based on warrants, although police were authorized to make arrests without a warrant in limited circumstances, including if there was a well-founded suspicion that a person had committed a capital crime. The law requires an investigating judge to approve any detention over 48 hours, and authorities respected this requirement in practice. Bail was allowed but rarely used; detainees facing charges that carried possible sentences of less than five years were often released on their own recognizance.

The law provides that the police must inform arrested persons immediately of their rights. While police usually did so in practice, some abuses were reported (see section 1.c.).

The law provides access for detainees to counsel, at government expense if necessary, and this right was generally respected in practice. Unlike the previous year, there were no reports that police pressured attorneys to limit their contact with detainees. Family members were normally able to visit detainees. Suspects can be detained for up to six months without being charged.

The law prohibits the use of force, threats, deception, and coercion, as well as use in court of evidence acquired by such means; however, police sometimes used these means to obtain statements.

Authorities used arbitrary arrest and selective enforcement of the law for political purposes, particularly to undermine the credibility and reputation of those critical of the government.

On March 22, the government arrested then Belgrade police chief Milan Obradovic and charged him with permitting the beating of a murder suspect. Details of the charges were leaked to the media, and observers believed the arrest was politically motivated. The government released Obradovic after 60 days in detention and dropped the criminal investigation; however, the investigation was pending at year's end, and the interior ministry carried out disciplinary measures against Obradovic, first suspending him for four months, reducing his pay by 20 percent, and demoting him to a low-ranking position in the provinces, then further reducing his pay and classifying his position as unassigned.

On September 28, the government arrested former minister of justice Vladan Batic on charges related to the release from prison of a member of the so-called Jotka group in 2003. Batic said he was acting upon the Constitutional Court's ruling that holding these prisoners was unconstitutional. Human rights organizations criticized the arrest as politically motivated, stemming from Batic's regular and public criticism of the government. No charges were raised, and Batic was released within 48 hours.

Shortly after Batic's arrest, police arrested Dragan Vulic, former assistant minister in charge of Serbian correctional facilities, also in connection with the release of the Jotka member. Human rights organizations again decried this arrest and detention as selective enforcement of rule of law to punish allies of former prime minister Djindjic. Vulic was released after 30 days in detention.

The law limits the length of pretrial detention from indictment to the conclusion of a trial to 2 years for most cases, but allows detention for up to 4 years for crimes that carry up to the maximum penalty (40 years in prison). The law sets 2 years as the maximum detention permitted after an appellate court vacates the judgment of a trial court. Nonetheless, prolonged pretrial detention was a problem. The law prohibits excessive delays by authorities in filing formal charges against suspects and in opening investigations; however, such delays continued regularly. Due to the inefficiency of the courts, cases often took an excessively long time to come to trial, and once started, trials often took an excessively long time to complete (see section 1.e.).

Persons detained for serious crimes generally were held for the full six months allowed before charges are required to be filed.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the courts remained susceptible to corruption and political influence.

Corruption in the judiciary remained a problem. There were reports that government officials attempted to undermine politically sensitive prosecutions, including by applying pressure on prosecutors. On September 16, authorities arrested Supreme Court judge Slavoljub Vuckovic and charged him with accepting a bribe in the Jotka organized crime case.

On October 14, a court resumed the trial of former deputy public prosecutor Milan Sarajlic, who was charged with accepting payments from the Zemun organized crime clan in 2004; the trial had been put on hold due to Sarajlic's poor health in 2004.

The private sector still considered corruption in the commercial courts to be widespread. In addition land transfers often were extremely difficult, leading many in the private sector to allege administrative corruption.

The courts were highly inefficient, and cases could take years to be resolved.

The court of the state union is responsible for coordinating jurisprudence in the state union, resolving jurisdictional disputes between Serbian and Montenegrin institutions, ruling on alleged violations of rights guaranteed by the state union constitutional charter, and settling disputes that the state union's joint customs office is unable to resolve. The court was established in 2004, but no cases had been brought before it by year's end.

The Serbian judicial system consists of municipal courts, district courts, a Supreme Court, and a Constitutional Court. In addition, the law provides for special courts for war crimes and organized crime; these were operational during the year within the Belgrade district court. The Constitutional Court rules on the constitutionality of laws and regulations. While the law provides for an administrative appeals court and a second instance appeals court to reduce the Supreme Court's caseload, the National Assembly has postponed the establishment of the courts until 2007.

The government disbanded military courts on January 1. A special branch in each district court assumed responsibility for military cases.

Trial Procedures.—Trials are generally public, but they are closed during testimony of a state witness. There are no juries. The law provides that defendants are presumed innocent and have the right to have an attorney represent them at public expense, if needed, and to be present at their trials. Both the defense and the prosecution have the right to appeal a verdict. Defendants have the right to access government-held evidence and question witnesses. These rights were generally respected in practice.

The special war crimes court continued trying war crimes cases, some of which concluded with long-awaited indictments and sentences. On June 17, the court concluded the retrial of Aleksandar Cvjetan for the 1999 killing of 19 ethnic Albanians in Kosovo. In March 2004 a court sentenced Cvjetan to 20 years in prison, but the Supreme Court subsequently ordered a retrial. The war crimes court confirmed the original 20-year sentence; however, the decision was pending on appeal in the Supreme Court at year's end.

The Belgrade district court also tried Dejan Demirovic in absentia for the Podujevo killings and obtained his extradition from Canada; Demirovic was in custody pending trial at year's end.

On July 15, the special war crimes court concluded the retrial, ordered by the Supreme Court in 2004, of the Sjeverin war crimes case involving the torture and killing of 16 Muslims in 1992. The court confirmed the original conviction and sentencing of Dragutin Dragicevic, Oliver Krsmanovic, and ICTY indictee Milan Lukic to 20 years in prison, and Djordje Sevic to 15 years in prison. The court's decision was pending on appeal in the Supreme Court at year's end. In August authorities in Argentina arrested Lukic, and his extradition to the ICTY was pending at year's end.

The special war crimes court commenced several trials during the year. On October 12, it began the trial of Anton Lekaj, who was accused of the 1999 murder and torture of Roma in Kosovo during a wedding procession. On December 12, the court passed its first verdict in the Ovcara case (also known as the Vukovar massacre), convicting 14 Serbs of murder, torture, and inhumane treatment of more than 200 Croatian prisoners of war in 1991. The convictions can be appealed to the Supreme Court.

The special war crimes court made preparation for two additional trials. In August the court indicted seven persons in the Zvornik case involving the 1992 eviction and murder of Bosnian Muslims. In October the court indicted six persons in the Scorpions case involving the execution of six Bosnian Muslim civilians from Srebrenica in 1995.

Political Prisoners.—There were no reports of political prisoners.

Property Restitution.—During the year a government commission began preparing a register of property seized since 1945, but it made no progress on enacting a property restitution law or returning property.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government interfered with privacy and correspondence. While the law requires the interior ministry to obtain a court order before monitoring potential criminal activity and police to obtain a warrant before entering property except to save people or possessions, police occasionally did not respect these provisions in practice.

Most observers believed that authorities selectively monitored communications, eavesdropped on conversations, read mail and e-mail, and tapped telephones. Human rights leaders frequently reported that their communications were being monitored.

On October 20, the Serbian post office confiscated promotional materials (such as leaflets, lighters, pens) of the Movement for an Independent Montenegro while the group was in Belgrade for a news conference. Authorities explained that the materials contained "politically unacceptable content," but the group claimed the post office screened mail without a court order and illegally confiscated materials.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, there were reports of government interference in these freedoms and reprisals against persons who criticized the government.

In general, independent media organizations were active and expressed a wide range of views; however, some media organizations experienced threats and reprisals for publicizing views critical of the government, and many reporters lacked professionalism in citing sources and achieving accuracy.

The government published the daily *Borba* and owned one of the country's most important printing houses, also named Borba. The oldest nationwide daily, *Politika*,

was co-owned by a German company and the government but operated by several shareholding companies.

State-controlled Radio-Television Serbia (RTS) was a major presence, operating three television channels as well as radio service. The government had considerable influence, although not formal control, over other major television stations, including TV Politika and TV Novi Sad, as well as Radio Belgrade's three stations. In addition, many television stations relied on the state-owned news agency Tanjug for news information. While RTS's coverage was generally objective, there occasionally appeared to be a bias toward the government.

In August parliament amended the broadcast law to postpone the privatization of local broadcast media until the end of 2008 and give government appointees to the broadcasting council six-year terms in office, while persons appointed by NGOs and professional organizations would serve for four years.

Media organizations, particularly the radio station B92, were victims of vandalism, bomb threats, and intimidation for coverage of views unpopular with the government.

Local government leaders in Vranje reportedly harassed OK Radio reporters, and several reporters received death threats, following the radio's September 2004 report that 2,500 ballots had been printed illegally for the local elections there. The report was confirmed by the Center for Free Elections and Democracy.

Libel is a criminal offense. In September the Serbian parliament adopted a new penal code that replaces imprisonment with fines of $552 to $13,800 (460 euros to 11,500 euros) as punishment for libel.

In March the Vranje committee of the Socialist Party of Serbia (SPS) charged Goran Vladkovic, editor-in-chief of OK Radio, with disseminating false information and libel in connection with the radio's September 2004 report on the illegal printing of ballots for a municipal election. The SPS sought over $343 thousand (24 million dinars) in compensation for alleged damages. A trial was pending at year's end, and OK Radio reported numerous threats and break-ins of its offices.

Journalists sometimes practiced self-censorship because of possible libel suits and fear of offending public opinion, particularly on subjects relating to wars in the former Yugoslavia.

While there were no government restrictions on the Internet or academic freedom, there were reports that the government selectively monitored e-mail correspondence.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government usually respected it in practice; however, authorities occasionally impeded public protests.

On March 30, police prevented approximately 300 members of the Association of Free and Independent Unions from protesting in front of a Serbian government building.

On July 10, members of the Women in Black organization gathered in Belgrade to commemorate the tenth anniversary of the Srebrenica killings in Bosnia and Herzegovina. While the government provided security and did not interfere with the event, which was organized by an outspoken critic of the government, some human rights groups criticized police for not responding adequately to threats and tear gas used by other groups against participants.

Freedom of Association.—The law provides for freedom of association, and the government generally respected it in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, the Serbian government maintained a discriminatory property tax.

While there is no state religion, the majority Serbian Orthodox Church received some preferential treatment. For example, the military continued to offer only Serbian Orthodox services, although it allowed members of other faiths to attend religious services outside their posts. There were also complaints that the Serbian government funded construction of a large Serbian Orthodox Church by raising postal charges. The Serbian government subsidized salaries of Serbian Orthodox clergy in Kosovo.

Although there is no formal registration requirement for religious organizations, any group planning to hold gatherings is required to register with local police. Religious organizations may register as citizen groups with the interior ministry in order to gain the legal status necessary to own real estate and conduct other transactions.

Serbian tax law exempts property owned by 7 traditional religious groups (the Serbian Orthodox Church, the Muslim community, the Roman Catholic Church, the Slovak Evangelical Church, the Jewish community, the Reform Christian Church,

and the Evangelical Christian Church) from taxation but requires tax to be paid on property owned by any of the country's 182 other religious communities. Some religious organizations received tax notices during the year; the tax was expected to have the greatest impact on the smaller, unrecognized religious communities, such as the Adventist Church, which holds approximately 200 properties in the country.

A number of religious groups reported problems dealing with local government authorities.

Non-Orthodox religious organizations continued to report difficulty obtaining permission from local authorities in Serbia to build new worship facilities. The Belgrade Islamic community reported continued difficulties in acquiring land and government approval for an Islamic cemetery in the city.

During the year the municipal council for the prevention of addictions and religious sects in the town of Leskovac identified Adventists, Baptists, Pentecostals, the Evangelical Church, Jehovah's Witnesses, and "Satanists" as sects and promoted propaganda against them.

Local authorities ordered the demolition of a Romanian Orthodox church built on private land in the village of Malajnica. Authorities reportedly acted because the local Serbian Orthodox clergy had not approved the church. The case was before the Serbian Supreme Court at year's end. In May a local Romanian Orthodox priest who led a religious procession without police permission was charged with inciting religious hatred but was acquitted.

Serbian law requires students in primary and secondary schools either to attend classes from one of the seven traditional religious communities or, alternatively, to take a class in civic education. Leaders of religions groups excluded from the program continued to express their dissatisfaction at the government's narrow definition of religion.

The Church of Jesus Christ of Latter-day Saints reported one case of the government restricting the import of religious material. Church members attempted to bring religious materials from Bulgaria, but border police refused them entry until they emptied the materials from their vehicles.

There was no progress noted during the year on restitution of previously seized religious property. The government reported that it was near to completing a register of seized religious property. As a temporary measure, a few religious communities have been granted free use of some facilities that had been seized from them. There was no progress noted in drafting a law on restitution of religious property in Serbia.

Societal Abuses and Discrimination.—Religion and ethnicity are closely related; in many cases, it was difficult to identify discriminatory acts as being either primarily religious or primarily ethnic in motivation. Minority religious communities reported continuing problems with vandalism of church buildings, cemeteries, and other religious sites. Many attacks involved spray-painted graffiti, rock throwing, or the defacing of tombstones, while a few cases involved much more extensive damage. The police response was often inadequate.

Members of the Church of Jesus Christ of Latter-day Saints in Belgrade reported several incidents to police during the year when they were physically assaulted by youths; in one of these incidents, a church member lost consciousness after being beaten in a park. The police told the members that nothing could be done, since the perpetrators were minors.

During the year courts made progress in several of the trials connected to attacks against mosques in Belgrade and Nis in apparent response to violence against the Serb community in Kosovo in March 2004.

In April a court sentenced 1 person arrested in connection with the burning of a Belgrade mosque to three months in prison; the trial of 10 other persons indicted in the attack continued at year's end. The Serbian government repaired the outside of the mosque but had not yet repaired the interior.

In July a Nis municipal court convicted and sentenced eight persons to spend three to five months in prison for the March 2004 burning of the Islam-Aga mosque in Nis. Muslim leaders criticized the sentences as too lenient.

The Jewish community had fewer than four thousand persons. Representatives of the Union of Jewish Communities of Serbia and Montenegro reported continued incidents of anti-Semitism but no physical violence against Jewish persons. There were several reports of anti-Semitic graffiti and vandalism at a few Jewish cemeteries. In addition the release of foreign anti-Semitic literature translated into Serbian often led to a spike in hate mail and other expressions of anti-Semitism.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons (IDPs).—According to official figures of the Office of the UN High Commissioner for Refugees (UNHCR), there were approximately 208 thousand IDPs from Kosovo in Serbia, mainly Serbs, Roma, and Bosniaks as a result of the 1999 events in Kosovo. Approximately nine thousand remained in collective centers that were inadequate for any purpose other than as emergency shelter.

The state union government did not screen or assume responsibility for the six thousand IDPs that the ICRC ceased supporting when its mandate expired in 2004; however, it continued to pay salaries to IDPs who were in the Kosovar government before June 1999. In order to obtain temporary residence status in Serbia, the law requires IDPs to first return to Kosovo and deregister themselves from their previous address. Failure to complete this process effectively prevents IDPs from obtaining access to health insurance, social welfare, and public schools.

In 2004 the Serbian government signed agreements with 13 countries. During the year it signed agreements with 2 additional countries to accept unsuccessful migrants and persons without legal residence in those countries, who were primarily Roma. The Serbian Red Cross opened an office at the Belgrade airport to assist returning Roma.

The UNHCR estimated that there were 40 to 45 thousand displaced Roma living in Serbia proper; half of those were not registered due to lack of documents. Many Kosovar Roma were perceived to be Serb collaborators during the conflict in Kosovo and could not safely return there. Living conditions for Roma in Serbia were extremely poor. Local municipalities often were reluctant to accommodate them, hoping that, if they failed to provide shelter, the Roma would leave the community (see section 5). If Roma did settle, it was often in official collective centers with minimum amenities or, more often, in makeshift camps in or near major cities or towns.

There were sporadic incidents of attacks and vandalism against IDPs, particularly ethnic Ashkalis. In Vojvodina, several Ashkali houses were vandalized during the year.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The state union has adopted a law on asylum that provides a framework but does not mention procedures or implementation. The government, on the republic level, has not passed legislation or established a system for providing protection to refugees. In practice the government may provide protection against *refoulement*, the return of persons to a country where they feared persecution, and UNHCR grants the refugee status. Forty-four persons were granted refugee status during the year.

The government provided temporary protection to individuals from Bosnia and Herzegovina and from Croatia who may not qualify as refugees under the 1951 convention and its 1967 protocol.

According to the 2005 refugee re-registration process, there were approximately 140 thousand refugees in Serbia from other successor states of the Federal Republic of Yugoslavia, primarily Croatia (100 thousand) and Bosnia and Herzegovina (40 thousand). The government, with UNHCR support, worked to close the remaining collective centers for refugees by establishing qualifications for persons to remain at the centers and by seeking alternate housing for others. Approximately six thousand refugees remained in collective centers in Serbia at year's end.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

Elections and Political Participation.—The state union and the Serbian republic each have a parliamentary system of government. The state union parliament elects the state union president, while the president of the Serbian republic is elected by popular vote. On June 2, the Serbian National Assembly (parliament) adopted amendments to the state union's constitutional charter that postponed direct elections for the state union parliament and stipulated that state union and Serbian republic parliamentary elections take place separately.

An OSCE and Council of Europe election observation mission reported that the June 2004 Serbian republic presidential elections were peaceful and conducted essentially in line with international standards. Problems noted by the mission in-

cluded lack of a central voter register, lack of facilities for eligible voters living in Montenegro, and evidence of some degree of disenfranchisement in the Romani community. Voting took place in Kosovo, where 97 thousand voters were registered; however, restrictions on movement hindered the ability of ethnic Serbs to vote, while the ethnic Albanian population, with very few exceptions, did not participate in the election, even in areas where some were on the voter lists.

An OSCE election observation mission reported that December 2003 Serbian republic parliamentary elections were conducted generally in line with international standards.

There were 13 women in the 126-seat state union parliament and 23 women in the 250-seat Serbian parliament. There were no women in the 5-member state union cabinet and 1 woman in the 16-member Serbian cabinet.

There were 7 members of minorities in the 126-seat state union parliament and 11 members of minorities in the 250-seat Serbian parliament. There was 1 member of a minority in the 5-member state union cabinet but no members of minorities in the 16-member Serbian cabinet.

Serbian law exempts ethnically based parties from the 5 percent threshold required for a political party to enter the Serbian parliament. Roma continued their historical pattern of low voter turnout. Local ethnic Albanian leaders in southern Serbia boycotted national elections notwithstanding their active involvement in local governance.

Government Corruption and Transparency.—There was a widespread public perception of government corruption, and it appeared at every level. A Gallup survey released in March indicated that 60 percent of Serbians polled believed that government corruption was a major problem.

In June the government announced it would phase out the existing council for combating corruption, but it was unclear at year's end whether another body would replace it. During the year the council failed to investigate a number of corruption cases, including government contracts, questionable energy imports, and the use and sale of state-owned commercial office space.

Government authorities were inconsistent in their approach to official corruption. Investigations often appeared to be politically motivated and there are numerous examples of authorities failing to act in response to detailed reports of suspected corruption involving a wide range of officials. Media reporting of corruption was often sensationalist. Official anti-corruption bodies could be responsive and did have some success; however, there were cases where their efforts were blocked.

On September 8, Minister of Defense Prvoslav Davinic announced his resignation following the finance minister's criticism of his awarding of a $360 million (300 million euros) procurement contract in August as excessive, unjustified, and possibly corrupt. The contract allegedly involved the purchase of 74 thousand helmets and 69 thousand flak jackets for an army with only 28 thousand soldiers. Observers believed the accusations were politically motivated and stemmed from a rivalry between the two ministers. The Belgrade district court found no criminal wrongdoing in connection with the procurement but at year's end was investigating minor charges of misuse of office while Davinic was defense minister. The charges involved facilitating apartment leases for his bodyguards.

Authorities took no further action during the year against the interior ministry officials who were accused by the finance minister in September 2004 of having misappropriating public funds; observers believed the charges were politically motivated and lacked evidence.

Officials also engaged in questionable procedures in several high visibility privatizations, and the media reported that the political leadership overlooked and justice ministry officials ignored illegal transfers of funds made to government ministers.

The Serbian government's implementation of the November 2004 access to information law was slow, and the government generally did not provide access in practice. The law provides for public access to information of "legitimate public importance" (with many exceptions) and establishes an independent commissioner, selected by the Serbian parliament, to handle appeals when government agencies reject requests for information. NGOs reported that their requests for information from the government went unanswered.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of independent domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. However, these groups were often subjects of harassment, threats and libel suits for expressing views critical of the government.

Prominent human rights groups included the Helsinki Committee for Human Rights in Serbia, the Humanitarian Law Center, the Lawyers' Committee for Human Rights, the Fund for an Open Society, the Youth Initiative for Human Rights, and Belgrade Center for Human Rights.

After a video recording of the 1995 execution of six Srebrenica Muslims by a Serb paramilitary group called the "Skorpions" was shown on television on June 1, the Socialist Party of Serbia, the Serbian Radical Party, and the Democratic Party of Serbia accused the Humanitarian Law Center, other NGOs, and media outlets of conducting an anti-Serb campaign. Some NGO workers were subsequently threatened and attacked, primarily through media campaigns demonizing them and publication of personal information, such as their addresses.

The state union government does not have an autonomous human rights ombudsman; however, during the year the Serbian government established a new ombudsman's office in Belgrade. Vojvodina Province has an ombudsman, who operated independently during the year. The legal aid office in the state union Ministry for Human and Minority Rights also assisted citizens with human rights complaints.

The state union and Serbian governments made significant progress in their cooperation with the ICTY to apprehend and bring to justice war criminals; however, two of ICTY's most wanted war crimes suspects with links to Serbia, Ratko Mladic and Radovan Karadzic, remained at large. From January through April, Serb authorities assisted in the transfer of 13 indictees to the tribunal, with one additional transfer in September; however, six ICTY indictees with ties to the country remained at large, including key indictee Mladic. The state union and Serbian governments also made progress in complying with ICTY document requests and in facilitating the testimony of witnesses. The state union government's national cooperation council (NCC) transferred approximately 900 pages of documents to the ICTY prosecutor's office in response to requests for information, but outstanding requests remain. The NCC facilitated the testimony of 46 witnesses by granting waivers that freed potential witnesses from local prosecution under state secrets laws.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, discrimination against women and ethnic minorities as well as trafficking in persons and violence against women and children were problems.

Women.—Violence against women was a problem, and high levels of domestic violence persisted. The Serbian Victimology Society reported in July that one-third of women have been victims of physical violence, and half of women have been victims of psychological violence.

Domestic violence is a crime punishable by a prison sentence of 6 months to 10 years, depending on the seriousness of the offense, and a minimum of 10 years if death results. Such cases were difficult to prosecute due to lack of witnesses and evidence, as well as unwillingness of witnesses or victims to come forward. In a 2005 World Health Organization study of Serbian women, two-thirds of physically abused women reported that they did not seek help because they thought such abuse was normal or not serious. The few official agencies dedicated to coping with family violence had inadequate resources.

Rape, including spousal rape, is punishable by 1 year to the legal maximum sentence (40 years' imprisonment) for a simple case, a minimum of 3 years for an aggravated case, and a minimum of 5 years if death results or the victim is a minor. Only a small proportion of rapes were reported because victims feared that they would not be protected, that their attackers would take revenge, or that they would be humiliated in court. Few spousal rape victims filed complaints with authorities. Women's groups reported that sentences were often too lenient.

The Center for Autonomous Women's Rights in Belgrade offered a rape and spousal abuse hotline, and sponsored a number of self-help groups. The center also offered assistance to refugee women (mostly Serb), many of whom experienced extreme abuse or rape during the conflicts in the former Yugoslavia. The Counseling Center Against Family Violence operated a domestic violence shelter partly funded by the government.

Prostitution is illegal.

Trafficking in women for the purpose of sexual exploitation remained a problem (see section 5, Trafficking).

Sexual harassment was a common problem, but public awareness of it remained low. The law provides that sexual harassment is a crime punishable by up to six months' imprisonment for a simple case and by up to one year's imprisonment for abuse of a subordinate or dependent.

Women have the same legal rights as men, including under family law, property law, and in the judicial system. To ensure that women's rights are respected, the

Serbian government established the council for gender equality in 2004. The Vojvodina government also has a secretariat for labor, employment, and gender equality. The OSCE mission to Serbia helped to establish municipal bodies in charge of gender equality in more than 30 municipalities.

Traditional views of gender roles, particularly in rural areas, resulted in discrimination against women. In remote rural areas, particularly among some minority communities, women could not effectively exercise their right to control property. In rural areas and some minority communities, it was common for husbands to direct the voting of wives.

The social status of women was generally considered inferior to that of men, and women were not well represented in commerce. Women were legally entitled to equal pay for equal work; however, according to the International Helsinki Federation for Human Rights, women's average wage was 11 percent lower than that of men.

Children.—The government was committed to the rights and welfare of children. The educational system provided nine years of free, mandatory schooling. However, ethnic prejudice, cultural norms, and economic distress discouraged some children, particularly Roma, from attending school. One government survey found that approximately 99.8 percent of children attended school; however, the government acknowledged that the survey missed many transient Roma.

Romani education remained a problem. Many Romani children did not attend primary school, either for family reasons, because they were judged by school administrators to be unqualified, or because of societal prejudice. Due to the lack of primary schooling, many Romani children did not learn to speak Serbian. Some Romani children were placed mistakenly in schools for children with emotional disabilities because the Romani language and cultural norms made it difficult for them to succeed on standardized tests in Serbian. The UNHCR, with government support, conducted health education programs for Roma and catch-up and head-start programs for Romani children. During the year 48 elementary and secondary schools offered weekly Romani language and culture classes in which 1,336 students participated.

Free medical care was available in government clinics, including free medicines from a limited list of covered drugs. Boys and girls had equal access to medical care.

Child abuse was a widespread problem. While teachers were instructed to report suspected child abuse cases, they often did not do so. Police generally responded to complaints, and prosecutions of child abuse cases occurred during the year. Psychological and legal assistance was available for victims, and there was an incest trauma center.

Child marriage was a problem within some communities, particularly among Roma and in rural areas of southern and eastern Serbia. In the Romani community, boys and girls generally married between the ages of 14 and 18, with 16 as the average, and boys generally married a few years later than girls. Child marriage was most common among Muslim Roma, most of whom came from Kosovo and were living in other parts of the country as IDPs.

Trafficking of children for the purpose of sexual exploitation remained a problem (see section 5, Trafficking). Some Romani children were trafficked within the Romani community and to Roma abroad for exploitation in begging and theft rings.

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking in persons through and, to a lesser extent, to and from Serbia (excluding Kosovo) remained a problem. The penalty for trafficking is imprisonment of 1 to 10 years for a single offense, 3 to 40 years for multiple offenses, and 5 to 40 if a minor is involved or if a victim is killed.

The government's prosecution of trafficking cases became more effective, and courts handed down less lenient sentences for trafficking offenses than in previous years. On September 30, the special department of the Belgrade district court concluded a long-running and high-profile trafficking case involving Ukrainian victims, sentencing the organizer of the crime to eight years in prison and sentenced three others to three to six years in prison.

On December 28, the special court for organized crime concluded the 2004 case of 10 persons tried for trafficking women to Italy. The leader of the group, Dejan Stosic, received a four-year prison sentence; the others received sentences of 5 to 30 months.

During the year authorities filed 13 criminal charges against 21 persons for trafficking; antitrafficking groups worked with 113 trafficking victims and received 1,712 telephone calls on an SOS hotline for victims.

Serbian government antitrafficking efforts were led by an antitrafficking coordinator who was the chief of the border police and incorporated government agencies, NGOs, and international organizations. The state union ministries of foreign affairs

and human and minority rights also participated. The government assisted in international investigations of human trafficking and participated in a regional antitrafficking operation.

With financial assistance and training from the international community, a witness protection unit became fully functional during the year. In addition reports suggested that police increasingly recognized and correctly assisted trafficking victims. For example, in February port of entry police recognized that an unescorted minor girl deported from Sweden with her two-year-old child and lacking paperwork was a trafficking victim and provided her assistance.

Serbia was a transit point, and to a lesser extent a point of origin and destination, for trafficking in women and girls for the purpose of sexual exploitation. Serbia was primarily a transit point for internationally trafficked women going to Kosovo as well as to Croatia, Bosnia and Herzegovina, Albania, and Western Europe. The primary source countries for persons trafficked to and through Serbia were Moldova, Ukraine, Romania, Russia, and Bulgaria. Approximately two thousand trafficking victims were in or passed through Serbia during the year, including women trafficked for sexual exploitation, children in begging rings, and exploited seasonal agricultural laborers.

Underage girls were among those trafficked for sexual exploitation. In November authorities rescued a 14-year-old girl at the Slovenian border from an international trafficking ring attempting to take her to the Netherlands for work and sexual exploitation. Her family in Prokuplje had sold her for $3,600 (3 thousand euros); the parents stated they thought their daughter would be staying with an aunt and attending school in the Netherlands. Two Croatians and two citizens of the Netherlands were arrested for trafficking the girl.

While Serbia was not traditionally a major source for trafficked women, poor economic conditions have increased women's vulnerability to traffickers, particularly in the Romani community. Trafficking of children by Roma for use in begging or theft rings was a problem.

Traffickers recruited victims through enticements including advertisements for escorts, marriage offers, and offers of employment. Women often went to work as prostitutes knowingly and only later became trafficking victims. In many cases international organized crime networks recruited, transported, sold, and controlled victims. The main points in Serbia for holding and transferring trafficked women were the Belgrade suburbs and Pancevo.

Authorities encouraged victims to participate in trials of traffickers and did not prosecute victims.

The government's agency for coordination of protection to victims worked to ensure that trafficking victims were correctly identified and referred to assistance providers. Separate shelters for domestic and foreign trafficking victims operated during the year. The NGO Astra operated a hotline for trafficking victims. NGOs and volunteers provided legal, medical, psychological, and other assistance to victims.

The International Organization for Migration (IOM) managed repatriation of foreign victims and assisted in the reintegration of local victims. The IOM also ran a regional clearing center for information on trafficking victims. There were numerous training programs, including training for hotline volunteers, shelters, social welfare officers, and police.

Serbian government and NGO public awareness efforts to combat trafficking included conferences on trafficking, documentary films shown across Serbia, and school outreach programs.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government generally enforced the law. There were no reports of discrimination against persons with physical or mental disability; however, facilities for their education and care were nonexistent or inadequate, and the government did not address the problem. A high unemployment rate and lack of accommodations made it difficult for persons with disabilities to obtain employment.

The law mandates access for persons with disabilities to new public buildings, and the government generally enforced this provision in practice.

National/Racial/Ethnic Minorities.—Minorities constituted 25 to 30 percent of Serbia's population and included Hungarians, Bosniaks, Roma, Slovaks, Romanians, Vlachs, Bulgarians, Croats, Albanians, and others.

Although not widespread, there continued to be incidents of vandalism and some physical attacks against minorities, mainly Hungarians in Vojvodina. The number of incidents against minorities in Vojvodina decreased compared with 2004.

In October the European Parliament adopted a resolution asserting that the rights of minorities were being violated in Vojvodina and noting several cases of

vandalism, verbal abuse, and physical attacks on ethnic Hungarians. On October 10, the NGO Human Rights Watch released a report on violence against minorities in Serbia that reached similar conclusions. The Serbian and state union government responded with increased engagement with ethnic minority leaders in Vojvodina. The Serbian government agreed to a 10-point strategy for improving ethnic relations in the province, including education and public awareness campaigns, and support for greater representation of minorities in the police and judiciary.

On November 9, a neo-Nazi group disrupted an anti-Fascist seminar at Novi Sad University in Vojvodina, harassing and slapping participants. Authorities charged 18 men with inciting ethnic, racial, and religious hatred and intolerance. In the weeks following this incident, the Serbian Ministry of Interior officially identified several neo-Nazi groups by name.

Ethnic Albanian leaders of the southern municipalities of Presevo, Bujanovac, and Medvedja continued to complain about the under-representation of ethnic Albanians in government structures. Dissatisfaction became particularly strong after army border guards shot and killed a 16-year-old ethnic Albanian in January as he was trying to cross the border with Macedonia illegally. A working group made up of interior ministry, OSCE, the coordination body for Southern Serbia, and municipal representatives addressed concerns between the ethnic Albanian community and police.

There were a few reports that police failed to take action to stop armed highway robberies that have occurred since mid-2004. Masked men claiming to belong to the Albanian National Army demanded money from drivers, mainly ethnic Albanian guest workers returning to Kosovo for the summer holidays.

Roma continued to be targets of numerous incidents of police violence, verbal and physical harassment from ordinary citizens, and societal discrimination. Police made modest improvements in investigating cases of societal violence against Roma. Twice during the year unknown persons attacked Romani settlements with Molotov cocktails; police investigated and pressed criminal charges against the assailants.

Many Roma, including IDPs from Kosovo, lived illegally in squatter settlements that lacked basic services such as schools, medical care, water, and sewage facilities. Some settlements were located on valuable industrial or commercial sites where private owners wanted to resume control; others were on the premises of state-owned enterprises due to be privatized. During the year Belgrade authorities continued to suspend demolition of one settlement on privatized land until they could locate alternative housing for Roma living there.

At year's end the prosecutor's office had not completed investigating the 2003 case of six Luzane villagers accused of attacking a Romani family.

During the year Belgrade authorities established a Romani coordination center and purchased land for the construction of an apartment complex for Roma; construction had not begun at year's end.

To address concerns of minorities, the state union Ministry for Human and Minority Rights operated a hotline for minorities and others concerned about human rights problems. Callers to the hotline most commonly reported being the victim of threats, ethnic slurs, and bullying. The government also sponsored several school programs to educate children about minority cultures and to promote tolerance.

Other Societal Abuses and Discrimination.—Violence and discrimination against homosexuals was a problem. The media carried slurs against homosexuals. Some NGOs reported that homosexuals were denied equal opportunities in education and employment. A survey by the Youth Initiatives for Human Rights indicated that lesbians, gays, bisexuals, and transgender persons experienced widespread threats, hate speech, verbal assault, and physical violence.

Section 6. Worker Rights

a. The Right of Association.—The law provides the right for workers, except military and police personnel, to join or form unions of their choosing, subject to restrictions, including approval by the Ministry of Labor and a statement from the employer that the union leader is a full-time employee, which reportedly was tantamount to an employer approval requirement. A state-affiliated trade union federation dominated organized labor, due to preference for unions belonging to it by the managements of the state-owned industries that dominated the economy. Smaller federations of independent trade unions competed with the government-affiliated federation, but were successful in doing so primarily in the relatively small proportion of the formal nonagricultural economy that is not state-owned. In the state-owned sector, 60 to 70 percent of workers belonged to unions. In the private sector, only 4 to 6 percent were unionized, and in agriculture approximately 3 percent.

The law does not prohibit antiunion discrimination, and it was not a significant problem during the year.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law protects the right to organize and bargain collectively, and it was exercised freely in practice. The new labor law implemented in March requires collective bargaining agreements for any company with more than 10 employees. However, in order to negotiate with an employer, a union must have 15 percent of company employees as members. In order to negotiate with the government, a union must have 10 percent of all workforce employees as members. Wage arrears were reported to be substantial and widespread. Approximately 27 percent of the workforce was covered by collective bargaining agreements.

The law provides for the right to strike except by persons providing essential services such as education, electric power, and postal service. These employees constitute approximately 50 percent of the workforce and must announce planned strikes at least 15 days in advance and ensure that a "minimum level of work" is provided. Workers exercised the right to strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively enforced laws protecting children from exploitation in the workforce. The minimum age for employment is 16, although in villages and farming communities it was common to find younger children at work assisting their families. Children, particularly Roma, also worked in a variety of unofficial retail jobs, typically washing car windows or selling small items such as newspapers. Romani children were often forced by their families into manual labor, compelled to beg, or trafficked abroad to work in begging or theft rings. The Labor Inspectorate of the Ministry of Labor, Employment, and Social Issues checked for child labor during its inspections; however, the ministry stated it found no violations during the year. The ministry also included prevention of child labor in its regular child and family protection programs.

e. Acceptable Conditions of Work.—In Serbia, the minimum wage for the period July–December was set by the Social Economic Council at approximately $105 (7,400 dinars) per month. The minimum wage did not provide a decent standard of living for a worker and family. In companies with a trade union presence, there was generally effective enforcement of the minimum wage. This was not the case in smaller private companies, and workers were often afraid of losing their jobs because many of them were not legally registered. The Labor Inspectorate is responsible for enforcing the minimum wage.

The standard workweek of 40 hours was generally followed in state-owned enterprises but not in private companies. The law provides that an employee may not work overtime for more than 4 hours a day or for more than 240 hours in a calendar year. For an 8-hour workday, one 30-minute break is required. At least 12 hours of break are required between shifts during a workweek, and at least 24 hours of break are required over a weekend.

Collective agreements were the primarily means of providing premium pay for overtime. However, the new labor law requires that the premium for overtime work should be at least 26 percent of the salary base, as defined by the relevant collective agreement. Trade unions within a company are the primary agents for enforcing overtime pay; however, the Labor Inspectorate also has enforcement responsibilities. The inspectorate had mixed results enforcing labor regulation due to a variety of factors, including politics and corruption.

It is mandatory for companies to establish a safety and security unit to implement safety and security regulations; however, in practice these units often focused on rudimentary aspects of safety, such as purchasing soaps and detergents, rather than on providing safety equipment for workers. Workers did not have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment.

KOSOVO

Kosovo has a population of approximately 2.2 million and is administered by the UN Interim Administrative Mission in Kosovo (UNMIK) pursuant to UN Security Council (UNSC) Resolution 1244. UNMIK promulgated regulations that addressed the civil and legal responsibilities of governmental entities and private individuals and ratified laws passed by the Kosovo Assembly. The UNMIK-promulgated Constitutional Framework for Provisional Self-Government in Kosovo (the constitutional

framework) defines the provisional institutions of self government (PISG). Multiparty elections in October 2004 for seats in the Assembly were generally free and fair. UNMIK international civilian authorities and a UN-authorized North Atlantic Treaty Organization peacekeeping force for Kosovo (KFOR) generally maintained effective control over security forces; however, there were reports that local elements of the security forces acted independently of their respective authority.

UNMIK and the PISG generally respected the human rights of residents; however, there were serious problems in some areas, particularly relating to minority populations. The following human rights problems were reported:

- politically and ethnically motivated killings
- deaths and injuries from unexploded ordnance or landmines
- lengthy pretrial detention and lack of judicial due process
- corruption and government interference in the judiciary
- attacks and harassment against journalists
- societal antipathy against Serbs and the Serbian Orthodox Church
- restrictions on freedom of movement for minorities, particularly ethnic Serbs
- lack of progress returning internally displaced persons to their homes
- a widespread perception of corruption in the PISG
- violence and discrimination against women
- trafficking in persons, particularly girls and women for sexual exploitation
- societal violence, abuse, and discrimination against minority communities
- societal discrimination against persons with disabilities
- child labor in the informal sector

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that UNMIK, the PISG, KFOR, or their agents committed unlawful or arbitrary killings.

During the year unexploded ordnance from the 1999 conflict or landmines killed two children and seriously injured three, compared with one fatality and 13 serious injuries in 2004. Unexploded ordnance remained a threat to civilians.

There was one apparent politically motivated killing of a police officer. On January 13, unknown persons detonated a bomb under an official UNMIK vehicle, killing Omar Ali, an UNMIK police officer.

On April 7, authorities charged Shkumbin Mehmeti, Florim Ejupi, Xhavit Kosumi, and Faik Shaqiri with murder for the killing of a Kosovo Police Service (KPS) officer and an UNMIK police officer in Podujeve/Podujevo municipality after the March 2004 riots. All remained in custody awaiting trial at year's end.

There were apparent politically motivated killings of ethnic Albanians. On January 31, unknown persons shot and killed Sadik Musaj, a witness at the "Dukagjini group" trial. On April 6, unknown persons killed Muhamet Sallaj, a former Kosovo Liberation Army (KLA) member. On April 15, unknown persons killed Enver Haradinaj, brother of former prime minister and Alliance for the Future of Kosovo (AAK) President Ramush Haradinaj; on July 25, Tasim Osaja, a suspect in the killing, turned himself in to police in response to a warrant for his arrest. On June 4, unknown persons shot journalist Bardil Ajeti of the Albanian language daily *Bota Sot* in a drive-by shooting; Ajeti died 20 days later from his injuries. In another drive-by shooting on July 12, unknown persons killed Muhamet Xhemajili, former commander of the UCPMB, the armed ethnic Albanian group previously active in Serbia's Presevo Valley. On September 5, a car explosion killed Kosovo Protection Corps and former KLA member, Naser Ramaj and his brother Jeton. On October 10, unknown persons shot and killed Hasan Rrustemi, a witness in the pending war crimes trial of former KLA (and former Kosovo Protection Corps) Commander Selimi Krasniqi.

There were apparent ethnically motivated killings of Serbs during the year. On August 28, unknown persons shot and killed Ivan Dejavnovic and Aleksandar Stankovic and injured two passengers in their car in the Serb-majority municipality of Strpce.

In a possible politically motivated attack, on October 11, unknown persons killed ethnic Turk Ibish Cakalli, a member of the Turk Democratic Party of Kosovo.

On May 18, an international panel of judges convicted six ethnic Albanians in connection with the killing of two ethnic Serbs during the March 2004 riots: Nexhat Ramadani was sentenced to 16 years, Xheladin Salihu to 11 years, Scaip Ibrahimi

to 3½ years, and Agron Ibrahimi, Agim Abdullahu and Sadri Shabani were each given 2½ years in prison.

During the year a court acquitted Albanian Labinot Gashi, who was arrested by KPS police for the June 2004 killing of 17-year-old ethnic Serb Dimitrije Popovic and serious injury of another ethnic Serb teenager in a drive-by shooting. The trial of a second ethnic Albanian defendant, Albert Krasniqi, was ongoing at year's end.

There were no developments in the March 2004 killing of the father of Avni Elezaj, a former KLA fighter and bodyguard of former prime minister and AAK President Ramush Haradinaj.

There were no developments in the following 2003 cases: The killing of two witnesses in the Dukagjini group case, Tahir Zemaj and Ilir Selimaj; the sniper killing of UNMIK police officer Satish Menon; and the separate killings of KPS officers Hajdar Ahmeti and Agim Makolli. Bedri Krasniqi remained at large for the suspected 2003 killing of KPS members Sebahate Tolaj and Isuf Haklaj.

On April 7, authorities indicted Florim Ejupi on charges that he and accomplices planned and executed the 2001 Merdare bus bombing near Podujeve/Podujevo that killed 11 ethnic Serbs and wounded 40. A second April 7 indictment accused Ejupi, Shkumbin Mehmeti, Xavit Kosumi, and Faik Shaqiri of involvement in a March 2004 attack on international and KPS police at a road checkpoint established after the March 2004 riots.

b. Disappearance.—There were no reports of politically motivated disappearances; however, there were still over two thousand persons missing from the 1999 conflict whose remains had not been identified or whereabouts determined.

A working group of Pristina and Belgrade officials on persons missing from the 1999 conflict met five times during the year under International Committee for the Red Cross (ICRC) auspices. During the year the group accounted for approximately 560 sets of human remains and added 57 persons previously unaccounted for to its list of the missing. According to the ICRC, 2,464 persons were unaccounted for as of December, compared with more than 3 thousand at the beginning of the year. Of those still unaccounted for, the ICRC reported that 75 percent were ethnic Albanians, 17 percent were ethnic Serbs, 4 percent were from the Roma, Ashkalia, and Egyptian communities, and 3 percent were from other ethnic groups.

During the year UNMIK's missing persons and forensics office continued to identify the remains of missing persons in Kosovo. From its establishment in 2002 through the end of the December, the office performed 446 field operations and exhumations. Many bodies of missing persons have been recovered and the focus was on establishing the identities of the 1,389 sets of human remains discovered and received since 2002. By October the missing persons and forensics office submitted 2,655 bone samples for DNA testing to the International Commission on Missing Persons, which had returned 1,484 results.

In April the Office of Missing Persons and Forensics began excavation of a cave and its surrounding area in Kline/Klina municipality that was used to dispose of 21 human remains.

UNMIK continued to encourage the Serbian government to accelerate its cooperation on transferring identified remains of Kosovar victims of the 1999 war found in mass graves in Serbia; however, progress was slow. The missing persons and forensics office received 638 bodies, most of which were returned to families for burial. Families of the missing continued to demand that the Serbian government return all Kosovar remains still in Serbia and provide access to government files that might indicate locations of additional mass graves or places where Kosovar bodies may have been incinerated.

In 2004 the Prizren prosecutor's office announced arrest warrants for two former ethnic Serb policemen, Goran Janjusevic and Slavisa Milkovic, for committing war crimes against the civilian population in the Prizren region, including the kidnapping and killing of Ardian Zyrnagjiu during the 1999 conflict. The suspects remained at large at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitutional framework and criminal procedure code prohibit such practices, and there were no reports that UNMIK or KFOR employed them.

In June members of activist Albin Kurti's Kosovo Self-Determination movement began spray-painting their "no negotiation, self-determination" slogan on buildings and other property, escalating their activity during the year. On October 19, the KPS reportedly arrested and abused protestors, some of whom had spray-painted slogans on UN vehicles, following a demonstration in Pristina by members of the movement. In an October 25 letter to the UN special representative concerning the incident, Kosovo Ombudsperson Marek Nowicki cited eyewitness reports that "many" activists had experienced "severe ill-treatment" during their arrest and

statements by persons who had been arrested that the ill-treatment continued after they had been taken into custody. An internal KPS investigation was ongoing at year's end.

Some individuals accused KFOR of using excessive force in executing searches. On September 18, UNMIK police and the KPS with KFOR support searched a private home and arrested four ethnic Serbs in Gracanica suspected of participating in a number of killings in Lipjan/Lipljan municipality in 1999. The family reported pushing and shoving by the KFOR soldiers and KPS officers who conducted the raid; the case was turned over to an international prosecutor, and the investigation was continuing at year's end.

On August 22, an international public prosecutor rejected a motion to allow the release of KPC Commander General Selim Krasniqi, under arrest with four other KPC officers for suspected involvement in 1998 abuse of persons in the Drenovac detention camp in the Prizren area. On August 22, the court released one of the five officers, Milaim Latifi, who was reinstated in the KPC.

There were reports of attacks and threats against ethnic Albanian political and institutional figures as well as private persons. On March 15, unknown persons detonated an explosive device near President Ibrahim Rugova's motorcade, causing injury to bystanders. On April 18, unknown persons detonated an explosive at the headquarters of the opposition political party Ora, injuring several persons in apartments above the offices. Nonpolitical motives, including clan rivalry and common criminality, were also suspected in some cases.

There were reports of politically motivated violence against ethnic Serbs during the year. On February 8, unknown persons destroyed the official vehicle of ethnic Serb leader Oliver Ivanovic with explosives, but caused no casualties. On July 4, unknown persons threw a hand grenade into the Zubin Potok offices of the Serbian Democratic Party for Kosovo and Metohija.

During the year authorities brought a number of persons to court for crimes related to the interethnic riots in March 2004 (see section 5).

Prison and Detention Center Conditions.—Prison and detention centers generally met international standards, and UNMIK permitted visits by independent human rights observers; however, a local nongovernmental organization (NGO), Council for Defense of Human Rights and Freedoms (CDHRF), claimed that UNMIK prohibited it from visiting detainees in prisons and detention centers since May.

Facilities were at times overcrowded; however, the construction of two new facilities continued during the year. UNMIK police corrections officers managed prisons and detention centers but increasingly transferred responsibilities to the Kosovo Correctional Service.

There were prisons in Lipljan and Dubrava as well as five detention centers in operation during the year. The CDHRF reported receiving approximately 10 telephone calls a day from prisoners and their families charging abuse and excessive solitary confinement in prison. While women and juveniles are supposed to be held separately from men, the CDHRF stated that there were cases of women and juveniles being held in Lipjan/Lipljan prison in close proximity to men serving sentences for lesser crimes.

In December the OSCE found deficiencies in hygiene in holding cells but noted improvements in the conditions since 2002 due to UNMIK/KPS refurbishment of existing cells and the construction of new cells at police stations.

UNMIK reported that 35 disciplinary proceedings were brought against members of the Kosovo Correctional Service during the year, resulting in 1 dismissal, 1 suspension, 20 written warnings, 12 oral warnings and 1 suspension of promotion.

There were no reports that international prison monitoring groups visited Kosovo's prisons or detention centers during the year.

d. Arbitrary Arrest or Detention.—The constitutional framework and criminal procedure code prohibit arbitrary arrest and detention, and UNMIK, KFOR, and the PISG generally observed these prohibitions in practice.

Role of the Police and Security Apparatus.—UNMIK continued to transfer police authority and functions to the KPS, while maintaining oversight. An international commissioner of police directed both UNMIK police and the KPS. The combined force was generally effective and constituted an improvement over previous years. Members of ethnic minorities made up approximately 16 percent of the KPS' 6,900 officers at year's end, compared with 15 percent in 2004.

The International Crisis Group reported that corruption in the security forces was a problem, particularly in the KPS border police.

An UNMIK office of oversight investigated corruption in UNMIK and the criminal justice system. The judicial system effectively prosecuted members of the security forces who committed abuses. The KPS professional standards unit, run by UNMIK

police, conducted over two hundred disciplinary investigations against KPS officers for participating in or failing to prevent violence in the March 2004 riots; most of these investigations were still ongoing at year's end.

As of November, of the 426 persons charged with criminal offences in connection with the March 2004 riots, the courts had convicted 209 and acquitted 12. There were 110 cases pending and charges were dropped in 95 cases. A December OSCE report accused the courts of inadequate charging and sentencing as well as the improper use of plea bargains, which are neither explicitly allowed nor regulated by law. The ability of authorities to conduct criminal investigations into the riots were hampered by the displacement of injured parties out of Kosovo, loss of material evidence, and witness intimidation or unwillingness to testify.

Arrest and Detention.—Police generally arrested suspects openly using a warrant issued by a judge or prosecutor; however, in certain high-security cases, suspects were arrested secretly by masked or undercover police officers. By law, arrests must be based on prosecutor orders and arrestees must be brought before a judge within 72 hours; however, there were reports that UNMIK police abused this authority by arresting persons, particularly petty offenders, and holding them for less than 72 hours with no intention of bringing charges and longer than 72 hours without bringing formal charges. Suspects have the right to be informed of the reason for their arrest in a language they understand; to remain silent and not answer any questions except those concerning their identity; to free assistance of an interpreter; to defense counsel and to have defense counsel provided if they cannot afford to pay for legal assistance; to medical treatment including psychiatric treatment; and to notify a family member. UNMIK police and the KPS generally respected these rights in practice. The law permits bail as an alternative to detention on remand, but this was applied in only a handful of cases.

KFOR could arrest and detain individuals without a warrant, and the KFOR commander could extend the detention of individuals in 30 day increments without charging them with a crime before a court, provided they were not released by a court. There were no reports that KFOR arrested persons without a warrant during the year.

There were no reports that KFOR, UNMIK, or the KPS held political detainees during the year.

UNMIK police and the KPS may hold individuals in pretrial detention for a maximum period of 1 month from the day of arrest, which could be extended by the courts up to a total of 18 months. The average length of pretrial detention was 30 days. The law allows for house arrest, an appeal for detention on remand, and expanded use of bail as alternatives to pretrial detention. There was a backlog of 700 to 800 pretrial detainees, and approximately 2,200 persons were detained on remand during the year.

e. Denial of Fair Public Trial.—The constitutional framework provides for an independent judiciary; however, the local judiciary was at times biased and subject to outside influence, particularly in interethnic cases, and did not always provide due process. There were credible reports of corruption in the local judiciary and that the Supreme Court and other courts deferred to the government in some cases.

Legal authority is held by UNMIK under UNSC Resolution 1244. UNMIK police and justice authorities held executive responsibility for the judicial system but worked with local judges and prosecutors. The Serbian government operated a nonsanctioned parallel judicial system in ethnic Serb enclaves.

The court system includes a Supreme Court, 5 district courts, 25 municipal courts, and a Commercial Court. On December 27, the number of UNMIK-appointed international judges was reduced from 18 to 14, and the number of international prosecutors rose from 8 to 13. At the end of the third quarter, there were 125,974 criminal and civil cases waiting resolution in the municipal courts and 11,924 criminal and civil cases waiting resolution in the district courts. The Supreme Court had 1,445 unresolved cases on its docket at the end of the third quarter.

UNMIK's judicial inspection unit monitored judicial performance and made recommendations on discipline and training. The joint UNMIK/PISG Kosovo Judicial and Prosecutorial Council (KJPC) was responsible for the review of cases of judicial misconduct. As of December 27, the KJPC had received 266 complaints of judicial and prosecutorial misconduct, including 10 allegations of commission of a criminal act, 170 allegations of neglect of judicial/prosecutorial functions (95 for delay of cases), 20 allegations of breach of impartiality, 6 complaints of ethnic bias, and 24 allegations of breach of ethics. The KJPC had completed investigation of 159 complaints, dismissing 147 and recommending 12 for disciplinary action.

While the law provides that a panel of two professional and three lay judges tries serious cases, an UNMIK regulation authorizes international prosecutors to try

cases of a sensitive ethnic or political nature, including before a panel of three international judges. Of the 250 active cases handled by international prosecutors through September, international judges tried approximately 75 with a conviction rate of over 90 percent.

Trial Procedures.—Trials are public, and the law provides for the right of defendants to be present at their trials, to confront witnesses, to see evidence, and to have legal representation, at public expense if necessary; however, these procedures were rarely used in practice. Defendants are presumed innocent until proven guilty and have the right of appeal. Trials are heard by panels consisting of professional and lay judges; there are no jury trials.

Legal experts and human rights observers continued to express concern over a lack of fairness in criminal trials involving ethnic minorities prosecuted or tried by ethic Albanian judicial personnel. The UNMIK-established judicial integration section continued to address judicial system problems that affected minorities. In addition, UNMIK operated nine court liaison offices, four of which were created during the year, to assist minority communities in ethnic Serb-majority areas by accompanying members of minorities to courts, filing documents with courts on their behalf, and providing information and legal assistance to refugees and internally displaced persons (IDPs).

Kosovo's investigative, judicial, and penal systems and the International Criminal Tribunal for the former Yugoslavia (ICTY) continued to identify and punish perpetrators of war crimes from the 1999 conflict; however, many cases remained unresolved. Trials continued in local courts to adjudicate approximately 40 cases of alleged war crimes and genocide arising from the 1999 conflict. For example, on May 12, a Pristina district court found three of five former KLA fighters of the "Kacaniku group" guilty of war crimes committed against civilians between February 27 and March 21, 1999 and sentenced them to prison for three to five years; the court acquitted the other two defendants. The war crimes case against former KLA (and former Kosovo Protection Corps) Commander Selimi Krasniqi was in pretrial process at year's end. On October 10, a witness in the case, Hasan Rrustemi, was shot and killed.

Political Prisoners.—There were no reports that KFOR, UNMIK, or the PISG held political prisoners during the year.

Property Restitution.—The UNMIK Housing and Property Directorate (HPD) is responsible for the resolution of residential property claims associated with the 1999 conflict. In Mitrovica, ethnic Serbs in the northern part of the city continued to occupy ethnic Albanian properties, while ethnic Albanians in the southern part occupied and denied ethnic Serbs access to their property. By year's end the HPD reported that it had decided all of the 1,824 property claims in north Mitrovica, Leposavic, and Zvecan and all 29 thousand overall claims. In over half of these cases, HPD resolved claims by allowing squatters to remain in place with owner permission and HPD administration of the property.

More than 17 thousand property-related claims were backlogged in municipal courts; these were almost exclusively monetary claims by ethnic Serbs for war-related damage. The OSCE estimated that 11 thousand additional claims involving agricultural and commercial property were awaiting adjudication at year's end.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—UNMIK regulations and the constitutional framework prohibits such actions, and UNMIK, KFOR, and the PISG generally respected these prohibitions in practice; however, KFOR forces assisted UNMIK civilian police and the KPS in conducting searches for high-risk suspects and independently searched private property for weapons without court orders, based on UNSC Resolution 1244's peacekeeping authority.

Section 2. Respect for Civil Liberties

a. Freedom of Speech and Press.—UNMIK regulations and the constitutional framework provide for freedom of speech and of the press, and UNMIK and KFOR generally respected these rights in practice; however, there were allegations that the PISG interfered with freedom of speech and press, particularly with media outlets that were critical of its positions and performance.

Individuals could generally criticize authorities publicly or privately without reprisal.

UNMIK regulations prohibit hate speech and speech that incites ethnic violence, as well as newspaper articles that might encourage criminal activity or violence.

The 111 licensed independent broadcast outlets (89 radio and 22 television stations) were active and expressed a wide variety of views. International authorities controlled Radio Television Kosovo (RTK), Kosovo's public broadcasting company. The PISG did not own or expressly control any media outlets.

The office of the temporary media commissioner implemented UNMIK regulations governing the media and enforced codes of conduct on broadcasting and the print media. As envisioned in the constitutional framework, on April 21, the Kosovo Assembly passed and, on July 11, the special representative of the UN secretary-general (SRSG) promulgated, a law on the formation of a permanent independent media commission to regulate the broadcast media. Adoption of the law set in motion a transition, which began in September, during which the office of the temporary commissioner will evolve into the permanent commission overseen by a seven-member governing council.

On March 18, leading print media representatives adopted a press code and, on August 10, adopted the statute for a press council to provide for self-regulation of the print media. The temporary commissioner's office phased out its regulation of print media in October.

The PISG occasionally interfered with the media. On December 15, a local television station was covering a story on alleged fiscal misconduct by Enver Muja, chief executive officer of Gjilan/Gnjilane municipality, in the building of a road. Police reports stated that Muja's bodyguard and two friends attacked three television reporters, injuring one and breaking a television camera. Thirteen journalists in Gjilan/Gnjilane subsequently resigned, accusing their employer of trying to block the story due to pressure from the municipality.

During the year the office of the temporary media commissioner (TMC) fined *Bota Sot* approximately $78 thousand (65 thousand euros) and *Pavaresia*, which subsequently ceased publication, approximately $10,800 (9 thousand euros) for election-period violations committed in September and October 2004.

On August 9, the TMC fined ethnic Serb newspaper *Jedinstvo* $13,200 (11 thousand euros) for publication of false articles denigrating a specific ethnic group and failure to publish a timely correction. The fine was later reduced to $8,400 (7 thousand euros).

On June 3, unknown persons shot and mortally wounded the editor of *Bota Sot*, Bardhyl Ajeti. The temporary commissioner's office reported that the attack followed contacts between Ajeti and the commissioner's office during which Ajeti stated that he disagreed with the *Bota Sot* editorial positions and intended to leave the newspaper with other staff members to start a new publication. Police investigation of the killing continued at year's end.

The Association of Professional Journalists of Kosovo (APJK) reported that, on March 30, KPS officers physically assaulted Behxhet Begu and Bardh Bekteshi from RTK in Vushtrri for allegedly parking their car illegally on municipal property. An internal KPS investigation was ongoing at year's end.

The APJK reported that, on October 19, KPS officers assaulted and arrested journalists at a demonstration by members of the Self-Determination movement. In an October 25 letter to the UN special representative, Kosovo Ombudsperson Marek Nowicki called for an independent investigation of the KPS action in the incident, alleging that the KPS arrested two journalists who were photographing the demonstration, mistreating one. Some eye-witnesses stated that the journalists were participants in the demonstration. An internal KPS investigation was ongoing at year's end.

The APJK reported other incidents of harassment of the media during the year. In February the association accused the KPC of blocking filming of Serbian President Boris Tadic's visit to Kosovo. The APJK also reported that unknown persons made telephone death threats to the editor in chief of radio *Top Ilira* in February to stop reporting on the Democratic League of Kosovo (LDK) party.

There were no UNMIK, KFOR, or PISG restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—UNMIK regulations and the constitutional framework provide for freedom of assembly, and UNMIK, KFOR, and the PISG generally respected this right in practice.

UNMIK required demonstration organizers to notify it 48 hours in advance for police coordination. KPS and UNMIK police rarely used force to disperse demonstrations.

On October 19, members of the KPS allegedly physically abused demonstrators while arresting and detaining them following a demonstration in Pristina (see section 1.c.).

Freedom of Association.—UNMIK regulations and the constitutional framework provide for freedom of association, and UNMIK, KFOR, and the PISG generally respected this right in practice.

UNMIK routinely registered political parties and NGOs.

c. Freedom of Religion.—UNMIK regulations and the constitutional framework provide for freedom of religion, and UNMIK and the PISG generally respected this right in practice.

There are no specific licensing regulations for religious groups; however, religious organizations must register as NGOs with UNMIK and the Ministry of Public Services in order to purchase property or receive funding from UNMIK or other international organizations.

Religious identity and ethnicity were closely intertwined. Ethnic Serbs identified with the Serbian Orthodox Church, which influenced their cultural, historical, political, and religious views (see section 5). While significant parts of the ethnic Albanian community continued to view the Serbian Orthodox Church as a symbol of Serbian nationalism, relations between leaders of the ethnic Albanian community and the Serbian Orthodox Church improved slightly during the year as PISG officials and political figures met on several occasions with church clergy.

In April primary school authorities dismissed a student from class for wearing a headscarf. A similar case resulted in a June 2004 opinion from the Organization for Security and Cooperation in Europe (OSCE)-funded ombudsman that the ministry's prohibition of headscarves should only apply to school teachers and officials, not students. Both parties filed petitions with the Ministry of Education and formal complaints with the OSCE ombudsman; the investigations were ongoing at year's end.

On May 23, the media reported that a public school principal suspended a teacher for wearing a headscarf to class, citing a law that obligates public education institutions to adopt a neutral attitude towards religion. On May 29, the Pristina municipality department of education dismissed the teacher.

Protestants also reported that school authorities sometimes called in parents of pupils to deter their children from following Protestantism.

The Islamic community continued to allege that UNMIK's denial of a radio frequency for an Islamic radio station, the closing of a prayer room in the national library, and the refusal of Pristina municipality to grant public land to build a mosque were examples of a lack of religious freedom.

Protestants alleged discrimination in access to the media, particularly by the RTK, which had denied the protestant community's request for its own television broadcast.

Societal Abuses and Discrimination.—Ethnic Albanian attacks on Serbian Orthodox churches and cemeteries during the March 2004 riots resulted in extensive property damage, including the destruction or damaging of 30 religious sites, some dating from the 14th century. A Council of Europe mission assessed that approximately $13.1 million (9.7 million euros) would be required to repair and restore the damaged sites. The riots halted the transfer of responsibility for protection of Serbian Orthodox churches and other religious symbols from KFOR to UNMIK police and the KPS; however, the transfer process has since continued for minor religious sites.

Security concerns prevented monks and nuns at some Serbian Orthodox monasteries from using parts of monastery properties, and ethnic Serb families reported fear in traveling between Kosovo and Serbia to join relatives for religious holidays or ceremonies. To lessen concerns about security, UNMIK police deployed 350 international police officers in January to 30 locations designated for returning displaced ethnic Serbs and inhabited by ethnic Serbs. Bishop Teodosije of the Serbian Orthodox Church asserted that, on December 31, the municipality of Gjakova erected a monument to ethnic Albanian members of the KLA on land owned by the church.

Approximately 40 individuals from two families in Prizren have some Jewish roots, but there are no synagogues or Jewish institutions. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.—UNMIK regulations and the constitutional framework provide for freedom of movement; however, interethnic tensions and real and perceived security concerns restricted freedom of movement. During the year UNMIK, KFOR, and the PISG generally improved protection of these rights for minority communities.

Sporadic incidents of violence and intimidation targeting minorities continued to limit freedom of movement for ethnic Albanians in northern Kosovo. The PISG and UNMIK enhanced efforts to facilitate minority travel throughout Kosovo, but real and perceived risks deterred many minorities from traveling outside of their neighborhood.

To reduce the risk of attack by making ethnic Serb and ethnic Albanian vehicles indistinguishable, UNMIK continued to offer Kosovo license plates at no fee to ethnic Serbs who had already registered their vehicles in Serbia.

On April 22, KFOR withdrew its armored vehicles and barricades from the Austerlitz bridge connecting ethnic Serb-majority northern Mitrovica with ethnic Albanian-majority southern Mitrovica. The KPS assumed control of the bridge on June 6; on July 18, it opened to all civilian traffic for the first time since 1999. However, very few persons drove vehicles with Kosovo license plates across the bridge for fear of attack in northern Mitrovica.

UNMIK regulations provide that the central civil registry may issue travel documents to any person registered as a habitual resident of Kosovo, and the registry routinely issued such documents in practice. On October 3, UNMIK transferred managerial and operational responsibility for the registry to the PISG, but retained its overall authority, including for the issuance of UNMIK travel documents and the security of the central registration database.

The law prohibits forced exile, and authorities did not use it.

UNMIK regulated movement in and out of Kosovo.

Internally Displaced Persons (IDPs).—According to the Office of the UN High Commissioner for Refugees (UNHCR), approximately 225,487 persons remained displaced within Serbia and Montenegro at year's end from the 1999 conflict, while 1,364 of the 4,100 persons driven from their homes in the March 2004 riots, mostly from Mitrovica and Pristina, remained displaced. Few IDPs returned during the year due to uncertainty over Kosovo's future political status, lack of employment opportunities, security concerns, and property disputes. While some international agencies, NGOs, and the PISG continued to organize small-scale return projects, observers criticized the newly-created PISG Ministry of Communities and Returns for delaying disbursement of PISG funding for return projects. Municipalities hired staff and devised municipal return strategies without appreciative tangible results.

The UNHCR reported that 2,048 minorities returned to Kosovo during the year, including ethnic Albanians who returned to areas where they are a minority. Overall minority returns since 2000 stood at 14,433 at the end of the year. A slightly smaller number of ethnic Serbs returned compared to 2004, when more Bosniaks and Goranis returned. Ethnic Serbs made up approximately 35 percent of returnees during the year, compared with 33 percent in 2004. Roma (including Ashkalia and Egyptians) continued to return in slightly greater numbers, making up 45 percent of the overall number of returns. In Mitrovica ethnic Serbs in the north of the city and ethnic Albanians in the south continued to illegally occupy each others' properties, hindering potential returnees.

Although the PISG reconstructed more than 95 percent of the homes damaged or destroyed in the March 2004 riots, a number of the individuals displaced by the riots have not returned due to both a real and perceived lack of security, unemployment, and residents' complaints about the quality of reconstruction. The prospect for returns varied according to region and ethnic group.

During the year UNMIK began construction on a relocation facility to eventually accommodate approximately 531 Roma, Ashkali, and Egyptian IDPs living in three lead-polluted camps in northern Kosovo; however, all the IDPs remained in the polluted camps at year's end. World Health Organization testing showed dangerously high blood-lead levels in many camp residents. UNMIK began a concurrent donor funding campaign to rebuild the IDPs' original neighborhood in south Mitrovica, which was destroyed in 1999 by ethnic Albanians, who accused Roma of being Serb collaborators, but completed only limited clearing of rubble by year's end. Limited funding slowed the return project. On September 2, the European Roma Rights Center filed an appeal to the Kosovo prosecutor's office to initiate a criminal investigation into the matter; no formal charges had been filed at year's end.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention relating to the Status of Refugees and its 1967 protocol; however, UNMIK granted displaced persons with status as "persons with temporary protection in Kosovo." In practice, UNMIK provided protection against *refoulement*, the return of persons to a country where they feared persecution; however, UNMIK did not grant refugee status or asylum. UNMIK cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

UNMIK regulations and the constitutional framework provide residents with the right to change their government peacefully, and they exercised this right in prac-

tice through periodic and generally free and fair elections on the basis of universal suffrage.

Kosovo continued to be administered under the civil authority of UNMIK. UNMIK and its chief administrator, the SRSG, established an international civil administration in 1999 following the North Atlantic Treaty Organization military campaign that forced the withdrawal of Serbian forces. In 2001 UNMIK promulgated the constitutional framework for the PISG. Under the constitutional framework, a 120-member Kosovo Assembly selects a president, a prime minister, and other ministers and PISG officials. Kosovo's leaders continued to criticize UNMIK for the slow pace of transfer of powers to the PISG; however, the international mission retained a number of competencies, including security and relations with foreign governments

Elections and Political Participation.—International and domestic observers determined that the October 2004 Assembly elections were generally free and fair, although less than five percent of ethnic Serbs participated, largely due to Serbian government pressure not to vote. Kosovo has a multiparty system dominated by four virtually monoethnic Albanian parties with several minority parties and coalitions.

Under UNMIK regulations, individuals may nominate themselves as candidates to their parties, which must hold open and transparent internal elections to select candidate lists. The largest party, the LDK, all but ignored this requirement at its party convention in 2004. Party affiliation played an important role in access to government services and social opportunities. Traditional social arrangements and clan loyalties also played an important, although unofficial role, in political organizations.

There were reports of attacks and threats against ethnic Albanian political and institutional figures (see section 1.c.).

There were 36 women in the 120-seat Assembly. Women must occupy every third spot on each political party's candidate list. There were no women on the eight-member Assembly directive body and only one female minister. Women represented 28 percent of the elected municipal representatives. On September 20, 34 female Assembly members established an informal women's caucus with an eight-person, multi-ethnic board.

There were 21 ethnic minority members in the 120-seat Assembly, including 10 ethnic Serbs and 11 members of other groups, including ethnic Turks, Bosniaks, Gorani, Roma, Ashkali, and Egyptians. There were two minority PISG ministers, one ethnic Serb and one Bosniak, and three minority deputy ministers. One Bosniak and one ethnic Turk held a rotating seat on the Assembly presidency; the Serb boycott left empty the set-aside seat for one ethnic Serb. At year's end ethnic Serbs in the largest Kosovo Serb political party had not claimed their set-aside cabinet posts and continued to boycott the Assembly; however, members of Slavisa Petkovic's political party took up 2 of the set-aside seats and led a ministry. The constitutional framework requires that the Assembly reserve 10 seats for ethnic Serbs and 10 for members of other ethnic groups, but ethnic minorities were underrepresented at the municipal level.

Government Corruption and Transparency.—There was a widespread public perception of corruption in both the PISG and UNMIK. There were credible reports of irregularities involving the PISG's handling of its first international tender for a mobile phone license. UNMIK voided the PISG-selected winner, requesting the tender be reissued. The main opposition party, the Democratic Party of Kosovo, continued to criticize the government for corruption and presented its allegations to UNMIK for investigation; at year's end UNMIK stated that its investigation was continuing.

In 2003 UNMIK promulgated a law on the access to official documents; however, the law exempts UNMIK documents and was rarely used. According to OSCE reports, the PISG did not provide public access to documents during the year.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without restriction, investigating and publishing their findings on human rights cases. UNMIK, KFOR, and the PISG were generally cooperative and responsive to their views.

Domestic NGOs proliferated with the large influx of donor funding immediately following the 1999 conflict, resulting in a robust civil society and multiple, competing NGOs. Domestic NGOs complained that donor funding is no longer as available. Religious NGOs complained about the lack of a tax exemption on some items imported into Kosovo; some religious NGOs reported faith-based discrimination.

The International Organization for Migration (IOM) coordinated training and projects for the KPC in collaboration with other NGOs. Human rights observers, in-

cluding those of the OSCE and some local NGOs, were active in documenting ethnically or politically motivated killings, attacks, and incidents of intimidation.

An OSCE-funded ombudsperson investigated allegations of government abuses of international human rights laws. While the ombudsperson's office actively issued reports and recommendations, its recommendations were rarely followed by UNMIK, particularly UNMIK police. Most cases investigated by the office concerned property rights, abuse of official authority, administrative acts or omissions by public authorities, issues involving the fairness and length of court proceedings, employment-related disputes, and impunity.

UNMIK, KFOR, and the PISG generally cooperated with the ICTY regarding crimes committed during the 1999 conflict. On March 10, the ICTY indicted then-prime minister Ramush Haradinaj and co-defendants Idriz Balaj and Lahi Brahimaj. On November 30, the ICTY concluded the trial of Fatmir Limaj, PDK caucus leader, and two other ethnic Albanians, Haradin Balaj and Isak Musliu, begun in November 2004. In its first decision with respect to the Kosovo conflict, the tribunal sentenced Balaj to 13 years' imprisonment and acquitted Limaj and Musliu.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

UNMIK regulations specifically prohibit discrimination on the basis of race, gender, ethnic origin, disability, or language; however, violence and discrimination against women, persons with disabilities, and ethnic minorities persisted.

Women.—Domestic violence against women, including spousal abuse, remained a serious and persistent problem. UNMIK regulations prohibit domestic violence and convictions carry prison terms of 6 months to 5 years. When victims did press charges, the KPS conducted investigations and brought the cases to court. According to UNMIK, family loyalties and close-knit communities and the backlog of cases in both civil and criminal courts added to a low rate of prosecution.

The Center for Protection of Women and Children, a local NGO, received approximately 3,650 requests for assistance from victims of violence during the year. Through October, UNMIK victim advocates were involved in 1,468 domestic violence cases. The judicial system processed 77 protection orders from January to October; authorities arrested 341 persons, resulting in the opening of 1,045 cases. A total of 52 of the 53 cases completed by October resulted in convictions, with sentences ranging from judicial reprimands to imprisonment. Traditional social attitudes towards women in this male-dominated society contributed to the high level of domestic abuse and low number of reported cases.

There were no governmental agencies dedicated solely to dealing with family violence. Four shelters assisted victims of domestic violence and trafficking, two run by local NGOs and two by international NGOs. The KPS reported that 66 victims of domestic violence received shelter during the year. Several domestic and international NGOs pursued activities to assist women; however, they were constrained by a tradition of silence about domestic violence, sexual abuse, and rape.

During the year the OSCE, the prime minister's office, and UNMIK established an anonymous hotline to report domestic abuse. In addition, the KPS training school offered special courses on domestic violence and rape in its curriculum.

UNMIK regulations criminalize rape; however, spousal rape is not specifically addressed. Under Kosovar law, rape is punishable by 1 to 10 years in prison; statutory rape (sexual intercourse with a girl under 14) is punishable by 1 to 5 years in prison.

Rape was significantly underreported due to the cultural stigma attached to victims and their families. According to UNMIK, victim advocates provided services to victims in approximately 30 cases of rape. By October courts processed approximately 50 cases of rape resulting in 60 convictions; some cases involved multiple defendants.

The law prohibits prostitution, but prostitution remained prevalent. The UNMIK police trafficking and prostitution investigation unit investigated cases of prostitution and suspected trafficking in persons.

Trafficking in women for the purpose of sexual exploitation was a serious problem (see section 5, Trafficking).

There was no specific law against sexual harassment, which was a common problem. Social awareness of sexual harassment remained low, and few cases were reported.

Women have the same legal rights as men, but traditionally not the same social status, which affected their treatment within the legal system. Despite a lack of legal impediments, relatively few women obtained upper-level management positions in commerce, the KPS, or government. While the number of women with jobs continued to increase, female unemployment remained high at around 70 percent,

compared with 40 to 70 percent unemployment in the general population. Traditional social attitudes toward women resulted in discrimination. In some rural areas, women often had little ability to make decisions involving their children or to exercise control over property. While women and men have an equal legal right to inherit property, family property customarily passes only to men. Albanian widows, particularly in rural areas, risked losing custody of their children due to a custom calling for children and property to pass to the deceased father's family, while the widow returns to her birth family.

In August the prime minister's office created an office for gender equality, which began coordinating gender outreach efforts with the UNMIK office of gender affairs. During the year the office for gender equality assumed responsibility over 26 ethnic Albanian and 4 ethnic Serb municipal gender officers previously under the office of good governance. In October the Assembly established a functional subcommittee on Human Rights, Gender Equality, Petitions and Public Claims.

To combat discrimination against women, UNMIK integrated antidiscrimination, antitrafficking, and human rights into the legal curriculum at the University of Pristina during the year.

Children.—UNMIK and the PISG were generally committed to the welfare and rights of children.

UNMIK regulations require children between the ages of 6 and 15 to enroll in public school; however, a few children from minority (excluding ethnic Serb) communities did not attend PISG-run public school due to security concerns. Primary education is free. According to UNICEF, 97.5 percent of ethnic Albanian and 99 percent of ethnic Serbian children were enrolled in primary school, while only 77 percent of children between the ages of 7 and 14 from non-Serb minority communities (Roma, Ashkalia, Egyptian, Turkish, Bosniak, Gorani, and others) were in school. The UN Children's Fund (UNICEF) reported that less than 52 percent of the children who completed primary education continued to secondary school; 43 percent of these were female. There were lower rates of secondary school attendance and completion for ethnic Albanian girls than for ethnic Albanian boys or ethnic Serb girls. Some children were forced to leave school early to work (see section 6.d.).

UNMIK regulations require equal conditions for school children and provide the right to native-language public education through secondary level for minority students. Schools teaching in Serbian, Bosnian, and Turkish operated during the year. Both ethnic Serb and ethnic Albanian children attended schools with inadequate facilities that lacked basic equipment. A few schools housed both ethnic Serb and ethnic Albanian pupils, who studied different curricula and rotated class schedules.

Romani, Ashkali, and Egyptian children attended mixed schools with ethnic Albanian children but reportedly faced intimidation in some majority Albanian areas. Romani children tended to be disadvantaged by poverty, leading many to start work both at home and in the streets at an early age to contribute to family income. Some Bosniak children in predominantly Bosniak areas were occasionally able to obtain primary education in their language, but those few outside such areas received instruction in the majority Albanian language.

The government provided medical care, and boys and girls had equal access to it.

There were reports of child abuse, although it was not believed to be widespread; however, high unemployment and family dislocation resulted in a high rate of child abandonment. Since domestic adoptions and foster family programs did not keep pace with the rate of abandonment, authorities sometimes housed infants and children in group homes with few caregivers. Since the end of war in 1999, parents reportedly abandoned five hundred children. Children with disabilities were often hidden away without proper care, particularly in rural areas.

During the year the Ministry of Labor and Social Welfare operated 32 social welfare centers welfare that assisted 1,250 orphans, 1,075 delinquent children, 50 abused children, 68 abandoned children, and 120 children with behavioral problems. The ministry also managed foster homes and coordinated with NGOs to place children in temporary shelters. According to the Center for Social Work, 19 abandoned disabled children, ranging from 3 to 18 years of age were living in government-funded homes under 24-hour care; 15 of these attended specialized schools.

Child marriage was reported to occur, especially among the ethnic Romani, Ashkali, Egyptian, and Albanian communities, although UNMIK did not compile statistics on the problem.

Children were trafficked for the purpose of sexual exploitation (see section 5, Trafficking).

Child labor was a serious problem (see section 6.d.).

Children and their families remained displaced from the 1999 conflict.

Trafficking in Persons.—UNMIK regulations criminalize trafficking in persons; however, trafficking of women and children remained a serious problem. There was evidence of both international and local official involvement in trafficking.

Conviction for trafficking is punishable by 2 to 20 years' imprisonment. Engaging or attempting to engage in trafficking is punishable by 2 to 12 years' imprisonment, or up to 15 years if the victim is a minor; organizing a group to engage in trafficking is punishable by 5 to 20 years' imprisonment; facilitating trafficking through negligence is punishable by 6 months to 5 years imprisonment. A client engaging in sex with a trafficking victim may be sentenced for up to 5 years, while sex with a trafficked minor carries penalties of up to 10 years imprisonment. Voluntary prostitution is punished as a minor offence; prostitutes can be punished, but not clients, unless the police can prove that a client knowingly used the services of a trafficking victim. Prostitution constitutes grounds for deportation.

During the year the UNMIK/KPS joint antitrafficking unit conducted 2,025 bar checks (25 of which were covert), 60 raids, and 2,386 inspections, resulting in the closing of 76 premises suspected of involvement in trafficking. UNMIK/KPS arrested 92 persons for trafficking in persons and made another 32 arrests for trafficking related offenses, resulting in 70 trafficking cases filed by the office of the prosecutor and 22 convictions. In July three Albanian citizens were convicted of trafficking, prostitution, and rape and sentenced to prison terms of 10 to 12 years; clients in the prostitution ring included KPS officers. Factors that contributed to a low number of prosecutions included the increasing sophistication of organized crime efforts to avoid direct links between the victims and senior crime figures, the lack of a witness protection program (although anonymity is provided during trial through written testimony), inadequate training for judicial personnel, and failure of police to adapt to new techniques employed by traffickers.

UNMIK, the KPS, the border police, the OSCE, the office of good governance, and the ministries of health, education, public services, and labor and social welfare are responsible for combating trafficking. The PISG's action plan to combat trafficking was released in May with the purpose of consolidating government efforts to combat trafficking.

Kosovo was a source, transit, and destination point for trafficked persons. Internal trafficking was a growing problem. As in previous years, the vast majority of victims were women and children trafficked almost exclusively from Eastern Europe, the Balkans, and the former Soviet Union into Kosovo, primarily for sexual exploitation but also for domestic servitude or forced labor in bars and restaurants and through Kosovo to Macedonia, Albania, and Western Europe. During the year 30 of the 55 identified victims of trafficking were repatriated or returned to their community.

The Center for Protection of Women and Children assisted 59 victims of trafficking during the year, of whom 52 were female, 41 were minors, 50 were residents, and 46 were ethnic Albanians. According to the IOM, of the victims from outside Kosovo it has assisted since 2000, over 45 percent were from Moldova, 19 percent from Romania, 12 percent from Ukraine, and the rest from Bulgaria, Albania, Russia, Serbia and Montenegro, Slovakia, and Nigeria. The majority of these victims were between the ages of 18 and 24 years. IOM figures indicated that 64 percent of Kosovar victims were internally trafficked, while approximately 15 percent were trafficked to Macedonia, and 13 percent to Albania and Italy. The IOM assisted 19 victims—all minors—during the year, 8 of whom were Kosovars.

The overall number of trafficking cases involving minors increased from 2004. Children and young girls from rural areas were particularly at risk of being trafficked, as were those from urban areas with a high level of poverty, unemployment, and illiteracy. The IOM reported that 73 percent of Kosovars who had been trafficked had completed only primary education.

Trafficking victims worked primarily in the sex industry, mostly in brothels and nightclubs but increasingly in private residences. Less than 20 percent reported that they were aware that they would be working in the sex industry when they left their homes. Trafficking victims reported that they were regularly subjected to beatings, rape, denial of access to health care, and confiscation of their travel and identity documents. Victims were often found in poor health and poor psychological condition.

UNMIK reported that traffickers often worked as part of a coordinated effort between ethnic Serbian and ethnic Albanian organized crime elements, with Serbia and Montenegro acting as a transit hub for trafficking victims from Eastern Europe into and through Kosovo. Bar and brothel owners purchased victims from organized crime rings.

Methods of trafficking increased in sophistication. In reaction to an aggressive eradication campaign by the UNMIK antitrafficking unit, traffickers shifted the commercial sex trade out of public bars and clubs and into private homes, where

operations were more difficult to detect. Traffickers increasingly used financial incentives to encourage victims to refuse assistance. The IOM reported that, of the 476 mainly international victims it has assisted since 2000, 40 percent fell prey to traffickers after accepting a bogus job offer abroad, 30 percent claimed to have been kidnapped, and 17 percent were promised marriage. In 83 percent of cases, recruiting was through personal common contacts; the recruiter was an acquaintance of the victim in 45 percent of the cases and a friend or family friend in approximately 10 percent. Recruiters were most often female.

There was anecdotal evidence during the year that some UNMIK and PISG employees condoned trafficking and that a complex set of financial relationships and kinship ties existed between political leaders and organized crime networks that had financial interests in trafficking. In addition some local prosecutors reported instances in which the same lawyer represented an accused trafficker as well as the victim.

During the year UNHCR official Rasheed Khoon was placed on trial before an international judge for having sexual intercourse with a minor trafficked female and providing narcotics to other trafficked minors between September and December 2004. On November 2, Khoon was sentenced to three years' imprisonment for one count of abusing a person under age 16 and falsifying an official document. An Albanian female accomplice was sentenced to two years' imprisonment.

While UNMIK regulations provide a defense for trafficking victims against criminal charges of prostitution and illegal border crossing, a few local judges sometimes incorrectly sentenced trafficking victims to prison. Some local judges also wrongly issued deportation orders against women convicted of prostitution or lack of documents; however, UNMIK did not enforce such orders. Cultural taboos and the threat of social discrimination caused most repatriated Kosovar victims to remain silent about their experiences.

International and local NGOs were the main source of assistance to trafficking victims. Local NGOs, such as United Methodist Committee on Relief and the Center for Protection of Women and Children, operated shelters that provided medical care and psychological counseling services to trafficking victims in cooperation with UNMIK, the OSCE, and the IOM. An interim secure facility also provided temporary shelter to victims while they considered whether to be repatriated or to testify against traffickers. Police often referred suspected trafficking victims to the IOM through OSCE regional officers.

The PISG became involved in treating victims of trafficking in January when the Ministry of Labor and Social Welfare, in cooperation with UNMIK and OSCE, opened a semi-independent supported housing unit for minors who were victims of trafficking, abuse, and domestic violence. Five young adults received room, board, education, and job training at the facility.

International organizations, particularly the IOM and NGOs, organized prevention campaigns to prevent trafficking. In July the IOM began a 12-month campaign to increase public awareness of the problem. The prime minister's office of good governance, the Ministry of Education, and the IOM distributed antitrafficking educational materials for use in primary and secondary schools. In September the office of good governance began a public relations campaign directed at deterring potential clients of prostitutes who were trafficking victims.

Persons with Disabilities.—UNMIK regulations prohibit discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services; however, there was considerable discrimination in practice. The law did not meet international standards, and there was no expertise on the issue of the rights of persons with disabilities. There are no guardianship laws with appropriate due process protections, and the law does not recognize the placement of individuals with mental disabilities in institutions and involuntary treatment as separate legal issues. The law mandates access to official buildings; however, it was not enforced in practice.

According to the NGO Mental Disability Rights International (MDRI), patients with mental disabilities continued to be detained in isolated conditions with no legal basis, since there is no law to regulate the process of committing persons to psychiatric or social care facilities or to protect rights within institutions. On occasion, individuals in need of mental health treatment were convicted of fabricated or petty crimes and sent to prisons that lacked resources for adequate treatment.

At year's end neither UNMIK nor the PISG had filed criminal charges or taken other legal action in response to a 2002 report by MDRI that found extensive evidence of physical abuse, sexual assault, neglect, and arbitrary detention by staff and patients in mental health care facilities at the Shtimje Institute, the Pristina Elderly Home, and the Pristina University Hospital.

The ministries of education, health, social welfare, and public services were responsible for protecting the rights of persons with disabilities.

There were an estimated 14 thousand persons with mental disabilities. In response to a December 2004 MDRI report that institutional care of persons with mental disabilities left them isolated, arbitrarily detained, and vulnerable to physical violence and sexual abuse, the PISG expanded options for independent living by such persons and spent $144 thousand to $240 thousand (120 thousand to 200 thousand euros) each on 14 integration homes endorsed by MDRI. UNMIK reported that the Ministry of Health had taken steps during the year to develop administrative instructions for mental health care institutions that resulted in the corrected transfer of prisoners with mental disabilities to mental health clinics. The CDHRF reported that prisoners with mental disabilities were often kept in prison facilities, because of lack of availability of mental health treatment.

National/Racial/Ethnic Minorities.—Official and societal discrimination with respect to employment, social services, language use, freedom of movement, the right to return, and other basic rights and harassment of members of minorities improved over the previous year, although discrimination persisted, particularly against ethnic Serbs and Roma, Ashkali, and Egyptians. Violence and crimes against property directed at minorities lessened, but remained a problem.

UNMIK police recorded approximately 184 ethnically motivated crimes through the third quarter. However, according to UNMIK, incidents targeting minorities were generally underreported due to distrust of the KPS and the legal system. In the first half of the year, NGOs recorded approximately 6 incidents per week of such crimes as stoning, assaults, and harassment of Kosovo Serbs and other minorities, as well as property crimes such as arson and vandalism.

During the year police and KFOR commenced large-scale operations to apprehend persons responsible for the March 2004 interethnic riots that resulted in the deaths of 8 ethnic Serbs and 12 ethnic Albanians, injury of more than 900 persons, severe damage or destruction of more than 900 ethnic Serb, Romani, and Ashkali houses and 30 Orthodox churches or monasteries. In its July report on follow-up actions after the riots, UNMIK stated that 348 individuals had been brought before the courts for riot-related offenses. Of these, 179 cases were completed, 71 were awaiting trial, and 98 were under investigation. At least 57 serious cases were prosecuted by international lawyers and resulted in sentences of up to 16 years in prison. Kosovo judges handed down more than 85 convictions, with punishment ranging from court reprimands and fines up to $240 (200 euros) to imprisonment for periods ranging from two months to two years. On May 19, an international panel of judges of the Gjilan/Gnjilane district court convicted six ethnic Albanians in connection with the killing of two ethnic Serbs during the riots and sentenced them to prison terms ranging from 3.5 to 16 years.

Of the seven persons originally detained on suspicion of organizing or leading the riots, criminal investigations were ongoing in the cases of four: KPC reserve commander, Naser Shatri; chairman of the KLA war veterans association in Peja, Nexhmi Lajci; chairman of the KLA war veterans association in Gjilan, Shaqir Shaqiri; and chairman of the KLA war veterans Association in Vushtrri, Salih Salihu.

At year's end the PISG had reconstructed more than 95 percent of the houses damaged or destroyed in March 2004 and started church reconstruction (see section 2.c.).

Ethnic Albanians destroyed, often by arson, private property belonging to ethnic Serbs; some cases of violence against Serbs may have been attempts to force them to sell their property. A UNMIK regulation prevents the wholesale buy-out of many ethnic Serb communities in an effort to prevent the intimidation of minority property owners in certain areas; however, it was rarely enforced. The ombudsperson and human rights groups criticized the regulation as limiting the ability of ethnic Serbs to exercise their property rights.

Discrimination continued against ethnic Serbs in the provision of education and health care services by the PISG. Minority employment in the PISG continued to be low and was generally confined to lower levels of the government. Members of minorities occupied 11 percent of posts in the PISG ministries, despite a PISG target of more than 16 percent.

Authorities made no progress during the year investigating or prosecuting 2003 cases of violence against ethnic Serbs.

Roma lived in dire poverty, and those who lived in Mitrovica were viewed as ethnic Serb collaborators by many ethnic Albanians; as a result, in 1999, their houses were destroyed and they were forced to live in IDP camps, where they still reside. Roma throughout Kosovo were subject to pervasive social and economic discrimination and often lacked access to basic hygiene, medical care, and education and were

heavily dependent on humanitarian aid. Although there were some successful efforts to resettle Roma, Ashkali, and Egyptians in the homes they occupied prior to the 1999 conflict in Vushtrri, security concerns remained.

Bosniak leaders continued to complain that thousands of their community members had left Kosovo because of discrimination and a lack of economic opportunity.

In September authorities began a process of local government reform (decentralization) with the opening of pilot projects in the monoethnic areas of Hani I Elezit (Albanian), Mamushe (Turkish), and Junik (Albanian). The process was delayed as opposition parties continued to oppose the government's working program, the government moved slowly, and ethnic Serbs left discussions following their inability to reach consensus on the boundaries for two ethnic Serb-majority pilot projects in Gjilan and Gracanica.

Other Societal Abuses and Discrimination.—The law prohibits discrimination based on sexual orientation; however, the law was not applied during the year.

Traditional societal attitudes about homosexuality intimidated most gays and lesbians into concealing their sexual orientation. Gays and lesbians generally felt insecure, with many reporting threats to their personal safety. The print media previously reinforced these attitudes by publishing without retraction negative articles about homosexuality that characterized gays and lesbians as mentally ill and prone to sexually assaulting children. Individual homosexuals also reported job discrimination. At least one political party, the Islamic-oriented Justice Party, included a condemnation of homosexuality in its political platform.

On December 31, local media reported that KPS officers and a treating physician verbally abused and mistreated two young men after an unknown assailant had attacked them with a knife. The KPS suspended two officers without pay pending investigation.

Section 6. Worker Rights

a. The Right of Association.—UNMIK regulations allow workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice.

The only significant union, the Association of Independent Trade Unions of Kosovo (BSPK), claimed over 120 thousand members; only 50 thousand of its members (approximately 10 percent of the workforce) were employed. UNMIK regulations prohibit antiunion discrimination; however, some union officials reported discrimination in practice. The BSPK reported that only a small number of companies respected the regulation preventing antiunion discrimination and claimed that worker rights were abused in every sector, including international organizations, where staff did not have security insurance or pensions.

b. The Right to Organize and Bargain Collectively.—UNMIK regulations allow unions to conduct their activities without interference, and UNMIK protected this right in practice. UNMIK regulations also provide for the right to organize and bargain collectively without interference, and the government did not restrict this right in practice; however, collective bargaining took place on only one occasion. UNMIK regulations do not recognize the right to strike; however, strikes were not prohibited in practice, and strikes occurred during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—UNMIK regulations prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—UNMIK regulations and policies prohibit exploitation of children in the workplace, including a prohibition of forced or compulsory labor, provide for acceptable working conditions; however, UNMIK and the PISG rarely challenged these practices when they occurred.

The pre-1989 labor laws that remain in force set the minimum age for employment at age 16 and at age 18 for any work likely to jeopardize the health, safety, or morals of a young person but permit children to work at age 15, provided it is not harmful or prejudicial to school attendance.

In villages and farming communities, younger children typically worked to assist their families. Urban children often worked in a variety of unofficial retail jobs, such as washing car windows or selling newspapers, cigarettes, and phone cards on the street; the numbers of such children grew in the last year, although statistics were not kept by either UNMIK or the PISG. Some children were also engaged in physical labor, such as transporting goods.

Trafficking of children was also a serious problem, primarily for sexual exploitation (see section 5).

The Ministry for Labor and Social Welfare, in cooperation with UNMIK, coordinated child protection policies, and the ministry's department of social welfare had responsibility for ensuring the protection of children; however, the ministry did not conduct inspections or otherwise enforce child labor laws during the year.

e. Acceptable Conditions of Work.—Although UNMIK regulations provide for a minimum wage, one has not been adopted. While many international agencies and NGOs paid adequate wages, the average full-time monthly public sector wage of $181 (151 euros) and the average private sector wage of $250 (208 euros) were inadequate to provide a decent standard of living for a worker and family.

UNMIK regulations provide for a standard 40-hour work week, require rest periods, limit the number of overtime worked to 20 hours per week and 40 hours per month, require payment of a premium for overtime work, and prohibit excessive compulsory overtime. A labor inspectorate within the Ministry of Labor and Social Welfare is responsible for enforcing labor standards. The inspectorate primarily advised employers and fined only one employer during the year for violation of the standards. Employers often failed to implement these regulations due to the high underemployment and unemployment in Kosovo.

The labor inspectorate was responsible for enforcing health and safety standards but lacked trained staff and did not do so effectively. The law does not permit employees to remove themselves from dangerous workplaces without jeopardizing their continued employment.

MONTENEGRO

Montenegro, with a population of approximately 673 thousand, is a constituent republic of the state union of Serbia and Montenegro. The republic has a presidential and a parliamentary system of government. The 2003 presidential elections were conducted generally in line with international standards. While civilian authorities generally maintained effective control of the security services, there were a few instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens and demonstrated a heightened concern for the protection of human rights; however, there were problems in some areas. The following human rights problems were reported:

- police abuse of detainees
- prison overcrowding
- impunity and corruption of security forces
- lengthy pretrial detention
- judicial corruption and political pressure on the judiciary
- prolonged trial delays
- restrictions on freedom of the press
- violence and discrimination against women
- trafficking in women and children
- discrimination against ethnic minorities

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, police occasionally beat suspects during arrest or while suspects were detained for questioning.

On September 1, the police raided the main penitentiary following the August 30 killing of the chief of the criminal police. During the raid police reportedly beat the prisoners with the intent to cause severe internal injury without leaving visible marks. Between 18 and 31 prisoners were injured, some severely. The minister of interior and the supreme state prosecutor both promptly announced investigations into the police action; the investigation was ongoing at year's end.

The local prosecutor, after an investigation, dropped charges against the police officers responsible for the alleged 2003 beating of Igor Zindovic.

The local state prosecutor brought criminal charges against police inspector Dobrasin Vulic for the 2003 beating of Nikola Popovic. The trial was ongoing at year's end.

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however, some problems remained. Prison facilities were antiquated, overcrowded, poorly maintained, and had inadequate hygiene.

The law mandates that juveniles be held separately from adults and pretrial detainees be held separately from convicted criminals; however, this did not always occur in practice due to overcrowding.

The government permitted prison visits by human rights observers, including the International Committee of the Red Cross (ICRC) and local nongovernmental organizations (NGOs). Both the ICRC and the Helsinki Committee of Montenegro made several visits during the year. The ombudsman's office routinely visited prisons, meeting with detainees and inmates without prior notice.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The interior ministry controls both national and border police. Although these services generally were effective in maintaining basic law and order, their effectiveness in fighting organized crime was limited. A sizable percentage of the police force consisted of Bosniaks (Bosnian Muslims), many of whom were deployed in the Sandzak, a predominantly Muslim area in the north. Impunity was a problem. The government investigated police abuses, but criminal procedures and sentences against police were rare.

Corruption was a problem; the small, close-knit society discouraged reporting corruption and provided criminals access to law enforcement officers.

Arrest and Detention.—Arrests require a judicial warrant or "high suspicion that the suspect committed an offense." A suspect could be detained for up to 48 hours before being arraigned and charged before a judge. Detainees are informed of the charges against them at the arraignment, where the judge makes the initial judicial determination of the legality of the detention. In practice arraignment generally occurred in the legally allowed time of 48 hours after arrest. The law provides for access to an attorney in this initial period, but this often did not occur. Detainees were allowed prompt access to family members. There is a system of bail; however, it was not widely used because citizens could rarely raise money for bail.

There were no reports of political detainees.

Long trial delays, combined with difficulty in meeting conditions for bail, occasionally led to lengthy pretrial detention. Approximately two-thirds of the prison population were pretrial detainees, whose average length of detention was five months.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, lack of cooperation between police and prosecutors, a backlog of cases, often primitive courtroom facilities, and judicial corruption remained problems. The government at times influenced prosecutors for political reasons. There were reports that judges issued tainted decisions out of fear of reprisals or loss of position if they ruled against particular parties.

The court system consists of municipal courts, higher (or district) courts, and a Supreme Court at the republic level. The law mandates formation of an Appeals Court and an Administrative Court to reduce the burden on the Supreme Court; these courts were established during the year. Cases are assigned to the court which has legal and physical jurisdiction.

Trial Procedures.—Criminal trials are public; juries are not used. Defendants have the right to be present at their trial and to consult with an attorney in a timely manner. Defendants have a right to access to an attorney; however, an attorney is provided at public expense only if the possible sentence is greater than five years' imprisonment. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy the presumption of innocence and the right of appeal; although the government at times influenced the judiciary, these rights were generally respected in practice.

There were no war crimes trials during the year.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. In September the law was changed to require the national security agency (NSA) to obtain court authorization for a wiretap. Some observers believed that police selectively used wiretapping and surveillance against opposition parties and other groups. Many individuals and organizations operated on the assumption that they were, or could be, under surveillance.

Eviction of Roma from illegal settlements, and sometimes legal residences, was a problem (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, there were some restrictions of freedom of the press in practice.

There were a small number of credible allegations of political and business pressure on the media. In December the radio and television (RTCG) council dismissed the director of public television broadcaster TVCG (TV Montenegro), justifying the action as a response to the director's failure to submit the TVCG program plan. The TVCG editorial staff resigned in protest. The dismissal was viewed by some observers as an attempt to bring the TVCG editorial board closer in line with government positions.

The independent media was active and generally expressed a wide variety of political and social views without government restriction.

There were no reports that journalists practiced self-censorship; however, some NGOs warned that the possibility of bringing criminal libel charges against journalists, accompanied by potentially large fines up to $16,800 (14 thousand euros), could deter journalists from reporting candidly on events.

Despite some steps to move away from government control of the media, certain media retained close ties to the government. Only one out of a dozen local, government-owned newspapers was privatized.

The print media consisted of private news outlets and one national state-owned newspaper, which published a wide variety of domestic and foreign articles.

There were a wide variety of public and private broadcasting media, including public radio and television broadcaster RTCG, as well as 16 private television and 39 private radio stations. Domestic radio and television stations regularly rebroadcast some programs from Belgrade's BK and Serbian National Television, as well as from a number of foreign services.

The trial of one person for the May 2004 killing of Dusko Jovanovic, the director and editor-in-chief of the leading opposition daily, *Dan,* was still in progress at year's end. While the motive of the killing remained unknown, *Dan* and other media outlets called the killing a major attack on freedom of the press and journalistic safety. On August 30, unknown persons shot and killed the chief police official investigating the Jovanovic and other major unresolved killings.

Officials sporadically brought or threatened libel suits against media organizations when accused of wrongdoing. There were no publicized cases of direct government censorship of the media. Unlike in previous years, only a few new libel suits were filed by state officials against media organizations. A government minister and the leadership of a municipal government sued the opposition daily newspaper *Dan* for libel and publication of false information. On January 17, the basic court in Podgorica fined the publisher of the defunct daily newspaper *Publika* in a libel suit brought by the chief of the former state security service (SDB). Despite some pending court cases and the continued risk of libel suits, there was a modest increase in the willingness of the media to criticize the government during the year.

The law mandates regulatory structures designed to insulate former state-owned media from direct party control; these include a radio and television (RTVCG) council that took over editorial oversight of the national public radio and television from the government. The RTVCG council was established in 2003, with members selected by a variety of NGOs and professional groups; however, some observers noted that many RTVCG members had close ties to the government. In December the council's decision not to accept a program plan proposed by the TVCG director resulted in his dismissal and the subsequent resignation of the entire editorial staff.

Since 2003 radio and television stations received broadcast licenses from an independent regulatory body, which assumed such authority from the government. During the year the regulatory body allocated frequencies for 16 television and 39 radio stations in its first public tender.

There were no government restrictions on the Internet or academic freedom; however, a group of professors and other educational professionals in Niksic protested their dismissal by the government for refusing to teach the "mother tongue," claiming they were only licensed to teach the "Serbian" language. The government had recently relabeled "Serbian" as the "mother tongue", asserting the change reflected the existence of various dialects in use. The professors claimed the government's action was politically motivated. The government asserted the dismissals were justified by the educators' subsequent strike, which the government held to be a breach of contract (see section 6.b.).

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. There was no state religion, although the republic constitution mentions the Orthodox Church, the Islamic community, and the Roman Catholic Church as equal and separate from the state; however, the Serbian Orthodox Church received some preferential treatment in practice.

While there was no formal registration requirement for religions, religious groups had to register as citizen groups with the republic's Ministry of the Interior and Department of Statistics to gain status as a legal entity, which is necessary for real estate and other administrative transactions. There were no problems with registration reported in practice.

There was no progress noted during the year on restitution of previously seized church property. The Serbian Orthodox Church claimed the government applied the restitution law in a discriminatory manner. During the year the church filed a suit with the European Court of Human Rights (ECHR), alleging that delays in addressing its claims for property taken by the government after World War II were politically motivated. The ECHR had not acted on the filing at year's end.

Societal Abuses and Discrimination.—Religion and ethnicity were closely intertwined, and in many cases it was difficult to identify discriminatory acts as primarily religious or ethnic in origin. Minority religious communities reported better cooperation with government organizations, leading to increased ability to operate normally; however, some elements in society continued to discriminate against such communities.

Tensions continued between the canonically unrecognized Montenegrin Orthodox Church and the Serbian Orthodox Church. In June the erection of a prefabricated Serbian Orthodox chapel on a prominent mountain in the southwestern part of the republic, with the assistance of a state union military helicopter, antagonized nonmembers of the Serbian Orthodox Church, who viewed it as a political act.

There were no reports of anti-Semitic acts. A September 2004 survey by the government statistics office concluded that there was no organized Jewish community. A small, scattered number of adherents of Judaism likely lived in the republic.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons (IDPs).—There were approximately 17 thousand IDPs from Kosovo. The majority of these IDPs were ethnic Montenegrins or Serbs; however, there were also approximately 1,300 Roma and others. The Romani IDP population lived in collective centers with limited access to health care and education. Discrimination and harassment against Roma remained a serious problem (see section 5).

Protection of Refugees.—The law does not provide for the granting of asylum of refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The state union has adopted a law on asylum that gives a framework but does not mention procedures or implementation. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status but not asylum. According to established procedures, potential refugee cases would be referred to the Office of the UN High Commissioner for Refugees (UNHCR) in Belgrade for determination. During the year no persons applied to either the Montenegrin government or UNHCR for refugee status.

The government was also prepared to provide temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 protocol; however, no persons requested such protection during the year.

The government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. Conditions for refugees varied; those with relatives or property in the country were able to find housing and, in some cases, employment.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Filip Vujanovic was elected president in 2003 elections that an Organization for Security and Cooperation in Europe (OSCE)

election observer mission found were conducted generally in accordance with international standards, as were parliamentary elections held in 2002. In rural areas husbands commonly directed their wives' voting.

There were 8 women in the 75-seat parliament and 2 women in the cabinet.

There were 11 members of ethnic minorities in the 75-seat parliament and 3 members of ethnic minorities in the cabinet. Ethnic Albanians and Bosniaks participated in the political process, and their parties, candidates, and voters participated in all elections; Roma were significantly underrepresented in the government.

Government Corruption and Transparency.—There was a widespread perception of government corruption, particularly in the executive and judicial branches. In September a leading NGO issued a comprehensive case study, which reported that unclear legislation and broad discretion in the exercise of government power institutionalized corruption as the "most efficient way of operations." There also were widespread allegations of corruption affecting the privatization of industry; observers noted that a lack of transparency prevented determining the validity of those allegations. There were reports that officials restructured firms eligible for privatization to make them unattractive to outside buyers, thereby leaving them in the officials' control.

On November 8, parliament adopted a law on free access to information; early implementation of the law was mixed but generally positive, with the authorities providing increased access to government information in practice. Citizens could inspect secret files kept on them by the SDB (the precursor of the NSA) from 1945 to 1989.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

There were a number of NGOs investigating human rights cases, including Helsinki Committee of Montenegro and the Center for Democracy and Human Rights. NGOs were credited with helping to reduce police brutality and other abuses. The government generally cooperated with international organizations.

The government cooperated with the International Criminal Tribunal for the former Yugoslavia in allowing access to witnesses.

The ombudsman for human rights does not have authority over the work of the courts, except in cases of prolonged procedure, obvious abuses of procedure, and failure to execute court decisions. The office of the ombudsman operated without government or party interference and was provided with adequate resources by the government. The ombudsman was generally considered to be effective. Upon finding a violation of human rights or freedoms, the ombudsman may initiate disciplinary procedures or dismissal of the violator. Failure to comply with the ombudsman's request for access to official data, documents, or premises, or to the ombudsman's request to testify at a hearing is punishable by fines of 10 to 20 times the minimum monthly wage of $600 to $1,200 (500 to 1 thousand euros). No fines were imposed during the year, as in practice essentially all its recommendations were respected. In March the ombudsman office released its first annual report to parliament. The greatest number of complaints related to delays in the courts and the work of local governments; only a few complaints involved police misconduct. In general the government and the courts implemented the ombudsman's recommendations.

A parliamentary committee on human rights continued to exist but was inactive during the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not effectively enforce it in practice. Violence and discrimination against women, child abuse, trafficking in persons, and discrimination against ethnic minorities were problems.

Women.—Although violence against women, including spousal abuse, is illegal, it was widespread, particularly in rural areas. During the year official agencies, including the police, improved their response to domestic violence; however, efforts were still inadequate. Domestic violence is a crime punishable by a fine or prison sentence of up to 10 years, depending on the seriousness of the offense or, if death results, by a sentence of 3 to 12 years' imprisonment. Victims of domestic violence rarely filed complaints with the authorities. According to a 2004 survey conducted by an NGO, only 30 percent of victims reported domestic violence incidents to police; however, domestic violence-related offenses made up 30 percent of all police arrests. The government prosecuted a small number of domestic violence cases; however,

NGOs reported that judges refused to impose jail sentences, although prosecutors routinely asked that convicted abusers be imprisoned; most convictions resulted in probation.

Rape, including spousal rape, is illegal. The government sought to enforce the law, but deeply ingrained societal attitudes continued to stigmatize rape victims, and judges frequently allowed such stigmatization of victims during court procedures. As a result victims were reluctant to report rape, including spousal rape. Punishment for rape, including spousal rape, is 1 to 10 years' imprisonment; however, the crime only can be prosecuted if the victim brings charges. According to a local NGO, 80 percent of domestic violence cases against women involved spousal rape; however, there were no reports of indictments of alleged rapists.

Prostitution is a crime, as are soliciting and procuring. The government took active measures to suppress prostitution, soliciting and procuring. Prostitution existed but was not widespread.

Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment was a problem. Sexual harassment is illegal but tolerated by society at large. While victims were hesitant to report harassment, police were usually effective in intervening when requested to do so.

Women did not enjoy equal status with men, and few women held senior management positions in government or commerce, although an increasing numbers of women served as judges, and there were many women in professional fields such as law, science, and medicine. Traditional patriarchal ideas of gender maintained that women should be subservient to male members of their families and continued to subject women to discrimination in the home. In rural areas, particularly among minority communities, women could not always exercise their right to control property, and husbands commonly directed wives' voting.

Legally, women were entitled to equal pay for equal work; however, they did not always receive it in practice. The government's Office for Gender Equality was charged with ensuring the legal and economic rights of women.

Children.—The government was committed to the health and educational needs of children; however, insufficient resources impeded achievement of this goal.

The educational system provided eight years of free, mandatory universal schooling. There was no difference in the treatment and attendance of boys and girls at the primary and secondary levels. Although ethnic Albanian children had access to instruction in their native language, some Albanians criticized the government for not developing a curriculum in which Albanians could learn about their ethnic culture and history. Most Romani children received little or no education beyond the primary school level; however, in an effort to address this problem, the government provided 13 thousand textbooks in the Romani language during the year.

Child abuse was an underreported problem that the government took little action to address. The law does not allow a juvenile to make an allegation of a crime without a parent or guardian present; consequently, there was almost no reporting of child abuse or incest to authorities.

Child marriage was particularly a problem among Roma. In the Romani community, boys and girls generally married at an early age, with girls marrying somewhat earlier than boys.

Trafficking in girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Child labor was problem (see section 6).

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the republic. There were reports that police and other officials were involved in trafficking; however, there were significantly fewer reports than in previous years.

The law sets the punishment for all trafficking in persons violations at up to 10 years' imprisonment. During the year, six persons were arrested and charged on suspicion of trafficking in persons. Several cases from previous years were still in the courts. Prosecutors filed seven new trafficking cases during the year and secured the convictions of six individuals in cases filed in previous years. The average length of sentences imposed for trafficking rose during the year, from six months in prison to an average of two and one-half years in prison.

The state-union level national coordinator, appointed by the Ministry of Interior, chairs the antitrafficking working group composed of relevant ministries (interior, health, labor, and education), social services, the OSCE, the International Organization for Migration (IOM), and NGOs. The government coordinated its antitrafficking efforts with other countries in the region, particularly through the Southern European Cooperative Initiative Center in Bucharest.

The republic remained primarily a transit point for trafficked persons, particularly women and children, and, to a lesser extent, a destination. According to police, victims came from Serbia and often continued to Italy and other West European countries. The police and NGOs reported a larger number of cases of internal trafficking, particularly involving victims from Serbia. Statistics on trafficking were difficult to obtain, as traffickers increasingly stopped holding their victims in public locales such as bars and nightclubs. Victims were generally women with less education and usually, but not always, poor. The IOM reported that 6 of 15 trafficking victims housed in the local shelters during the year were minors.

Traffickers were often citizens who sometimes worked with foreign partners and were principally involved in organized crime. They usually used fraud to entice their victims and resorted to force and coercion to keep victims from leaving.

There were reports that police and other officials were involved in trafficking, for example, border police and customs officials who corruptly facilitated border crossings by traffickers and their victims.

The law provides procedures for protecting trafficking victims by distinguishing them from prostitutes and illegal migrants, as well as by establishing procedures for referring victims to appropriate social services; however, according to local NGOs, law enforcement authorities continued to mismanage some cases involving potential victims. The government repatriated victims with assistance from the IOM.

International organizations sponsored police training in methods of dealing with human trafficking. International organizations sponsored training for police (including border police), prosecutors, and judges in methods of dealing with trafficking. Local NGOs, with funding from international donors, operated a shelter in Podgorica and hotlines throughout the republic; the government assumed responsibility for funding a second shelter that opened in 2004. Public awareness campaigns, sponsored by the government with international support, continued to be conducted throughout the republic.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, there was societal discrimination against persons with disabilities. The law mandates access to new official buildings for persons with disabilities, and the government generally enforced these provisions in practice; however, facilities for persons with disabilities were inadequate, including at polling stations.

The government provided mobile voting for handicapped or ill voters who could not come to polling stations.

The ministries of health, labor and social welfare, and education are responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—Societal discrimination against ethnic minorities was a problem. Prejudice against Roma was widespread, and local authorities often ignored or tacitly condoned societal intimidation or mistreatment of Roma, some of whom were IDPs from Kosovo. According to a local NGO, 70 percent of Roma were illiterate, 70 percent did not speak the local language, 95 percent were officially unemployed, 40 percent had no access to public utilities, and 90 percent lived below the poverty level.

Romani IDPs, who lived primarily in collective centers and scattered settlements throughout the republic, often lacked identity documents and access to basic human services (see section 2.d.). Eviction from illegal settlements and, sometimes, legal residences was a serious problem. During the year there was limited official recognition of the problem, with authorities in the capital providing land and utility connections for an international NGO project to replace illegal and inadequate Romani housing.

Society generally showed antipathy towards homosexuals, leading most homosexuals to conceal their identity. Violence against homosexuals was rare and not condoned by the government.

Section 6. Worker Rights

a. The Right of Association.—The law entitles workers, except for the uniformed military and police personnel, to form and join unions of their choice, without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 95 percent of the workforce in the formal economy was unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right of collective bargaining; however, collec-

tive bargaining remained at a rudimentary level. Under the law the registered workforce is covered by collective bargaining agreements. The law provides for the right to strike, and workers generally exercised this right by conducting legal strikes; however, the law prohibits strikes by military and police personnel.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government had laws and policies to protect children from exploitation in the workplace, including prohibition of forced or compulsory labor, and policies regarding acceptable working conditions, and the government generally enforced these laws and policies effectively.

The official minimum age for employment is 15 years, although in farming communities it was common to find younger children assisting their families. Romani children also could be found in a variety of unofficial retail jobs, typically washing car windows or selling small items such as newspapers. Some such children worked in the "gray zone" between voluntary and forced labor; however, there were no reports that such practices occurred systematically.

Children were trafficked for sexual exploitation and child prostitution (see section 5).

Inspectors from the state labor inspectorate were responsible for enforcing the child labor laws.

e. Acceptable Conditions of Work.—The national minimum wage of $62 (52 euros) per month did not provide a decent standard of living for a worker and family. There were no reports of employers failing to pay the minimum wage, which was enforced by the Ministry of Labor.

The law requires a 30-minute rest period daily, limits hours worked to 40 per week except in specified unusual circumstances, and requires an unspecified premium for work in excess of 40 hours per week. There is no specific prohibition on excessive compulsory overtime. The Ministry of Labor effectively enforced the regulations on hours of work.

The government did not give high priority to the enforcement of occupational safety and health regulations. Workers did not have the right to remove themselves from situations that endanger health and safety without jeopardy to their employment.

SLOVAK REPUBLIC

The Slovak Republic, with a population of approximately 5.4 million, is a multiparty parliamentary democracy, led by a prime minister and a 150-member parliament. President Ivan Gasparovic serves as head of state and was elected for a five-year term in April 2004 in free and fair elections. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- lengthy pretrial detention
- restrictions on freedom of religion
- corruption in the judiciary, local government, and health sector
- violence against women and children
- trafficking in persons
- societal discrimination and violence against Roma

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

The special corruption court took over from a regional court judge the case of seven police officers charged with inhuman and degrading treatment in the 2001 death of a Romani man in police custody. The new judge assigned to the case was reviewing the proceedings, and the trial had yet to begin at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and in contrast to previous years, there were no reports that government officials employed them.

No action was taken against the six police officers accused by nongovernmental organizations (NGOs) of using excessive force against Roma in the eastern town of Trebisov in February 2004. No further measures were expected.

The trial of three Zahorska Ves men arrested for allegedly breaking into and setting fire to Romani residences on three occasions in 2004 was ongoing at year's end. Two of the men were also charged with assault. The government punitively revoked the license of the private security firm that employed several of the alleged attackers.

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however, overcrowding continued to be a problem. The government implemented improvements and expanded prison infrastructure through the year due to an increase in the prison population. Six out of ten prisoners worked in prisons, but there was no a national standard regulating payment.

The government permitted visits by independent human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The national police has sole responsibility for internal and border security and reports to the Ministry of Interior. The head of the police force reports directly to the minister of the interior, who has the authority to recall any member of the police. Human rights observers charged that police investigators were occasionally reluctant to take the testimony of witnesses, particularly Roma, women, and the homeless. They also contended that, on occasion, police failed to promptly and thoroughly investigate cases involving Roma. Instances of police corruption and misconduct were reported, primarily in the form of extorting bribes during traffic stops. Mechanisms were available to investigate police abuses within the police inspection unit at police headquarters. The unit's 2004 annual report stated that most complaints were in response to the behavior of police while on duty, specifically related to the "abuse of power." Police officers continued to receive training in human rights and communications from local NGOs.

Arrest and Detention.—The law stipulates that a person can be taken into custody only for explicit reasons and must be immediately informed of the reasons for detainment. A written court warrant is required for arrest. The court must grant a hearing to a person accused of a crime within 48 hours (or a maximum of 72 hours for "serious cases," defined as violent crimes, treason, or other crimes in which the expected charges could bring a minimum sentence of at least 8 years) and either release or remand the individual. Detainees have the right to consult with an attorney immediately and must be notified of this right. The government provides free counsel to indigent detainees. If remanded by a court, the accused is entitled to an additional hearing within 48 hours, at which time the judge must either release the accused or issue a written order placing the accused in custody. The authorities respected these provisions in practice.

Attorney visits were allowed as frequently as necessary. The law allows monthly family visits upon request. There was a bail system in place that functioned effectively.

Unlike in previous years, there were no reports of arbitrary arrest or detention without cause in the Romani community.

There were no reports of political detainees.

Pretrial detention may last up to six months but was frequently extended in increments by judicial order up to three years. According to 2004 statistics, the average length of pretrial detention was 90 days at the district court level and 276 days at the regional court level. Pretrial detainees accounted for approximately one-third of the total prison population. In cases with extenuating circumstances, the Supreme Court may extend pretrial detention to five years. In July parliament passed a law on criminal court procedures mandating that the total time of detention (pretrial plus trial) not exceed 12 months in the case of minor offenses, 24 months for regular crimes, 36 months for severe crimes, and 4 years for crimes in which the expected sentence is more than 25 years, and that pretrial detention not account for more than one-half of that total. The law was scheduled to become effective in January 2006.

Delays in court procedures and investigations frequently led to lengthy pretrial detentions. Due to inefficiency, prosecutors and judges released one detainee in the first half of the year when the maximum period for detention expired before his trial date.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, problems with corruption and inefficiency in the judiciary continued, despite a series of reforms implemented by the justice ministry to decrease corruption and improve efficiency within the court system.

There were eight regional courts. The Supreme Court, consisting of 79 judges, was the highest court of appeals. The constitutional court, with 13 judges serving 12-year terms, is independent of the Ministry of Justice and rules on cases regarding the constitution and international treaties, considers cases in which constitutional provisions are in conflict, and hears complaints about violations of basic rights and freedoms. The judicial council, a constitutionally recognized independent body of lawyers and judges, made decisions regarding disciplinary actions, administrative issues, and appointments of judges. A special court for corruption cases opened in September and issued its first verdicts by the end of the year; in addition to cases of official corruption, it hears cases related to highly placed government and political figures and organized crime. Appeals of this court's decisions are made to the Supreme Court. During the year the special court heard 71 cases, the majority of which were corruption cases.

Cases are generally first heard in the district courts; appeals are made to the eight regional courts. The constitutional court hears cases involving constitutional or human rights issues; the Supreme Court is the court of last resort in all legal cases.

The Ministry of Justice took disciplinary action against five judges suspected of corruption; in 2004 the ministry took action against 25 judges, of whom 9 were removed from the bench and 2 resigned. Other possible penalties included a reduction in salary and reassignment to lower courts. A computerized system for random case assignment functioned at almost every level of the courts to increase transparency. Nonetheless, Transparency International reported in 2004 that 59 percent of citizens viewed the courts as corrupt.

Trial Procedures.—Persons charged with criminal offenses are entitled to fair and open public trials and have the right to be informed of the charges against them. However, NGO observers stated that in practice corruption among judges could infringe on a person's right to a fair trial. Defendants enjoy a presumption of innocence, have the right to refuse self-incrimination, and may appeal adverse judgments. They are also presumed innocent during the appeals process. The law does not provide for jury trials. A panel of three judges is obligatory in criminal cases and in civil cases at the regional court and supreme court levels. Defendants had the right to be present, consult in a timely manner with an attorney at government expense, gain access to government-held evidence, confront witnesses against them, and present witnesses and evidence on their own behalf.

In contrast with previous years, there were no reports that Roma or other minorities did not receive a fair trial.

Military courts hear cases concerning civilians suspected of war treason or evasion of mandatory armed forces service and provide the same rights as the regular court system.

Political Prisoners.—There were no reports of political prisoners.

Property Restitution.—The 2003 law on property restitution provides citizens a second opportunity to apply for the return of land confiscated by the state between 1948 and 1990. Under this law more than 48,131 cases were filed. Through June 5,018 of these claims had been resolved and the lands returned; in 2,077 others, the land was unavailable or impossible to return, and financial reimbursement was made instead. A lack of historical documentation prevented many cases from being resolved.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Police must present a warrant before conducting a search or within 24 hours afterwards. During the year police in the town of Zehra allegedly entered the home of a Romani citizen without a search warrant.

Unlike in previous years, there were no reports of coerced or forced sterilization of Romani women. During the year the provisions of a 2004 law went into effect, requiring that sterilizations be performed only at the request of the patient and only after 30 days had passed since the initial request. The law was prompted by NGO charges in previous years that doctors performed coerced or forced sterilization on Romani women.

In November 40 health assistants began training as part of a pilot project approved in 2003 to improve Romani access to health care.

No victims of sterilization received financial redress, although the government acknowledged in a 2003 report that the procedures had taken place. In September the general prosecutor's office announced that no criminal charges would be filed. Several NGOs appealed the case to the European Court of Human Rights in 2004, but the case was pending at year's end.

In August 2004 eight of the Romani women involved in the sterilization cases filed a case with the European Court of Human Rights when Slovak hospitals allegedly denied them access to their own medical records. The court gave priority to the case, which was ongoing at year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The independent media were active and expressed a wide variety of views without restriction. At year's end the constitutional court was continuing to examine the constitutional merits of the law governing the state-funded news agency of the Slovak Republic, which was allegedly subject to political influence and noncompetitive practices.

Prosecutors dropped charges against three intelligence officers accused of abusing the powers of authority by allegedly setting up an illegal wiretap of a major national newspaper.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

Freedom of Association.—The law provides for freedom of association and the government generally respected this right in practice. However, the law requires organizations to pay a nominal registration fee, and stipulates that those registering as foundations have "substantial" financial resources of approximately $6 thousand (SKK 180 thousand) to operate. During the year no organization was denied registration or faced any other limitations on its operations.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Religious groups must have 20 thousand permanent resident adherents in order to register with the government. Registered groups received state subsidies for clergy and office expenses and the right to visit and proselytize in prisons and hospitals. Unregistered religious groups are prohibited from conducting legal marriage ceremonies. There were 16 registered religious groups. In previous years leaders of a number of minority religious communities—in particular Muslims, smaller Protestant churches, the Hare Krishna community, and the Church of Scientology—complained that the large membership requirement effectively barred them from obtaining official status, although these smaller religions experienced no restrictions on assembly and worship.

The government monitored but did not interfere with religious sects.

A 2004 law requires public elementary school students to take either a religion or an ethics class. Critics of the law claimed students may be denied the choice in poorer rural schools or socially pressured to choose religious classes. The law also allows government-funded religious schools to remove material inconsistent with Catholic beliefs from the curricula.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

Societal Abuses and Discrimination.—Jewish community leaders and 2001 census data estimated that the Jewish community numbered approximately three thousand. Anti-Semitism persisted among organized neo-Nazi groups, estimated to have 500 active members and from 3,000 to 5,000 sympathizers.

In January juveniles vandalized 19 tombstones in a Jewish cemetery in Ruzemberok; an investigation into the incident was ongoing at year's end. In June vandals broke a pane of glass at Bratislava's memorial to Rabbi Chatam Sofer. In July derogatory inscriptions, such as "The Holocaust is a lie," were painted and carved on the new Holocaust Memorial in Rimavska Sec; the investigation concluded without charges being filed. Vandals destroyed five tombstones and damaged another two at Rimavska Sobota's Jewish cemetery the following week; the investigation concluded with no suspects.

The law prohibits the defamation of nationalities and denying the Holocaust. The Ministry of the Interior actively pursued violent extremist groups, and police monitored Internet web pages hosting hate speech and attempted to arrest or fine the authors.

In November the extremist political party Slovenska Pospolitost held several rallies that were broken up by police officers. Several Pospolitost members were detained or arrested for promoting an ideology which suppresses the rights of others.

The government continued implementing its action plan to fight discrimination, racism, xenophobia, and anti-Semitism. During the year the government organized antidiscrimination campaigns and teacher training, film festivals, and conferences on minority and human rights issues. High school and university curricula promoted tolerance, and students could also compete in annual essay contests that focused on human rights issues. The Jewish community expressed concern that some media coverage in the country exhibited anti-Semitic undertones.

In August a memorial to Romani victims of the Holocaust (*Porrajmos*) was inaugurated at the Slovak National Uprising museum in Banska Bystrica, and the government and media were well represented at the inaugural ceremony. In September the Jewish Museum in Bratislava and the regional government in Nitra opened a permanent exhibit on the Holocaust entitled "The Fate of Slovak Jews."

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government had an established system for providing some protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. However, the government did not routinely grant refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol. The law provides for temporary protection, classified as "tolerated residence," which is granted if asylum is denied and the individual is not eligible for deportation to his or her country of origin due to administrative problems or fear for the person's safety.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

During the year two refugees received citizenship. According to national migration office statistics, 11 persons received asylum out of a total of 3,235 cases, and 2,663 cases were terminated during the year. Unlike in 2004, the UNHCR did not criticize the current asylum process for accepting a low number of asylum applicants.

During the year there were several corruption charges within the customs and immigration police. In December 2004 the director of one of the country's alien detention facilities in Adamov was arrested on suspicion of illegal migrant smuggling. He was released and transferred to a different assignment pending the completion of the investigation, which was ongoing at year's end.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In April 2004 Ivan Gasparovic won the second direct presidential election. A referendum calling for early parliamentary elections, which some parties boycotted, was held at the same time as the first round of the presidential election. The Organization for Security and Cooperation in Europe determined the presidential elections to be free and fair; however, the observer mission noted that presidential election was influenced by the controversial timing of the referendum, which failed, and questions surrounding its constitutionality.

There were 23 women in the 150-seat parliament, 33 women on the 68-seat Supreme Court, and 1 woman in the 16-seat cabinet.

The law prohibits collecting information on ethnicity, and it was not possible to determine the number of members of minorities in government. The chairman of the party of the Hungarian coalition served as a deputy speaker in parliament. Some ethnic Romani parties were successful at winning representation at the local level; however, Roma were consistently underrepresented in government service, and no Roma were in parliament. There was no unified Romani minority party, and several Romani activists reported that this hampered political participation. NGOs provided political campaign training to several Romani candidates running in the November

regional parliamentary elections. Although none of the Roma was elected, NGOs characterized the near-success of one particular candidate as promising.

Government Corruption and Transparency.—Corruption in the legislative and executive branches was reported and publicly perceived as a problem. The judiciary and the health care and education sectors were perceived to be the most corrupt. The government and police cooperated on several related arrests during the year.

The member of parliament charged in 2003 with accepting bribes was found guilty of corruption in May and sentenced by a district court to one year in jail. He immediately appealed to the regional court, where his case awaited trial. He remained in parliament during the appeal process, which was ongoing at year's end. The head of the regional government office, who had also been charged in 2003, was not prosecuted during the year.

On December 15, the special prosecutor for corruption submitted official charges to the special court in Pezinok regarding the case of the deputy mayor of Kosice, who was charged in 2004 with taking bribes. He was held for eight months in pretrial detention before being released, at which point he appealed his lengthy detention to the European Court of Human Rights (ECHR). No trial date was set by year's end.

In April the mayor of Velky Meder was arrested and charged with corruption when police caught him accepting a bribe of approximately $10 thousand (SKK 300 thousand) from a businessman. Meder's case went before the special court for corruption and was ongoing at year's end.

In September the trial of the mayor of Bratislava-Raca began in the special court of corruption. His trial on bribery charges filed in April 2004 was ongoing at year's end.

In December the anticorruption unit of the national police charged three former officials of the national agency for the support of small and medium enterprise with fraud following their transfer of nearly $48 million (SKK 1.5 billion) to a private company. The company returned the money to the government after the media exposed the transfer.

During the year the office to combat corruption completed the government action plan to fight corruption, coordinated general anticorruption strategy, and implemented legislative changes aimed at increasing transparency.

The law provides public access to government information; however, NGOs cited a need for greater public awareness of the responsibility of government to provide information. A few local government offices frequently denied information requests without justification or left them unanswered.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The human rights ombudsman, elected in 2002 to a seven-year term, received complaints about violations of fundamental rights and freedoms by public administration bodies. Both the ombudsman's office and the national center for human rights received government funding but operated independently. During the year the ombudsman increased public outreach, regularly hosted open houses, press briefings, and media outreach events, and submitted to parliament an annual report detailing its activities. Ninety percent of complaints concerned delays in court proceedings and the failure of local or national government offices to respond to citizen requests. Other complaints involved problems with retirement benefits or the granting of resident status. A number of NGOs, however, criticized the ombudsman for poor communication with NGOs, a lack of initiative, and an overly bureaucratic style, and asserted that the office's effectiveness was hindered as a result.

NGOs generally operated without harassment, although the organization People Against Racism continued to receive occasional threats from skinhead groups.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based upon race, gender, disability, language, or social status; the government effectively enforced these prohibitions in practice. However, violence against women and children, as well as trafficking in persons, were problems.

Women.—Violence against women was a problem. The law prohibits domestic violence; however, it was pervasive, and activists claimed that the government did not enforce the law effectively. Through early December 607 incidents of domestic violence against women and children were reported, and 539 were prosecuted. The law

provides stricter sentences for violence directed toward members of the same household, and allows for continued criminal prosecution even when a spouse drops charges. Domestic violence was punishable by 2 to 12 years of imprisonment, depending on the nature of the crime.

Domestic violence was often underreported because of the social stigma associated with being a victim, and statistics did not adequately reflect the extent of the problem. Official statistics remained stable from 2004, despite a public awareness campaign organized by several NGOs and police training.

Activists claimed that proper enforcement of the law would require increased police training about domestic violence and more victim specialists. Citing the lengthy court procedures and increasing caseloads that prevented cases from being prosecuted efficiently, victims' advocates demanded a better network of services for abused women, including government-funded treatment centers. In August the government adopted an action plan to address some of these problems. The government and NGOs made shelters and counseling available to victims of domestic abuse.

The law prohibits rape, including spousal rape. Although the government enforced the law effectively, rape was a problem. The sentence for rape is 2 to 8 years in prison and can be increased to 5 to 12 years, depending on the age of the victim or whether brutal force was used. The sentence may be further increased to 10 to 15 years if the victim dies as a result of the rape. Through August the police reported 121 cases of rape, which specialists said was underreported. Rape victims also have access to the shelters and counseling offered by NGOs and government-funded programs.

After incidents of forced sterilization were reported in 2003, the government implemented several reforms, including amending the laws to require that sterilizations be performed only at the request of a patient and only 30 days after such request is made. Alleged victims were able to pursue claims for damages in civil courts, and NGOs announced their intention to take the cases to the ECHR (see section 1.f.).

Prostitution is legal; however, the law prohibits related activities such as operating brothels, knowingly spreading sexually transmitted diseases, or trafficking in women for the purpose of sexual exploitation. It was unclear to what extent prostitution occurred. There were reports that women were trafficked into the country for prostitution (see section 5, Trafficking).

The law does not prohibit sexual harassment, and there were no statistics available to measure the frequency or severity of its occurrence. The government took no action during the year to combat sexual harassment.

Women and men are equal under the law, including family law, property law, and in the judicial system; however, discrimination against women remained a problem in practice. The equal opportunity office in the Ministry of Labor worked in an advisory capacity to ensure the legal rights of women. Women, particularly those aged 35 to 39, typically earned 25 percent less than men. Experts believed that the wage differential was due to large numbers of women working in low-paid occupations, such as the education or social services sectors. NGOs continued to push for increased opportunities for the political participation of women.

Children.—The government was committed to children's rights and welfare and the Ministries of Labor and Education oversaw implementation of the government's programs for children. Education was universal and free through the postsecondary level and was compulsory for 10 years, or until the age of 16. The UN Children's Fund (UNICEF) reported that the primary school attendance rate was approximately 85 percent.

Most ethnic Slovak and Hungarian children attended school on a regular basis, but Romani children exhibited a lower attendance rate. Although Romani children comprised nearly one-fourth of the total number of children under 16, they were disproportionately enrolled in schools for the mentally handicapped, despite diagnostic scores that were often within the normal range of intellectual capacity. In certain remedial schools in the eastern part of the country, registered students were nearly 100 percent Roma.

Government-provided healthcare for children was adequate and equal for both girls and boys.

Child abuse remained an underreported problem. One NGO expressed concern that the family law passed in March did not afford children the same rights and protections as it did their parents. The legislation provides for programs and training to reduce the instance of child abuse; the government also implemented a publicity campaign to raise awareness of the issue.

A number of children's foundations operated several programs for abused or disabled children. UNICEF continued to operate a hot line for children; during the first half of the year, it opened 278 cases based on the 4,094 calls it received.

Child prostitution is prohibited. Community workers reported it was a problem in Romani settlements with the worst living conditions. During the year there were no reported cases of trafficking in children.

There were approximately seven thousand children in institutional care, and Roma constituted the majority of this population. Most government orphanages were long-term care facilities rather than short-term residences. Activists claimed that orphans had difficulty integrating into society at age 18 and were at increased risk of falling victim to trafficking.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked from, within, and through the country. Under the law, traffickers may be sentenced from 3 to 10 years in prison, and from 8 to 15 years if bodily harm resulted; if the trafficker gained extensive profit; or if the offense was committed as a member of a group operating in several countries. If the offender is a member of a crime syndicate, the sentence is increased to between 12 and 15 years. Victims may also file civil suits against traffickers.

During the year the government formed an expert working group and named a national coordinator for the fight against trafficking in persons, although government efforts to combat trafficking and assist victims were hampered by the lack of resources. The government agencies responsible for combating trafficking include the national coordinator for the fight against trafficking in persons, the police antitrafficking unit, the Ministry of Interior, the prosecutor's office, the border police, and the equal opportunity office at the Ministry of Social Affairs and Labor. In the first half of the year, police investigated four alleged trafficking cases. The courts sentenced three persons for trafficking: two received prison sentences, and the third received probation. The police participated in international investigations on a limited basis.

In 2003 police arrested 7 members of a trafficking gang who had sent at least 60 women to Germany, Poland, Switzerland, and France over an 8-year period, with the suspected involvement of a low-level government employee. The case was awaiting trial at the end of the year.

The International Organization for Migration estimated that between 100 and 200 persons are trafficked annually from or through the country, mainly for the purpose of sexual exploitation. Most of the victims trafficked through the country came from the former Soviet republics (especially Moldova and Ukraine) and Balkan countries. Victims were typically trafficked through the Czech Republic or Austria to Western Europe. Victims were typically between the ages of 18 and 25, from various social backgrounds, but particularly from areas with high unemployment. Some experts alleged that Romani women and persons raised in state institutions, because of their socioeconomic situation and less freedom of mobility, were more vulnerable to being trafficked by organized criminal gangs. Romani women were reportedly more at risk of being trafficked by known and trusted people from their communities. Other high-risk groups included men and women looking, sometimes illegally, for seasonal work abroad and those who were ill-informed of the potential dangers.

Traffickers lured women with offers of employment, often relying on personal connections with women. Activists who worked with the few victims forced to work while transiting the country reported that most were placed as prostitutes or as exotic dancers in nightclubs. Such activity was concentrated on the border with Austria and close to Ukraine and along trucking routes with a prevalence of nightclubs. Traffickers closely monitored victims, withheld their documents, and used violence in order to ensure their compliance. Some victims allegedly were threatened with violence or even death if they attempted to escape.

Corruption among border officials, police, and asylum officials allegedly hampered efforts to combat trafficking. According to some NGO activists, customs and police officers treated victims poorly.

The government did not detain, prosecute, fine, or deport persons identified as trafficking victims. Although no formal screening or referral process was in place, the law required police to provide a list of victim's assistance programs to suspected victims. NGOs reported increased cooperation and communication with police investigators at the borders. The Ministry of Interior provided funding to an NGO, Dafne, for assisting returned victims on a case-by-case basis. A grant provided by the Ministry of Labor in 2004 funded an NGO-operated antitrafficking public awareness campaign in Romani communities in the central part of the country. There was no shelter dedicated exclusively to trafficking victims.

In April the government formed an expert working group to develop and coordinate official antitrafficking strategies and to draft a national action plan. On October 1, a newly appointed national coordinator for the fight against trafficking in persons assumed his position.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. In practice, however, experts reported that access to buildings and higher education remained a problem. There were reports that persons with severe physical handicaps received less than the minimum wage in some instances.

NGOs reported that a better network of organizations was needed to improve psychiatric care of patients with mental disorders and to monitor human rights violations against them.

Cage beds continued to be used in psychiatric institutions and hospitals, which fall under the purview of the Ministry of Health. The law prohibits both physical and nonphysical restraints in social care homes, which are managed by the Ministry of Social Affairs.

A working group, the council for citizens with disabilities, served as a governmental advisory body regarding persons with disabilities. Several NGOs conducted public education campaigns on mental illness and worked cooperatively with the health ministry on the national health program. The government sponsored a contest for the local government most accessible to persons with disabilities.

National/Racial/Ethnic Minorities.—Widespread discrimination against Roma continued in the areas of employment, education, housing, and health services. Roma constituted the second largest ethnic minority, reported by the 2001 census to number 90 thousand, although experts estimated the population to be between 350 and 400 thousand. The discrepancy was attributed to Roma identifying themselves as Hungarian or Slovak.

Activists frequently alleged that a few employers refused to hire Roma, whose unemployment rate exceeded 95 percent in many settlements.

Many NGOs reported that segregation in schools continued (see section 5, Children).

NGOs alleged that Roma were more likely to confront housing discrimination. For instance, on a few occasions during the year, local authorities and groups forced evictions of Romani inhabitants or blocked construction permits or the purchase of land. Many Romani settlements lacked formal infrastructure, access to clean water, and proper sewage systems.

There were several reports that Roma suffered discrimination with respect to health care. In November the Ministry of Health began to train health care assistants who speak Romani as part of a pilot program to improve Roma access to health services.

In June the mayor of Presov announced the construction of a wall or fence to separate Roma from non-Roma citizens in the Stara Tehelna neighborhood; the plan received critical media coverage and sparked international concern before the city decided to reevaluate the plan. The plenipotentiary for Romani communities negotiated with community leaders, eventually reaching an agreement to focus on other projects.

A few mayors were reported to use hate speech against Roma during the year, although none was prosecuted.

The government reported that usury, the illegal charging of high interest rates on small loans, was one of the main causes of the deepening poverty of Roma in settlements. In the first half of the year, prosecutors brought 30 usury cases to the court, resulting in 15 convictions.

Skinhead violence against Roma continued to be a serious problem. The NGO People Against Racism reported that although police were increasingly responsive in their efforts to monitor and control the skinhead movement, the problem persisted. The organization also reported receiving frequent e-mail and telephone threats from skinheads.

During the summer three attacks on Romani families in Sered occurred. The police charged one suspect with causing bodily harm. The trial had not begun by year's end. While NGOs claimed that some Romani families left Sered in the wake of the attacks, the relocations may have been temporary.

A nationalist organization known as Slovenska Pospolitost (Slovak Community) continued to hold events designed to intimidate minority groups. Dressed in uniforms similar to those of the Hlinka Guards (the country's fascist wartime civic guard responsible, among other things, for the country's concentration camps), the group's members held marches and rallies to commemorate the wartime fascist state and to spread messages of intolerance against ethnic and religious minorities. The police charged the group's leader with the "support and promotion of a movement which suppresses the rights and freedoms of citizens." In November the general prosecutor filed for the abolition of the group after party members attacked police during an October rally. In the first half of the year, the government charged the group with supporting and promoting a movement which suppresses the rights

and freedoms of others in response to charges made by Jewish groups and NGOs. In 2004 these charges were brought in eight cases.

The government's plenipotentiary for Romani communities maintained five regional offices to supervise the implementation of governmental policy on Roma issues, support infrastructure development, and cooperate with municipalities and villages to improve interaction between Roma and non-Roma. The Ministry of Labor funded Roma Terrain Social Workers, which assigned specially-trained social workers to Romani settlements to provide assistance such as helping Roma to fill out paperwork and building awareness of the importance of education and preventative healthcare.

The government implemented its action plan against xenophobia and intolerance and expanded offices and programs concentrating on Roma affairs. A special police unit monitored extremist activities, and a commission consisting of NGOs, police, and government officials advised the police on minority issues. The police began a pilot project in which Roma advisors trained in cross-cultural communication and conflict resolution were placed in Romani settlements in each region, and NGOs reported increased communication and cooperation with law enforcement in border regions.

The Slovak national center for human rights reported that 217 complaints of discrimination were filed during the year. The most frequent claim (cited in 54 of the 217 cases) regarded discrimination in labor-related issues, including access to work.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form and join unions, except in the armed forces, and workers exercised this right in practice. Approximately 17 percent of the work force was unionized.

In October and December the police labor union held two protests against low wages and benefits. The minister of the interior drew widespread outcry when he demoted the officer heading the labor union.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively, and workers exercised these rights in practice.

The law provides for the legal right to strike, except for civil servants in essential services and members of the military, in two instances: when collective bargaining fails to reach an agreement, or to support other striking employees' demands (solidarity strike). The unions generally exercised these rights in practice without restrictions. Strikes must be announced in advance. The law prohibits dismissing workers legally participating in strikes; however, strikers are not ensured protection if a strike is considered illegal or unofficial.

There are no export processing zones. Also, there are no special laws or exemptions from regular labor laws in free trade zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively implemented and enforced laws and policies to protect children from exploitation in the workplace.

The minimum age for employment is 15, although children under 15 may perform light work in cultural or artistic performances, if it does not affect their health, safety, or schooling. The labor inspection office and health protection office must approve, determine the maximum hours for, and set conditions for child labor under age 15. Children under age 16 may not work more than 30 hours per week, and children aged 16 to 17 are limited to 37.5 hours per week. Children under age 18 are not allowed to work underground, work overtime, or perform work that is inappropriate for their age or health.

District inspection units received and investigated child labor complaints. If a unit determined that a child labor law or regulation had been broken, it turned the case over to the national inspection unit of the Ministry of Labor.

Child labor, primarily in the form of begging, was a problem in some communities; there were also isolated reports of forced prostitution (see section 5).

e. Acceptable Conditions of Work.—The minimum wage of $215 (6,900 SKK) per month provided a decent standard of living for a worker and family in rural areas of the country but not in urban areas. The law mandates a maximum workweek of 48 hours (including overtime), with 30 minute breaks after 6 hours of work (after 4 hours for employees younger than 18), and rest periods of at least 12 hours between shifts. The trade unions, the Ministry of Labor, and local employment offices monitored observance of these laws, and authorities effectively enforced them.

The law establishes health and safety standards that the office of labor safety generally enforced. Workers have the right to refuse to work in situations that endanger their health and safety and may file complaints against employers in such situations; whether they did so in practice was not clear. Employees working under conditions endangering their health and safety for a certain period of time are entitled to be paid "relaxation" leave in addition to their standard leave.

SLOVENIA

Slovenia is a parliamentary democracy and constitutional republic of approximately two million persons. Power is shared between a directly elected president (head of state), a prime minister (head of government), and a bicameral parliament, composed of the National Assembly (lower house) and the National Council (upper house). In October 2004 the country held free and fair multiparty elections for seats in the National Assembly. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- use of excessive force by police against detainees
- lengthy trial delays
- government influence on media
- inadequate review of asylum applications
- violence against women
- trafficking in women and girls
- discrimination and violence against Roma and homosexuals
- discrimination against former Yugoslav residents without legal status

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, police occasionally used excessive force such as kicks, punches, and shoves during arrest. Societal violence against individuals based on their sexual orientation was reported (see section 5).

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—Police are centrally organized under the supervision of the police and security bureau of the Ministry of Interior (MOI). The bureau oversees the drafting of basic guidelines, security policy, and regulations governing the work of the police and exercises special inspectorial authority in monitoring police performance, with an emphasis on the protection of human rights and fundamental freedoms. The general police administration, headed by the general director of the police, has overall responsibility for the execution of police duties and oversees activities at the national level. Regional police duties fall under the jurisdiction of police administration units, whose directors report to the general director. Local policing is provided by individual police stations, whose commanders report to the director of the relevant police administration. The police provided effective law enforcement.

During the year the independent commission for the prevention of corruption received 65 credible reports of police corruption, of which 46 were referred to the police for further investigation and 2 were referred directly to the state prosecutor. There were no prosecutions, trials, or dismissals based on the reports by year's end. Of the nine cases reported in 2004: police filed two indictments, one of which was rejected by the state prosecutor's office, and reported one to the state prosecutor's office for further investigation; one case was dismissed for exceeding the statute of

limitations; four cases were pending with the police; and one case was still pending with the commission.

Arrest and Detention.—Persons taken into police custody were generally apprehended openly with evidential warrants issued by either a prosecutor or judge. Persons can be detained for 48 hours before charges are brought. Authorities must also advise detainees in writing within 48 hours of the reasons for their arrest. Upon arrest, detainees have the right to contact legal counsel of their choice, and authorities generally respected this right in practice, although the deputy ombudsman for human rights reported a few cases in which several days passed before police provided counsel to the detainee. The government provides indigent detainees with free counsel, and detainees were generally allowed prompt access to family members. The law also provides safeguards against self-incrimination.

On August 26, police officers in Koper arbitrarily arrested and detained an individual without informing her of her rights or the charges. The detainee claimed that police treated her inappropriately. A complaint filed with the Koper police was being investigated at year's end.

There were no reports of political detainees.

Once charges are brought, pretrial detention may last for up to four months, depending on the severity of the criminal act, and must be certified by an investigative judge. Once trial procedures have begun, the total period of detention may be extended for up to two years. Persons detained more than two years while awaiting trial or while their trial is ongoing must be released pending conclusion of their trial (see section 1.e.). Lengthy pretrial detention was not a widespread problem, and defendants generally were released on bail, except in the most serious criminal cases.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. Court backlogs sometimes resulted in lengthy trials.

The judicial system consists of district courts, regional courts, courts of appeals, an administrative court, and the Supreme Court. The local and district courts serve as courts of first instance, whose decisions may be appealed to the courts of appeal. The Supreme Court hears appeals of rulings by the courts of appeal. A labor court and an administrative court hear cases within their substantive areas of jurisdiction. A nine-member constitutional court rules on the constitutionality of legislation, treaties, and international agreements and is the highest level of appeal for administrative procedures. Judges, elected by the National Assembly upon the nomination of the judicial council, are constitutionally independent. The judicial council is composed of six sitting judges elected by their peers and five presidential nominees elected by parliament.

Trial Procedures.—Trials are generally public and are conducted by jury; however, judges may decide to close trials to the public when the defendant is a juvenile or details of the personal life of the accused may be disclosed. Defendants have the right to be present during the trial and to consult with their attorney in a timely manner. An attorney is provided at public expense only if the defendant faces serious criminal charges. Defendants may confront witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and have a right of appeal.

The judicial system was overburdened and lacked administrative support; as a result, the judicial process frequently was protracted. In many cases during the year, criminal trials lasted from two to five years.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, there were reports of indirect government influence on the media.

The media were active and independent but did not express a broad range of political views. The major print media were supported through private investment and advertising; however, the government owned substantial stock in many companies that were shareholders in the major media houses. Three of the six national television channels were part of the government-subsidized RTV Slovenia network.

On August 31, the district court in Murska Sobota acquitted the five persons accused of participating in the 2001 attempted murder of investigative journalist Miro Petek.

There were reports that partial government ownership of media companies resulted in self-censorship in certain media outlets. In October parliament passed a law regarding national radio and television that provides increased government and parliamentary representation on the boards that directly oversee the public radio and television network. Managers reportedly protected their own economic and political interests and the interests of those in government with whom they were affiliated.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The law prohibits groups from registering if "with its activity directs to illegal destruction of the Constitutional order, directs to execution of criminal acts and encouraging to national, racial, religious and other intolerance and spreads national, racial, religious and other hatred and intolerance or encourage into violence and war."

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Religious communities must register with the government's office for religious communities if they wish to be legal entities, and registration entitles such groups to value-added tax rebates. During the year the office processed the two applications that had been outstanding at the end of 2004.

While there are no governmental restrictions on the Muslim community's freedom of worship, services commonly were held in private homes for lack of a larger venue. At year's end the Islamic community had selected a plot of land on which to construct a mosque in the capital Ljubljana; however, a denationalization claim by the Catholic Church delayed the sale of the land by the municipality.

Societal Abuses and Discrimination.—The Jewish community in the country was very small. Jewish community representatives reported some prejudice, ignorance, and false stereotypes of Jews propagated within society. There were no reports of anti-Semitic violence or overt discrimination.

Police did not detain anyone in the October 2004 grave desecration incident.

The government promoted antibias and tolerance education in the primary and secondary school curricula, with the Holocaust as a mandatory topic in the contemporary history curriculum.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. The law prohibits forced exile, and the government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

During the year the government did not provide temporary protection to persons who may not have qualified as refugees under the 1951 convention.

The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

Expedited procedures prevented some asylum seekers from receiving a thorough review. Lack of personnel and funding, and the decision by the Supreme Court to allow "manifestly unfounded" applications to be denied without thorough review, resulted in hasty determinations of the validity of asylum applications. The law provides asylum seekers with the right to appeal decisions on their applications, but many asylum seekers were not informed of this right. The independent ombudsman for human rights and several nongovernmental organizations (NGOs) reported that the government put excessive restrictions on refugees' freedom of movement by requiring asylum seekers to sign a statement renouncing their claim to asylum if they left the premises of the asylum center.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In October 2004 the country held free and fair elections for seats in the National Assembly.

There were 14 women in the 90-seat National Assembly and 3 women in the 40-seat National Council. There was 1 woman in the 17-member cabinet.

There were 2 members of minorities in the 90-seat National Assembly and none in the 40-seat National Council or in the cabinet. The constitution provides the "autochthonous" (indigenous) Italian and Hungarian minorities the right, as a community, to have at least one representative in the parliament. However, the law does not provide any other minority group, autochthonous or otherwise, the right to be represented as a community in parliament.

Twenty distinct Romani communities, each designated autochthonous at the local level, are entitled to a seat on their local municipal councils. At year's end one municipality (Grosuplje) was not in compliance with this law. Although both the government office of nationalities and the Romani community submitted proposals to freeze the municipality's budget until it complies with the law, at year's end no action had been taken to do so.

Government Corruption and Transparency.—Corruption was perceived by the public to be a widespread problem. The independent commission for the prevention of corruption reported 65 reports of corruption during the year: 4 within the executive branch of government, 3 within the judiciary, and 23 within local municipalities. The remaining cases did not involve government officials. The commission issued guidance for developing codes of conduct that included provisions on dealing with conflicts of interest; issued regulations for dealing with official gifts; issued 33 expert opinions evaluating specific cases based on anticorruption principles; developed a draft code of conduct for employees in public sector agencies; drafted a new law to prevent corruption; developed and adopted an action plan for implementing this law; organized and provided lectures on corruption for 212 officials and public servants; and organized 5 conferences on executing integrity plans. The commission designed and distributed the financial disclosure forms mandated by a December 2004 law, which requires all parliamentarians, mayors, municipal council members, ministers, and state secretaries to update them annually and append their tax returns. The commission played an active role in educating the public and civil servants about corruption; however, it had neither adequate staff nor adequate funding to fulfill its mandate. During the year the government announced its intention to abolish it and transfer oversight responsibilities to the parliament.

During the year the commission forwarded 46 suspected cases of corruption to police, who issued 18 criminal indictments.

The law provides for free public access to all government information, and the government provided access for citizens and noncitizens alike, including foreign media. The government may deny public access only to classified information, personal data protected by privacy laws, and other narrowly defined exceptions.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these provisions in practice. However, violence against women and children, trafficking in persons, and discrimination against homosexuals and Roma were problems.

Women.—Violence against women, including spousal abuse, occurred often and was generally underreported. Although domestic violence was not specifically prohibited under the law, it could be prosecuted under statutes criminalizing assault and providing for penalties of up to five year's imprisonment. SOS Phone, an NGO that provided anonymous emergency counseling and services to domestic violence victims, received thousands of calls during the year. SOS Phone estimated that 20 percent of women had experienced domestic violence. On July 25, the United Nations Human Rights Committee announced its concern about the high rate of domestic violence and the lack of specific legal provisions and government programs to address the problem. The government partially funded 11 shelters for battered women, which operated at capacity (170 total beds, including 74 for women and 96 for children) and was forced to turn away numerous victims. When police received reports of spousal abuse or violence, they generally intervened and prosecuted of-

fenders. The NGOs SOS Phone and Kljuc provided hot lines. The police academy offered training on domestic violence.

Rape, including spousal rape, is illegal; however, it was a problem. Spousal rape, in particular, was rarely reported. In 2004 Amnesty International estimated that one in seven women was raped during her lifetime but that only 5 percent sought assistance or counseling. Police actively investigated reports of rape and prosecuted offenders. The penalty for rape was one to ten years in prison. During the year there were 33 indictments for rape, 11 indictments for sexual violence, and 9 indictments for sexual abuse of the weak. Police conducted several public awareness campaigns to familiarize society with the problems of rape and domestic violence.

Prostitution is illegal, but the government did not actively enforce this prohibition. Antitrafficking authorities and NGOs informally estimated that as many as 80 bars and clubs across the country could be engaged in facilitating or promoting prostitution.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

The law does not explicitly prohibit sexual harassment; however, it may be prosecuted under the law that prohibits sexual abuse. Sexual harassment remained a widespread problem.

The law provides for equal rights for women, and there was no official discrimination against women in family law, property law, or the judicial system. The office of equal opportunities protects the legal rights of women. Although both sexes had the same average period of unemployment, women frequently held lower paying jobs. On average, women's earnings were 90 percent of those of men.

Children.—The government was committed to protecting children's rights and welfare.

The government provides compulsory, free, and universal education for children through grade nine and up to four additional years of free, voluntary secondary school education. The Ministry of Education reported an attendance rate of nearly 100 percent of school-age children, with most children completing secondary school. The government provided universal health care for all citizens, including children.

A number of Roma also reported that their children attended segregated classes and were selected by authorities in disproportionate numbers to attend classes for students with special needs. In July 2004 the government provided funding for a regional program to desegregate and expand Romani education by training Romani educational facilitators and creating special enrichment programs in public kindergartens. Other school districts hired Romani facilitators at their own initiative and expense. The government has not developed a bilingual curriculum for Roma on the grounds that there is not a standardized Romani language. However, the government has funded research into codification of the language.

Child abuse was a problem. During the year there were 84 indictments for sexual abuse of a child under the age of 15. The law provides special protection for children from exploitation and mistreatment, and the government generally enforced the law in practice. The law was amended in 2004 to criminalize the sale, purchase, and propagation of child pornography. During the year the ombudsman for human rights organized an extensive information campaign to highlight the problem of child abuse. Social workers visited schools regularly to monitor any incidents of mistreatment or abuse of children.

Child marriage occurred within the Romani community; however, it was not a widespread problem.

Trafficking in girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country.

Penalties for trafficking range from 1 to 10 years' imprisonment. Persons can also be prosecuted for rape, pimping, procurement of sexual acts, inducement to prostitution, sexual assault, and other related offenses. During the year there were 2 indictments for trafficking, 5 for pimping, and 11 for assisting prostitution. Trials in the two trafficking cases were ongoing at year's end. Government efforts to apprehend traffickers were more effective than in past years due to the implementation of a 2004 law that criminalizes trafficking, but victims received less support due to inadequate funding for the country's sole antitrafficking NGO. Police and prosecutors began using the new law to investigate and prosecute traffickers. Regional police directorates had departments that investigated trafficking and organized crime. An inter-ministerial working group was responsible for developing the government's antitrafficking strategy.

The government actively cooperated with the NGO Mirage 2004 and Interpol by sharing information about traffickers and patterns of illegal migration. Police training was conducted during the year to improve officers' awareness of trafficking laws. One prosecutor in each regional state prosecution office was dedicated for trafficking cases.

Of the 5 cases of forced slavery filed in 2004 against 12 individuals, 2 resulted in criminal investigations and the remaining 3 continued to be investigated at year's end. All trials were ongoing at year's end.

The country was primarily a point of transit, and secondarily a destination, for women and teenage girls trafficked from Southeastern, Eastern, and Central Europe to Western Europe and North America. Trafficking in persons through the country was a significant problem. Victims were trafficked primarily for purposes of sexual exploitation. Those at particular risk of being trafficked were teenage girls and young women who lived in impoverished areas with high unemployment. Traffickers reportedly subjected some trafficking victims to violence in the form of beating and kicking.

Organized criminal groups, nightclub owners, and local pimps were primarily responsible for trafficking. A 2003 study by the International Organization for Migration reported that traffickers lured victims from Eastern Europe and the Balkan countries through advertisements promising high wages, offers of marriage, offers of employment as entertainers and dancers, and offers of employment without indication that it would involve the sex industry. Harsh conditions in some women's home countries also contributed to their willingness to enter into prostitution and lack of awareness that they might become trafficking victims or be subjected to severe conditions.

In November parliament adopted a law on the protection of witnesses in order to prosecute trafficking cases more effectively. In general authorities did not treat trafficking victims as criminals; however, they usually were voluntarily returned to their home country either immediately upon presenting themselves to authorities or following their testimony in court. The UNHCR reported that asylum caseworkers paid insufficient attention to identifying victims of human trafficking.

The government's national coordinator for trafficking in persons served as the head of the interagency working group on trafficking in persons, which is responsible for the government's long-term national strategy to combat trafficking. The working group, which included representatives of different ministries, NGOs, international organizations, and the media, established standard operating procedures for first responders to ensure that victims receive information about the options and assistance available to them. The group met four times during the year despite nearly five months of inactivity resulting from conflict of interest allegations against the head of the NGO Kljuc, which is the government's implementing partner for antitrafficking efforts.

Kljuc, the country's sole NGO providing support to trafficking victims, organized a 3-day training for 13 prosecutors. Due to a government budgeting impasse for part of the year, Kljuc was forced to close its safe house and reported turning away 12 victims during the year.

The project against trafficking and sex- and gender-based violence (PATS) provided information and assistance to the asylum seekers at greatest risk of being trafficked, especially single women and children separated from their parents. Key elements of the project included information about where potential victims could access assistance, access to specialized assistance and protection for victims identified in the asylum procedures, and access to asylum procedures for identified trafficking victims. All at-risk asylum seekers receive a book containing trafficking information and assistance contacts throughout Europe. The project was jointly administered by the asylum section of the Ministry of Interior, two local NGOs (Kljuc and Slovenksa Filantropija), and the UNHCR.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other government services, and the government generally enforced these provisions in practice. The law mandates access to buildings for persons with disabilities, and modifications of public and private structures to ease access by these persons continued, although at a slow pace. However, most buildings were not accessible in practice. The Ministry for Labor, Family, and Social Affairs has primary responsibility for protecting the rights of persons with disabilities. On December 20, the Ministry for Labor, Family, and Social Affairs set minimum quotas for disabled employees in public and private sector jobs. The quota in the public and non-commercial sector was 2 percent, and in private industry it was 6 percent.

National/Racial/Ethnic Minorities.—According to the 2002 census, minorities made up approximately 17 percent of the population and included approximately 36 thousand Croats, 39 thousand Serbs, 22 thousand Bosniaks (Bosnian Muslims), 10 thousand Muslims, 6 thousand Hungarians, 6 thousand Albanians, 3 thousand Roma, and 2 thousand Italians.

The law provides special rights and protections to autochthonous Italian and Hungarian minorities, including the right to use their own national symbols and have bilingual education and the right for each to be represented as a community in parliament (see section 3). The Romani minority does not have comparable special rights and protections. The constitution provides that "the status and special rights of Gypsy communities living in Slovenia shall be such as are determined by statute." By year's end parliament had not enacted laws to establish such rights for the Romani community.

In a 2003 report, the committee on the elimination of racial discrimination expressed concern that discriminatory attitudes and practices against the Roma persisted and that the distinction between "indigenous" Roma and "new" Roma could give rise to new discrimination. Ethnic Serbs, Croats, Bosnians, Kosovar Albanians, and Roma from Kosovo and Albania were considered "new" minorities; they were not protected by the special constitutional provisions for autochthonous minorities and faced some governmental and societal discrimination with respect to employment, housing, and education.

On July 25, the UN Human Rights Committee reported that the Roma continue to suffer prejudice and discrimination, in particular with access to health services, education, and employment.

Many Roma lived in settlements apart from other communities that lacked basic utilities such as electricity, running water, sanitation, and access to transportation. Unlike in previous years, there were no reports that Roma were forcibly relocated to segregated substandard housing facilities. A 2003 report funded by the European Commission noted that the unemployment rate among Roma was 87 percent.

The Roma also reported discrimination in employment, which complicated their housing situation.

Regularization of status for non-Slovenian former Yugoslav citizens remained an issue. Approximately 18 thousand persons, mostly Yugoslav citizens residing in the country at the time of independence, did not apply for citizenship in 1991–92 and subsequently found their records were "erased" from the population register in February 1992. The deletion of these records has been characterized by some as an administrative decision and by others as an ethnically motivated act. In 2003 the constitutional court ruled unconstitutional portions of a law governing the legal status of former Yugoslav citizens because the law neither recognizes the full period in which these "erased" persons resided in the country nor provides them the opportunity to apply for permanent residency. From February 20 to 24 and from July 2 to 25, several persons went on hunger strikes to protest the government's failure to implement the constitutional court's 2003 ruling. At year's end, the government had not completed legislation to resolve the court's concerns.

Other Societal Abuses and Discrimination.—The law prohibits discrimination based on sexual orientation; however, such societal discrimination was widespread, and isolated cases of violence against homosexuals occurred. A 2004 poll conducted by the Peace Institute of members of the gay and lesbian community found that 53 percent of respondents had experienced verbal, sexual, or physical harassment because of their sexual orientation.

On June 26, multiple assailants attacked and beat three patrons of a Ljubljana club for homosexuals. Police arrested several suspects but later released them because the victims did not want to press charges.

On July 2, after a gay pride parade, two persons were attacked and severely beaten near the Ljubljana train station, while two others were attacked and beaten in downtown Ljubljana. In all three incidents, the attackers taunted and harassed their victims for being gay. Police arrested several suspects but later released them because the victims did not want to press charges.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and they did so in practice. All workers, except police and military personnel, are eligible to form and join labor organizations. Approximately 35 percent of the workforce was unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right to bargain collectively, and it was freely

practiced; however, the law requires that 10 percent of the workers in an industry sector be union members before collective bargaining can be applied to the sector as a whole. All workers were covered by either a general collective bargaining agreement or a collective bargaining agreement that focused on a specific business segment.

The law provides for the right to strike, and workers exercised this right in practice. The law prohibits retaliation against strikers, and the government effectively enforced this provision in practice. The law restricts strikes by some public sector employees, primarily the police and members of the military services, and provides for arbitration to ensure due process and protect these workers' rights.

There are no special laws or exemptions from regular labor laws in the export processing zone of Koper. The other two export processing zones in Maribor and Nova Gorica were eliminated during the year.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace and to set forth acceptable working conditions; the government effectively implemented and enforced these laws and policies in practice.

The minimum age for employment is 15; however, rural younger children often worked during the harvest season and on other farm chores. The law limits working hours and sets occupational health and safety standards for children; the government effectively enforced these provisions in practice. Urban employers generally respected the age limits.

Trafficking in children for sexual exploitation was a problem (see section 5).

The Ministry of Labor, Family, and Social Affairs is responsible for monitoring labor practices and has inspection authority; police are responsible for investigating violations of the law. Enforcement practices were generally effective.

e. Acceptable Conditions of Work.—The national monthly minimum wage of approximately $618 (122,600 tolars) provided a decent standard of living for a worker and family. The law limits the workweek to 40 hours and provides for minimum annual leave of 20 days and a mandatory rest period of at least 1 day per week. Premium pay for overtime was regulated by collective agreements and was not standardized, and maximum overtime was limited to 8 hours per week, 20 hours per month, and 180 hours per year. The Ministry of Labor, Family, and Social Affairs is responsible for monitoring labor practices and has inspection authority; police are responsible for investigating violations of the law. The laws were enforced effectively.

Special commissions under the Ministries of Health and Labor, Family, and Social Affairs set and enforced standards for occupational health and safety. Workers had the right to remove themselves from dangerous work situations without jeopardy to their continued employment; however, it was not clear to what extent they could do so in practice.

SPAIN

Spain, with a population of approximately 43 million, is a parliamentary democracy with a constitutional monarch. The March 2004 national election was free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; although there were a few problems in some areas, the law and judiciary provide effective means of addressing individual instances of abuse. The following problems were reported:

- detainees, foreigners, and illegal immigrants were reportedly abused and mistreated by some members of the security forces
- lengthy pretrial detention and delays in some trials
- some societal violence against immigrants
- domestic violence against women
- trafficking in women and teenage girls for the purpose of sexual exploitation
- societal discrimination against Roma

The terrorist group Basque Fatherland and Liberty (ETA) continued its campaign of bombings. ETA sympathizers also continued a campaign of street violence and

vandalism in the Basque region intended to intimidate politicians, academics, and journalists.

Islamist groups linked to those who killed 191 and injured more than one thousand persons in March 2004 remained active. The government continued to investigate and make arrests.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, one detainee died while in custody during the year. On July 25, Juan Martinez Galdeano died while in the custody of the Civil Guard in Roquetas (Almeria). The Ministry of Interior immediately launched an internal investigation, which concluded that Galdeano died as a result of a civil guard beating. The local civil guard commander was suspended, as were six of his subordinates, pending the judicial investigation of charges that included using banned weapons, obstructing an investigation, and providing false testimony. Legal proceedings were ongoing at year's end.

In July 2004 regional Catalonian police were accused of having killed Moroccan national Farid Bendaomed during an operation against drug trafficking. An investigation into the cause of Bendaomed's death was still ongoing at year's end.

In August, September, and October at least six sub-Saharan Africans died while trying to scale the fences that separate the Spanish enclaves of Ceuta and Melilla from Morocco. Some of the illegal immigrants suffocated or were trampled as hundreds tried to enter the enclaves. The Moroccan government acknowledged that four of the deaths were from shots fired by Moroccan security officials. Doctors without Borders and Amnesty International (AI) claimed that civil guards used "disproportionate force" to repel migrants and pushed migrants back to the Moroccan side of the fence, and reportedly several died as a result.

In response to the waves of illegal immigrants seeking to enter Ceuta and Melilla, the government began to enforce a repatriation agreement with Morocco, sending some of those who entered Ceuta and Melilla back to Morocco. Nongovernmental organizations (NGOs) demanded that the government cease repatriations because of reports that Morocco abandoned busloads of migrants in the desert rather than returning them to their countries of origin.

ETA, whose declared goal is to establish an independent Basque state, continued its terrorist campaign of bombings. ETA publicly claimed responsibility for its attacks.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, suspects charged with terrorism at times claimed that they were tortured and abused during detention. The Council of Europe Commissioner for Human Rights (COE/CHR) explained in his report on the country released in November that "it is common knowledge that systematic allegations of torture—regardless of whether there are any facts or evidence to corroborate them—are an obligation on any ETA activist from the very moment that the arrest takes place, as demonstrated by the documents found in flats occupied by activists of this terrorist organization and used in judicial proceedings."

There were reports that a few members of the security forces abused detainees and mistreated foreigners and illegal immigrants (see section 2.d.). According to AI, government investigations of such alleged abuses often were lengthy, and punishments were light.

The COE/CHR reported that "the NGOs I spoke to all agreed that torture and ill-treatment were not systematically practiced in Spain, although they expressed concern that complaints were not always systematically and effectively investigated." He further noted that "in spite of the persistent and violent terrorist attacks Spain has suffered since its transition to democracy 30 years ago . . . there has been no corresponding toughening of the legislation to curtail, restrict, or limit the rights of people detained for terrorist activities."

AI reported that in June 2004 an officer of the Catalan autonomous police was investigated for the alleged torture of a minor in a judicial inquiry in Lleida (Catalonia). Jordi Vilaseca Cantacorps was arrested in 2003 in connection with alleged acts of street violence and held incommunicado under antiterrorism legislation. He claimed he was forced to stand motionless for up to eight hours without food or water and then to kneel without moving for several hours more. Apparently exhausted and dehydrated, he collapsed and was taken to the hospital. On November 15, the newspaper *El Pais* reported that a judge ordered Vilaseca Cantacorps and two others to stand trial for using an explosive device to partially destroy the

home of a political candidate in Tora, Spain, and for causing extensive damage to a television transmission tower in a suburb of Barcelona. There was no further mention of the outcome of the investigation nor any action taken against police for the alleged torture.

A 2004 AI report stated that torture was not present in a systematic form in the country, but certain practices such as holding detainees incommunicado could create conditions that allow for mistreatment. AI urged an end to legal provisions that allow police to hold suspects of certain terror-related crimes for up to five days with access only to a bar association-appointed lawyer. AI was also concerned about continuing reports of mistreatment of detainees in immigration detention centers and urged the government to broaden its definition of torture to include rape by authorities while in custody.

ETA bombings and attempted bombings caused numerous injuries and property damage. In May a car bomb in Madrid injured more than 50 persons. On June 25, a car bomb exploded in a Madrid stadium. In addition throughout August there were another 12 terrorist attacks in places such as Santiago de Compostela, Guernika, Boroa, Zaragoza, Guipuzcoa, Madrid, Alicante, and Vizcaya. During the year there were 41 ETA bombings causing 96 injuries. However, none of the injuries were serious.

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however there were reports of overcrowding and abuse of prisoners.

In its report this year, AI reported instances of violent deaths, torture, and mistreatment in various prisons, some of which were overcrowded. For example, in May 2004 the government held inquiries into a riot at Quatre Camins prison in Catalonia in April 2004. After the deputy director and other prison officials were badly injured, off-duty prison guards reportedly went to the prison, formed a gauntlet, and beat 28 prisoners who were about to be transferred. In July 2004 the Catalonia justice ministry submitted a report to the public prosecutor, recognizing that up to 26 prisoners had been mistreated, but was unable to identify those responsible. It then transferred the case to the public prosecutor. In July the justice ministry dismissed the deputy medical director of Quatre Camins, and in September it announced that the director and deputy director of the prison had also been dismissed.

The government permitted prison visits by independent human rights observers.

In December a delegation of the COE's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CAT) reviewed prison conditions in Madrid and Almeria and visited Melilla to examine civil guard procedures for the interception and treatment of foreign nationals at the border with Morocco. The delegation reiterated recommendations that the committee made in 2001 and 2003 to provide detainees with quicker access to lawyers; to reduce the length of incommunicado detention; and to provide detainees with access to their personal doctors rather than government doctors. The government replied that incommunicado detention is only used under strict judicial supervision and that most detainees have prompt access to their lawyers.

In March the COE/CHR and his team visited prisons throughout the country. He did not find evidence of any ill treatment of prisoners. However, his final report did describe recent growth in prison populations and the consequent overcrowding. The COE/CHR also noted the need to provide proper psychiatric care in all hospitals, the absence that along with overcrowding may be factors in the rising number of suicides in prison.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, there were reports of incommunicado detention.

Role of the Police and Security Apparatus.—Police forces include the national police (NP), municipal police, the civil guard, and police forces under the authority of the Catalonia and the Basque Country regional governments. All police forces operated effectively with isolated reports of corruption. Impunity was not a problem. The constitution provides for an ombudsman who investigated claims of police abuse (see section 4). Police internal investigators have 15 days to respond to inquiries from the ombudsman, and the ombudsman's office issues findings on the results of the investigation and can impose sanctions. The ombudsman can perform unannounced inspections of police facilities (see section 4).

Arrest and Detention.—Police openly apprehended suspects with arrest warrants that were issued by a duly authorized official and based on sufficient evidence. The law calls for an expeditious judicial hearing following arrest, and this requirement generally was enforced in practice. Detainees generally were promptly informed of

the charges against them. The courts released defendants on bail unless they believed that the defendants might flee or be a threat to public safety. The police allowed arrested persons prompt access to a lawyer of their choosing or, if they could not afford one, to a court-appointed attorney. In specific terrorism cases, the bar association provided a lawyer to the suspect. Police rarely used incommunicado detention, but the potential for abuse of detainees while in incommunicado detention was a problem (see section 1.c.) Police may not hold a suspect for more than 72 hours without a hearing, except in cases involving terrorism, in which case the law permits holding a suspect an additional 2 days—a total of 5 days—without a hearing. These detention procedures were generally respected by the police in practice.

There were no reports of political detainees.

Lengthy pretrial detention was a problem. As of the end of October the prison population was 61,200 of which 13,993 were pretrial detainees who have been confined for various lengths of time. Under the law suspects cannot be detained for more than two years before being brought to trial unless a judge, who may extend pretrial detention to four years, authorizes a further delay. In practice pretrial detention usually was less than one year.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judicial structure consists of local, provincial, regional, and national courts with the Supreme Court at its apex. The constitutional court has the authority to return a case to the court in which it was adjudicated if it determines that constitutional rights were violated during the course of the proceedings. The national court handles crimes such as terrorism and drug trafficking. The European Court of Human Rights (ECHR) is the final arbiter in cases concerning human rights.

Trial Procedures.—The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. Trials were public and there is a nine-person jury system. Defendants have the right to be represented by an attorney (at government expense for the indigent), to confront witnesses, to present witnesses on their behalf, and to have access to government-held evidence. Defendants enjoy the presumption of innocence and the right to appeal to the next higher court.

Prolonged trial delays were a problem, but do not appear to be the result of corruption, judicial inefficiency, financial constraints, or staff shortages; rather they were a characteristic of the country's legal system.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, there were reports of limits on freedom of the press in the Basque region.

The independent media were active and generally expressed a wide variety of views without restriction.

In 2004 the European Commission presented a report that denounced the restraints placed on journalists in the Basque region, particularly in covering the delegitimizing of the Batasuna political party, which was declared a terrorist organization (see section 3). The government imposed restrictions against publishing documents that the government interpreted as glorifying or supporting terrorism.

In 2003 the national court closed the Basque newspaper, *Euskalunon Egunkaria*, because of its links to the terrorist organization ETA. Subsequently the court continuously reviewed and renewed four-month extensions of the newspaper's closing. On November 24, the judge indicted eight of its leaders for "illicit association to an armed group." The paper has not re-opened, and the trial of the indicted leaders was ongoing at year's end.

In October 2004 Reporters without Borders expressed concern that ETA used terror against media that "does not cover the information according to its (ETA's) point of view." In October 2004 a journalist from the national daily *El Mundo* received a threatening letter from the ETA, and the ETA frequently intimidated journalists in the Basque region.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The constitution declares the country is a secular state, and various laws provide that no religion should have the character of a state religion; however, Catholicism was the dominant religion and enjoyed the closest official relationship with the government. Among the various benefits enjoyed by the Catholic Church was financing through the tax system. Judaism, Islam, and many Protestant denominations had official status through bilateral agreements, but they enjoyed fewer privileges.

The law establishes certain privileges for officially recognized religious organizations. Religions not recognized officially, such as the Church of Scientology, were treated as cultural associations. The Church of Scientology filed an application for official recognition again in October 2004. However, the government declined to register the church on the grounds that the Ministry of Justice did not have the authority to overturn a 1990 Supreme Court decision to deny the church registration. The church continued to press for official recognition.

Societal Abuses and Discrimination.—Muslim leaders expressed concern that some media reports in 2004 appeared to link the Islamic religion to the March 2004 terrorist attacks. They also expressed concern over housing and employment discrimination. The Islamic Federation reported that the building permit process for new mosque construction could be difficult and lengthy, especially for building sites in central urban locations. A project to construct two mosques in Seville continued to face significant public and bureaucratic opposition.

Jewish community leaders reported that there were 30 to 40 thousand Jews in the country. These leaders also report that while violent anti-Semitic acts against individual members of the community were rare, they were concerned about anti-Semitism expressed as vandalism against Jewish institutions. Jewish synagogues in Barcelona were vandalized in March. The vandalism included anti-Semitic graffiti on the walls of the synagogue.

In 2004 officials from B'nai B'rith claimed there was an increasing anti-Semitic tone in newspaper commentary and political cartoons as well as public displays of anti-Semitism at major sporting events. The government undertook more focused efforts on anti-Semitism, including organizing and hosting the June OSCE conference in Cordoba on "Anti-Semitism and Other Forms of Intolerance"; and the government's appointment of a special envoy to serve as a liaison between the Jewish community and international organizations dedicated to combating anti-Semitism. In January Justice Minister Lopez Aguilar presided over the official establishment of the Foundation for Pluralism and Coexistence, which provided government funding to Jewish, Muslim, and Protestant organizations to promote interfaith tolerance. The government created the foundation partly in response to attacks against Jewish persons and institutions. During the year the government declared and observed an annual Holocaust Remembrance Day.

In March Barcelona police detained a distributor of neo-Nazi music, Jordi R.P. He was arrested for distributing music that promotes the "Third Reich", anti-Semitism, and calls for a racial war. The Catalan police found in his home 600 CDs and other materials used for distribution of neo-Nazi materials praising the genocide and actions of Hitler.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

In response to large numbers of illegal immigrants seeking to enter Ceuta and Melilla, the government began to enforce a repatriation agreement with Morocco, returning some migrants who illegally entered Ceuta and Melilla to Morocco. NGOs demanded that the government cease the repatriations because of reports that Morocco abandoned busloads of migrants in the desert rather than returning them to their countries of origin.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 111 persons during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations, including the Spanish Committee for Assistance to Refugees, in assisting refugees and asylum seekers.

Between February and May, the government accepted more than 690 thousand applications for status normalization from undocumented migrants. By December it had normalized more than 570 thousand applicants, enabling migrants to participate in social security and other government programs.

In April SOS Racismo, a local human rights group, claimed that race-based attacks increased because some politicians linked Muslim immigration with crime. SOS Racismo said that the March 2004 terrorist attacks did not create a new xenophobia, rather that the attacks roused the existing societal suspicions toward the Muslim population.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In the March 2004 national election Jose Luis Rodriguez Zapatero of the Socialist Party became prime minister in a free and fair election. Governmental power was shared between the central government and 17 regional governments. Local nationalist parties participated in the political process as representatives of linguistic and cultural minorities.

In 2003 the Supreme Court unanimously declared Batasuna to be the political arm of ETA, a terrorist organization and, therefore, illegal. The delegalization means that Batasuna, Euskal Herritarrok, and Herri Batasuna were erased from the registry of political parties. They were not able to participate in any elections, none of their activities (meetings, publications, electoral process) were permitted, and their physical assets have been sold and the proceeds used for social or humanitarian activities. Despite the restrictions, Batasuna representatives retained their seats in the Basque parliament, although under a new organizational name. In March the Supreme Court prohibited candidate supporting the political platform Aukera Guztiak from running in the April regional Basque elections, ruling that it was an offshoot of the de-legalized Batasuna. In April the constitutional court upheld this decision. Nonetheless, the government did not block the participation of another party, the Communist Party of the Basque Lands, in the elections despite the group's official adoption of the Aukera Guztiak platform.

In parliament there were 126 women in the 350-seat lower house and 64 women in the 158-seat senate. There were 8 women in the 16-member cabinet.

The government did not keep statistics on the ethnic composition of the national parliament, but linguistic and cultural minorities appeared to be well represented. The Catalan parliament included a member of Moroccan origin. The Spanish city enclaves of Ceuta and Melilla in North Africa had Muslim political parties.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year.

The law provides for public access to government information, and the government generally provided it.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The law provides for an ombudsman, called the people's defender, whose duties included investigating complaints of human rights abuses by the authorities. The ombudsman operated independently from any party or government ministry, was elected every five years by a three-fifths majority of the congress of deputies, and was immune from prosecution. He had complete access to government institutions and to all documents other than those classified for national security reasons; he could refer cases to the courts on his own authority. Government agencies were responsive to the ombudsman's recommendations. Several autonomous communities had their own ombudsman, and there were ombudsmen dedicated to the rights of specific groups, such as women, children, and persons with disabilities. Throughout the course of the year, he made hundreds of official recommendations.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally effectively enforced it; however, domestic violence, trafficking in persons, and discrimination against ethnic minorities and immigrants were problems.

Women.—Domestic violence against women was widely acknowledged to be a problem. The law prohibits violence against women, and the government effectively enforced it. During 2004, 23,550 people were convicted of domestic violence crimes. In January a new domestic violence law was enacted, providing for more severe penalties for violence against women or "especially vulnerable" victims. This law provided for six months to a year in jail for domestic violence (as well as threats and breaking a restraining order), with more prison time for serious injuries. According to the government, 62 women were killed as a result of domestic violence during the year. Through November women filed 55,155 complaints against their husbands or male partners. There were 53 offices that provided legal assistance to victims of domestic violence and approximately 225 shelters for battered women. A 24-hour free national hot line, that advised battered women on where to find local assistance or shelter, operated during the year. In addition the security services strengthened their support for battered women, adding 380 units to the existing 722 specialized units that focus on the victims.

Cases of battered women or women killed by their partners continued to increase in Catalonia. The regional government has opened a specialized center to assist victims. The center had a team of specialists that includes attorneys, social workers, psychologists, and educators.

The law prohibits rape, including spousal rape, and the government effectively enforced it. Through November, the government reported 6,825 cases of sexual assault, harassment, and aggression.

There is a requirement that a doctor examine female immigrants in Catalonia in danger of suffering from female genital mutilation (FGM) "ablation" when traveling to their countries of origin and again upon return. If they were victims of FGM, the parents could lose custody of the child. In practice doctors have not examined immigrants, because there was no suspicion that any such incidents took place.

Prostitution is legal, and was widely reported to be a problem. Forcing others into involuntary prostitution and organizing prostitution rings are illegal. Local governments, notably Madrid and Barcelona, continued campaigns to reduce the number of prostitutes, including antiprostitution advertising, restrictions on prostitution near schools, and police efforts (for example, road closings) to deter clients seeking prostitutes.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace; however, such harassment was widely reported to be a problem. From January to November 2004, the Women's Institute reported 419 complaints of sexual harassment. Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. An office in the Ministry of Labor and Social Affairs called the Women's Institute worked to ensure the legal rights of women, as well as to combat economic discrimination and integrate women into the mainstream of society and the economy. Discriminatory wage differentials continued to exist, and women held fewer senior management positions than men.

Children.—The government was strongly committed to children's rights and welfare.

Education is compulsory until age 16 and free until age 18. There were no differences apparent in the treatment of girls and boys in education. According to the UN Economic and Social Organization (UNESCO) statistics for 2002 and 2003, 100 percent of primary school-age children attended school and 96 percent of secondary school-age children.

Access to the national health care system was equal for girls and boys.

The ministries of health and of labor and social affairs were responsible for the welfare of children. Several regional governments had an office of the defender of children, an ombudsman charged with defending children's rights.

There were isolated reports of child abuse.

Child prostitution occurred.

Trafficking in teenage girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Law enforcement and social service agencies reported an increasing number of undocumented immigrant children living on the streets. These children cannot legally work; as a result, many survived through petty crime. From January to August,

nearly three thousand teenagers who engaged in a variety of activities were rescued from the streets.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to and through the country.

The law prohibits trafficking in persons for labor and sexual exploitation, with penalties ranging from 5 to 12 years' imprisonment. The law also prohibits the exploitation of prostitutes through coercion or fraud and the exploitation of workers in general, with penalties ranging from 5 to 10 years' imprisonment. According to an August Ministry of Interior report, during the first six months of the year police arrested more than 1 thousand persons accused of trafficking-related crimes, including illegal immigration (427 people in 67 networks), document falsification (249 people in 31 networks), and sexual exploitation (518 people in 95 networks).

The Ministry of Interior coordinates antitrafficking efforts and received support in its efforts from the office of the president, the Ministry of Labor and Social Services, the Ministry of Justice, and the Ministry of Education. The NP has a special unit, the Immigration Networks and Falsified Documents Unit (UCRIF), which covers trafficking in persons-related issues. The UCRIF intelligence unit analyzed statistical data and trends, while coordinating efforts and sharing data with the civil guard and Interpol. Regional NP offices conduct quarterly reviews to set goals in combating trafficking and to assess success in meeting previous quarter goals.

The government has made the treatment of women a high priority with the passage of the October 2004 integral law against gender violence, a domestic violence law that provides for heavier sentences when violence is directed against women or "especially vulnerable" victims. When King Juan Carlos addressed the diplomatic corps in January, he emphasized the need to fight trafficking in persons networks. Within the Interior Ministry, the NP had primary responsibility for trafficking. In addition the Interior Ministry chaired an interagency committee that dealt with trafficking. Police cooperation with source countries led to 303 trafficking-related arrests in source countries in 2003. The government extradited seven persons for trafficking-related offenses in 2003.

Of four alleged members of an international prostitution ring arrested by Catalan police in September 2004, two were subsequently released, and two remained in prison awaiting trial at year's end.

The country was both a destination and transit country for trafficked persons for the purpose of sexual exploitation (most frequently involving forced prostitution and work in nude dancing clubs) and, to a lesser degree, forced labor (primarily agriculture, construction, and domestic employment) (see section 6.d.). Trafficked women were usually 18 to 30 years of age, but some girls were as young as age 16. Women were trafficked primarily from Latin America (Colombia and Ecuador), East European countries (Romania and Bulgaria), sub-Saharan Africa (Nigeria, Guinea, Sierra Leone), and, to a lesser extent, North Africa. Asians, including Chinese, were trafficked to a much lesser degree and more often for labor rather than for sexual exploitation.

The traffickers were generally organized criminals based in the source countries.

Methods used by traffickers to maintain control of their victims included physical abuse, forced use of drugs, withholding of travel documents, and threats to the victim's family. Women from Eastern Europe reportedly were subject to more severe violence and threats by traffickers. Traffickers lured some victims from other regions with false promises of employment in service industries and agriculture but then forced them into prostitution upon their arrival in the country. The media reported that criminal networks often lured their victims by using travel agencies and newspaper advertisements in their home countries that promised guaranteed employment in Spain. Typically in the case of Romanian organized networks, women were forced into prostitution where 90 percent of their earnings were marked for the criminal network; men were often employed in low-paying construction jobs. Clandestine clothing production and sales as well as work in restaurants were typical employment for illegal Asian immigrants, who came to the country with false documents through trafficking networks.

The law permits trafficking victims to remain in the country if they agree to testify against the perpetrators. After legal proceedings conclude, the individual is given the option of remaining in the country or returning to the country of origin. Victims were encouraged to help police investigate trafficking cases and to testify against traffickers. In 2003 police reported that 250 victims agreed to testify and were granted short-term residency status.

The government worked with and funded NGOs that provided assistance to trafficking victims. In addition regional and local governments provided assistance either directly or through NGOs. The government's violence education programs for

female victims and an NGO partner on trafficking reported that 89 percent of the victims they assisted pressed criminal charges.

The government contracted with an NGO, Project Hope, to provide protection, housing, and counseling support to the victims of trafficking or other abuse. Project Hope, backed by the Catholic NGO Las Adoratrices and government agencies, specifically was designed to assist trafficking victims. The project operated shelters in Madrid, provided assistance with medical and legal services, and acted as liaison with law enforcement for victims who chose to testify against traffickers. Project Hope received many referrals directly from police.

In March 2004 the Madrid city government began enforcement of its antiprostitution and antitrafficking campaigns by increasing police presence in targeted zones. The Madrid city government continued its extensive publicity campaign to discourage the potential clients of prostitutes with posters and advertisements in newspapers, on the radio, and on city buses.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. There were no reports of societal discrimination against persons with disabilities. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice; however, levels of assistance and accessibility differed from region to region. The Ministry of Labor and Social Affairs was charged with protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—Public opinion surveys indicated the presence of racist and xenophobic attitudes, which resulted in discrimination and, at times, violence against minorities. On July 21 AI asked the government to implement a national plan against racism and xenophobia in accordance with its European Union and international obligations to take appropriate measures to combat racism. According to AI, the government did not respond by year's end.

In July there were violent incidents in Jumilla by local residents who reportedly felt unsafe because of the increase in the number of immigrants during the summer season. In May in Villaverde (Madrid) there were violent attacks against immigrants after the stabbing and killing of a young citizen was blamed on a Dominican immigrant. Police said that dozens of teenagers took to the streets and attacked at least four recent immigrants, including an Ecuadorian girl.

On September 17, civil guards in Valencia arrested 22 neo-Nazis, accusing them of mistreating immigrants, weapons violations, and other crimes. The neo-Nazis organized so-called "hunts," in which they beat up immigrants and persons who did not support their philosophy. The group had a Web site that encouraged violence against minorities and offered weapons for sale. Such groups were said to be present in more than 90 cities throughout the country, including the autonomous community of Catalonia. Police detained as many as 126 neo-Nazis throughout the country, principally in Catalonia, Madrid, and Aragon.

The central and the Catalan governments' efforts to better integrate immigrants in Catalonia were primarily focused on helping minor and female immigrants. Immigrants were primarily Latin American, Moroccan, and East Europeans, as well as some West Africans.

At times the growth of the country's immigrant population led to social friction, which in isolated cases had a religious component. Muslim community representatives claimed that there were significant anti-Moroccan immigrant feelings (see section 2.c.).

According to the September report of the national NGO Fundacion Secretariado Gitano, Roma continued to face marginalization and discrimination in access to employment, housing, and education. The Romani community, whose size was estimated by NGOs at several hundred thousand, suffered from substantially higher rates of poverty and illiteracy than the population as a whole. Roma also had higher rates of unemployment and underemployment. Several NGOs dedicated to improving the condition of Roma received federal, regional, and local government funding. In June the Ministry of Education and Culture and the Fundacion Secretariado Gitano signed a cooperative agreement that focused on improving the attendance of Romani children as well as education for adult Roma. In April the Ministry of Labor and Social Affairs along with Romani representatives established the State Council for Roma People to encourage the participation of Roma in social programs and increase cooperation between the government and the Romani community.

Languages or dialects other than Castilian Spanish are used in 6 of the 17 Spanish regions. The constitution stipulates that citizens have the "duty to know" Castilian, which is the official language of the state; however, it provides that other lan-

guages may also be official under regional statutes and that "different language variations of the country are a cultural heritage which shall be protected."

Laws in these regions promote the non-Castilian languages in schools and governmental activities. Critics contend that these efforts to promote the use of non-Castilian languages made it more difficult for Castilian speakers to live and work in those areas.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers, except those in the military services, judges, magistrates, and prosecutors, to form and to join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. Approximately 15 percent of the workforce was unionized. The law prohibits discrimination by employers against trade union members and organizers; however, unions contended that employers practiced discrimination in many cases by refusing to renew the temporary contracts of workers engaging in union organizing.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for collective bargaining, including for all workers in the public sector except military personnel, and it was freely practiced. Public sector collective bargaining includes salaries and employment levels, but the government retained the right to set these if negotiations failed. Collective bargaining agreements were widespread in both the public and private sectors; in the latter they covered 85 to 90 percent of workers. The law provides for the right to strike and workers exercised this right by conducting legal strikes. A strike in nonessential services was legal if the union gave five days' notice. Any striking union must respect minimum service requirements negotiated with the respective employer. There are no special laws or exemptions from regular labor laws in the three special economic zones in the Canary Islands, Ceuta, and Melilla.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace. Child labor was generally not a problem. The statutory minimum age for the employment of children is age 16. The law also prohibits the employment of persons under the age of 18 at night, for overtime work, or in sectors considered hazardous. The Ministry of Labor and Social Affairs primarily was responsible for enforcement, and the minimum age was enforced effectively in major industries and in the service sector. It was more difficult to enforce the law on small farms and in family-owned businesses, where some child labor persisted. Legislation prohibiting child labor was enforced effectively in the special economic zones.

e. Acceptable Conditions of Work.—The minimum wage was approximately $620 (513 euros) per month, which generally provided a decent standard of living for a worker and family; however, this was not the case in all areas of the country. The Ministry of Labor and Social Affairs effectively enforced the minimum wage.

The law set a 40-hour workweek with an unbroken rest period of 36 hours after each 40 hours worked. Overtime is restricted by law to 80 hours per year, unless collective bargaining established a different level. Premium pay is required for overtime, up to a maximum of 80 hours per year.

The National Institute of Safety and Health in the Ministry of Labor and Social Affairs had technical responsibility for developing labor standards, but the inspectorate of labor had responsibility for enforcing the legislation through inspections and judicial action when infractions were found. Unions criticized the government for devoting insufficient resources to inspection and enforcement. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, and the authorities effectively enforced this right; however, employees with short-term labor contracts may not understand they have such protections.

SWEDEN

Sweden, with a population of approximately nine million, is a constitutional monarchy with a multiparty, parliamentary form of government. The last national elections, held in 2002, were free and fair. The Social Democratic Party (SDP) has con-

trolled the government for 64 of the past 73 years. The king is the largely symbolic head of state. The prime minister is the head of the government and exercises executive authority. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. The following human rights problems were reported:

- anti-Islamic and anti-Semitic incidents
- violence against women and children
- trafficking in women and children
- societal discrimination against foreign-born residents, Roma, and homosexuals

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were isolated reports that government officials employed them.

In May a court convicted two police officers for assault and excessive violence against a 64-year-old man. The court sentenced each of the officers to three-months' imprisonment and dismissed them from the police force. In September authorities initiated investigations against three police officers accused of use of excessive violence during a confrontation near Stockholm in September. The investigations were ongoing at year's end.

Prison and Detention Center Conditions.—While prison conditions generally met international standards, overcrowding and lengthy pretrial detention periods remained problems, particularly in the Stockholm region. The Council for Europe's (COE) Committee for the Prevention of Torture, in a 2004 report, stated authorities should work to assure a proper balance between the needs of criminal investigations and the restrictions placed upon pretrial detainees. It recommended that pretrial detainees be given the right of appeal against court decisions to maintain specific restrictions, such as limitations on visits, telephone calls, association, and censorship of correspondence.

The government permitted visits by independent human rights observers, although there were no such visits during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—There is a national-level police force divided into 12 districts, each of which reports to a national police board under jurisdiction of the Ministry of Justice. There were no reports of corruption or of problems related to impunity. In January, the office of the prosecutor general established a unit exclusively dedicated to investigations of crimes committed by police officers, judges, and prosecutors.

Arrest and Detention.—The law requires warrants issued by duly authorized officials for arrests, and the government generally respected this requirement in practice. Police must file charges within 6 hours against persons detained for disturbing the public order or considered dangerous, and within 12 hours against those detained on other grounds. Police may hold a person for questioning for 6 hours, although the period may be extended to 12 hours if necessary for the investigation. If the person is a suspect, police must decide whether to arrest or release the person. If the suspect is arrested, the prosecutor has 24 hours (or three days in exceptional circumstances) to request detention. An arrested suspect must be arraigned within 48 hours, and initial prosecution must begin within 2 weeks, unless extenuating circumstances exist, and authorities generally respected these requirements. Detainees may request a lawyer of their choice or if indigent, the court will appoint one. Detainees are afforded prompt access to lawyers, as well as to family members. Although there is no system of bail, police routinely released defendants pending trial, unless they were considered dangerous. In criminal cases, the government is obligated to provide an attorney if the defendant cannot afford one.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judicial system is composed of three levels: district courts, a court of appeals, and the Supreme Court. All cases are heard first in a district court regardless of the severity of the alleged crime. For some areas, there are independent specialized courts, such as the labor court, that are usually the second and last instance for trial after the district court. Other specialized courts, for areas such as water and real estate, depend on the district courts; lawsuits at these courts may be appealed to the Supreme Court.

Trial Procedures.—All trials are public. Juries are used only in cases involving freedom of the press or freedom of speech. In other cases judges or court-appointed civilian representatives make determinations of guilt or innocence. The court system distinguishes between civil and criminal cases. Defendants have the right to be present at their trial and to consult with an attorney in a timely manner. In criminal cases, the government is obligated to provide a defense attorney if the defendant cannot afford one. A "free evidence" system allows parties to present in court any evidence, regardless of how it has been acquired. Defendants enjoy a presumption of innocence and have a right of appeal.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice; however, human rights organizations, including the International Helsinki Federation for Human Rights, expressed concern over increased use of surveillance techniques by the police and insufficient protection of the individual's right to privacy. In 2004 the government created a public representative position within the prosecutor's office to protect citizens' rights in court cases involving use of invasive measures, such as camera surveillance or wiretapping.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The law on hate speech prohibits threats or expressions of contempt for a national, ethnic, or other such group of persons with allusion to race, color, national or ethnic origin, religious belief, or sexual orientation. In 2004 a district court convicted Pentecostal Pastor Ake Green for violation of the hate speech law. Green challenged the verdict on the basis of freedom of speech, and in February an appeals court ruled in Green's favor and overturned the conviction. In March the prosecutor general appealed the state's case against Green to the Supreme Court. In November the Supreme Court upheld the appeals court ruling and acquitted Pastor Green (see section 2.c.).

Authorities used the hate speech law to prohibit neo-Nazi groups from displaying signs and banners with provocative symbols at their rallies (see section 5).

An active and independent media expressed a wide variety of views without restriction; there were no government restrictions on access to the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The Swedish Commission for State Grants to Religious Communities financed 37 religious groups in 2004; the vast majority was Christian churches, and the remainder was four Islamic organizations and the Jewish community. In April the government added the Swedish Buddhist Cooperation Council to the list of religious organizations entitled to state grants; it is the first non-Abrahamic religion to receive such recognition.

In 2004 a district court convicted Pentecostal Pastor Åke Green for violation of the hate speech law. Green's conviction resulted from a sermon in which he condemned homosexuality, in part on the basis of biblical teachings. In March an appeals court overturned the conviction. The government has appealed the appeals court decision to the Supreme Court. In November the Supreme Court upheld the appeals court decision in favor of Pastor Green, citing freedom of religion and freedom of expression rights guaranteed in the European Convention on Human Rights (see section 2.a.).

Societal Abuses and Discrimination.—Anti-Muslim incidents appeared to have increased during the past few years. For example, in separate incidents in September and October unidentified individuals threw firebombs into the Islamic Center's

mosque in the city of Malmo; an arson attack had extensively destroyed the same mosque in 2003. The perpetrators of these incidents have not been identified. The Malmo mosque reported it frequently received anonymous threats. Stockholm's largest mosque also reported frequently receiving anonymous threats. In September an imam at the Stockholm mosque stated that fellow Muslims threatened him for his condemnation of terrorism. The office of the ombudsman against ethnic discrimination confirmed that a number of Muslim women reported incidents where they believed that they have been discriminated against because they wore headscarves.

In November Swedish Radio (SR) reported that 4 of 10 Muslim organizations in the country have been threatened, according to an investigation by a SR news program, which interviewed 100 organizations that together represent 80 thousand Muslims. The report said that 3 of 10 organizations have been attacked, vandalized, and damaged. Abuse ranged from graffiti to attacks with fire bombs.

In September the Swedish integration board released survey results that suggested two-thirds of citizens do not view some values within Islam as compatible with fundamental societal values. For example, 37 percent of respondents opposed the building of mosques in the country, and 53 percent opposed the wearing of headscarves in the workplace by Muslim women.

The Jehovah's Witnesses and members of various smaller Christian churches reported incidents of discrimination during the past few years.

The Jewish community numbered approximately 18,500 to 20,000 persons. According to police statistics, reported anti-Semitic hate crimes increased towards the end of the 1990s and has averaged approximately 130 annually since 2000. In 2004 reported anti-Semitic crimes increased by 44 percent over the previous year. During 2004 police reported 151 anti-Semitic crimes, of these, 7 were classified as assaults, 66 as agitation against an ethnic group, and 47 as unlawful threat or harassment. In July unidentified persons smashed gravestones at a Jewish cemetery in Stockholm. Judisk Sakerhet Sverige, a private security organization for Jewish congregations in Sweden, cited anonymous telephone threats and letters as problems Jewish persons encountered. Lack of evidence generally precluded police prosecution of such cases.

The Living History Forum, a governmental body, conducts research on the country's role during the Holocaust and on its connections to Nazi Germany. During the year the Forum sponsored educational projects, lectures, seminars, and exhibitions throughout the country. The Forum also conducted Holocaust awareness projects in the nearby countries of Estonia and Latvia.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 protocol, and provided it to approximately 469 persons during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

Applications for asylum could remain under consideration for long periods of time with applicants in uncertain status. The appeals process in the courts may extend cases for several years.

The government returned asylum seekers from European Union (EU) countries or from countries with which it maintained reciprocal-return agreements. In most cases, persons returned had passed through or had asylum determinations pending in other EU countries. In many cases, authorities deported asylum seekers within 72 hours of arrival. Human rights organizations expressed concern that some asylum cases were adjudicated too quickly.

The UN Committee against Torture (UNCPT) received eight new cases against the government during the year, all of which concerned denial of applications for political asylum and consequent repatriations to countries where victims allegedly faced a risk of torture. During the year, UNCPT ruled on seven cases and found

that in two cases the country had violated the rights of the petitioners. The UNCPT dismissed one case.

In June the UNCPT found that the country had violated the UN Convention against Torture in connection with the forced repatriation of two Egyptian nationals in 2001. In September a parliamentary committee for government oversight criticized the government for its handling of the Egyptian repatriation case. The committee investigation determined that the government should not have accepted non-torture guarantees provided by the government of Egypt. The committee also criticized the government for its failure to document its contacts with the police on this matter. Also related to this incident, a parliamentary ombudsman investigation (initiated in 2004 and concluded in March) found that the police acted improperly by allowing authorities of another country to take charge of the Egyptian nationals while they were still in the country.

In May the government stopped the repatriation of an Azeri family at the request of the UNCPT. The migration board was further investigating the case. The Swedish Helsinki Committee, a human rights NGO, criticized the lack of an appeals process for individuals subject to repatriation for national security reasons.

In July a new law for the protection of individual (unaccompanied) children seeking asylum entered into force. Under the law the government appoints a legal guardian to such children upon their arrival.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Elections to the 349-member unicameral parliament are held every 4 years. The last elections, held in September 2002, were free and fair. The SDP has dominated the political system for the past seven decades, and SDP members occupied a disproportionately large number of publicly appointed positions. The Swedish Trade Union Confederation continued to provide significant financial and organizational support to the SDP.

There were 158 women in the 349-seat parliament and 11 women in the 22-member cabinet.

The law prohibits the government from holding information about the racial or ethnic background of its citizens; therefore, no statistics on minority participation in the parliament are available. However, there were four members of minorities in the 22-member cabinet (one of Turkish-Assyrian origin, one of Estonian origin, one of Latvian origin, and one Jewish member).

Government Corruption and Transparency.—There were isolated reports of government corruption during the year. In October media reported that an investigation by tax authorities found that bookkeeping irregularities of a soccer team with links to a cabinet minister resulted in the nonpayment of some taxes during the 2000–2004 period. The soccer team was obliged to pay the back taxes. In November privacy laws that precluded scrutiny of political party-membership lists led authorities to abandon an investigation into allegations of embezzlement of public funds by the Social Democratic Youth league, which is associated with the ruling Social Democratic Party. In December the Stockholm county court convicted 14 store managers of the state-owned alcohol distribution monopoly for having received bribes from suppliers.

The law provides for public access to government information, and the government generally respected this in practice. The public has the right to access government documents unless they were are subject to secrecy laws, according to which information may be withheld if its release posed a threat to national security or individual or corporate privacy.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; violence against women and children, trafficking in persons, and discrimination against foreigner residents, Roma, and homosexuals were problems.

Women.—Violence against women remained a problem. The National Council for Crime Prevention (NCCP) reported 20,198 cases of assault against women as of the end of November. Most involved spousal abuse. An average 20 to 30 murders of women and girls were reported each year, half of them by men closely related to the victim. Authorities apprehended and prosecuted abusers. The typical sentence for abuse was a prison term (3 to 15 months on average) or psychiatric treatment.

The law provides victims with protection from contact with their abusers. When necessary, authorities helped women obtain new identities and homes. Both national and local governments helped fund volunteer groups that provided shelter and other assistance to abused women, and both private and public organizations ran shelters and operated hotlines.

Rape, including spousal rape, is illegal. The law stipulates higher sanctions for repeated crimes if the perpetrator had a close relationship to the victim. The NCCP reported 1,912 (as of end of November) rapes of persons over age 14, compared with 2,141 in for the same period in 2004. The law provides that rape may be prosecuted as sexual assault, based on a determination of the level of resistance offered by the victim. At year's end authorities estimated that approximately two thousand women had been exposed to honor-related violence. Immigrants from Muslim countries appeared to be more at risk than other women. The government provided protected housing for young women vulnerable to honor-related violence from family members.

The law prohibits female genital mutilation (FGM). During the year there were no reports of FGM in the country, but there are nearly 30 thousand women from countries in which FGM is practiced. The practice of FGM is a felony punishable by up to 10 years' imprisonment.

Prostitution is legal; however, the purchase of sexual services is illegal. Prostitutes were not arrested but their clients were. The government has sought to curb prostitution by focusing on the demand rather than the supply side. Both government and nongovernmental sources asserted that the law has proven effective in limiting prostitution and trafficking in persons.

Trafficking in women was a problem (see section 5, Trafficking).

The law prohibits sexual harassment, and the government generally enforced this law in practice. Employers who do not investigate and intervene against harassment at work may be obliged to pay damages to the victim.

Women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. But some sectors of the labor market still showed significant gender disparities. During the year women's salaries averaged 85 percent of men's salaries, adjusting for age, education, and occupational differences.

The equal opportunity ombudsman (EOO), a public official, investigates complaints of gender discrimination in the labor market. Complaints may also be filed with the courts or with the employer, with mediation by the employee's labor union. During the year the EOO's office registered 170 cases. Women filed approximately 80 percent of the cases, 39 percent of which concerned salaries. The number of discrimination complaints related to pregnancy increased to 35, compared with 19 in 2004.

Children.—The government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. The government provided compulsory, free, and universal education for children ages 9 to 16, but public schooling was provided until age 18. Nearly 100 percent of school-aged children attended school, and the highest level achieved by most children was completion of high school.

The government also provided free medical care for all children up to the age of 16, and boys and girls had equal access.

Child abuse was a problem. As of the end of November, the NCCP reported 6,513 cases of abuse of children under the age of 15. As of the end of November, police reported 537 cases of child rape and 1,089 cases of sexual abuse of children, compared with 467 reported cases of rape and 1,400 reported cases of child sexual abuse in 2004.

The law prohibits parents or other caretakers from abusing children mentally or physically in any way. Parents, teachers, and other adults are subject to prosecution if they physically punish a child, including slapping or spanking. Children have the right to report such abuses to the police. The usual sentence for such an offense is a fine combined with counseling and monitoring by social workers. Authorities may remove children from their homes and place them in foster care.

Trafficking in children was a problem (see section 5, Trafficking).

The government allocated funds to private organizations concerned with children's rights. The NGO Children's Rights in Society offered counseling to troubled youngsters. The government continued to be active internationally in efforts to prevent child abuse.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, through, and within the country.

The law prohibits the trafficking of persons for sexual purposes, provides for sentences of two to ten years' imprisonment for persons convicted of trafficking, and criminalizes attempting to traffic, conspiracy to traffic, and the failure to report such crimes. Police reported 41 reported cases of trafficking, as of the end of November.

To prosecute traffickers, authorities continued to use laws against procurement and an offense called "placing in distress," which can apply in cases where traffickers lure women from other countries under false pretenses. The laws on procurement and trafficking complement each other; however, the antitrafficking law requires that prosecutors prove traffickers used "improper means." Judges commonly ruled that "improper means" were absent in cases involving victims who consented to being trafficked. Although consent is irrelevant under the antitrafficking law, in practice judicial interpretation of the improper means criteria makes it difficult to obtain convictions. Prosecutors consequently continued to rely on the procurement laws for most convictions of traffickers. As of November, there were 80 cases of procurement reported, many involving trafficking victims. In July the country increased penalties for procurement; those convicted of procurement now face up to eight years in prison.

The country continued to be a transit point, and to a lesser extent a destination, for trafficked women and children. Many law enforcement officials and analysts estimated the number of trafficked women at approximately 500 per year. Victims came primarily from the Baltic region, Eastern Europe, or Russia. Those transiting the country came primarily from the Baltic region, heading towards suspected destination countries of Denmark, Germany, Norway, Spain, and the United Kingdom. There were occasional cases of trafficked women from South America and Thailand. Police reported approximately 10 percent of child trafficking involved victims ages 16 and 17. Most of these children were trafficked from the Baltic states and countries of the former Soviet Union. None of the cases involved young boys. Since November 2004 approximately 120 Chinese children arrived without papers in Stockholm and requested asylum. Police suspected the children were being trafficked to European countries for cheap labor or sexual exploitation. All 120 disappeared shortly after arrival. In May Dutch police detained six of these children in the Netherlands.

Traffickers typically recruited victims in their countries of origin to work as cleaners, babysitters, or in similar employment abroad. Once in the country, traffickers isolated and intimidated victims, and forced them to work as prostitutes in hotels, restaurants, massage parlors, or private apartments; some were likely locked up and had their passports confiscated.

The government allocated funds to domestic and international NGOs to provide shelter to victims and aid in rehabilitation. Police and social services also provided funding. The law enables trafficking victims who cooperate with police investigations to receive temporary residence permits. Holders of temporary residence permits have access to the full range of social benefits. Victims who do not cooperate with police investigations are not eligible to receive temporary residence permits and are deported immediately.

Persons with Disabilities.—The law prohibits employers from discriminating against persons with disabilities in hiring decisions and prohibits universities from discriminating against students with disabilities in making admissions decisions. No other specific law prohibits discrimination against persons with disabilities. There were 510 reports of governmental discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services.

Regulations for new buildings require full accessibility, but there is no such requirement for existing public buildings, except for certain public entities that are obliged to make their facilities accessible. Many buildings and some means of public transportation remained inaccessible.

There is an ombudsman for disability issues, who accepts disability-related complaints.

National/Racial/Ethnic Minorities.—Approximately 12 percent of the population was foreign born, with the largest groups from Finland, Iraq, Iran, and the former Yugoslavia. During 2004 there were 2,263 reports of xenophobic crimes of which 11.7 percent were related to neo-Nazism/White Power ideology. According to Swedish security police revised statistics, this reflected a 27 percent increase over 2003, but a change in the reporting methodology rendered it difficult to make a straightforward comparison. The government investigated and prosecuted race-related

crimes; however, a study conducted by the national police academy indicated that officers in 17 of 20 police districts had insufficient knowledge about how to deal with hate crimes.

Estimates placed the number of active neo-Nazis, or white supremacists, at approximately three thousand. The NGO EXPO estimated that 1,200 to 1,300 individuals attended the annual neo-Nazi/White Supremacist march that takes place in Salem in December. Neo-Nazi groups operated legally, but courts have held that it is illegal to wear xenophobic symbols or racist paraphernalia or to display signs and banners with provocative symbols at rallies, since the law prohibits incitement of hatred against ethnic groups.

A report released in June by the COE concerning racism and intolerance in the country identified discrimination towards non-ethnic Swedes. The report noted inequalities in access to the labor market and housing. It identified segregation as a de facto occurrence. It also identified an active presence of racist organizations that disseminate their views.

At year's end the ombudsman for ethnic discrimination had received reports of 876 cases, up from 794 in 2004.

In June a government-commissioned inquiry on power, integration, and structural discrimination presented highly critical findings of the country's integration policy. The inquiry identified shortcomings in the labor market, the legal system, and the educational system. The report's conclusions called for a shift of government emphasis away from integrating immigrants towards combating discrimination.

The law recognizes Sami (formerly known as Lapps), Swedish Finns, Tornedal-Finns, Roma, and Jews as national minorities. The government supported and protected minority languages. In response to a 2003 COE report that criticized government efforts to protect minority languages, parliament in 2004 initiated (at the government's request) an investigation of ways to improve the status of the Finnish language in the greater Stockholm and Malar regions. This investigation remained open during the year, and expanded its scope to include the Sami language. Also in response to the COE report, the government tasked a parliamentary committee on media support to examine ways to improve support for Sami and Meankili minority-language newspapers.

A report presented by the school authority on minority languages indicated that there were shortcomings in the provision of teachers and educational material for minority language teaching. The report also stated that the situation did not appear to have changed since a similar report in 2001 and that there appeared to be a municipal lack of concern for the issue.

In June the International Helsinki Federation for Human Rights released a report, *The Situation of Roma in Selected Western European Countries*, which stated that Roma in the country who numbered approximately 20 to 25 thousand, suffered from discrimination and institutional racism. It found that Roma lived segregated, that they had limited access to public and private housing markets, and that authorities did not adapt public education to special needs of Romani children. The Living History Forum, a government authority, carried out a number of lectures and seminars on the situation of the Roma and highlighted their suffering in the Holocaust.

Indigenous People.—Sami numbered between 17 and 20 thousand. In March 2004 the UN Committee on the Elimination of All Forms of Racial Discrimination criticized the government for its failure to address problems related to Sami rights to land. In May 2004 an EU human rights report reiterated the main points of the UN committee's findings and criticized the government for not having resolved problems surrounding the Sami rights to both land and water. From 2002 to 2004, the government conducted a national campaign to increase public knowledge about Sami culture. In August the government opened a permanent, national Sami Information Center. Longstanding tensions between private landowners and Sami reindeer herders persisted. Courts in 2004 and during the year ruled that Sami must compensate private landowners for use of their land for winter pastures.

The Sami parliament acted as an advisory body to the government.

Other Societal Abuses and Discrimination.—Societal violence and discrimination against homosexuals was a problem. In 2004 police received reports of 614 crimes with homophobic motive, a 117 percent increase from 2003. The NGO EXPO stated that the trend of increasing violence against homosexuals is continuing, but police authorities noted that the significant statistical increase for 2004 reflected in large part a change in reporting methodologies. The ombudsman against discrimination because of sexual orientation reported 87 cases during the year, up from 48 cases in 2004, but below the 137 cases reported in 2003.

Section 6. Worker Rights

a. The Right of Association.—The law entitles workers to form and join unions of their choice, without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 80 percent of the workforce was unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for collective bargaining, and workers exercised this right in practice. Approximately 80 percent of the workforce was under collective bargaining agreements. The law provides for the right to strike, as well as for employers to organize and to conduct lockouts; workers and employers exercised these rights in practice. Public-sector employees also enjoy the right to strike, subject to limitations protecting the public's immediate health and security. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law and policies protect children from exploitation in the workplace, including policies regarding acceptable working conditions, and the government effectively implemented these laws and policies in practice. The law permits full-time employment at age 16 under the supervision of local authorities. Employees under age 18 may work only during the daytime and under supervision. Children as young as 13 years may work part-time or in "light" work with parental permission. Union representatives, police, and public prosecutors effectively enforced these restrictions.

e. Acceptable Conditions of Work.—There is no national minimum wage law. Wages were set by collective bargaining contracts every year. Nonunion establishments generally observe these contracts. Substantial benefits (e.g., housing, childcare) provided by social welfare entitlement programs assured even the lowest-paid workers and their families a decent standard of living. Foreign companies employing workers from their country of origin at wage levels below minimums stipulated in domestic collective-bargaining contracts created frictions in the labor market. For example, in one case, Swedish workers blocked a work site in the city of Vaxholm because construction workers from Latvia, who had been contracted to build a school, did not have collective agreements with a Swedish union.

The legal standard workweek is 40 hours or less. Both the law and collective bargaining agreements regulate overtime and rest periods. The maximum allowable overtime per year is two hundred hours. The law requires a minimum period of 36 consecutive hours of rest, preferably on weekends, during a period of 7 days. The law also provides employees with a minimum of five weeks' paid annual leave. The government effectively enforced these standards.

The work environment authority, a government-appointed board, issued occupational health and safety regulations; trained union stewards, safety ombudsmen, and government inspectors monitored them. Safety ombudsmen have the authority to stop unsafe activity immediately and to call in an inspector. These rules were effectively enforced. Work places were generally safe and healthy. In law and practice, workers could remove themselves from situations that endangered their health or safety without jeopardizing their future employment.

SWITZERLAND

Switzerland, with a population of 7.3 million, is a constitutional democracy with a federal structure. The parliament was elected in free and fair elections in October 2003, allowing the government to remain a coalition of the four major parties. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. The following human rights problems were reported:

- occasional excessive police force, used particularly against minorities and asylum seekers
- lengthy pretrial detention
- anti-Muslim and anti-Semitic incidents
- violence against women

- trafficking in women
- discrimination against minorities

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings

There were no new developments in the 2004 killing by police of a 38-year-old Sri Lankan citizen in Lausanne.

During the year the district attorney's investigation into the 2004 death of a 40-year-old Italian national concluded that the injuries incurred during the arrest were not sufficient to cause death.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports of occasional use of excessive force by police authorities.

In October the cantonal government in Tessin suspended two policemen accused of robbing and verbally abusing several asylum-seekers. The cantonal prosecutor charged the two police officers of misusing their functions, theft, and breaching the antiracism law. A 2004 Amnesty International (AI) report highlighted several instances of police mistreatment of detainees, particularly foreigners, citizens of foreign origin, and asylum seekers.

In April the Federal Tribunal rejected a complaint lodged by a woman whose leg was severely burned by a police stun grenade during protests in Lausanne in June 2003. The court maintained that it was impossible to identify the police officer involved, since there were approximately 190 officers in the area.

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however, prison overcrowding was a problem, particularly in the Cantons of Geneva, Zurich, and Bern. In some cantonal prisons, the size of the cells fell below the 130 square feet standard set by the European Convention on Human Rights.

The government permitted access by independent local and international human rights groups to prisons. In June the Council of Europe's Commissioner for Human Rights, in a report on a fact-finding mission of the end of 2004, expressed concern about overcrowding and other shortcomings at inspected detention facilities and called on local authorities to take appropriate action to resolve the problems.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The cantons are responsible for handling most criminal matters, and procedures vary. The federal police office has a coordinating role but relies on the cantons for actual law enforcement. The federal attorney general in Bern oversees intercantonal and international crimes. Corruption and impunity were not problems. Judges and prosecutors are independent but generally are under administrative command of the cantonal security department and the Federal Department of Justice and Police. Police were generally effective. Both internal affairs bureaus and courts generally functioned effectively to investigate possible police abuses. Police training is cantonal responsibility but some police training took place nationally in connection with nongovernmental organizations (NGOs).

Arrest and Detention.—Persons were generally apprehended openly with warrants issued by a duly authorized official unless there is a specific and immediate danger to which the police must respond without waiting for a warrant. In general a suspect may not be held longer than 24 hours before being presented to a prosecutor (or investigating magistrate) who must bring formal charges or order release; however, asylum seekers and foreigners without valid documents may be held up to 96 hours without an arrest warrant.

There is a functioning bail system, and release on personal recognizance or bail is granted unless the magistrate believes the person is dangerous or will not appear for trial. A suspect may be denied legal counsel at the time of detention but has the right to choose and contact an attorney before charges are made. In 2004 the federal penal court in Bellinzona affirmed that suspects detained under federal law were not entitled to legal representation during the first preliminary hearing with the federal police. Legal counseling is allowed at a later stage when the suspects meet the investigative magistrate. The state provides free legal assistance for indigents who may be detained pending trial. Access to family members could be

restricted to prevent tampering with evidence, but law enforcement authorities are obligated to inform close relatives of the detention promptly.

AI and refugee NGOs complained that detained asylum seekers were often effectively denied proper legal representation because they lacked the financial means to obtain an attorney and, unless they are held for serious criminal offenses, the law does not provide for free legal assistance (see section 2.d.). The decision to deport an asylum seeker is an administrative procedure, as opposed to a criminal procedure where free legal assistance is provided. Rejected asylum seekers generally were not removed from the country but instructed to leave voluntarily, except in cases where the rejected asylum seeker was incarcerated for a petty crime.

There were no reports of political detainees.

Lengthy pretrial detention occurred. Although investigations generally were prompt, investigative pretrial detention could exceed the length of sentence. Any lengthy pretrial detention is subject to review by higher judicial authorities. During the year approximately one-third of all prisoners were in pretrial detention, and the average length of such detention was 50 days.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

Courts of first instance generally are local or cantonal courts. The federal penal court in Bellinzona is the court of first instance for criminal offenses that are under the jurisdiction of federal authorities to investigate and prosecute. Citizens have the right to appeal, ultimately to the Federal Tribunal (supreme court). Lower and appellate courts are local or cantonal and therefore both their administrative structures and procedures vary from canton to canton.

Trial Procedures.—Trials are generally expeditious and public. Trials involving minor offenses are generally heard by a single judge, more serious or complex cases by a panel of judges, and the most serious cases (including murder) by a jury. Defendants have the right to be present and to consult with an attorney in a timely manner, and an attorney is provided at public expense if defendants face serious criminal charges. Defendants have the right to confront or question witnesses and to present witnesses or evidence. Defendants enjoy a presumption of innocence and have the right to appeal, ultimately to the Federal Tribunal. These rights were generally respected in practice.

The military penal code (MPC) requires that war crimes or violations of the Geneva Convention be prosecuted only if the defendant has close ties with the country. Normal civilian rules of evidence and procedure apply in military trials. The MPC allows the appeal of any case, ultimately to the military supreme court. In most cases the accused used defense attorneys assigned by the courts. Any licensed attorney may serve as a military defense counselor. Under military law the government pays for defense costs. Civilians can be tried in military courts if they reveal military secrets, such as classified military documents, or classified military locations and installations.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The penal code criminalizes racist or anti-Semitic expression, whether in public speech or in printed material.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

As in previous years, police in cities deployed large forces to control demonstrators protesting against the World Economic Forum (WEF) in Davos. Violent confrontations were for the most part avoided. During demonstrations in Bern and Basel on January 22 and 29, respectively, antiriot police made hundreds of identity checks and took scores of demonstrators into preventive custody. In June the Bern city assembly unanimously endorsed a report condemning police tactics and the large-scale police deployment as out of proportion to the security threat posed by demonstrators.

There were no developments in the lawsuit against police officers for allegedly using violence and mistreating anti-WEF demonstrators in January 2004.

In January a Vaud cantonal court declared that two policemen must stand trial for negligent bodily harm to a protester during a demonstration against the G–8 in June 2003. In order to block traffic, two protesters had tightened a rope across a highway bridge near Lausanne and tied themselves to either end of the rope dangling over the abyss. After a police officer cut the rope, a protester fell 60 feet and was seriously injured. The Vaud cantonal prosecutor had previously closed an investigation of the incident without filing charges on the grounds that protesters had put themselves in a situation of danger. A trial was not scheduled at year's end.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

There is no official state church; however, most cantons financially support at least one of three traditional denominations—Roman Catholic, Old Catholic, or Protestant—with funds collected through taxation. Each of the 26 cantons has regulations regarding the relationship between church and state. Foreign missionaries must obtain a religious worker visa to work in the country. Such permits were generally granted routinely.

In 2004 the Federal Office of Migration (FOM) rejected the work permit applications for two Islamic clerics that the Islamic Center in Geneva had filed with local authorities, due to the leader's extremist views. On October 5, the justice ministry's appeals body upheld the FOM decision, thus setting a precedent of rejecting a work permit application for a Muslim imam on ideological grounds.

Resident Muslim organizations complained that it was nearly impossible to acquire zoning approval to build mosques or Muslim cemeteries, since this authority rested with individual counties and municipalities.

Some employers had restrictions on wearing headscarves in the workplace. For example, the second biggest retailer announced that its dress code did not provide for any headgear and that it would not allow the wearing of the Islamic headscarf.

Religious education was taught in most public cantonal schools, except in Geneva and Neuchatel. Classes in Roman Catholic and Protestant doctrine were normally offered, but some schools covered other religious groups living in the country. A number of cantons now complement or entirely supplant traditional classes in Christian doctrine with nonconfessional teachings about religion and culture.

Societal Abuses and Discrimination.—The Federal Commission against Racism observed that the climate against members of religious minorities and their institutions has deteriorated. Although physical violence was rare, most anti-Semitic and anti-Muslim remarks were largely fueled by extensive media reports over the Israeli-Palestinian conflict, the Holocaust Assets issue, and terrorist acts by Muslim extremists in foreign countries.

The Jewish population amounts to 0.24 percent of the country's population, or 17,900 persons. There were numerous anti-Semitic incidents during the year.

During the night of March 13, there were two arson attacks in the city of Lugano in the southern canton of Ticino against the synagogue and a clothing store owned by a Jewish family. No one was hurt in either incident. In November a Ticino court sentenced a 58-year-old resident Italian national with a mental condition, who confessed to the attacks, to 2 years in prison. The sentence is expected to be suspended for psychiatric treatment. On the night of April 16, vandals spray-painted anti-Semitic graffiti on the walls and on a Holocaust memorial near the Grand Synagogue in Geneva. In May unknown vandals desecrated a dozen tombs of the cemetery of the Jewish community of Vevey-Montreux.

In April 2004 the Zurich lawyer and honorary chairman of the Jewish religious community, Sigi Feigel, sued the political party Europa Partei Schweiz and claimed that it sponsored newspaper advertisements comparing Israel with Nazi Germany. The case remained pending before the cantonal prosecutor at year's end.

On January 27, schools across the country held a day of remembrance for victims of the Holocaust. Education authorities said the aim was to remember the Holocaust and other forms of genocide committed in the past century and raise awareness of inhumane ideologies.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refu-

gees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum to 4,856 persons during the year.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 24,453 persons during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The FOM used a list of approximately 40 "safe countries" from which it will not accept refugee requests. NGOs criticized the list as arbitrary because the government did not publicly justify the listings and because they believe human rights records and the political situation in some of these countries was not sufficiently stable.

The FOM may refuse to process the application of an asylum seeker who is unable to justify a lack of identity papers. In such cases, the rejected applicant must submit an appeal within five working days to stay deportation proceedings. NGOs contended that such a short time period did not constitute an effective remedy and therefore violated the European Convention on Human Rights.

The UN Committee against Torture (UNCAT), the Council of Europe (COE), and NGOs criticized recent asylum policy developments. In May reviewing the country's compliance with the UN Convention on Torture, UNCAT expressed concern over standing and planned legal provisions on the use of force during deportations. In June the COE's commissioner for human rights criticized the more stringent measures effective since April 2004, allowing for the immediate rejection of asylum applicants lacking proper identity papers and shortening the appeals period against such a decision. The commissioner also expressed concern about expedited repatriation procedures at airports leading to the rejection of people before they can submit an asylum request as well as new measures proposed under the ongoing revision of the asylum law. In August the Swiss Refugee Council (SRC) expressed disappointment that many asylum seekers had been unfairly excluded from the screening process and reiterated some of the COE's findings on an alleged lack of access to legal representation for rejected asylum applicants. The SRC also criticized some cantons and communities for being reluctant to disburse minimum assistance, claiming that asylum seekers were not always informed of their entitlement to public aid. The SRC urged the government to soften the current asylum law revision and reverse its decision to shorten the appeal period from 30 to 5 working days.

According to media reports, on February 23, police forcibly deported a 19-year-old Kurd to his native Syria, where he was immediately detained for 2 months and subsequently found hanged in his hometown shortly after his release from prison. Kurdish online news sources alleged that he was tortured in detention and that the physical and psychological injuries led him to commit suicide.

NGOs reported that police used excessive force against asylum seekers (see section 1.c.).

On June 10, the Federal Tribunal criticized the detention conditions of a rejected asylum applicant in Trogen in the canton of Appenzell Ausserrhoden. The court deemed the low standards of the Trogen prison facility unacceptable and reminded local authorities that detained asylum seekers were entitled to social contacts with other foreigners awaiting repatriation. The court ordered local authorities to correct the situation within one week's time or release the rejected asylum applicant.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In October 2003, in a fair and free election, citizens chose a new federal parliament.

There were 65 women in the 246-seat federal parliament and 1 woman in the 7-seat federal cabinet. In recent years at the cantonal level, the proportion of female representatives in legislatures has remained steady at approximately 24 percent. Women held approximately one-fifth of the seats in cantonal executive bodies.

There were 57 French-speaking and 10 Italian-speaking members in the federal parliament. There were 3 French-speaking members in the federal cabinet. There were no known ethnic minorities in the government.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year.

Government information was available freely to all persons living in the country, including foreign media. There is no specific transparency law, but the constitution requires that the government inform the public on its activities. In December 2004 parliament adopted a new transparency law providing for public access to government documents, but the law had not been implemented by year's end.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, disability, language, or social status, and the government generally enforced these prohibitions effectively, although some laws discriminate against women. Violence against women and children, trafficking in persons, and discrimination against minorities were problems.

Women.—Violence against women was a problem. The law prohibits domestic violence but does not differentiate between acts committed against men and women. A study released in 2004 claimed that polls showed 10 percent of women suffered from physical violence in the previous 12 months, and a 2003 survey showed that 1 in 4 women age 20 to 60 suffered some form of domestic violence at least once in their lifetime. In its 2004 annual report, AI estimated that approximately 40 women died every year in the country as a result of violence suffered at home. According to a 2003 survey, only 30 percent of instances of physical violence and 6 percent of sexual abuse cases are being reported to the police. Authorities prosecuted approximately 38 percent of reported cases of domestic violence, and 70.8 percent of those were convicted and fined on average $4,282 (5,372 Swiss francs). Police made 496 arrests and fined 955 persons for domestic violence during the year. Data from Zurich canton indicated that reported instances of domestic violence increased from 858 in 2003 to 1,248 in 2004, of which 453 were committed by repeat offenders. Penalties varied with the gravity of crime.

Victims of domestic violence could obtain help, counseling, and legal assistance from specialized government and NGO agencies, or from nearly a dozen hot lines sponsored privately or by local, cantonal, and national authorities. There were 820 women and 838 children spending a total of 46,523 nights in 17 women's shelters across the country during 2004, but the shelter's operators estimated that nearly as many were denied access due to a lack of space and limited funding. There is a special unit dealing with domestic violence in the interior ministry's Federal Office for the Equality between Women and Men. The Crime Prevention Center, a planning unit of the umbrella organization of cantonal police forces, has established a checklist for police interventions and most cantonal police forces had specially trained domestic violence units. A majority of cantons also had special administrative units coordinating between law enforcement, prosecutorial, and victim assistance bodies.

Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted those accused of such crimes. In 2003 there were 547 recorded instances of rape, 405 prosecutions, and 77 convictions. Prosecuting spousal abuse is a cantonal responsibility, and statistical evidence was inconsistent.

Although female genital mutilation (FGM) is illegal, there were reports that the practice occurred. According to the UN Children's Fund (UNICEF) and the Bern University, there were approximately six thousand women and young girls believed to be at risk from FGM.

The Lausanne-based NGO Terre des Hommes estimated that about 50 percent of Muslim women in the country did not freely choose their husband. This trend was particularly evident among immigrants.

Prostitution is legal; however, street prostitution is illegal, except in certain areas in every major city specifically designated by local authorities. Police figures indicated that approximately 14 thousand prostitutes worked in the country.

Trafficking in women was a problem (see section 5, Trafficking).

Sexual harassment is illegal. The law includes provisions aimed at eliminating sexual harassment and facilitating access to legal remedies for those who claim discrimination or harassment in the workplace. Sexual harassment in the workplace occurred infrequently. Sexual harassers face a fine or a prison sentence up to 10 years. Employers failing to implement the law face a maximum fine of $32 thousand

(40 thousand Swiss francs) or a 6-month prison sentence. Sexual harassment victims are protected against retaliatory dismissals.

Under the law women generally enjoy the same rights as men; however, some laws continued to discriminate against women. The Federal Tribunal ruled that the primary wage earner in a divorce must be left with sufficient income to remain above the poverty level. Since the man generally was the primary wage earner in most marriages and the income was too low to support both parties, usually the wife (and children) was forced to survive on public assistance.

In December 2004 the FOM at first rejected an appeal from a Brazilian women and her son who faced deportation by Geneva authorities. Their annual residency permits could not be renewed because the Swiss husband had died of a stroke in 2003, four years after their marriage. The FOM ultimately reversed its decision following intense lobbying from the woman's employer.

Women frequently did not occupy jobs with significant responsibilities, and women's professional stature overall was lower than men's. Women also were promoted less frequently than men, and employers were less likely to pay women for training. According to a 2004 government study, women's gross salaries were on average 21 percent lower than men's.

According to a study published during the year, women held only 15 percent of management positions in 2000. Women were more likely to be unemployed than men, especially working mothers with children under the age of 15. The unemployment rate for mothers with children under the age of 6 is approximately 9 percent—four times higher than the rate for men.

The Federal Office for Equality between Women and Men (EBG) and the Federal Commission on Women worked to eliminate all forms of direct and indirect gender discrimination. Many cantons and some large cities have equality services mandated to handle gender issues. More than half of the cantons have an office in charge of promoting equality.

Children.—The government has no special programs for children, and there is no special governmental office for children's matters; however, the government was strongly committed to children's rights and welfare. It amply funded a system of public education and need-based subsidies of health insurance.

Education was free and compulsory for 9 years, from age 6 or 7 through age 16 or 17, depending on the canton. Some cantons offered a 10th school year. Almost all children attended school. Almost 60 percent completed professional vocational or technical training with another 30 percent continuing to earn higher-level specialized or university degrees.

The government provided need-based subsidies for mandatory but private health insurance.

Child abuse was common. A study published in January by the Fribourg University estimated 13 thousand children under the age of 30 months had been slapped by their parents, 18 thousand had their hair pulled by their parents, and about 17,000 had been struck with objects by their parents. According to a study by UNICEF, one-fifth of girls and one-tenth of boys in the country were subjected to sexual abuse.

On February 10, police announced they were investigating 109 citizens as part of a worldwide operation targeting Internet child pornography. Nineteen cantons, as well as the cities of Bern and Zurich, took part in the operation. Under the law the production, possession, distribution, or downloading from the Internet of hardcore pornography involving children carries heavy fines or a maximum sentence of a year in prison.

FGM was performed in some cases on girls (see section 5, Women).

Trafficking in Persons.—The law prohibits sexual exploitation and trafficking in persons; however, some women were trafficked into the country and forced into prostitution or domestic servitude.

Trafficking in persons can carry a prison sentence of up to 20 years and coercing a person into prostitution is punishable with up to 10 years in prison. In 2003 authorities convicted 12 persons for human trafficking and forced prostitution. The Coordination Unit against Trafficking in Persons and Smuggling of Migrants, which is tied to the Federal Office of Police, coordinates and monitors all antitrafficking efforts, including a federal interagency task force. Authorities were active in international law enforcement activities and took the lead in coordinating several international trafficking investigations.

Switzerland is primarily a country of destination, and secondarily transit, for women trafficked for the purposes of sexual exploitation and domestic servitude. Federal police estimated that between 1,500 and 3 thousand victims of human trafficking were in the country. According to authorities, most persons trafficked come

from Central Europe (Hungary, Slovakia, and Romania), the former Soviet Union (Ukraine and Moldova), Lithuania, Latin America (Brazil and the Dominican Republic), Southeast Asia (Thailand and Cambodia), and, to a lesser extent, Africa.

Trafficking into the country is primarily performed by individuals and small groups related through ethnic, clan, or family ties, as well as, occasionally, organized criminals. Traffickers often forced victims into prostitution and in many cases subjected them to physical and sexual violence, threatened them or their families, encouraged drug addiction, withheld their documents, and incarcerated them. Many victims were forced to work in salons or clubs to pay for travel expenses and forged documents and found themselves dependent on the traffickers. Generally the victims were unable to read, write, or speak the country's languages and were afraid to seek help from the authorities.

Under federal guidelines cantonal authorities must grant trafficking victims a 30-day minimum stay of deportation. They may provide victims willing to cooperate with judicial authorities stays of deportation up to three months, or short-term residency permits. The law entitles trafficking victims to secure shelter as well as medical, psychological, social, and legal assistance, regardless of their residency status. During 2003 64 trafficking victims received assistance from publicly funded victim assistance centers. The government continued to partially fund Zurich's leading antitrafficking NGO. Zurich formalized its victim referral mechanism in a letter of intent between the NGO and local law enforcement officials.

The government funded several antitrafficking information and education campaigns around the world. The Ministry of Foreign Affairs provided specialized training to its consular staff and distributed trafficking awareness information to visa applicants in local languages.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and it was generally enforced. The law mandates access to public buildings and government services for persons with disabilities, and the government generally enforced these provisions in practice. According to the NGO Equality Handicap, most complaints of discrimination concerned labor issues, education, and access to public buildings.

National/Racial/Ethnic Minorities.—According to the federal police, the number of public incidents involving right-wing skinheads, such as arson attacks, assaults, and hate concerts, varied from 117 incidents in 2002, 101 in 2003, and 111 in 2004. Police noted that acts of violence were mostly committed by youths and were more frequently directed against persons rather than property. Police estimated that after a significant increase at the end of the 1990s, the number of right-wing extremists leveled off at approximately 1,000.

There were a few reported cases during the year of violent confrontations between skinheads and young foreigners. According to statistics gathered by the Foundation against Racism and Anti-Semitism, there were 89 reported incidents directed against ethnic minorities during the year. These figures included verbal and written attacks, which were much more common than physical assaults. Investigations of such attacks generally were conducted effectively and led, in most cases, to the arrest of those responsible.

In mid-July four leading members, including the president of the extreme right-wing Party of Nationally Orientated Swiss (PNOS), were found guilty of racial discrimination by a district court in canton Aarau and had to pay fines between $240 and $400 (300 to 500 Swiss francs). The court found that the defendants had publicly disseminated an ideology aimed at belittling or slandering people of certain races, religions, or ethnic origins. PNOS had earlier been the subject of public controversy after two of its members were elected to serve in county-level political office in Bern and Solothurn canton respectively.

The Department of the Interior's Federal Service for the Combating of Racism (FSCR) sponsored a variety of educational and awareness-building projects to combat racism, xenophobia, and anti-Semitism. In addition FSCR has helped finance the establishment of new local consultation centers to assist victims of racial or religious discrimination; approximately 130 such consultation centers or contact points existed in the country.

In June the government brought up for public consultation a draft report on the situation of traveling Jenish in the country. The government rejected ratification of the International Labor Organization's (ILO) Convention 169 on Indigenous and Tribal Peoples but acknowledged that the number of permanent and transit stopping places for travelers was insufficient. The final report on the situation of traveling Jenish was expected in 2006.

Section 6. Worker Rights

a. The Right of Association.—The law allows all workers, including foreigners, to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Approximately 25 percent of the work force was unionized.

In 2003 the Swiss Trade Union Council (STUC) filed a complaint with the ILO arguing that legal provisions for abusive dismissals did not sufficiently protect activists from antiunion discrimination and were thus not in keeping with the relevant ILO convention that the country ratified. The law provides for a maximum compensation of six months' worth of wages but not for reinstatement. In March 2004 the government asked the ILO to dismiss the STUC complaint since its legislation was fully compliant. However, in November 2004 the ILO concluded that the government did not clearly reject the STUC allegation and called on the government, together with the employers' and workers' organizations, to examine the present situation in law and in practice regarding protection against antiunion dismissals.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the freedom to bargain collectively, and workers exercised this right freely. Approximately 50 percent of the work force was covered by such agreements. The law provides for the right to strike, and workers exercised this right by conducting legal strikes. The government is allowed to curtail the right to strike of federal public servants only for reasons of national security or safeguarding foreign policy interests, but public servants were denied the right to strike in some cantons and many communes. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively enforced laws and policies to protect children from exploitation in the workplace.

The minimum age for the full-time employment is 15 years. Children over 13 years of age may be employed in light duties for not more than 9 hours per week during the school year and 15 hours otherwise. The employment of youths between the ages of 15 and 20 was regulated strictly; they were not allowed to work at night, on Sundays, or in hazardous or dangerous conditions.

The economic ministry (SECO) monitors the implementation of child labor laws and policies but actual enforcement is the responsibility of the cantonal labor inspectorates; government officials inspected companies that violated the law.

e. Acceptable Conditions of Work.—There was no national minimum wage, which resulted in low wage structures for unskilled and service industry workers; however, a majority of the voluntary collective labor agreements contained clauses on minimum compensation, which provided a decent standard of living for a worker and family.

The law sets a maximum 45-hour workweek for blue- and white-collar workers in industry, services, and retail trades, and a 50-hour workweek for all other workers. The law prescribes a rest period of 35 consecutive hours plus an additional half-day per week. Pay for overtime was required to be at least 25 percent higher and overtime generally was restricted to 2 hours per day. Annual overtime is limited by law to 170 hours for those working 45 hours per week and to 140 hours for those working 50 hours per week. The government effectively enforced these regulations.

The law contains extensive regulations to protect worker health and safety. SECO and cantonal labor inspectorates effectively enforced the law. Workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, and the authorities effectively enforced this right.

TAJIKISTAN

Tajikistan is an authoritarian state; political life is dominated by President Emomali Rahmonov and an inner circle of loyal supporters. The country's population is approximately 7.1 million. The country has a constitution and a functioning multiparty political system, but in practice democratic progress was slow. The February parliamentary elections did not meet international standards; however, they were a step forward, and some opposition candidates won seats. After several years

of improvement since the end of the 1992–97 civil war, stability throughout the country was consolidated.

The government's human rights record remained poor and corruption continued to hamper democratic and social reform. The following human rights problems were reported:

- restricted right of citizens to change their government
- torture and abuse of detainees and other persons by security forces
- threats, extortion, and abuse of civilians by security forces
- impunity of security forces
- lengthy pretrial detention
- lack of access to prisoners by family members and lawyers
- confessions obtained by torture accepted as evidence in trials
- harsh and life-threatening prison conditions
- restricted international monitor access to prisons
- extralegal extradition of prisoners from third countries with apparent Tajik complicity
- restricted freedom of speech and the press
- restrictions on freedom of religion, primarily for women
- registration denial of opposition political parties
- imprisonment of political opposition, including journalists
- harassment of international nongovernmental organizations (NGOs); difficulties with registration and visas
- violence and discrimination against women
- trafficking in persons
- child labor and forced labor

The government made significant efforts in combating trafficking in persons. During the year the government engaged in international cooperation to repatriate a large number of victims back to the country, and it reported a dramatic increase in the number of trafficking convictions.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

Land mine deaths occurred on the border with Uzbekistan; there were a reported 80 deaths including both civilians and border guards. The government continued to work with international organizations during the year to remove land mines along the border with Uzbekistan and with Afghanistan to prevent deaths and casualties.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, government security officials reportedly employed them.

Torture occurred during the year. Security officials, particularly from the Ministry of Interior (MOI), continued to use systematic beatings, sexual abuse, and electric shock to extort confessions during interrogations. During the year several alleged members of Hizb Ut-Tahrir (HT), an extremist Islamist political organization, and members of their families claimed they were tortured and beaten while in police custody (see sections 1.d. and 2.b.).

Beatings and mistreatment were also common in pretrial detention facilities, and the government took minimal action against those responsible for the abuses (see Section 1.d.). Yoribek Ibrohimov "Shaykh" and Muhammadruzi Iskandarov both stated police beat them and subjected them to electric shocks while they were in custody. The International Committee of the Red Cross (ICRC) monitors were unable to investigate claims of torture against them and their associates and the government did not launch an official investigation.

Citizens in the southern regions of the country made numerous complaints of harassment and abuse committed by border guards involved in drug trafficking.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. Prisons were generally overcrowded and unsanitary. Disease, particularly the spread of tuberculosis, and hunger were serious problems. There were reports that up to 160 prisoners died of hunger.

A separate prison held only former members of so-called "power ministries," such as the police, intelligence and secret officers, and the military. Conditions in such prisons were better than in normal prisons.

In August prisoners of the Qurghon-Teppa prison staged a protest—and some prisoners attempted suicide—in reaction to the appointment of Izzatullo Sharipov as deputy minister of justice in charge of the penitentiary system. Sharipov reportedly was close to the president and ruthless in his relations with others.

The government denied the ICRC free and unhindered access to prisons controlled by the Ministry of Justice (MOJ), including pretrial detention centers. At year's end the ICRC continued to negotiate with the MOJ to regain free and unhindered access to all prisons. The MOJ granted foreign diplomatic missions limited access to prisons and detention facilities. A select group of local NGOs were also granted limited access to facilities in order to implement their assistance programs.

d. Arbitrary Arrest or Detention.—Arbitrary arrest and detention remained serious problems. The law allows for lengthy pretrial detention, and there were few checks on the power of prosecutors and police to make arrests.

Role of the Police and Security Apparatus.—The Ministries of Interior, Security, and Defense shared responsibility for internal security. The MOI is primarily responsible for public order and controls the police force, the Ministry of Security (MOS) has responsibility for intelligence, and the Ministry of Defense (MOD) is responsible for military security. Officially the MOD is responsible for external security; however, it can be employed in serious domestic conflicts.

Impunity remained a serious problem, and officers who committed abuses were rarely prosecuted. The government acknowledged that police, army, and security forces were corrupt and that most abused citizens remained silent rather than risk retaliation by authorities. However, some abuses were brought to light and prosecuted. For example on June 19, military troops from the MOD in the Sughd Region were sentenced for abuse of authority and nine additional violations of the criminal code. Victims of police abuse may submit a formal complaint in writing to the officer's superior. Victims who bring their case to the media have greater success of seeking justice than those who do not.

Officers often bribe their commanders for promotion. Traffic police stop cars and unofficially fine them for traffic violations and then pocket the fines themselves.

Arrest and Detention.—Police may detain persons without a warrant for up to 72 hours. Prosecutors are empowered to detain persons for 10 days, after which charges must be filed. This was generally followed in practice. Detainees are given access to an attorney; however, government-appointed attorneys generally serve the interests of the government. If a detained person does not demand access to an attorney, government officials often overlook this right. There is no requirement for judicial approval or a preliminary judicial hearing on the charge or detention. There is no bail system, although criminal case detainees may be conditionally released and restricted to their place of residence pending trial; those on conditional release sign a "promise letter" that they will not leave an area around their residence. According to the law family members are allowed access to prisoners only after indictment. Officials occasionally denied attorneys and family member's access to detainees. Many detainees were held incommunicado for long periods of time and remained in police custody without being formally charged.

In some cases security officers, principally from the MOI and the MOS, did not obtain arrest warrants and did not bring charges within the time specified by the law. Persons released from detention often claimed they were mistreated, beaten, and tortured (see section 1.c.).

The government always provided a reason for arresting people, although in some cases authorities falsified reasons for arrest or inflated minor problems to make politically motivated arrests. Police authorities have arrested innocent people, accused them of committing crimes the police were attempting to solve, and subsequently framed them in order to solve the case.

During the year authorities made politically motivated arrests, although there was no reliable estimate of the number of political detainees.

Muhammadruzi Iskandarov, head of the Democratic Party of Tajikistan and former chairman of Tajikgaz, was returned to the country in April after his December 2004 detention in Moscow, under circumstances that appeared to be an extrajudicial rendition; Iskandarov was charged with violating eight articles of the criminal code including: banditry, terrorism, illegal possession of weapons, having an unauthorized bodyguard, and embezzlement. At the request of the Tajikistan General Prosecutor's Office, Russian authorities had taken Iskandarov into custody on an international arrest warrant, but found insufficient evidence to extradite him. On April 3, the Russian general prosecutor turned down an extradition request and

released Iskandarov. He was subsequently kidnapped by unknown forces and on April 26, the Tajik prosecutor general announced Iskandarov was in pretrial detention in Dushanbe. Iskandarov was denied immediate access to his family and an attorney (see section 1.e.). Iskandarov reported that he was tortured, injected with drugs, and electrocuted while in detention. He was sentenced to 23 years in prison. He is appealing to the Supreme Court. No date was set for the appeal trial by year's end.

There were reports that the government illegally detained other members of rival political factions.

According to media reports, approximately 99 members of HT were arrested. An unknown number were sentenced in connection with crimes related to their membership in the banned extremist political organization (see sections 1.c. and 2.b.).

Authorities arrested two Islamic Revival Party (IRPT) members after the parliamentary elections, alleging they were "rough" towards an election official. One IRPT member was released and the other, Saifiddin Fayzov, was charged with hooliganism, libel, incitement of ethnic and racial enmity, and premeditatedly causing damage to others, and was sentenced to four years in jail in November. Fayzov denied the charges and claimed they were politically motivated. The IRPT filed an appeal, but no progress was made by year's end.

Following indictment, the law allows for pretrial detention of up to 15 months. The first three months of detention are at the discretion of a local prosecutor; the next three months must be approved at the regional level. The prosecutor general must approve longer periods of detention, and the government generally followed this in practice. However, the government did not always follow pretrial procedures in practice if detainees were unaware of their rights.

Former drug control agency chairman, General Ghaffur Mirzoyev, was held in pretrial detention since August 2004 on charges including murder, illegal use of bodyguards, possession of arms, and privatization of government property and other illegal economic activities; observers believed the charges to have a political element, but most recognized Mirzoyev as a corrupt official with alleged narcotics connections.

International and local sources estimated that approximately three hundred former opposition fighters of the United Tajik Opposition remained in prison after the civil war despite two general amnesties in 1998; the government claimed these remaining fighters committed grave crimes during the war and considered them criminals. Cases of opposition fighters remaining in detention or prisons were reviewed in November 2004; controversy over which crimes the amnesties covered had delayed case resolution. Most fighters were determined to be appropriately jailed for grave crimes, while others were released.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, in practice the executive branch and criminal networks exerted pressure on courts and judges, and corruption and inefficiency were problems.

The president is empowered to appoint and dismiss judges and prosecutors with the consent of parliament. Judges at the local, regional, and national level were generally poorly trained and had extremely poor access to legal reference materials and other resources. Low wages for judges and prosecutors left them vulnerable to bribery, which remained a common practice.

The UN special rapporteur noted an imbalance between the power of prosecutors vis-à-vis lawyers and judges in the system. He found the prosecutors' ability to initiate investigations and prevent implementation of court decisions hampered objectivity and fairness of the process.

The judicial system is composed of city, district, regional, and national courts, and there are parallel economic and military court systems. Higher courts serve as appellate courts for lower ones. There also is a constitutional court that reviews citizens' claims of constitutional violations.

During the year the government took steps to improve the overall situation and address problems of judicial integrity by holding judges accountable and arresting some of the most corrupt judges and prosecutors. During the year three judges were convicted but not a single prosecutor.

Trial Procedures.—Trials are public and juries are used, except in cases involving national security or the protection of minors. While the law stipulates that a case must be brought before a judge within 28 days after it is entered for trial, most cases were delayed for months at a time (see section 1.d.). Under the law courts appoint attorneys at public expense; however, in practice arrested persons often were denied timely access to an attorney, and some were not allowed access to any legal counsel.

Prosecutors are responsible for conducting all investigations of alleged criminal conduct. According to the law both defendant and attorney have the right to review all government evidence, to confront witnesses, and to present evidence and testimony. No groups are barred from testifying, and, in principle, all testimony is given equal consideration.

MOJ officials maintained that defendants benefit from the presumption of innocence, despite an unmodified Soviet-era statute that presumes guilt rather than innocence. In practice an indictment implied that the government was convinced of a suspect's guilt, and government officials routinely made public pretrial statements proclaiming a suspect's guilt. The law provides for the right to appeal; however, there were few successful appeals. Media reports stated that over half of cases were appealed, but only 10–15 percent were successful.

"Supervisor powers" provided for by law allow authorities to reopen and re-examine court cases, indefinitely in criminal cases, after the appeal period has expired; re-examinations are conducted by the court presidium. The general prosecutor and deputies are included among those who can protest a court decision under supervisory powers, thereby annulling the effect of the decision and forcing it to be re-examined by the presidium or at a higher court level.

The General Prosecutor's Office used such powers in an attempt to annul the supreme court's release of Jum'aboy Tolibov (see section 2.a.). After another hearing the court still ordered his release against the protest of the General Prosecutor's Office, and on December 16 authorities released Tolibov.

Prosecutors are legally allowed to intervene as a party in cases between private parties that do not involve the government, and the Office of the General Prosecutor has an entire department which supervises the court system to ensure that cases are "correctly decided." In practice however, there were no reported incidents of prosecutors exercising this right to intervene in purely private cases.

Courts routinely used confessions obtained through torture and beatings (see section 1.c.).

In rare instances military courts try civilians, who have the same rights as defendants in civilian courts, but there were no reports of such cases during the year. A military judge and two officers drawn from the service ranks hear such cases.

Political Prisoners.—There was little official information about the number of political prisoners.

On April 26, following a five-month closed trial, the supreme court announced former interior minister Yakub Salimov was sentenced to 15 years in prison for crimes against the state and high treason.

Rustam Fayziev, deputy chairman of the unregistered Party of Progress was sentenced June 28 to five years in jail for insulting and defaming President Rahmonov in a letter. Mukhtor Boqizoda, editor-in-chief of the independent newspaper Nerui Sukhan, was sentenced August 25 to two years of correctional labor. Nizomiddin Begmatov, Chairman of the SDPT in Rasulov District and Nasim Shukurov, member of the presidium of the SDPT in the same district, were sentenced in June to imprisonment for one and a half years respectively.

On October 6, the supreme court sentenced Iskandarov to 23 years in prison and as well as other penalties, including restitution of $470 thousand (1.5 million somonis) allegedly embezzled from Tojikgaz, the country's state-run gas monopoly, during his time as head. While most observers believed allegations of corruption and embezzlement were well-founded, local observers, human rights activists, and the political opposition charged that Iskandarov's arrest, trial, and verdict were politically motivated to intimidate future political challengers.

In September Yoribek Ibrohimov "Shaykh" was sentenced to 24 years imprisonment for attacking a government office; authorities stated Iskandarov ordered the attack. Ibrohimov maintained his innocence and alleged that authorities tortured and beat him, resulting in a broken his leg (see section 1.c.).

IRPT officials Shamsiddin Shamsiddinov and Qosim Rakhimov, both sentenced in 2004 remained in prison. The IRPT alleged that their convictions were politically motivated to discredit the party and not an abuse of religious freedom. However, local and international observers said the two cases exemplified how the authorities can subject both members of Islamic groups and the political opposition to pressure.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions and while police forces committed some violations in practice, authorities generally respected the prohibitions.

Under the law police cannot enter and search a private home without the approval of a prosecutor, except in special circumstances in which a delay would impair national security. If police search a home without prior approval they must inform a prosecutor within 24 hours. In practice police frequently ignored these laws

and infringed on citizens' right to privacy. There is no independent judicial review of police searches conducted without permission.

The law prohibits the government from monitoring private communications; however, it is believed that they do in certain cases.

Family members of alleged HT members, an extremist Islamist political group, claimed that they were mistreated and beaten while in police custody (see sections 1.c., 1.d. and 2.b.).

Police and interior ministry officials often harassed the families of suspects in pretrial detention or threatened to do so to elicit confessions (see section 1.c.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however in practice, the government restricted these rights.

On occasion individuals who disagreed with government policies were subjected to intimidation and discouraged from speaking freely or critically. Government interference was particularly acute surrounding the February parliamentary elections. The government threatened to revoke licenses of businessmen who were critical of the government. Prior to the elections the government denied opposition parties television airtime and closed several newspapers perceived as opposition.

Of the 99 HT members detained during the year, the majority faced charges of publicly calling for the overthrow of the Tajik constitution and the dissemination of subversive literature.

The independent media were active but subjected to different means of government control and intimidation. During the year the government strengthened control over the media. According to international observers and media monitoring groups, the reversal was part of the government's effort to consolidate power and influence in advance of the scheduled 2006 presidential elections. The government has not issued new media licenses to independent organizations.

There were numerous print media outlets, private television stations, and radio stations in the country. There were also six government television stations. Of the 18 private television stations, only a handful were genuinely independent and not all of them operated uninterruptedly. During the year the MOJ registered only one new newspaper publishing political material, *Millat* (*Nation*), as well as the state newsletter *Nabzikhobar* (*Pulse of the East*). In total eight new publications were registered, but the others focused on entertainment or other nonpolitical topics. All other applications to register newspapers were rejected, including the national newspaper *Imruz* (*Today*). All major opposition newspapers had ceased to operate due to government pressure. The MOJ registered two new radio stations. In September a second national governmental TV station, Safina, began broadcasting. International media were allowed to operate freely, including rebroadcasts of Russian television and radio programs.

During the year international NGO Internews experienced registration problems which threatened the launching of five new community radio stations under its auspices (see section 4).

The government subsidized a large majority of publications and broadcast productions. Some of the independent stations had their own studio facilities and broadcast equipment, but most depended on government-owned transmission equipment to broadcast their programs; the government did not interfere with their broadcasts.

Independent radio and television stations continued to experience administrative harassment and bureaucratic delays. Individual journalists were also subjected to harassment and intimidation on occasion, sometimes perpetrated by government authorities. There were instances of violence against journalists by unidentified persons.

On July 28, Jum'aboy Tolibov, a member of Union of Journalists and a government official from the Ayni District of the Sughd Region, was sentenced for reporting shortages in his home district and criticizing local authorities, including the district prosecutor. The official charges against Tolibov were hooliganism, illegally entering a residence, and abusing his office as an administrator, although an expert group of the National Association of Independent Mass Media of Tajikistan (NAMSIT) concluded his detention to be directly related to his journalism. In 2004 he published commentaries criticizing local authorities. On October 11, the supreme court partially overturned Tolibov's conviction and ordered him released from prison, but the Dushanbe Prosecutor General's Office blocked his immediate release. The office may legally suspend implementation of a supreme court decision by filing a letter of appeal; an appeal was filed and the supreme court upheld the decision to release him. On December 16, prison authorities finally released Tolibov.

Mukhtor Boqizoda, editor in chief of independent newspaper *Nerui Sukhan* was sentenced to two years' labor for the illegal use of electricity (for use for his founda-

tion's printing house); such offenses ordinarily receive an administrative fine. Boqizoda's newspaper was known for criticizing government policy and the president. There was no progress in the case of Rajabi Mirzo, the editor-in-chief of *Ruzi Nav* who was beaten by unknown assailants near his home in July 2004 in Dushanbe.

Other types of harassment reported included trials to intimidate other journalists, "warnings" made by telephone and in person at a prosecutor's office or during visits to editorial offices, selective tax inspections, and close scrutiny of relatively independent publications and television and radio stations, such as by counting the number of copies compared to the declared circulation to make sure publications do not exceed the permitted number. Although this practice was mainly a tax issue, it was also used for political harassment.

The government controlled most printing presses, the supply of newsprint, and broadcasting transmission facilities; the MOJ received instructions not to register NGOs which have publishing activities in their charters. In January the government closed the private printing house Kayhon, which was publishing the independent newspaper *Nerui Sukhan*. *Nerui Sukhan* was among four popular independent newspapers (also *Adolat*, *Ruzi Nav* and *Odamu Olam*) that remained unpublished because state and private printing houses refused to print them. Both *Odamu Olam* and *Nerui Sukhan* printed their papers only once during the year. Other independent newspapers faced similar difficulties.

The government also restricted broadcast licenses. To obtain a broadcast license, individuals must apply to the Ministry of Communications and the State Television and Radio Committee. The government was rewriting broadcast licensing regulations with public debate and input by journalists, but the process was lengthy and licensing of new broadcast outlets generally remained suspended.

On the eve of the parliamentary elections the nongovernmental TV station Somoniyon in Dushanbe and Guli Bodom in Konibodom were closed. Guli Bodom resumed broadcasting after the elections but Somoniyon remained closed (the official explanation was unpaid debts).

Journalists reported that government officials limited their access to information or provided "advice" on what news should not be covered. Editors and reporters frequently exercised self-censorship to avoid problems with the authorities, and fearing reprisals and the kind of violence committed against journalists during the civil war. The NAMSIT annual reports articulated the primary problem facing media to be correspondents' limited access to information. In response the government mandated regular press conferences by ministries in which generally laudatory reports were presented and hard questions ignored.

Under the law a person can be imprisoned for up to five years for insulting the president. Rustam Fayziev, deputy chairman of the unregistered Party of Progress received this sentence for insulting the president (see section 1.e.).

Latif Vakhob, deputy director of *Nerui Sukhan*, was sentenced to one year forced labor and a fine for a 2004 article accusing a professor of bribery; this was a comparatively excessive penalty for libel.

Opposition politicians had very limited access to state-run television. The government allowed the opposition leaders limited airtime during the parliamentary election campaign in January and February, but after that, opposition politicians had no access to state TV and radio. The government blocked access to several Internet sites, including *TajikistanTimes.ru* which belongs to Dodojon Atoulloev, an opposition journalist based in Moscow.

The government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government at times restricted this right in practice.

A permit from a local executive committee is required to organize any public assembly or demonstration; only registered organizations may apply for permits. Fear of reprisal was so widespread that unapproved public protests or political demonstrations were rare; the public was also wary of any action that could precipitate a return to the civil war violence.

Freedom of Association.—The law provides for freedom of association; however, the government sometimes restricted this right in practice. All NGOs must register with the MOJ. International NGOs, particularly ones supported by Western donors and involved in democracy-building activities face registration problems from the government. Officials cite technical application and legal problems and delay the process.

During the year, the government increased monitoring of the activities of religious institutions, as well as groups, to prevent them from becoming overtly political.

Some individuals, such as members of the banned extremist HT organization, were arrested and sentenced to long prison terms for subversion and other crimes. Others remained in detention awaiting trial or sentencing (see sections 1.c. and 1.d.).

The government's concern about Islamic fundamentalism among the country's Muslim population prompted it to ban HT in April 2004 for alleged links with terrorist organizations. The group had a following among the ethnic Uzbek population in the north and is growing in the south. The group promoted hate and praised acts of terrorism, although it maintained it is committed to nonviolence. HT's anti-Semitic and anti-Western literature called for the overthrow of secular governments, including those in Central Asia, to be replaced with a worldwide Islamic government called the caliphate.

According the Prosecutor General's Office, the government filed 74 criminal proceedings against 99 HT activists. Approximately 40 were convicted on charges of active membership in the organization, failure to report criminal activity, distribution of extremist literature, inciting religious hatred, and seeking to disrupt constitutional order, and were sentenced to up to 12 years in prison. The rest were awaiting trial at year's end (see section 1.d.).

During the year several international NGOs faced registration problems and increased scrutiny (see section 4).

During the year the government refused to register political parties and associations that were considered to be opposition groups.

c. Freedom of Religion.—The law provides for freedom of religion; however, the government imposed some restrictions.

The country is a secular state, and the government did not explicitly ban, prohibit, or discourage specific religions from practicing their beliefs. Islam is the majority religion and the government promoted respect for traditional Islam; however, it viewed extremist Islamist groups as a threat to national security (see section 2.b.). The law requires all religious communities to be registered by the State Committee on Religious Affairs (CRA). The government maintained that registration helped to ensure that religious groups acted in accordance with the law; in practice, the provision was sometimes used to control political and religious activities.

In April the CRA banned activity of the sect Son Min in the Sughd Region for violations of their charter.

Six new central mosques were registered in six months. Mosques in Spitamen, Mastchoh, and Vahdat were closed because they failed to meet the law on religion and religious organizations.

In July CRA officials invited imams and other employees of mosques from all over the country to Dushanbe for "training." Local observers reported the government used the exercise as a means to improve the knowledge of the imams by teaching them the government's perceptions about various sects and new developments in Islam as well as the dangers of HT.

In contrast to previous years, there were no reports of arrests of high-profile Muslims.

A Korean Christian Church in Dushanbe experienced legal harassment from the Dushanbe Mayor's Office over a property dispute but was operating without complaint by year's end.

Missionaries of registered religious groups were not legally restricted and proselytized openly. The government's fear of Islamic extremism prompted it to restrict visas for Muslim missionaries. Local communities did not particularly welcome missionaries and harassed some religious groups in response to evangelical activities.

In February the courts sentenced a member of the radical Islamic group Bay'at to 24 years in prison for murdering a Christian missionary in 2004.

Some Mullahs spoke out against women attending mosques, despite support from some Islamic scholars and several mosques for them to attend. The government indicated that religious instruction should not take place at home, which could deprive many women of access to religious practice.

Some regional and local interior departments, mainly in the Sughd region, continued to refuse to issue internal identification documents to women who refused to be photographed without the *hijab* (headscarf). The SCRA intervened to allow those women to obtain documents when cases were brought to its attention. On October 19, the Ministry of Education banned *hijabs* in schools and institutions of higher education; officials cited the need to uphold secular education, although this provision is not the law. Many female students and teachers were expelled from schools for wearing *hijabs*.

Authorities at times restricted Muslim religious activities. For example, government printing houses are prohibited from publishing texts in Arabic and generally did not publish religious literature; however, they did so in special cases, including copies of the Koran in Arabic script. There were no restrictions on private Arabic

language schools, but restrictions on home-based Islamic instruction remained in place because of political concerns.

The CRA controlled and organized hajj participation by citizens. The CRA required hajj pilgrims to register with authorities and travel by air using the state-owned airline, citing hygiene and safety concerns regarding other means of travel. The CRA placed a quota of 3,500 Tajik hajjis.

Societal Abuses and Discrimination.—There were about 200 Jewish persons in the country. There were no reported anti-Semitic incidents.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, although the government imposed some restrictions.

During the year the government lifted restrictions on citizens traveling to the border districts. Foreigners are still prohibited from traveling within a 15-mile zone along the country's borders with China and Afghanistan without permission from the Ministry of Foreign Affairs. The restriction was not always enforced along the western part of the border with Afghanistan, although a special visa was required for travelers—including international workers and diplomats—to Gorno-Badakhshan. Diplomats and international aid workers could travel to the Afghanistan border region without prior authorization. Previously, the MOS had required 48-hour prior notice to travel to this area.

There are no laws that provide for exile and there were no reports of forced exile. Some government opponents remained in self-imposed exile in Russia.

Persons wishing to emigrate to countries of the former Soviet Union must notify the MOI prior to their departure. Persons who wish to emigrate to other countries must obtain an immigrant visa to receive a passport, and persons who settle abroad are required to inform the Tajikistan embassy or Tajikistan interest section of the nearest Russian embassy or consulate.

Most persons who left the country were permitted to return freely. A few people active with the Tajik opposition who left during the civil war experienced administrative difficulty in obtaining new documents that would permit them to return. Those who were pardoned are permitted to return; high-level military officials were not pardoned. The government provided protection and modest assistance to resettle any citizens who returned voluntarily and cooperated with international organizations that helped fund assistance and resettlement programs.

Protection of Refugees.—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. During the year however, the government's protection of refugees deteriorated in practice. The government no longer registered asylum seekers for national security concerns. During the year refusals to applicants for asylum or refugee status increased.

In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government also provided some temporary protection to individuals who may not qualify as refugees under the 1951 convention and 1967 protocol. The government did not fully cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. UNHCR has been denied its observer status in the Refugee Status Determination Commission in April.

The government deported 17 refugees to Afghanistan, prompting UNHCR protest. The refugees were not given access to lawyers or the opportunity to appeal the decision, as provided for by law.

A group of mostly Afghan refugees remained in the country with no clear future. They were not fully integrated into society and UNHCR had not completed its prescreening for asylum in third countries. Police officers continued to mistreat and harass the country's Afghan refugees, who resided mainly in the capital and in Khujand. Although their treatment improved in some areas, many Afghan refugees claimed they were frequently harassed and intimidated into paying illegal registration fees, bribes, and other fines to police who falsely accused them of being affiliated with the Taliban. Despite legislation allowing Afghan refugees to resettle in the country and to obtain citizenship, to date no Afghan refugee has been granted citizenship. During the year the government summarily deported several Afghan refugees, ignoring UNHCR's protest for due process.

Afghan refugees were summarily deported without consultation with UNHCR, families were broken up, and the government was not responsive to UNHCR's protests. Iranian refugees have also been harassed in Tajikistan by Iranian officials.

Refugees currently in detention were denied the right to speak to a lawyer and the right to appeal a deportation decision within one week, as provided for by law.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully; however, the government restricted this right in practice.

The country's political process made little progress in its transition from a Soviet-style system. The president, together with an inner circle of loyal supporters primarily from his home region of Kulob, continued to dominate the government and further consolidated his power. The president had broad authority to appoint and dismiss officials.

Elections and Political Participation.—The February parliamentary elections were an improvement but did not meet international standards and were not conducted fully in accordance with domestic law. Hundreds of violations were registered. Political parties, international organizations, foreign embassies, and NGOs complained of gross violations. International observer organizations criticized the elections, noting that election officials at the local level did a credible job, while district level officials manipulated results. The OSCE reported the government did not adequately implement improvements in the legislative and administrative framework, exercised excessive control during the campaign period, obstructed observers during the election, and that the actual voter turnout, while high, did not reach the 92 percent reported. Instances of individuals voting for family members, submitting multiple ballots, and voting without proper identification occurred. In some areas polling stations closed early. Government resources and media time were given to the ruling PDPT but to no other party. Courts of all levels ignored appeals brought against the electoral commissions and polling stations. However, Ayub Nematov, head of the Konibodom Chairman's Office was charged with interfering with the work of the electoral commission and forging voting documents.

The propresidential PDPT continued to control an overwhelming majority of seats in both houses of parliament (Majlisi Oli). The PDPT's majority status resulted in a legislative branch dominated by the executive branch.

Although six legally registered parties participated in February elections, four parties continued to be banned during the year: the Adolatkhoh Party, the Party of Popular Unity, the Party of Political and Economic Reforms, and the Agrarian Party. At year's end, the MOJ still refused to register The Unity Party and the Progress Party of Tajikistan, though neither was banned explicitly. Of three new parties seeking registration, only the Party the Economic Reform of Tajikistan and Agrarian Party of Tajikistan were successful. The Party of Vahdat (Unity) was not registered due to technical registration difficulties, but the party asserted the delay was politically motivated. The law prohibits political parties from receiving support from religious institutions, but religiously affiliated parties, such as the IRPT can be registered. Several new parties applied for registration.

Opposition political parties, including unregistered ones, remained small, had limited popular support, and were kept under close scrutiny by the government. While they were generally able to operate, they had difficulty obtaining access to state-run media (see section 2.a.). The chairman of the Social Democratic Party of Tajikistan alleged the government systematically harassed its supporters. The government sometimes sidelined political opponents and potential rivals by bringing criminal charges against them. Though some of the charges are likely true, the appearance was that the court cases were politically motivated (see section 1.e.).

According to June 2004 amendments to the parliamentary election code, candidates must pay a registration fee of approximately $500 (1,400 somoni), 200 times the minimum monthly wage, which could prevent opposition candidates from running in the election. The code also limited participation of civil society election observers.

There were 16 women (11 in the lower and 5 in the upper house) in the 96-seat parliament; 1 held a position as deputy chair and 2 were heads of committees in the lower house of parliament. Many women also served as deputy ministers in the government; one of the deputy prime ministers was a woman.

There were 3 members of minorities (2 Uzbeks and 1 Kyrgyz) in the 96-seat legislature. Ethnic Uzbeks were represented in the government, although not in direct policymaking roles.

Government Corruption and Transparency.—Corruption in the country was widespread and pervasive, particularly bribery and nepotism. The government acknowl-

edged the problem and took steps to combat corruption, including trying officials and judges for taking bribes.

Although the law requires government officials to provide information to journalists upon request, there was no legal provision for regular citizens' public access to government information. In practice the government did not permit free access to information and some officials disregarded the law concerning journalists, as there was no enforcement. In response to criticisms the government mandated regular press conferences by ministries in which generally laudatory reports were presented and hard questions ignored.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A growing number of domestic and international human rights groups faced government pressure and international NGOs engaged with democracy issues encountered registration problems. The government continued to request sensitive information from NGOs such as members' personal information, information about students affiliated with the organizations, activities, and financial status. The media increasingly slandered foreign NGOs in the press. Government officials were somewhat responsive to the views of human rights groups.

The government did not block the registration of local NGOs addressing human rights, and the number of domestic human rights organizations slightly increased during the year. According to the UNHCR there were over two thousand NGOs in the country focusing on a wide variety of issues, including child welfare, civil society, mass media, and health. At times authorities restricted freedom of assembly and association for organizations involved in political activities, and forming and registering an NGO with the MOJ remained cumbersome and bureaucratic. Otherwise local NGOs generally did not face systematic governmental harassment.

The government permitted some international NGOs to operate in the country. During the year the government denied the registration of several international NGOs working on democracy issues, including Freedom House, the National Democratic Institute, and Internews. NGOs were asked to reregister with the MOJ to implement a law passed three years ago; observers believed the provision was designed to restrict NGO activity.

The government's Office for Constitutional Guarantees of Citizens' Rights under the president continued its work of investigating and answering citizens' complaints. Staffing inadequacies and uneven cooperation from other government institutions hampered their effectiveness.

The parliament's committee on legislation and human rights also monitored human rights violations, but lacked full independence.

The government commission on fulfillment of international human rights is a centralized body that receives human rights complaints and coordinates a response. They delegate each complaint to local administration, and inform the General Prosecutor's Office, MOI and other relevant ministries. The body is operated at the deputy prime minister level and was somewhat effective.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for the rights and freedoms of every person regardless of race, gender, disability, language, or social status. In practice there was discrimination against women and trafficking in persons was a problem.

Women.—Violence against women, including spousal abuse, remained a widespread problem. Most cases of domestic abuse went unreported and reported cases were seldom investigated. Cases of domestic abuse may be prosecuted under other laws, such as "hooliganism," and accurate statistics on the number of domestic violence cases were difficult to estimate. There continued to be reports, particularly in rural areas, about abductions of young women who were then raped or forced to marry their abductors.

The law prohibits rape (although not specifically spousal rape), which is punishable by up to 20 years' imprisonment. As with abuse incidents in general, it was widely believed that most cases were unreported and that the problem was growing, particularly in urban areas. In addition family members and acquaintances often used threats of rape to intimidate women. There were no official statistics on the number of rapists charged, prosecuted, or convicted.

A handful of domestic and international NGOs supported women's resource centers to assist rape and spousal abuse victims. Government funding for such centers was extremely limited, although it had a specific committee for women's and family affairs within the office of the president. NGOs and some government structures discussed violence against women in the framework of the government's reporting obligations for UN conventions.

Prostitution is illegal, though in practice, apprehended prostitutes were assessed a nominal fine and released. Pimps and madams were prosecuted regularly. Prostitution was a growing problem in the country. There are no official figures

Trafficking of women for the purposes of sexual exploitation and forced labor was a serious problem (see section 5, Trafficking).

The law prohibits sexual harassment with penalties of up to two years. In practice however, women were often sexually harassed and had to perform sexual favors in order to get a job or maintain one.

Cases often went unreported because of the social stigma attached to victims. Due to traditional attitudes it was common for men to sexually harass and commit acts of violence against women. An Asian Development Bank study cited that 52 percent of women reported they have been sexually harassed.

While there was no formal discrimination against women, they faced traditional societal discrimination, diminishing educational opportunities, and increasing poverty. The law provides women with equal pay for equal work with men, but it was not always enforced in practice.

In August 2004 the country's highest Islamic body, the Chairmen of the Council of Islamic Scholars of Tajikistan, issued a *fatwa* that prohibited women from praying in mosques that do not have fully separate facilities for men and women. The government supported the *fatwa* but expressed concern over the separation of church and state. Local observers said the *fatwa* was discriminatory and a step backwards from gender equality.

The law protects women's rights in marriage and family matters; however, some minors were pressured to marry men against their will, and informal polygamy, although illegal, was reported. Inheritance laws do not discriminate against women although in practice some inheritances passed disproportionately to sons.

Children.—The government remained committed to children's rights and welfare, but it did not devote adequate financial resources to maintain the social security network for child welfare. Poverty and a lack of resources contributed to a deterioration of the public school system and the medical infrastructure available to children.

Education is compulsory until age 16 and public education was free and universal. The law was not enforced and, while most children were enrolled in school up to the mandatory secondary level, actual attendance was estimated to be lower because children supplemented family income by working in the home or in informal activities (sees section 6.d.). Girls became increasingly disadvantaged, especially in rural school systems, where families elected to keep them home to help take care of siblings or work in the fields. Government statistics reported over 90 percent of children attend school, although this number reflected children who are registered at school and the World Bank estimated actual attendance was more likely around 85 percent.

With the decline of the country's underfunded public schools, a small number of poor male students were recruited and sent to Egypt, Turkey, and Pakistan to receive a free Islamic education.

Medical care is equally available to both boys and girls. The government acknowledged that malnutrition was a severe problem and worked with international humanitarian organizations and foreign governments to support school feeding programs. Action Against Hunger, a European-based NGO, estimated 30 percent of children suffer from chronic malnutrition, 17 percent from acute malnutrition, and 4.2 percent from severe malnutrition.

There were a few reports of violence against children.

Underage marriage was widespread in rural areas, a practice influenced by the high level of poverty and unemployment which compelled many families to marry off their daughters as soon as possible.

Trafficking continued to be a problem (see section 5, Trafficking).

Child labor continued to be a problem (see section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking in persons from and through the country was a problem. There were reports that government officials facilitated trafficking.

The law criminalizes trafficking in persons with penalties of imprisonment from 5 to 15 years and confiscation of personal property. Traffickers may also be prosecuted under laws prohibiting exploitation of prostitution, rape, kidnapping, buying, and selling of minors, document fraud, and immigration violations. The penalties for these offenses range from fines to imprisonment from 5 to 20 years.

According to the International Organization for Migration (IOM), during the year 93 cases of trafficking in persons were reported compared to 41 cases in 2004, 3 cases were related to trafficking of minors and newborns. The rest were mostly related to trafficking of women abroad for sexual exploitation. According to the MOI,

23 criminal groups involved in trafficking of persons were exposed during the year; 13 of them were revealed as the result of international cooperation. Specialized antitrafficking law enforcement units continued to investigate reported trafficking cases, with 81 trafficking cases launched and 58 people convicted during the year, a dramatic increase from 29 convictions in the previous year.

The Trafficking in Persons Investigative Unit, composed of five female investigators within the MOI, was responsible for combating kidnapping, trafficking in persons, and racketeering; the five officers in this year-old division were assigned to investigate trafficking cases. The division reported that there were at least 12 criminal rings in the country involved in trafficking young girls to Gulf countries. A high-level interagency commission focused on coordinating antitrafficking efforts and drafted the National Government Action Plan on People Trafficking for 2006–2010. The government generally worked openly and cooperatively with the international community and the IOM to combat trafficking.

On March 4, regional MOI officers detained Shavkat Pochokalonov, Muborak Hojaeva, Valikhodja Hojaev, and Yusuf Hojaev, all members of a criminal group who in 2002, in cooperation with Salomat Pochokalonova and Gufrona Pochokalonova, trafficked D. Oblokulova to Dubai and exploited her as a prostitute until 2003. From August to December 2002, the same group trafficked S. Kurbanova to Dubai for forced prostitution. On March 8, Muborak Khodjaeva and Salomat Pochokalonova were convicted of trafficking D. Kenjaeva to Dubai and exploiting her as a prostitute.

Several cases of trafficking in children were convicted during the year. Dushanbe MOI officers detained Guljakhon Sharipova, who in conspiracy with the Ministry of Emergency Situations nurse Tatyana Isroilova, sold her newborn son to H. Gulmurodova for $40 (127 somonis). On March 4, Dushanbe MOI officers detained Saodat Murodova, an obstetrician at the Scientific Institute of Obstetrics, Gynecology, and Pediatrics, and Mainisso Narzulloeva, Director of the Diagnostic Polyclinic, for selling a baby girl, born at the maternity ward of Murodova's institute, to N. Nabieva for $300 (954 somonis).

The country was a source and a transit point for trafficked persons, primarily women and girls; trafficking within the country was also a problem. Men and boys were reportedly trafficked and used for labor. Media reports estimated that over one thousand persons were victims of trafficking during the year. According to the MOI and information gathered from antitrafficking hot lines, victims came primarily from Khujand or Dushanbe and most were trafficked to Russia, former Soviet countries, the Persian Gulf states (including the United Arab Emirates, Yemen, Iran, and Saudi Arabia), Turkey, Syria, and Pakistan.

The majority of trafficking victims were female, single, and aged 20 to 26. Many were new arrivals to Dushanbe or Khujand from rural areas with little formal education. Child trafficking victims usually were in the care of extended family. Ethnic minorities were overrepresented among victims, particularly those of Slavic origin. Rural, uneducated, and abjectly poor communities were also particularly vulnerable.

Women and girls were trafficked from the country primarily for cheap domestic labor or sex work. Male trafficking victims were primarily used for labor abroad in agriculture, factories, or construction; some were held as slaves without pay.

Traffickers included former field commanders—so-called warlords—who rose to positions of power and wealth during the country's civil war. Others, including women, were powerful local figures who used their wealth to cultivate patron-client relationships throughout their community to create a trafficking network. Recruiters were also often individuals familiar to victims, such as neighbors, acquaintances, or relatives.

Victims commonly were recruited through false promises of employment. Advertisement of such work was conducted through social contacts; traffickers used their local status and prestige to help recruit victims. There also were cases of false wedding proposals and, on occasion, kidnappings in rural areas. Traffickers generally transported victims by air to the Middle East and by train to Russia and other former Soviet Union countries. Traffickers tightly controlled arrangements for travel and lodging and employed contacts among tourism agencies. They sometimes used forged documents to evade entry restrictions in destination countries. Victims commonly were not separated from their travel documents until arrival in the destination country. Debt bondage was a common form of control. There were also reports of male and female medical professionals trafficked from the country to Yemen to work at medical clinics for substandard wages; traffickers reportedly seized their travel documents and forced female medical personnel into prostitution.

According to official MOI data, at least 420 women from the country are involved in commercial sex work in former Soviet Union and Middle East countries, including over 250 in the United Arab Emirates. During the year government and IOM rep-

resentatives traveled to Dubai to repatriate 49 women back to the country. Upon return they were provided with medical assistance, training, and other types of support.

Corruption was endemic in the country, and reports indicated that high- and low-level government authorities working in customs, border control, immigration, police, and tourism took bribes from traffickers. It was also believed that certain government figures acted as patrons or protectors of individuals who were directly involved in trafficking. There was no indication of widespread institutional involvement in trafficking by the government. During the year authorities prosecuted some low-level government officials.

Victims of prostitution and trafficking cannot be charged for crimes committed while they were victims.

Victims usually did not pursue legal action against traffickers due to the social stigma. According to an IOM survey, nearly half of trafficking victims who returned to the country were blackmailed by local officials (themselves extorted by traffickers) to change their story or face exposure as a victim.

There were few resources available to trafficking victims. The government officially provided security and assistance to trafficking victims and endorsed efforts by international and domestic NGOs to prevent trafficking and provide services to victims. The government also cooperated with IOM to establish two temporary shelters for repatriated trafficking victims and at year's end was in the process of setting up a shelter for permanent use. The MOI, in cooperation with IOM, began constructing a safe house for trafficking victims in Khujand.

There were approximately 20 NGOs involved in antitrafficking activities throughout the country. Several provided various services to trafficking victims and carried out a wide range of information programs in conjunction with local authorities throughout the country. NGOs matched victims with social services, operated crisis centers, and maintained a hot line for trafficking and domestic abuse victims.

Local NGO programs worked with support from international organizations to increase awareness of trafficking; NGOs worked with local officials to conduct training and awareness seminars for the general public. The government did not directly fund any antitrafficking public service announcements, but it did promote such announcements as well as informational materials produced and distributed by local and international organizations. The government also cooperated with international organizations on prevention programs by holding joint seminars, conferences, and distributing antitrafficking brochures.

Persons with Disabilities.—The law does prohibit discrimination in employment, education, access to healthcare, and provision of other state services, and discrimination was not a problem. There is no law mandating access to buildings for persons with disabilities, and the government did not require employers to provide such access.

Although there were group-living and medical facilities for persons with disabilities, funding was limited and facilities were in poor condition.

The Ministry of Labor and Social Welfare, the government commission on fulfillment of international human rights, the Prosecutor General's Office, the Society of Invalids, and appropriate local and regional governmental structures were all charged with protecting the rights of persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions and they did so in practice.

According to official figures approximately 90 percent of the labor force was unionized. Most unions were affiliated with the Federation of Trade Unions of Tajikistan, an independent umbrella organization that attempted to represent all trade unions in the country. However, it was largely seen as ineffective and as an organization that generally supported government policies.

The law does not specifically prohibit antiunion discrimination. There were no reported incidents of antiunion discrimination in practice.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, except "in cases specified by law," and the government protected this right in practice. The laws provide for the right to organize and bargain collectively, and workers exercised this right in practice. 90 percent of workers were under collective bargaining contracts (technically all workers belonging to unions were permitted to organize and bargain collectively). The law does not restrict the right to strike, but there were no strikes during the year. In practice people were reluctant to strike due to fears of government retaliation.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including of children, except in cases defined in the law; however, there were reports that such practices occurred (see sections 5 and 6.d.).

Owners of privatized farms regularly compelled former state or collective farm workers to pick cotton. The government requested collective farm workers to participate in this labor, and although there were no official consequences for refusal, workers feared they would be expelled from their collective farms or that the government would destroy their land if they did not oblige. Although all state farms were privatized, some farmers chose to work in collective groups for financial reasons. Workers usually were neither paid nor provided the services they were once given under the former collective system for this labor, such as health care and education.

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor remained a problem, and the government neither effectively enforced child labor laws nor strengthened existing regulations on acceptable working conditions for children.

The minimum age for children to work is 16, although children may work at age 15 with local trade union permission. By law children under the age of 18 may work no more than 6 hours a day and 36 hours per week. Children as young as seven may participate in household labor and agricultural work, which are separately classified as family assistance. Many children under 10 worked in bazaars or sold goods on the street.

Unions were responsible for reporting any violations in the employment of minors. Unresolved cases between unions and employers may be brought before the prosecutor general for investigation, who may charge the manager of the enterprise with violations of the law. Very few violations were reported as most children worked under the family assistance exception. Enforcement of child labor laws was the responsibility of the Prosecutor's Office, the MOJ, the Ministry of Social Welfare, the MOI, and appropriate local and regional governmental offices.

The illegal Soviet-era practice of closing secondary schools and universities at cotton harvest time and putting students to work continued. The IOM estimated that 40 percent of the country's cotton was picked by students, and according to World Bank statistics, as many as one in eight children worked full-time instead of attending school.

Trafficking of children occurred (see section 5).

The government does not have a comprehensive policy or national action plan to prevent or eliminate the worst forms of child labor.

e. Acceptable Conditions of Work.—The official national minimum monthly wage of $3.90 (12 somoni) did not provide a decent standard of living for a worker and family. The wage is established by the president with the advice of the Ministry of Labor and in consultation with unions. There was no official estimate of the poverty income level, though the World Bank indicated that 64 percent of the population lived below the poverty line which they designated at $1 per day (2.78 somoni). Some observers estimated that a minimum of $25 dollars per month (80 somoni) was required to avoid abject poverty in the capital.

The government acknowledged the problem of low wages and provided certain subsidies for workers and their families at the minimum wage. Some establishments, both governmental and private, compensated their employees in kind with food commodities or with enterprise-produced products, which employees either sold or bartered in local private markets.

The law provides for a standard workweek of 40 hours for adults over the age of 18. The law mandates overtime payment, with the first two hours paid at one and a half times the normal rate and the remainder at double the rate. Overtime payment was inconsistent in all sectors of the labor force. The Ministry of Finance enforces financial aspects of the labor law, and the Agency of the Financial Control of the presidential administration oversees other aspects of the law.

Government-established occupational health and safety standards fell far below accepted international norms, and the government did not enforce them in practice.

The State Technical Supervision Committee under the council of ministers was responsible for enforcing health and safety standards. The law permits workers to remove themselves from hazardous conditions without risking loss of employment. This law was not enforced effectively, and few workers did so in practice.

TURKEY

Turkey, with a population of approximately 69.6 million, is a constitutional republic with a multiparty parliamentary system and a president with limited powers

elected by the single-chamber parliament, the Turkish Grand National Assembly. In the 2002 parliamentary elections, considered generally free and fair, the Justice and Development Party (AKP) won the majority of seats and formed a one-party government. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; although there were improvements in a number of areas, serious problems remained. The following human rights problems were reported:

- some restrictions on political activity
- unlawful killings
- torture, beatings, and other abuses of persons by security forces
- poor prison conditions
- arbitrary detention
- impunity and corruption
- lengthy pretrial detention
- excessively long trials
- restrictions on freedoms of speech, press, assembly, and association
- restrictions on religious freedom
- violence and discrimination against women
- child abuse
- child marriage
- trafficking in persons
- restrictions on worker's rights
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces killed a number of persons, particularly in the southeast and east, for allegedly failing to obey stop warnings. The Human Rights Foundation (HRF) estimated that security forces killed 52 persons between January and November, including in shootings by village guards and border patrols. HRF estimated security forces killed 48 persons in 2004.

The courts investigated most alleged unlawful killings by security forces; however, the number of arrests and prosecutions in such cases remained low compared with the number of incidents, and convictions remained rare (see section 1.d.).

In February demonstrators in Mersin Province claimed police shot and killed Umit Gonultas during a protest in support of Abdullah Ocalan, imprisoned leader of the terrorist Kurdistan Workers Party (PKK). According to the Human Rights Association (HRA), there was no evidence that demonstrators used weapons during the altercation. Interior ministry inspectors determined that police did not shoot Gonultas. Prosecutors opened a case against nine members of the pro-Kurdish Democratic People's Party (DEHAP) for their role in a statement protesting the shooting. The DEHAP officials were charged with being members of an illegal organization; their trial was ongoing at year's end.

In June security forces allegedly killed Fahrettin Inan during a clash with mourners at a PKK funeral in Van Province. No one was charged by year's end.

In July army private Murat Polat died from wounds he suffered when he was allegedly beaten by fellow soldiers at Adana military prison. Polat was being detained for allegedly deserting his post and burglarizing a house. Prosecutors charged eight soldiers for their roles in Polat's death; the case continued at year's end.

In November, assailants threw a bomb into a store in Semdinli, Hakkari Province, killing Mehmet Zahir Korkmaz. Police arrested two Jandarma officials and a PKK informant following the incident. Police also arrested a third Jandarma official who fired on the crowd that gathered at the scene. Over the following days, demonstrators clashed with police in a number of violent protests against the alleged Jandarma role in the bombing; five protestors were killed and dozens injured in the disturbances. Authorities continued to investigate the bombing at year's end.

In July assailants killed Hikmet Fidan, a former DEHAP vice chairman, in Diyarbakir. Prosecutors investigating the murder maintained that PKK leaders ordered Fidan's murder because he had criticized the PKK. Trial proceedings against four suspects in the case continued at year's end.

Also in November, a Hakkari court acquitted 12 defendants, including former members of the security forces, who were charged with extrajudicial killings, bombings, extortion, and other crimes. The court convicted PKK informant Kahraman Bilgic and sentenced him to a prison term of eight years and four months in the case. The ruling was under appeal at year's end.

Police allegedly shot and killed a number of demonstrators (see section 2.b.).

At year's end there was no result in the DNA analysis of the remains of 11 persons discovered near the town of Kulp, Diyarbakir Province, in late 2004. Local residents said they believed the remains were those of 11 persons who disappeared after being detained by police in 1993.

The trial of four police officers charged with the November 2004 unlawful killing of Ahmet Kaymaz and his son Ugur was ongoing at year's end. The four defendants reportedly returned to duty and were assigned to different provinces.

Proceedings continued in the trial of three police officers charged in connection with the shooting of Siar Perincek in Adana in May 2004.

In October a Hakkari court convicted Jandarma official Murat Sener of using excessive force in the 2004 killing of Fevzi Can. The court sentenced Sener to a 16-month prison term but postponed the sentence. The ruling was under appeal at year's end.

According to the government, four persons died while in police custody through November: three deaths were recorded as suicides and one as a homicide. Authorities were investigating the deaths at year's end.

According to the HRF, landmines and unattended explosives killed 19 civilians and injured 49 during the year. Both security forces and the PKK used landmines.

According to the government, 34 civilians, 100 members of the security forces, and 160 terrorists were killed in armed clashes during the year through November. Most of the clashes occurred in the southeast.

b. Disappearance.—There were no reports of politically motivated disappearances.

The government continued to investigate and explain some reported disappearances. The Ministry of Interior operated the Bureau for the Investigation of Missing Persons, which was open 24 hours a day. According to the government, 12 persons were reported missing during the year due to suspected terrorist activities, and 2 missing persons were located alive.

In August the European Court of Human Rights (ECHR) ruled against the country in a case involving the 2001 disappearance of DEHAP officials Serdar Tanis and Ebubekir Deniz. The ECHR determined that the government was responsible for the disappearance and had failed to conduct an effective investigation. The court ordered the government to pay compensation to the families in the case.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, members of the security forces continued to torture, beat, and otherwise abuse persons regularly.

Incidents of torture and abuse declined during the year but remained widespread. Courts rarely convicted security officials accused of torture and tended to issue light sentences when they did convict (see section 1.d.). According to the HRF, there were 657 credible cases of torture or abuse reported at its 5 national treatment centers through November. Of these, 180 cases involved torture or abuse inflicted during the year; the rest involved incidents that occurred previously. A number of human rights observers claimed that only a small percentage of detainees reported torture and abuse because they feared retaliation or believed that complaining was futile.

An attorney for Abdulkadir Akgul, Ergin Demir, Cigerhun Erisen, Zubeyit Keserci, and Muzaffer Keserci claimed law enforcement officials tortured his clients during their July detention in Van Province. According to the attorney, security forces were present during his clients' medical examinations, preventing doctors from recording their injuries.

In August Servet Alcinkaya, reporter for the daily *Cumhuriyet*, claimed Istanbul police severely beat him in detention. He said police held him overnight without allowing him to contact relatives and released him the next day.

In October three juveniles said Ordu police repeatedly beat them, squeezed their testicles, and threatened to rape and kill them while they were held in detention following an incident at a local concert. Medical examinations of the juveniles reportedly confirmed signs of beatings on their bodies.

Also in October, broadcast media outlets aired footage of employees abusing children at the Malatya State Orphanage. Images included employees beating children who were stripped naked and sitting in a bathtub. Several of the children told police their caretakers had forced them to eat excrement. Physicians subsequently examined the children and reported finding evidence that 21 of 46 had been subject to torture, including severe beatings and hot water burns. Authorities pressed charges

against five employees and removed four others from their posts. The trial and investigation continued at year's end.

In December Orhan Kara, Velat Haci Ali, Idban Kaplan, Seref Inanc, and Nezir Ayan claimed that police tortured them during their detention in Silopi, Sirnak Province. Erdal Kuzu, an attorney and HRA official who visited the detainees, said police beat the detainees, administered electric shocks to their genitals, forced them to strip and sprayed them with cold water, and placed guns to their heads and threatened to kill them. Kuzu claimed that the prosecutor declined to record the detainees' torture claims, and he claimed the detainees were denied access to prison medical facilities.

There were no developments in the reported 2004 cases of torture of Mehmet Nurettin Basci, Mehmet Gazi Aydin, Sezai Karakus, or several persons detained by police during a raid of the Yeniden Ozlem publishing house.

There were no developments in the investigation of the alleged rape and torture of DEHAP official Gulbahar Gunduz in 2003. Attorneys for Gunduz applied to the ECHR during the year.

Proceedings continued at year's end in the Ankara trial of five police defendants charged with torturing and killing Birtan Altinbas in 1991. The court convicted the defendants in 2004, but the High Court of Appeals returned the case to the lower court on the grounds that the sentences were too lenient.

In September an Istanbul prosecutor charged eight police officers with torturing Firat Develioglu, Emre Nil, Aysegul Huma, and Tugba Babuna, who were detained in 1999 during operations conducted against the Islamist group Adnan Hocacilar. According to the indictment, the officers beat the detainees, handcuffed them to chairs, and squeezed their testicles.

In April an Iskenderun court acquitted four police officers charged with torturing and raping two teenage girls in 1999. The court determined there was insufficient evidence for a conviction. The trial, which began in 2000, had been plagued by repeated procedural delays related to the handling of forensic evidence. The ruling was under appeal at year's end.

Human rights observers said that, because of reduced detention periods, security officials mainly used torture methods that did not leave physical signs, including repeated slapping, exposure to cold, stripping and blindfolding, food and sleep deprivation, threats to detainees or family members, dripping water on the head, isolation, and mock executions. They reported the near elimination of more severe methods, such as electric shocks, high-pressure cold water hoses, rape, beatings on the soles of the feet and genitalia, hanging by the arms, and burns.

Human rights activists, attorneys, and physicians who treated victims said that because of increased punishments for torture and abuse, police who engaged in these practices often did so outside of police detention centers to avoid detection.

Human rights activists maintained that those arrested for ordinary crimes were as likely to suffer torture and ill-treatment in detention as those arrested for political offenses, although they were less likely to report abuse. Observers said security officials sometimes tortured political detainees to intimidate them and send a warning to others with similar political views. Authorities allegedly tortured ordinary suspects to obtain a confession.

Government-employed doctors administered all medical examinations of detainees. Examinations occurred once during detention and a second time before either arraignment or release; however, the examinations generally were brief and informal. According to the Society of Forensic Medicine Specialists, only approximately 300 of 80 thousand doctors in the country were forensic specialists, and most detainees were examined by general practitioners and specialists not qualified to detect signs of torture. There were forensic medical centers in 34 of 81 provinces. Some former detainees asserted that doctors did not conduct proper examinations and that authorities denied their requests for a second examination.

A justice ministry regulation requires doctor-patient privacy during the examination of suspects, except where the doctor requests police presence for security reasons. During the year there were fewer complaints of security officials remaining in the room despite objections, according to the Society of Forensic Medicine Specialists.

The law provides for harsh prison sentences and fines for medical personnel who falsify reports to hide torture, those who knowingly use such reports, and those who coerce doctors into making them. In practice there were few prosecutions for violation of these laws.

Police harassed, beat, and abused demonstrators (see section 2.b.).

Prison and Detention Center Conditions.—Conditions in many prisons remained poor. Underfunding, overcrowding, and insufficient staff training were problems.

Some inmates convicted for nonviolent, speech-related offenses were held in high-security prisons.

Observers reported that the government made significant improvements in the food provided in the prisons, although there was a lack of potable water in some facilities.

According to the medical association, there were insufficient doctors, and psychologists were available only at some of the largest prisons. Some inmates claimed they were denied appropriate medical treatment for serious illness.

Despite the existence of separate juvenile facilities, at times juveniles and adults were held in adjacent wards with mutual access. Some observers reported that detainees and convicts were sometimes held together.

The government permitted prison visits by representatives of some international organizations, such as the European Committee for the Prevention of Torture (CPT); however, domestic nongovernmental organizations (NGOs) did not have access to prisons. The CPT visited in March 2004 and conducted ongoing consultations with the government. Requests by the CPT to visit prisons were routinely granted.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government at times did not observe these prohibitions.

Role of the Police and Security Apparatus.—The Turkish National Police (TNP), under interior ministry control, is responsible for security in large urban areas. The Jandarma, paramilitary forces under joint interior ministry and military control, is responsible for policing rural areas. The Jandarma is also responsible for specific border sectors where smuggling is common; however, the military has overall responsibility for border control.

In December 2004 parliament adopted legislation calling for the establishment of judicial police, who were to take direction from prosecutors during investigations. The judicial police had not been established at year's end.

A civil defense force known as the village guards was less professional and disciplined than other security forces and was concentrated in the southeast. The village guards were accused repeatedly of drug trafficking, rape, corruption, theft, and other human rights abuses. Inadequate oversight and compensation contributed to this problem, and in some cases Jandarma allegedly protected village guards from prosecution. Although the security forces were generally considered effective, the village guards, Jandarma, and police special teams were viewed as those most responsible for abuses. Corruption and impunity were serious problems.

Courts investigated many allegations of abuse and torture by security forces during the year; however, they rarely convicted or punished offenders (see section 1.e.). When courts did convict offenders, punishment generally was minimal and sentences were sometimes suspended. Authorities typically allowed officers accused of abuse to remain on duty and, in some cases, promoted them during their trial, which often took years.

The TNP and Jandarma received specialized training in a number of areas, including human rights and counterterrorism. The armed forces emphasized human rights in training for officers and noncommissioned officers.

During the first 6 months of the year, prosecutors opened trials against 1,337 security personnel and other public officials on torture or abuse charges. During that period courts reached final verdicts in 531 torture and abuse cases begun in previous years, convicting 232 defendants and acquitting 1,005. Of the convicted officials, 30 were given jail terms, 32 were fined, 7 were jailed and fined, and 163 were subject to other punishments.

Authorities issued administrative punishments, including suspensions and salary cuts, to three police officers for abuse during the year through November.

Arrest and Detention.—Warrants issued by a prosecutor are required for arrests unless the suspect is caught in the commission of a crime. Depending on the charges, persons charged with a crime can be held for up to 48 hours, excluding transportation time, before being arraigned by a judge. There is a functioning bail system. After arraignment, the judge may release the accused upon receipt of an appropriate assurance, such as bail, or order detention if the court determines that the accused is likely to flee the jurisdiction or destroy evidence. The law provides that detainees are entitled to immediate access to an attorney and to meet and confer with an attorney at any time, but in practice authorities did not always respect these provisions and most detainees did not exercise these rights, either because they were unaware of them or feared antagonizing authorities. If indigent, detainees were provided an attorney at government expense.

Private attorneys and human rights monitors reported irregular implementation of these regulations, particularly with respect to attorney access. According to a number of local bar associations, attorney access for detainees improved during the

year, but varied widely across the country. In some parts of the country, bar association representatives estimated that up to 70 percent of detainees consulted with attorneys, while in other areas only 5 percent did so. The HRA also observed an increase in the percentage of detainees consulting with attorneys but maintained that the vast majority of detainees did not exercise this right.

HRA claimed police often intimidated detainees who asked for attorneys, for example by telling them a court would assume they were guilty if they consulted an attorney during detention. Detainees were generally allowed prompt access to family members.

During the year police routinely detained demonstrators (see section 2.b.). Police detained dozens of members of the DEHAP on several occasions (see section 3). Police continued to detain and harass members of human rights organizations and monitors (see section 4). The government continued to detain persons, particularly in the southeastern province of Batman, on suspicion of links to Hizballah.

There were no reports of political detainees. Lengthy pretrial detention was a problem. The law provides detainees the right to request speedy arraignment and trial; however, judges have ordered that some suspects be detained indefinitely, at times for years. Detainees could be held for up to six months during the preliminary investigation period. If a case was opened, the pretrial detention period could be extended for up to two years. If the detainee was charged with a crime carrying a maximum punishment of more than seven years, a court could further extend the detention period. Approximately half of the prison inmates held during the year were convicts; the other half were either awaiting trial or held during trial proceedings

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary was sometimes subject to outside influence. There were allegations of judicial corruption.

The law prohibits the government from issuing orders or recommendations concerning the exercise of judicial power; however, the government and the National Security Council (NSC), an advisory body to the government composed of civilian government leaders and senior military officers, periodically issued announcements or directives about threats to the government, which could be interpreted as general directions to the judiciary.

The High Council of Judges and Prosecutors was widely criticized for undermining the independence of the judiciary. The minister of justice serves as chairman of the seven-member high council, and the justice ministry undersecretary also serves on the council. The High Council (HC) selects judges and prosecutors for the higher courts and is responsible for oversight of the lower courts. The HC is located in the Ministry of Justice and does not have its own budget. While the constitution provides for job security through tenure, the HC controls the careers of judges and prosecutors through appointments, transfers, promotions, reprimands, and other mechanisms.

In February prosecutors opened a case against Ercan Yalcinkaya, former deputy secretary general of the high court of appeals, on charges of accepting bribes and trying to influence the court on behalf of organized crime figure Alaaddin Cakici. An Ankara court acquitted Yalcinkaya in June.

The judicial system is composed of general law courts; specialized heavy penal courts; military courts; the Constitutional Court, the nation's highest court; and three other high courts. The High Court of Appeals hears appeals for criminal cases, the Council of State hears appeals of administrative cases or cases between government entities, and the Audit Court audits state institutions. Most cases were prosecuted in the general law courts, which include civil, administrative, and criminal courts. In 2004 parliament adopted legislation providing for the establishment of regional appeals courts to relieve the high court's caseload and allow the judiciary to operate more efficiently. The courts were scheduled to begin operations in 2007.

The Constitutional Court examines the constitutionality of laws, decrees, and parliamentary procedural rules and hears cases involving the prohibition of political parties. If impeached, ministers and prime ministers can be tried in the constitutional court. However, the court cannot consider "decrees with the force of law" issued under a state of emergency, martial law, in time of war, or in other situations as authorized by parliament. Military courts, with their own appeals system, hear cases involving military law for members of the armed forces. Military courts can also hear cases involving crimes committed by both civilians and military personnel.

Administrative and bureaucratic barriers impeded prosecutions and contributed to the low number of convictions of security force personnel for human rights abuses. Under the law courts could not convict unless a defendant attended at least one trial session. Police defendants sometimes failed to attend hearings in order to avoid conviction; prosecuting attorneys claimed courts failed to make serious attempts to

locate such defendants, even in cases where the defendants received salary or pension checks at their home address.

Under legislation enacted in June, a judge can bar an attorney from representing a client if the attorney comes under investigation for violating certain articles of the penal code.

Trial Procedures.—There is no jury system; a judge or a panel of judges decides all cases. Trials are public. The law requires bar associations to provide free counsel to indigents who request it from the court, and bar associations across the country did so in practice. Defendants have the right to be present at trial and to consult with an attorney in a timely manner. Defendants or their attorneys can question witnesses for the prosecution and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and the right to appeal.

The law provides for the right to a speedy trial; however, at times trials lasted for years (see section 1.d.). Proceedings against security officials often were delayed because officers did not submit statements promptly or attend trials. In some cases, such delays extended beyond the statute of limitations, causing the trial to end without a verdict.

The law prohibits the use of evidence obtained by torture in court; however, prosecutors sometimes failed to pursue torture allegations, and exclusion of evidence occurred only after a separate case on the legality of the evidence was resolved. However, in practice a trial based on a confession allegedly coerced under torture could proceed, and even conclude, before the court had examined the merits of the torture allegations.

In June the High Court of Appeals overturned a murder conviction reached by a court in Sinop Province on the grounds that police interrogated the defendant without granting him access to an attorney and there was evidence that the suspect had been tortured.

In May the ECHR Grand Chamber ruled that imprisoned PKK leader Abdullah Ocalan did not receive a fair trial during the proceedings that led to his 1999 conviction. The ruling upheld a 2003 decision by a lower ECHR body. The ECHR ruling was based in part on the fact that a military judge initially sat on the three-judge panel that tried Ocalan, although he was later removed. The court also determined that authorities denied Ocalan access to an attorney during his detention period, improperly held him for seven days before taking him before a judge, and restricted his subsequent access to attorneys. At year's end there were no new developments in the case.

Political Prisoners.—The HRA estimated that there were several thousand political prisoners, including leftists, rightists, and Islamists. Of these, approximately 1,500 were alleged members of Hizballah or other radical Islamist political organizations. The government claimed that alleged political prisoners were in fact charged with being members of, or assisting, terrorist organizations. According to the government, police detained 3,449 suspects on terrorism charges during the year through November.

International humanitarian organizations were allowed access to "political" prisoners, provided they could obtain permission from the Ministry of Justice. With the exception of the CPT, which generally had good access, such organizations were rarely granted such permission.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these provisions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government continued to limit these freedoms in some cases. Journalists practiced self-censorship.

The government, particularly the police and judiciary, limited freedom of expression through the use of constitutional restrictions and numerous laws, including articles of the penal code prohibiting insults to the government, the state, "Turkish identity," or the institutions and symbols of the republic. Other laws, such as the Anti-Terror Law and laws governing the press and elections, also restrict speech.

Individuals could not criticize the state or government publicly without fear of reprisal, and the government continued to restrict expression by individuals sympathetic to some religious, political, and Kurdish nationalist or cultural viewpoints. Active debates on human rights and government policies continued, particularly on issues relating to the country's European Union (EU) membership process, the role of the military, Islam, political Islam, and the question of Turks of Kurdish origin

as "minorities"; however, persons who wrote or spoke out on such topics risked prosecution.

The Turkish Publishers Association (TPA) reported that serious restrictions on freedom of expression continued despite legal reforms related to the country's EU candidacy.

In July a Halfeti court convicted DEHAP officials Handan Caglayan and Ahmet Dagtekin of using the Kurdish language during a 2004 campaign event. The court sentenced Caglayan to a 7-month prison term and a fine of $380 (513 lira) and Dagtekin to a 6-month prison term and a fine of $326 (440 lira). The rulings were under appeal at year's end.

In March the High Court of Appeals upheld the conviction and 20-month prison sentence of Mehmet Sevket Eygi for writing against the official ban on headscarves at universities and among civil servants. The court in its ruling argued that freedom of speech is subordinate to the protection of public order in democracies and maintained that Eygi's criticism of the headscarf ban and its supporters constituted "hatred and animosity."

In October an Ankara court convicted four Hacettepe University students of "being members of an illegal organization" for submitting a petition to the university rector in 2001 requesting education in the Kurdish language. The court sentenced Nihat Avci and Veli Ay to six years and three months in prison, and Huseyin Bilgin and Haydar Karaca to three years and nine months in prison. The case was under appeal at year's end.

Also in October Prime Minister (PM) Erdogan reportedly filed a lawsuit against Aynur Saydam for insulting him by holding up a banner during an appearance at Bahcesehir University. The banner featured a statement criticizing Erdogan's support for a conference on the fate of the Armenians in the final days of the Ottoman Empire. The case was ongoing at year's end.

Proceedings continued in the appeal of Genc Party leader Cem Uzan's 2004 conviction for insulting PM Erdogan in a speech.

In October a Sanliurfa court sentenced local DEHAP official Resit Yardimci to a 6-month prison term and fined him $1,214 (1,640 lira) for greeting the audience in Kurdish during a 2003 party convention. The ruling was under appeal at year's end.

In December an Ankara court began the trial of 12 officials of the pro-Kurdish party Hak-Par for speaking Kurdish at a party convention and distributing Kurdish-language invitations to the convention.

According to the government, there were no journalists held on speech violations during the year; however, the government reported that at year's end there were 25 journalists who were being held on charges related to terrorism or other violent crimes.

The government owned and operated the Turkish Radio and Television Corporation (TRT). According to the High Board of Radio and Television (RTUK), there were 226 local, 15 regional, and 16 national officially registered television stations and 959 local, 104 regional, and 36 national radio stations. Other television and radio stations broadcast without an official license. The wide availability of satellite dishes and cable television allowed access to foreign broadcasts, including several Kurdish-language private channels. Most media were privately owned by large holding companies that had a wide range of outside business interests; the concentration of media ownership influenced the content of reporting and limited the scope of debate.

In March journalists lobbied the government to amend a new draft of the penal code before the legislation became effective. Journalists criticized the legislation for establishing prison sentences for a number of press-related crimes, contradicting the 2004 Press Law that tightly restricted the use of prison sentences in press cases. Parliament addressed some of the journalists' concerns by making revisions to the penal code. The revised penal code eliminated some prison sentences, but not all, and reduced the prison terms in some cases.

In May the Organization for Security and Cooperation in Europe (OSCE) issued a report on the draft penal code as it related to freedom of the press. According to the report, the draft penal code did not provide adequate protections for journalists to report on issues of public interest.

Prosecutors harassed writers, journalists, and political figures by bringing dozens of cases to court each year under various laws that restrict media freedom; however, judges dismissed many of these charges. Authorities often closed newspapers temporarily, issued fines, or confiscated newspapers for violating speech codes. Despite government restrictions, the media criticized government leaders and policies daily and adopted an adversarial role with respect to the government.

In March RTUK closed the TV stations Primemax and Primemax 2 for "making propaganda for an illegal organization" by showing the movie *Little Freedom*. Yuksel

Yavuz, the director of the film, claimed that the culture ministry had approved the film, and that it had been playing in theaters in the country since December 2003. Also in March RTUK ordered the Adana radio station Radyo Dunya off the air for 30 days for broadcasting excerpts of the book *Memoirs of a Guerrilla*. RTUK maintained that the broadcast "incited hatred and hostility."

The government maintained significant restrictions on the use of Kurdish and other minority languages in radio and television broadcasts. RTUK regulations limit minority-language news and cultural programming to 60 minutes per day, 5 hours per week on radio, and 45 minutes per day, 4 hours per week on television. The regulations also require that non-Turkish radio programs be followed by the same program in Turkish and that non-Turkish television programs have Turkish subtitles. The state-owned TRT broadcasting company provided national programming in Kurdish and three other minority languages.

In September the Ankara public prosecutor ordered the closure of Radyo Imaj for "making unauthorized broadcasts" and pressed charges against several executives of the station. Radyo Imaj officials claimed the station was closed for playing Kurdish music. The case was ongoing at year's end.

In December RTUK ordered Radyo Imaj off the air for one month for "inciting hatred and enmity" in a 2004 broadcast on a violent 1993 incident known as the "Sivas Massacre."

Trial proceedings continued at year's end in Istanbul in the 2004 case against journalist Mehmet Ali Birand and three attorneys for imprisoned PKK leader Abdullah Ocalan in connection with a CNN Turk broadcast during which Birand interviewed the attorneys.

The TPA reported a decrease in recent years in the number of cases opened against writers and court decisions banning books, and also observed an increase in acquittals in cases involving writers. Printing houses are required to submit books and periodicals to prosecutors at the time the materials are published. According to the TPA, prosecutors investigated and sometimes pressed charges against printing houses for late submission of materials deemed problematic. As a result, the TPA reported, publishers often avoided works with controversial content. Between January 2004 and June authorities opened court cases against 37 authors and 47 books and compilations involving 25 publishers, according to the TPA.

In September an Istanbul prosecutor charged novelist Orhan Pamuk with "insulting Turkish identity" in statements he made during a 2004 interview with a foreign publication. Pamuk was quoted as saying that 1 million Armenians and 30 thousand Kurds had been killed in the country. Prosecutors opened an investigation of Pamuk after a domestic periodical published a translation of the interview. The trial was ongoing at year's end.

In October an Istanbul prosecutor opened an investigation against retired army captain Murat Pabuc for insulting the military in a book he wrote about corruption in the armed forces. The prosecutor reportedly acted in response to a letter from the military general staff claiming that Pabuc had violated the law. The investigation was ongoing at year's end.

In November an Istanbul prosecutor opened a case against Fatih Tas, the owner of a company that published a translation of the book, "*Spoils of War: The Human Cost of America's Arms Trade*. The prosecutor charged Tas with insulting the Turkish identity and Ataturk. The trial began in November and was ongoing at year's end.

Also in November an Ankara prosecutor opened a case against professors Ibrahim Kaboglu and Baskin Oran for "denigrating the judiciary" and "inciting hatred." Kaboglu and Oran were members of the government's Human Rights Consultation Board, and the charges stemmed from their roles as principal authors of the board's 2004 report on minorities in the country. The report stated that religious minorities were effectively barred from careers in state institutions and maintained that legal restrictions on minority languages violate the country's commitments under the 1923 Lausanne Treaty.

Also in November the High Court of Appeals upheld the 2002 conviction of journalist Burak Bekdil for "insulting state institutions" in a 2001 *Turkish Daily News* column criticizing the judiciary. The court also upheld the 20-month suspended prison sentence against Bekdil.

In December an Istanbul prosecutor charged journalist Murat Yetkin with "trying to influence the judiciary" in a column he wrote about the Pamuk case. Legal proceedings continued at year's end.

Ragip Zarakolu, owner of Belge Publishing, faced charges in Istanbul during the year for a number of publications deemed "insulting" to the state, including two books dealing with Turkish-Armenian relations.

In October an Istanbul court convicted Hrant Dink, publisher of the Armenian community newspaper *Agos*, of "denigrating Turkish identity" in an article on Turkish-Armenian relations. The court sentenced Dink to a six-month prison term but suspended the sentence. The court ruled for conviction despite the fact that a panel of three legal experts the court appointed to review the article unanimously determined that the article did not violate the law. The ruling was under appeal at year's end.

In December an Istanbul prosecutor opened a separate case against Dink and three other Agos employees on the grounds that their criticism of the October court decision constituted an attempt to "influence the judiciary."

In December an Istanbul court convicted writer Zulkuf Kisanak of "denigrating the Republic of Turkey" in a book he wrote about the state's evacuation of Kurdish, Armenian, and Syriac villages. In two separate cases on the same day, the court convicted journalist Aziz Ozer on similar charges stemming from two articles he wrote, one about the government's policy on Iraq and another about the 80-year history of the Republic of Turkey. The court sentenced both defendants to prison terms, then changed the sentences to fines. The rulings were under appeal at year's end.

Authorities sometimes used forms of censorship against media with pro-Kurdish or leftist content, particularly in the southeast.

The OSCE determined that journalists risked criminal defamation charges for reporting on public officials because the law provided more protection against libel to public officials than to ordinary citizens.

PM Erdogan filed libel charges during the year against a number of political cartoonists and writers. For example, in February an Ankara court convicted Musa Kart of the daily *Cumhuriyet* for a cartoon portraying Erdogan as a cat. The court ordered Kart to pay $3,800 (5,132 lira). The ruling was under appeal at year's end.

The satirical magazine *Penguen* responded to the lawsuits by publishing a front page with a series of drawings by different cartoonists depicting Erdogan as various animals. In March Erdogan filed a lawsuit against *Penguen* seeking $28 thousand (38,178 lira) in compensation. The case was ongoing at year's end.

In December the High Court of Appeals overturned the 2004 conviction of political cartoonist Sefer Selvi for "publicly humiliating" PM Erdogan by depicting him as a horse. A lower court had ordered Selvi, a cartoonist with the daily *Evrensel*, to pay $7,361 (10 thousand lira) in damages.

In March police arrested six juveniles, and a prosecutor charged them with attempting to burn the national flag during celebrations of *Nevruz* (the Kurdish New Year) in Mersin Province. The Turkish General Staff issued a statement denouncing the suspects as "so-called citizens." Trial proceedings in the case continued at year's end.

There generally were no government restrictions on the Internet; however, the law authorizes RTUK to monitor Internet speech and to require Internet service providers to submit advance copies of pages to be posted online. The law also allows police to search and confiscate materials from Internet cafes to protect "national security, public order, health, and decency" or to prevent a crime. Police must obtain authorization from a judge or, in emergencies, the highest administrative authority before taking such action.

There generally were no government restrictions on academic freedom; however, there was some self-censorship on sensitive topics.

In May officials at Bosphorus University in Istanbul made a last-minute decision to cancel a conference on the 1915 massacre of Armenians in the Ottoman Empire after Justice Minister Cemil Cicek denounced the event as "a stab in the back of the Turkish nation." Cicek made his remarks in parliament one day before the conference was scheduled to open; other legislators supported his views.

Organizers at Bosphorus, Sabanci, and Bilgi universities rescheduled the event for September. Hours before the rescheduled event was to open, an Istanbul administrative court issued an injunction blocking the conference. The court ordered organizers to answer a series of questions on the "administrative process" used to prepare the conference. PM Erdogan and Foreign Minister Gul publicly criticized the court ruling. Organizers moved the conference to Bilgi University, which was not named in the injunction, and opened the event on September 24, one day after the court action was made public.

In December an Istanbul prosecutor charged five newspaper columnists with "insulting the judiciary" and "trying to influence the judicial process" for their coverage of the legal battle over the conference. The trial of the columnists—Hasan Cemal, Ismet Berkan, Murat Belge, Haluk Sahin, and Erol Katircioglu—was scheduled to begin in February 2006.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government restricted this right in practice. Significant prior notification to authorities is required for a gathering, and authorities may restrict meetings to designated sites.

Police killed demonstrators during the year. For example, in February demonstrators in Mersin Province claimed police shot and killed Umit Gonultas during a protest in support of Abdullah Ocalan, imprisoned leader of the terrorist PKK. According to the HRA, there was no evidence that demonstrators used weapons during the altercation. Interior ministry inspectors determined that police did not shoot Gonultas. Prosecutors opened a case against nine members of the DEHAP for their role in a statement protesting the shooting. The DEHAP officials were charged with being members of an illegal organization; their trial continued at year's end.

In August the body of Hasan Is was discovered following clashes between security forces and demonstrators during funeral ceremonies for PKK militants in Batman Province. Relatives and other witnesses claimed police shot and killed Is during the altercation. However, law enforcement authorities denied that police were responsible.

In October Istanbul police shot and killed Atilla Gecmis during demonstrations in support of Abdullah Ocalan. Demonstrators reportedly threw Molotov cocktails and rocks at police, causing police to open fire.

Police beat, abused, detained, or harassed some demonstrators. In March police repeatedly kicked and beat protestors participating in International Women's Day demonstrations in Istanbul. Following an investigation, the Interior Ministry reprimanded three senior-level law enforcement officials and fined six officers, although the ministry in December reportedly promoted one of the senior-level officers. In December prosecutors charged 54 police officers with using excessive force during the incident.

Also in March police intervened in Nevruz celebrations in a number of cities. HRF reported clashes between police and celebrants in Siirt Province, during which police opened fire, injuring a child. Police in Edirne raided a house and detained a number of local DEHAP officials and students in connection with Nevruz celebrations. During a separate incident in Siirt, police beat juveniles who stoned the police station after police prevented Nevruz celebrations, according to HRF.

In Mersin Province police arrested six juveniles for allegedly trying to burn the national flag during Nevruz celebrations. The juveniles faced charges in court (see Section 2.a.).

In May the Justice Ministry cancelled a seminar on torture prevention for physicians and judicial authorities. Ministry officials announced the cancellation one day before the event was scheduled to start in Istanbul, asserting that organizers had failed to submit the required documents. Representatives of the Turkish Medical Association maintained that all the paperwork had been filed and said the Justice Ministry was involved with the organization of the event.

In September police in Siirt Province allegedly detained and beat 20 demonstrators who had participated in a rally to protest the prison conditions of PKK leader Abdullah Ocalan.

In October a Siirt court ordered 20 defendants to pay fines of $74 (100 lira) each for hanging placards with the letters "W" and "Q" during Nevruz celebrations in 2004. The letters are found in Kurdish but not Turkish; the law prohibits the use of non-Turkish letters in printed material. The ruling was under appeal at year's end.

Proceedings continued at year's end in the appeal of the 2004 conviction of HRF psychiatrist Alp Ayan and co-defendants for holding an unauthorized demonstration.

Freedom of Association.—The law provides for freedom of association; however, there were some restrictions on this right in practice.

The law requires associations to notify authorities before engaging in activities such as founding an association, interacting with international organizations, and receiving financial support from abroad. Associations are required to provide detailed documents on such activities, and representatives of associations said this placed an undue burden on their operations.

Foreign associations wishing to conduct programs in the country are required to receive separate permission from the Interior Ministry for each activity. They are also required to submit detailed reports to the government on each activity, despite the fact that local partners are also required to report on the same projects.

According to the Third Sector Foundation of Turkey, an NGO advocacy organization, the criteria for NGOs to obtain public benefit status, entitling them to certain tax exemptions, are restrictive and complicated. Applications for public benefit sta-

tus must be approved by the Council of Ministers. The law does not allow applicants to appeal if their petitions are rejected.

In May the High Court of Appeals ordered the closure of the teachers' union Egitim-Sen on the grounds that the union's bylaws violated the constitution by advocating the right of individuals to receive education in their mother tongue (see section 6.a.).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, the government imposed some restrictions on Muslim and other religious groups.

The law establishes the country as a secular state and provides for freedom of belief, freedom of worship, and the private dissemination of religious ideas; however, other constitutional provisions regarding the integrity and existence of the secular state restrict these rights.

The government oversees Muslim religious facilities and education through its Directorate of Religious Affairs (Diyanet), which is under the authority of the prime ministry. The Diyanet has responsibility for regulating the operation of the country's 75,000 registered mosques and employing local and provincial imams, who are civil servants. Some groups, particularly Alevis, claimed that the Diyanet reflected mainstream Sunni Islamic beliefs to the exclusion of other beliefs; however, the government asserted that the Diyanet treated equally all who request services.

Academics estimate the Alevi population at 15 to 20 million, including ethnic Turks, Kurds, and Arabs. In general, Alevis follow a belief system that incorporates aspects of both Shi'a and Sunni Islam and draws on the traditions of other religions found in Anatolia as well. The government considers Alevism a heterodox Muslim sect; however, some Alevis and radical Sunnis maintain that Alevis are not Muslims.

Alevi "*cem* houses" (places of gathering) have no legal status as places of worship. Alevis in the Kartal district of Istanbul continued to fight a court battle against a decision by local authorities to deny them permission to build a cem house.

In January Alevis in the Cankaya district of Ankara applied to acquire property to open a *cem* house. Municipal authorities consulted the Diyanet, which issued a letter stating that Alevis in Cankaya did not need a *cem* house because they could worship at a local mosque. Also in January the Diyanet issued a letter to authorities in the Sultanbeyli district of Istanbul stating that *cem* houses violated Islamic principles and the law. The letter was sent in response to an application to build a *cem* house.

Mystical Sufi and other religious-social orders (*tarikats*) and lodges (*cemaats*) have been banned officially since the mid-1920s; however, religious-social orders and lodges remained active and widespread. Some prominent political and social leaders continued to associate with religious-social orders, lodges, and other Islamic societies.

A separate government agency, the General Directorate for Foundations (GDF), regulates some activities of non-Muslim religious groups and their affiliated churches, monasteries, synagogues, and related religious property. There are 161 "minority foundations" recognized by the GDF, including Greek Orthodox foundations with approximately 70 sites, Armenian Orthodox foundations with approximately 50 sites, and Jewish foundations with 20 sites, as well as Syrian Christian, Chaldean, Bulgarian Orthodox, Georgian, and Maronite foundations. The GDF also regulates Muslim charitable religious foundations, including schools, hospitals, and orphanages.

Jehovah's Witnesses reported continuing official harassment of their worship services because they are not members of an officially recognized religion. In June authorities sealed a kingdom hall (place of worship) used by members of the Jehovah's Witnesses in Akcay, Balikesir Province.

Religious affiliation is listed on national identity cards. Some religious groups, such as the Baha'i, are unable to state their religion on their cards because their religion is not included among the options; they have made their concerns known to the government. There were reports that local officials harassed some persons who converted from Islam to another religion when they sought to amend their cards. Some non-Muslims maintained that listing religious affiliation on the cards exposes them to discrimination and harassment.

Secularists in the military, judiciary, and other branches of the bureaucracy continued to wage campaigns against what they label as proponents of Islamic fundamentalism. These groups view religious fundamentalism as a threat to the secular state. They do not clearly define fundamentalism, but they assert that it is an attempt to impose the rule of *Shari'a* in all civil and criminal matters. The NSC categorizes religious fundamentalism as a threat to public safety.

According to the human rights NGO Mazlum-Der and other groups, some government ministries have dismissed or barred from promotion civil servants suspected

of antistate or Islamist activities. Reports by Mazlum-Der, the media, and others indicated that the military sometimes dismissed religiously observant Muslims from military service. Such dismissals were based on behavior that military officials believed identified these individuals as Islamic fundamentalists, which they were concerned could indicate disloyalty to the secular state.

According to Mazlum-Der, the military charged individuals with lack of discipline for activities that included performing Muslim prayers or being married to women who wore headscarves. According to the military, officers and NCOs were sometimes dismissed for maintaining ties to what the military considered to be Islamic fundamentalist organizations, despite repeated warnings from superior officers.

In February a military court reportedly dismissed the deputy commander of the Jandarma command in Ardahan for worshipping at a mosque while wearing his uniform.

The government did not recognize the ecumenical status of the Greek Orthodox Patriarch, acknowledging him only as the head of the country's dwindling Greek Orthodox community. As a result, the government has long maintained that only citizens of the country could become patriarch, serve as members of the Greek Orthodox Holy Synod, and participate in patriarchal elections. Members of the Greek Orthodox community said these restrictions threatened the survival of the patriarchate in Istanbul, because, with fewer than 2,500 Greek Orthodox persons remaining in the country, the community was becoming too small to maintain the institution.

The law restricts religious services to designated places of worship. Municipal codes mandate that only the government can designate a place of worship; if a religious group has no legal standing in the country, it may not be eligible for a designated site. Non-Muslim religious services, particularly for groups that did not own property recognized by the GDF, often took place on diplomatic property or in private apartments. Police occasionally prohibited Christians from holding services in private apartments, and prosecutors sometimes opened cases against Christians for holding unauthorized gatherings.

In June the Council of State, a high administrative appeals court, ruled that the Batikent Protestant Church in Ankara was entitled to receive water from the municipality at no cost. The court determined that the municipality had been violating the principle of equality by supplying free water to mosques but not churches. A lower court had rejected the church's request for free water.

In September Roman Catholic authorities decided to close the Bebekli church in Adana because noise from an adjacent wedding hall had been interfering with church services. Catholic authorities said municipal officials failed to enforce zoning regulations requiring a 10-meter offset around the church building.

Some local officials continued to impose standards, such as minimum space requirements, on churches while failing to apply them to mosques.

The Ecumenical Patriarchate in Istanbul continued to seek to reopen the Halki seminary on the island of Heybeli in the Sea of Marmara. The government closed the seminary in 1971, when the government nationalized all private institutions of higher learning. Under existing restrictions, religious communities other than Sunni Muslims cannot legally train new clergy in the country for eventual leadership. Coreligionists from outside the country have been permitted to assume leadership positions in some cases, but in general all religious community leaders, including patriarchs and chief rabbis, must be citizens.

No law explicitly prohibits proselytizing or religious conversions; however, many prosecutors and police regarded proselytizing and religious activism with suspicion. Police occasionally prevented Christians from handing out religious literature.

The government waged a public campaign against Christian missionary activity. The Diyanet drafted an antimissionary sermon and distributed it to imams. The sermon, delivered in mosques across the country in March, depicted missionaries as part of a plot by foreign powers to "steal the beliefs of our young people and children." In June the Diyanet published a book on missionaries in which the author stated that "missionaries and the Crusades are related." The author further claimed that Muslims throughout history have never tried to convert non-Muslims and have only explained their beliefs "in an honest fashion," whereas Christian missionaries have used "all means, including the use of sheer force." The Diyanet distributed the book free of charge to parliamentarians and students.

Authorities continued to enforce a long-term ban on the wearing of headscarves at universities and by civil servants in public buildings. Women who wore headscarves and persons who actively showed support for those who defied the ban were disciplined or lost their jobs in the public sector as nurses and teachers. Students who wore head coverings were not permitted to register for classes, although some faculty members permitted students to wear head coverings in class.

In May Constitutional Court president Mustafa Bumin and speaker of parliament Bulent Arinc engaged in a public dispute over the headscarf ban. Bumin asserted in a speech that the Constitutional Court would annul any parliamentary legislation aimed at lifting the ban; Arinc replied that parliament has the authority to close the court.

In November the ECHR Grand Chamber upheld a 2004 ECHR ruling that the ban on Islamic headscarves in the country's universities was not unlawful.

The law establishes eight years of compulsory secular education for students. After completing the eight years, students may pursue study at *imam hatip* (Islamic preacher) high schools. *Imam hatip* schools are classified as vocational, and graduates of vocational schools faced an automatic reduction in their university entrance exam grades if they applied for university programs outside their field of high school specialization. This reduction effectively barred *imam hatip* graduates from enrolling in university programs other than theology. Most families that enrolled their children in *imam hatip* schools did so to expose them to more extensive religious education, not to train them as imams.

The law establishes compulsory religious and moral instruction in primary and secondary schools. Religious minorities are exempted. However, some religious minorities—such as Protestants—faced difficulty obtaining exemptions, particularly if their identification cards did not list a religion other than Islam. The government claims the religion courses cover the range of world religions; however, religious minorities say the courses reflect Sunni Islamic doctrine.

Many Alevis alleged discrimination in the government's failure to include any of their doctrines or beliefs in the religion courses. An Alevi parent in 2004 filed suit in the ECHR charging that the mandatory religion courses violate religious freedom; the case was ongoing at year's end.

Officially recognized minorities may operate schools under the supervision of the Ministry of Education. Such schools are required to appoint a Muslim as deputy principal; reportedly these deputies had more authority than their nominal supervisors. The curriculum of these schools included Greek Orthodox, Armenian Orthodox, and Jewish instruction.

Only the Diyanet is authorized to provide religion courses outside of school, although clandestine private courses existed. Only children 12 and older could legally register for official Koran courses, and Mazlum-Der reported that police often raided illegal courses for younger children. According to Mazlum-Der, in two separate incidents in March, law enforcement authorities raided a Koran course in Kabala, Mardin Province, detaining 30 persons, and a course in Tarakli, Sakarya Province, detaining 3 persons.

In June parliament adopted a law reducing the prison term for those convicted of operating illegal educational courses, including illegal Koran classes, and allowing courts to issue fines instead of prison sentences.

Some religious groups, particularly the Greek and Armenian Orthodox communities, have lost property to the government in the past and continued to fight ongoing efforts by the government to expropriate properties. Many such properties were lost because the law allows the GDF to assume direct administration of properties that fall into disuse when the size of the local non-Muslim community drops significantly. The government expropriated other properties that were held in the name of individual community members who emigrated or died without heirs. The GDF also took control of non-Muslim foundations after the size of the non-Muslim community in a particular district dropped below the level required to elect foundation board members.

The law allows the 161 minority foundations recognized by the GDF to acquire property, and the GDF has approved 341 applications by non-Muslim foundations to acquire legal ownership of properties. However, the legislation does not allow the foundations to reclaim hundreds of properties expropriated by the state over the years. Foundations have also been unable to acquire legal ownership of properties registered under names of third parties, including properties registered under the names of saints or archangels, during periods when foundations could not own property in their own name.

Societal Abuses and Discrimination.—Proselytizing is often considered socially unacceptable; Christians performing missionary work were sometimes beaten and insulted. Police officers may report students who meet with Christian missionaries to their families or to university authorities.

There was an increase during the year in anti-Christian media coverage, threats against Christians, and attacks on churches.

ATV broadcast a report in January mixing coverage of a Protestant church with footage of a sex cult. In May the Islamist daily *Yeni Safak* published an interview with a person who claimed missionaries were using hypnosis to convert Muslims.

In January a group of 60 to 70 nationalists gathered outside Dirilis Protestant Church in Istanbul, chanted slogans, vandalized the premises, and beat the landlord when he confronted them. Police subsequently refused to provide protection for the church on the grounds that the property is not an officially registered place of worship. Police later detained three suspects believed to have participated in the protest.

In April unknown assailants broke the windows of the International Protestant Church of Ankara and threw two Molotov cocktails into the building, damaging the carpet and walls. The church was empty at the time. One month before the attack, the church received an email from a group threatening to kill Christians.

In May unknown individuals painted a red swastika on the apartment door of a Protestant pastor in Izmit and left a threatening letter. Also in May a Christian couple in Kayseri received two e-mails from an unknown party threatening to kill them because of their religious faith.

Protestants in Tarsus claimed they were subject to repeated threats and harassment during the year, including from individual law enforcement officials and municipal officials.

In August co-workers at an Istanbul clothing company reportedly beat Bektas Erdogan, a Christian, while accusing him of "missionary work" and "brainwashing." Erdogan claimed his supervisor attempted to shoot him, but the gun failed to fire.

In November unknown assailants attempted to set fire to the St. Paul Cultural Center, a Protestant facility in Antalya.

In April Syriacs who had recently returned from abroad to the southeastern village of Sari discovered an explosive device in an orchard where they were planning to restart cultivation. In June a landmine exploded in the village of Harabele as a car carrying a Syriac bishop and two others passed by. No one was injured in the explosion, and no suspects were identified in either case. Members of the Syriac community said the bomb incidents discouraged Syriacs abroad from returning to the country.

Members of the Syriac community said local villagers, particularly village guards, often occupied the homes of Syriacs who fled the country, refusing to leave when Syriacs attempted to return.

Some Muslims, Christians, Jews, and Baha'is faced societal suspicion and mistrust. Jews and Christians from most denominations freely practiced their religions and reported little discrimination in daily life. However, religious minorities said they were effectively blocked from careers in state institutions, a claim supported in a 2004 report by a government human rights body.

A variety of newspapers and television shows have featured anti-Christian and anti-Jewish messages, and anti-Semitic literature was common in bookstores.

By year's end there was no verdict in the trial of three members of the Nationalist Movement Party who severely beat Yakup Cindilli, a convert to Christianity, for distributing New Testaments in Bursa Province in 2003.

Trial proceedings were ongoing at year's end in the appeal of Kerim Akbas, who was convicted in 2004 for television broadcasts inciting violence against Christians.

The Jewish community numbered approximately 23 thousand.

At year's end court proceedings continued in the Istanbul trial of 69 suspects charged in connection with the November 2003 terrorist bombings of two synagogues, the British Consulate, and a bank.

Trial proceedings continued in the case of the 2004 bombing of an Istanbul Masonic lodge. It was widely believed in the country that Masons have Zionist and anti-Islamic tendencies; evidence gathered in the investigation indicated that anti-Semitism was at least a partial factor in the attack, which killed two persons and wounded seven. One of the defendants in the case was also a defendant in the case of the November 2003 Istanbul bombings.

In an incident that arose out of the 2003 bombings, a court case was opened in 2004 against the 17-year-old son of one of the alleged perpetrators and 2 journalists on anti-Semitism charges. The charges stemmed from an interview of the youth in the daily *Milliyet*. Two *Milliyet* journalists were charged with providing a platform for incitement against members of another religion. In June an Istanbul court acquitted the journalists, stating that their actions no longer constituted a crime under the revised penal code and press law. The case against the 17-year-old continued at year's end.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, at times the government limited them in practice. The law provides that a citizen's freedom to leave the country could be restricted only in the case of a national emergency, civic obligations

(military service, for example), or criminal investigation or prosecution. The government maintained a heavy security presence in the southeast, including numerous roadway checkpoints. Provincial authorities in the southeast, citing security concerns, denied some villagers access to their fields and high pastures for grazing.

The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons (IDPs).—Various NGOs estimated that there were from one to three million IDPs in the country remaining from PKK conflict, which began in 1984 and continued at a high level through the 1990s. The government reported that 378 thousand residents "migrated" from the southeast during the conflict, with many others departing before the fighting.

A 2004 law allows persons who suffered material losses during the conflict with the PKK to apply for compensation; however, representatives of NGOs and regional bar associations maintained that the law included unreasonable documentation requirements and awarded levels of compensation far below standards established by the ECHR. They also maintained that the commissions reviewing the applications were biased because they included officials from the Interior Ministry, which oversees the police and Jandarma. There was no mechanism for appealing commission decisions.

The Interior Ministry reported that the review commissions received a total of 177,085 applications for compensation under the law through November. By year's end the commissions had processed 12,642 of these applications, approving 4,514 and rejecting 8,128.

According to the Turkish Economic and Social Studies Foundation (TESEV), the law only compensates losses suffered after 1987, leaving out victims who suffered losses between 1984, when the clashes started, and 1987. TESEV reported that many victims who fled the region due to the deteriorating economic and security situation were unable to receive compensation because they could not demonstrate a direct link between their losses and the actions of either the PKK or the security forces.

Village guards occupied homes abandoned by IDPs and have attacked or intimidated IDPs attempting to return to their homes with official permission. Voluntary and assisted resettlements were ongoing. In some cases, persons could return to their old homes; in other cases, centralized villages have been constructed. The government claimed that a total of 135,294 displaced persons had returned to the region as of October.

Foreign governments and national and international human rights organizations continued to criticize the government's program for assisting the return of IDPs as secretive and inadequate.

Protection of Refugees.—An administrative regulation provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, the government exercised its option under the convention of accepting obligations only with respect to refugees from Europe. The government has established a system for providing protection to refugees.

The Office of the UN High Commissioner for Refugees (UNHCR) reported that the government did not return any recognized refugees to a country where they feared persecution during the year; however, the government deported three registered asylum seekers to their country of origin while UNHCR was reviewing their refugee status. The government deported eight Syrian nationals who indicated that they wished to seek asylum in the country but who were not registered with UNHCR at the time they were deported.

According to the government, Europeans recognized as refugees could remain in the country and eventually acquire citizenship; however, it was not clear how often this happened in practice.

The government offered non-European refugees temporary protection while they were waiting to be resettled in another country. The UNHCR conducted refugee status determination for applicants from non-European countries and facilitated the resettlement of those recognized as refugees.

The government generally cooperated with the UNHCR and other humanitarian organizations in assisting the small number of European refugees and asylum seekers. Chechens, many of whom arrived in 2001, reported problems making asylum applications with the government and renewing temporary residence permits.

According to UNHCR, there were indications that Chechens suffered economic hardship because of their lack of a clearly defined legal status made it difficult for them to find employment. The lack of legal status also prevented most Chechen children from enrolling in public schools.

Detained illegal immigrants found near the country's eastern border areas were more likely to be questioned about their asylum status and referred for processing than those caught while transiting or attempting to leave the country. Even along the eastern border, however, access to the national procedure for temporary asylum was hindered by the lack of reception facilities for groups of interdicted migrants, potentially including asylum seekers, and a lack of interpreters to assist security officials.

The UNHCR experienced difficulty gaining access to some persons who expressed a wish to seek asylum while in detention and facing deportation. According to the UNHCR, the government deported five persons in this situation during the year, in most cases to their country of origin, without giving the UNHCR an opportunity to assess their possible need for international protection.

Regulations require asylum seekers to apply within 10 days of arrival and submit proof of identity in order to register for temporary asylum, although this deadline was not enforced. An appeal can be lodged within 15 days of a decision by authorities not to receive an asylum claim; after the appeal procedure, rejected applicants are issued a deportation order that can be implemented after 15 days. Asylum seekers arriving in the country after transiting through one or more other countries continued to face difficulties in lodging an application. As a result, some of the refugees and asylum seekers registered with the UNHCR were unable to register with the government or otherwise legalize their status in the country.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage. However, the government restricted the activities of some political parties and leaders.

Elections and Political Participation.—The 2002 parliamentary elections were held under election laws that the OSCE found established a framework for democratic elections in line with international standards; however, the OSCE mission noted that several parties—notably the AKP, the winner of the elections—faced judicial action aimed at closing them down, and many candidates were also prohibited from running. The OSCE reported that, while there were a substantial number of cases of harassment reported by some political parties and by human rights groups, the elections were generally free and fair.

Political parties and candidates could freely propose themselves and be freely nominated by various elements in the country. The high court of appeals chief prosecutor could only seek to close political parties for unconstitutional activities by bringing a case before the Constitutional Court.

The Constitutional Court deliberations in the legal case seeking the closure of DEHAP on charges of separatism were ongoing at year's end.

Court proceedings continued in the retrial of Leyla Zana, Hatip Dicle, Orhan Dogan, and Selim Sadak, former members of parliament whose April 2004 conviction on charges of being members of, or supporting, the PKK was overturned in July 2004 by the High Court of Appeals.

During the year police raided dozens of DEHAP offices, particularly in the southeast, and detained hundreds of DEHAP officials and members. Jandarma and police regularly harassed DEHAP members through verbal threats, arbitrary detentions at rallies, and detention at checkpoints. Security forces also regularly harassed villagers they believed were sympathetic to DEHAP. Although security forces released most detainees within a short period, many faced trials, usually for supporting an illegal organization or inciting separatism. For example, in October police raided DEHAP offices in the Konak district of Izmir Province, detaining party officials Mehmet Taras and Mahmut Celik; police released Taras the same day and Celik the next day. The raid was reportedly related to plans for holding demonstrations in Bursa Province to protest the prison conditions of Abdullah Ocalan (see section 1.d.).

According to DEHAP, authorities have opened more than 60 investigations and court cases over the past 3 years against party Chairman Tuncer Bakirhan, and jailed 3 party provincial chairman and dozens of party administrators.

In March an Ankara prosecutor opened a case against 12 current and former leaders of the Rights and Freedoms Party for using Kurdish in connection with the party's first congress. Party members were charged with sending invitations to the congress in Kurdish and speaking Kurdish at the event.

There were 24 women in the 550-seat parliament. There was 1 female minister in the 23-member cabinet. There were no female governors but more than 20 female subgovernors.

Although the number was unknown, some minority groups were active in political affairs. Many members of parliament and senior government officials were Kurds.

Government Corruption and Transparency.—Corruption within the government was a problem. Proceedings continued at the Supreme Court in the corruption trial of former prime minister Mesut Yilmaz and former state minister Gunes Taner.

An Ankara military court continued proceedings against former naval forces commander Ilhami Erdil, along with relatives and former aides, on corruption charges involving military tenders and expenditures for his official residence.

Opposition party members criticized the ruling AKP for refusing to lift the immunity of AKP parliamentarians suspected of corruption and other abuses.

The law provides for public access to government information; however, the government can reject applications on national security and other grounds. HRF requests for information during the year were denied, and there was no opportunity to appeal. The Press Council reported that it received no complaints during the year from journalists regarding access to government information.

In May a national police executive reportedly opened an investigation against 15 police officials who had applied for their own personnel records. The executive deemed the applications illegal and issued a circular advising police personnel not to file such applications.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operated in many regions but faced government obstruction and restrictive laws regarding their operations, particularly in the southeast. The government met with domestic NGOs (which it defined broadly to include business organizations and labor unions), responded to their inquiries, and sometimes took action in response to their recommendations.

The HRA had 34 branches nationwide and claimed a membership of approximately 14 thousand. The HRF, established by the HRA, operated torture rehabilitation centers in Ankara, Izmir, Istanbul, Diyarbakir, and Adana and served as a clearinghouse for human rights information. Other domestic NGOs included the Istanbul-based Helsinki Citizens Assembly, the Ankara-based Turkish Democracy Foundation, the Turkish Medical Association, human rights centers at a number of universities, and Mazlum-Der.

Human rights organizations and monitors, as well as lawyers and doctors involved in documenting human rights violations, continued to face detention, prosecution, intimidation, harassment, and formal closure orders for their legitimate activities. The HRA reported that prosecutors opened 47 cases against HRA branches between August 2004 and August and dozens more investigations of the organization and its members during the year.

During the year prosecutors dropped their investigation of the HRA headquarters and Ankara branch office. The investigation was opened following the May 2003 police raid of the facilities.

Amnesty International maintained a headquarters in Istanbul and reported good cooperation with the government during the year. The government also cooperated with international governmental organizations such as the CPT, UNHCR, and the International Organization for Migration (IOM).

Police reportedly harassed and intimidated some human rights activists in the southeast after they met with foreign diplomats.

In March authorities in Nusaybin, Mardin Province, reportedly prevented a delegation from the German Democratic Socialist Party from visiting the relatives of a shepherd allegedly killed by village guards.

In June the National Intelligence Organization reportedly issued a letter to governors in the southeast advising them not to meet with a visiting delegation from the German Protestant Church. According to press reports, the intelligence organization alleged in the letter that the delegation was working to remove restrictions on the PKK in Germany. The government denied that any such letter was sent. Governors and subgovernors in the region uniformly declined to meet with the delegation.

There were government-sponsored human rights councils in all 81 provinces and 850 subprovinces to serve as a forum for human rights consultations among NGOs, professional organizations, and the government. The councils investigated complaints and, when deemed appropriate, referred them to the prosecutor's office. However, many councils failed to hold regular meetings or effectively fulfill their duties. Human rights NGOs generally refused to participate on the councils, maintaining that the councils lacked authority and were not independent, in part because unelected governors and subgovernors served as chairmen.

A Human Rights Presidency (HRP) monitored the implementation of legislation relating to human rights, coordinated with NGOs, and educated public officials. The HRP was generally considered effective. The HRP was attached to the Prime Ministry; it did not have a separate budget, and its resources were limited. Other government human rights bodies include the High Human Rights Board, an interministerial committee responsible for making appointments to human rights posts; a Human Rights Consultation Board (HRCB), which serves as a forum for the exchange of ideas between the government and NGOs; and a Human Rights Investigative Board (HRIB), a special body to be convened only in cases where lower-level investigations are deemed insufficient by the HRP. The HRIB has never been convened.

In March six NGOs—the Society of Forensic Medicine Specialists, the Pir Sultan Abdal Culture Association, the Turkish Medical Association, the Turkish Human Rights Institution Foundation, the Human Rights Foundation, and the Public Administration Institute for Turkey and the Middle East—announced that they were withdrawing from the HRCB because of "government interference" with the body.

The parliamentary Human Rights Committee, which has a mandate to oversee compliance with the human rights provisions of domestic law and international agreements, investigated alleged abuses, prepared reports, and carried out detention center inspections.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not always enforce these provisions effectively. Societal and official violence and discrimination against women and minorities as well as trafficking in persons were problems.

Women.—Violence against women, including spousal abuse, was a serious and widespread problem. The law prohibits violence against women, including spousal abuse; however, the government generally did not effectively enforce the law. Police were reluctant to intervene in domestic disputes and frequently advised women to return to their husbands. Spousal abuse was considered an extremely private matter involving societal notions of family honor, and few women went to the police.

The Directorate General for the Status of Women reported that 147,784 women were victims of domestic violence from 2001 to 2004. These incidents included 4,957 cases of rape and 3,616 cases of attempted rape. In 2003 6,543 women suffered beatings from family members, and in the first eight months of 2004, 5,214 women suffered beatings.

The law prohibits rape, including spousal rape; however, laws and ingrained societal notions made it difficult to prosecute sexual assault or rape cases. Women's rights advocates believed cases of rape were underreported.

The government's Institution for Social Services and Orphanages operated 14 shelters for female victims of domestic violence and rape with a total capacity of 259. Municipalities and NGOs also operated a number of shelters. Under legislation adopted in July, municipalities with populations greater than 50 thousand were required to establish shelters for women. During the year a number of municipalities opened shelters, or prepared to do so, in accordance with the legislation.

Honor killings—the killing by immediate family members of women suspected of being unchaste—were a problem. Women's advocacy groups reported that there were dozens of such killings every year, mainly in conservative Kurdish families in the southeast or among migrants from the southeast living in large cities. Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform the killing.

In March a 15-year-old girl in Diyarbakir was allegedly raped by her father-in-law who, she claimed, demanded that she prostitute herself in order to earn money. When she refused, relatives allegedly attacked her and cut off her nose. Police arrested her father-in-law and three brothers-in-law. Authorities released the suspects, then arrested them again after the local bar association took up the case.

In May a 14-year-old boy shot his mother, Birgul Isik, in Elazig as she returned from Istanbul, where she had discussed being beaten by her husband on a television talk show. Her son allegedly shot her for "disgracing the family." Isik died from her wounds in June. Authorities charged the 14-year-old with murder and also charged Isik's husband and a stepson with incitement. The trial continued at year's end.

Dicle University in Diyarbakir conducted a survey on honor killings during the year. The university polled 430 persons in the southeast; 78 percent of those surveyed were men. The survey revealed that 37.4 percent of the respondents believed honor killings were justified if a wife committed adultery, and 21.6 percent believed infidelity justified punishments such as cutting off a wife's ear or nose.

In October an Istanbul court sentenced Mehmet Hanifi Halitogullari to life imprisonment for killing his daughter, Nuran, in 2004. Nuran had been kidnapped and raped, and her father reportedly killed her to "clean the family honor." In October an Istanbul court convicted Irfan and Ferit Toren of killing their sister, Guldunya, in February 2004. A family member reportedly raped and impregnated Guldunya in 2003. She then fled Bitlis for Istanbul, where her brothers shot and killed her. The court sentenced Irfan to life imprisonment and Ferit, a minor at the time of the murder, to 11 years and 8 months' imprisonment.

Trial proceedings continued in the case of Semse Allak, who was killed by relatives in Mardin Province in 2003 for becoming pregnant out of wedlock. Trial proceedings also continued in the case of Kadriye Demirel, who was killed by her 16-year-old brother in Diyarbakir in 2003 for becoming pregnant out of wedlock.

Trial proceedings continued at year's end in the appeal of the 2004 conviction by a Sanliurfa court of 9 relatives of Emine Kizilkurt; the relatives were convicted for their roles in the murder of Kizilkurt, who was 14, after she was raped by a neighbor.

Prostitution is legal; however, police made numerous arrests involving foreigners working illegally as prostitutes.

The law prohibits sexual harassment; however, women's rights activists maintained that sexual harassment was common and the law was rarely enforced.

Under the law, women enjoy the same rights as men; however, societal and official discrimination were widespread.

The Directorate General on the Status and Problems of Women, under the State Ministry in Charge of Family Affairs, is responsible for promoting equal rights and raising awareness of discrimination against women.

Women continued to face discrimination in employment to varying degrees and were generally underrepresented in managerial-level positions as well as in government. Women generally received equal pay for equal work in professional, business, and civil service positions, although a large percentage of women employed in agriculture and in the trade, restaurant, and hotel sectors worked as unpaid family labor.

Children.—The government was committed to furthering children's welfare and worked to expand opportunities in education and health. The Children's Rights Monitoring and Assessment High Council monitored compliance with the Children's Rights Convention.

Government-provided education through age 14 or the eighth grade is free, universal, and compulsory. The maximum age to which public schooling was provided was 18. Traditional family values in rural areas placed a greater emphasis on education for sons than for daughters. According to the government, 95.4 percent of girls and 99.2 percent of boys in the country attended primary school; however, the UN reported during the year that in the eastern and southeastern regions of the country more than 50 percent of girls between 6 and 14 did not attend school.

The government provides health services to citizens who lack health insurance. Children of parents with health insurance are covered under their parents' plans. Boys and girls have equal access to health care.

Child abuse was a problem. There were a significant number of honor killings of girls by immediate family members, sometimes by juvenile male relatives (see section 5, Women). In October police arrested five employees of the Malatya state orphanage in connection with an investigation into the alleged torture and abuse of children at the institution (see section 1.c.).

Child marriage occurred. The legal age of marriage in the country is 18 for both boys and girls. A judge can authorize a marriage at age 17 under "extraordinary circumstances"; the law requires judges to consult with parents or guardians before making such a decision. However, children as young as 12 were at times married in unofficial religious ceremonies. Families sometimes engaged in "cradle arrangements," agreeing that their newborn children would marry at a later date, well before reaching the legal age.

Women's rights activists say underage marriage has become less common in the country in recent years, but is still practiced in rural, poverty-stricken regions. Activists maintained that girls who married below the legal age often had children shortly thereafter and suffered physical and psychological trauma as a result. Arranged marriages have been cited as a cause of suicides among girls, particularly in the southeast.

In December two sociologists published the results of their one-year study on child prostitution in Istanbul. They estimated there were 300 to 400 girls under 18 working in the sex trade in the city.

Trafficking of children was a problem (see section 5, Trafficking).

Child labor was a problem (see Section 6.d.).

The State Ministry in Charge of Family Affairs oversaw implementation of official programs for street children.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports of trafficking in women and children to, from, and within the country for the purpose of sexual exploitation. There were allegations that police corruption at all levels contributed to the trafficking problem.

The law punishes trafficking with prison terms ranging from 8 to 12 years' imprisonment in addition to heavy fines. The new penal code came into effect in June and specifically addresses trafficking as a crime. However, prosecutors have mostly tended to use other articles that regulate prostitution, rather than the new law on trafficking, which has rendered the new law nearly ineffective. The government reported that prosecutors opened 75 cases against alleged traffickers during the year through September. Courts convicted 29 defendants and acquitted 75 on trafficking charges during that period. Several cases were ongoing at year's end.

An ambassador-level official at the Ministry of Foreign Affairs serves as national coordinator for the government's Task Force on Human Trafficking, which is composed of representatives from the ministries of health, interior, justice, finance, and labor, among others. The government actively participated in international antitrafficking investigations. During the year the government expanded bilateral and multilateral protocols with neighboring countries and regional groups to include antitrafficking law enforcement agreements.

Source country officials reported that central government offices did provide information on trafficking matters in a somewhat timely manner, but dealings with offices outside Ankara were slow and difficult. One source country NGO reported that it took the government more than three months to respond to each of its requests to assist trafficking victims.

The country was a destination and source for trafficked persons. The government placed at 235 the number of identified trafficking victims during the year. Various NGOs operating in the country and in neighboring source countries estimated the number of trafficking victims to be nearly 10 times that figure. Young women seeking employment, particularly from Moldova, Ukraine, Belarus, and Russia, were at the greatest risk of being trafficked into the country. The most identified foreign victims were trafficked for sexual exploitation and were found in Istanbul, Ankara, and Antalya, although victims were identified in cities all around the country. Nearly all of them were treated for sexually transmitted diseases. There were media reports of Turks being trafficked internally and externally. Newspapers reported that British police raided a massage parlor in Birmingham, United Kingdom, in early October and found 2 Turks among 19 women trafficked for sexual exploitation. According to NGOs working in the field, the number of women trafficked internally for sexual exploitation was increasing.

Internal trafficking was a problem. Most trafficking activity within the country occurred in Istanbul, Antalya, Ankara, Mersin, and Trabzon. For example, in September a 14-year-old runaway girl was reportedly held captive in Antalya and forced to have sexual relations with numerous men. She was rescued by police, and the traffickers were arrested and charged with trafficking. The case was pending at year's end.

Foreign victims trafficked to the country were typically recruited by small networks of foreign nationals and Turkish citizens who relied on referrals and recruitment from friends and family members in the source country. Some victims answered newspaper advertisements or enlisted the help of job agencies in the source country. The victims often did not know where they were going or which airlines they were using. Some victims reportedly arrived in the country knowing that they would work illegally in the sex industry; however, most arrived believing they would work as models, waitresses, dancers, domestic servants, or in other regular employment. Traffickers typically confiscated victims' documents, then confined, raped, beat, starved, and intimidated them by threatening their families and ultimately forced them into prostitution.

Not all trafficking cases were for sexual purposes. One foreign victim was saved from domestic servitude after calling the trafficking hot line. The media reported that young Turkish men and women, many underage, were recruited to work in brick factories in Tekirdag Province, receiving little or no salaries and living in hazardous conditions on site.

A Moldovan mother recounted a common trafficking scenario. She was lured to the country with the promise she would earn $300 (409 lira) per month as a domestic helper and nanny. After her arrival, her captors locked her in a dark basement, then deprived her of food and tortured her until she submitted to prostitution. The victim asserted that she only left the premises three times in five years, twice at night and once when she was rescued. Claiming that Turkish men liked plump

women, the traffickers fed the victim "serum" to fatten her up and did not allow her to exercise. Police rescued the victim in August after she called the trafficking hot line. After a stay at the Istanbul shelter, the victim returned to her children in Moldova.

There were credible reports that the government continued its practice of processing trafficking cases as voluntary prostitution and illegal migration. Source country NGOs reported that 226 victims of trafficking either voluntarily left or were deported during the year. There were allegations that the government had deported more than 80 women by sea to Odessa; many of them were not Ukrainian citizens. In Ukraine NGOs identified the women as trafficking victims and repatriated them to their home country.

The first shelter for trafficking victims in the country was located in Istanbul and operated by the Istanbul municipality and the Human Resources Development Foundation, an NGO. The facility sheltered 135 victims during the year. While the 10-bed shelter was generally filled to capacity, the government continued to shelter trafficking victims at battered women's shelters, when available, or in detention centers where the victims were kept separate from inmates.

In October authorities opened a second shelter for victims of trafficking in Ankara. The Foundation for Women's Solidarity, an NGO, operated the shelter and sheltered five victims of trafficking during the year.

The health and justice ministries provided free medical and legal services to foreign victims choosing to remain in the country. By the end of October the Ministry of Interior had issued eight humanitarian visas, which allowed victims to remain in the country for a maximum of six months. The government did not have a repatriation program for victims.

In May the government, in cooperation with IOM, began a multi-country trafficking in persons' prevention and public awareness campaign, including the establishment of a toll-free hotline for victims. Television commercials in Ukraine, Moldova, and Turkey, posters and billboards in major airports and seaports in each country, inserts given at passport control booths to the targeted group of women, and a Russian/Turkish periodical distributed by Turkish consulates in all Russian-speaking posts advertised the hot line in Turkish, Romanian, Russian, and English. The operations division of the general command of the Jandarma published an additional 150 thousand copies of a pamphlet in Turkish, Russian, and English outlining what trafficking is, how to recognize victims, and what to do if someone suspects trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Although they suffered from a lack of economic opportunity, there was no societal discrimination. The law does not mandate access to buildings and public transportation for persons with disabilities. The Presidency Administration for Disabled People, under the Prime Ministry, is responsible for protecting the rights of persons with disabilities.

In September Mental Disability Rights International released a report stating that people with mental disabilities in the country were subject to treatment "tantamount to torture." The international NGO, which conducted a two-year study in the country, claimed the country lacked community-based support for mental patients and offered no alternative to state institutions where the mentally disabled were held separately from society in "prison-like incarceration." Specific abuses listed in the report included: mental patients committed to psychiatric hospitals without judicial review; excessive use of painful electroconvulsive shock treatment without anesthesia or muscle relaxant; use of shock treatment on young children; malnutrition and dehydration of patients; lack of rehabilitation and physical therapy; and excessive use of physical restraints, including children tied to beds for extended periods.

National/Racial/Ethnic Minorities.—The law provides a single nationality designation for all citizens and does not recognize ethnic groups as national, racial, or ethnic minorities. Citizens of Kurdish origin constituted a large ethnic and linguistic group. Millions of the country's citizens identified themselves as Kurds and spoke Kurdish. Kurds who publicly or politically asserted their Kurdish identity or publicly espoused using Kurdish in the public domain risked censure, harassment, or prosecution.

The government maintained significant restrictions on the use of Kurdish and other ethnic minority languages in radio and television broadcasts and in publications (see Section 2.a.).

In February the HRA Istanbul branch sent a letter to the education minister protesting a poetry book published by the ministry. According to the HRA, the book, *On This Path*, has racist statements about Armenians, including "Are you human,

you Armenian?" and "Armenian lower than a *Russian*." The HRA requested that the ministry remove the book from the curriculum. There were no further developments at year's end.

A number of private Kurdish language courses closed during the year, citing a lack of students. Kurdish rights advocates said many Kurds could not afford to enroll in private classes. They also maintained that many potential applicants were intimidated because authorities required those enrolling in the courses to provide extensive documents, including police records that were not required for other courses. They maintained that the requirements intimidated prospective applicants, who feared police were keeping records on students taking the courses.

No official estimate of the Romani population existed. The International Romani Studies Network (IRSN) released a report during the year that estimated the Romani population at approximately 2 million. According to the report, Roma faced significant discrimination, and the national media consistently portrayed them in ways that supported negative stereotypes. IRSN reported that Roma were more consistently undereducated and underemployed, suffered much higher levels of ill-health, higher incidences of discrimination based on ethnicity, and had poorer housing than any other group in the country. The report maintained that there were virtually no positive role models for Romani youth other than musicians and that Roma who achieved success generally felt the need to hide their ethnic identity.

The law states that "nomadic Gypsies" are among the four categories of people not admissible as immigrants.

Other Societal Abuses and Discrimination.—While the law does not explicitly discriminate against homosexuals, representatives of the gay and lesbian rights organizations Lambda Istanbul and Kaos GL claimed that vague references in the law relating to "the morals of society" and "unnatural sexual behavior" were sometimes used to punish homosexuality. Gay and lesbian rights activists maintained that homosexuals risked losing their jobs if they disclosed their sexual orientation and said the law did not protect their rights in such circumstances.

In September the Ankara governor's office applied to the public prosecutor for the closure of Kaos GL after the organization applied for association status. The governor's office maintained that the organization's name and the goals stated in its bylaw—including the defense of gay and lesbian rights—were against the moral values of the country. However, the prosecutor's office, citing international conventions on human rights, determined in October that the organization had not violated the law, and the organization became a legal association.

Section 6. Worker Rights

a. The Right of Association.—The law provides some but not all workers with the right to associate and form unions subject to diverse restrictions; some workers exercised this right in practice. The government maintains some restrictions on the right of association. Unions are required to obtain official permission to hold meetings or rallies and to allow government representatives to attend their conventions and record the proceedings; however, these requirements were not always enforced. Prosecutors could ask labor courts to order a trade union or confederation to suspend its activities or to go into liquidation for serious infractions based on alleged violation of specific legal norms. Approximately 25 percent of the wage and salary workers in the labor force was unionized.

In May the High Court of Appeals ordered the closure of the teachers' union Egitim-Sen on the grounds that the union's bylaw violated the constitution by advocating the right of individuals to receive education in their mother tongue. In June an attorney for the union filed an appeal with the ECHR. In July Egitim-Sen removed the controversial article from its bylaws, enabling the union to avoid closure while the ECHR case was pending. According to Egitim-Sen, authorities began to pursue the case after the military General Staff sent a letter to the Labor Ministry in 2003 asserting that the bylaw violated the constitution.

The law prohibits antiunion discrimination; however, such discrimination occurred occasionally in practice. Union representatives claimed that employers sometimes fired workers because they had joined a union, using alleged incompetence or economic crises as a pretext. Fired workers have the right to appeal the decision of their employer, but under the law the employer is generally not obligated to reinstate the worker.

b. The Right to Organize and Bargain Collectively.—The ability of unions to conduct their activities, including collective bargaining, is subject both in law and in practice to diverse government restrictions and interference. Industrial workers and public sector employees have the right to bargain collectively, and approximately 1.3 million workers, or 5.4 percent of the workforce, were under collective bargaining agreements. The law requires that, in order to become a bargaining agent, a union

must represent 50 percent plus one of the employees at a given work site and 10 percent of all the workers in that particular industry. This requirement favored established unions. In June the International Confederation of Free Trade Unions claimed that the law resulted in workers in many sectors not being covered by collective agreements.

The law provides for the right to strike; however, the law requires a union to take a series of steps, including negotiations and nonbinding mediation, before calling a strike. A union that failed to comply with these steps forfeited its right to strike. The law prohibits unions from engaging in secondary (solidarity), political, or general strikes—strikes involving multiple unions over a large geographical area—or in work slowdowns. In sectors in which strikes are prohibited, labor disputes were resolved through binding arbitration.

The law allows the government to suspend strikes for 60 days on national security or public health and safety grounds. Unions may petition the Council of State to lift such a suspension. If an appeal failed and the parties and mediators failed to resolve the dispute, a strike is subject to compulsory arbitration at the end of the 60-day period.

The law prohibits strikes by civil servants, public workers engaged in the protection of life and property, the mining and petroleum industries, sanitation services, national defense, and education; however, many workers in these sectors conducted strikes in violation of these restrictions with general impunity. The majority of strikes during the year were illegal; while some illegal strikers were dismissed, in most cases employers did not retaliate.

There are no special laws or exemptions from regular labor laws in the country's 21 free trade and export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

Some parents forced their children to work on the streets and to beg (see Section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are comprehensive laws or policies to protect children from exploitation in the workplace, and the government generally sought to implement them but was hampered by lack of personnel and resources. The law prohibits the employment of children younger than 15 and prohibits children under 16 from working more than 8 hours a day. At age 15 children may engage in light work provided they remain in school. The law provides that no person shall be required to perform work unsuitable for their age, gender, or capabilities, and the government prohibits children from working at night or in areas such as underground mining. The law prohibits children attending school from working more than 2 hours per day or 10 hours per week.

The Ministry of Labor effectively enforced these restrictions in workplaces that were covered by the labor law, which included medium and large-scale industrial and service sector enterprises. A number of sectors are not covered by the law, including small-scale agricultural enterprises, maritime and air transportation, family handicraft businesses, and small shops.

Nonetheless, child labor was widespread. The State Statistical Institute reported that the number of child laborers between the ages of 12 and 17 dropped from 948 thousand in 2003 to 764 thousand in 2004; however, some observers claimed that there were no reliable statistics in this field and that the actual number of working children was rising.

An informal system provided work for young boys at low wages, for example, in auto repair shops. Girls rarely were seen working in public, but many were kept out of school to work in handicrafts, particularly in rural areas. According to the Labor Ministry, 65 percent of child labor occurred in the agricultural sector. However, some observers maintained that the bulk of child labor had shifted to urban areas as rural families migrated to cities. Many children worked in areas not covered by labor laws, such as agricultural workplaces with fewer than 50 workers or the informal economy.

Small enterprises preferred child labor because it was cheaper and provided practical training for the children, who subsequently had preference for future employment in the enterprise. If children employed in these businesses were registered with a ministry of education training center, they were required to go to the center once a week for training, and the centers were obliged by law to inspect their workplaces. There were 298 centers located in 81 cities; these centers provided apprenticeship training in 113 occupations. The government identified the worst forms of child labor as children working in the streets, in industrial sectors where their health and safety were at risk, and as agricultural migrant workers.

Children were trafficked for sexual exploitation (see section 5).

There were no reliable statistics for the number of children working on the streets nationwide. The government operated 28 centers to assist such children.

e. Acceptable Conditions of Work.—The Minimum Wage Commission, a tripartite government-industry-union body that reviews the minimum wage every six months, set the minimum monthly wage for the second half of the year at approximately $360 (489 lira) per month, which did not provide a decent standard of living for a worker and family. However, most workers earned considerably more than the minimum wage. Approximately one-third of the labor force was covered by the labor law and received fringe benefits that, according to the Turkish Employers' Association, accounted for approximately 63 percent of total compensation.

The law establishes a 45-hour workweek with a weekly rest day, and limits overtime to 3 hours per day for up to 90 days a year. The Labor Inspectorate of the Ministry of Labor effectively enforced wage and hour provisions in the unionized industrial, service and government sectors, which covered approximately 12 percent of workers. Workers in other sectors had difficulty receiving overtime pay, although by law they were entitled to it.

The law mandates occupational health and safety regulations; however, in practice the government did not carry out effective inspection and enforcement programs. The law allows for the shutdown of an operation if a five-person committee, which included employee and employer representatives as well as safety inspectors, determined that the operation endangered workers' lives. In practice financial constraints, limited safety awareness, carelessness, and fatalistic attitudes resulted in inadequate attention to occupational safety and health by workers and employers alike. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, and they did so in practice.

TURKMENISTAN

Although the constitution declares the country to be a secular democracy and presidential republic, Turkmenistan is an authoritarian state dominated by president-for-life Saparmurat Niyazov who retained his monopoly on political power. Its population is approximately five million. Niyazov has been president since independence in 1991, and legally may remain in office until 2010. In August 2003 Niyazov was elected by the Halk Maslahaty (people's council) to a life term as its chairman, giving him a substantial say in the selection of any presidential successor.

Government efforts continued to focus on fostering centralized state control and the glorification of the president. All candidates who ran in the December 2004 parliamentary elections were members of the Democratic Party, the only legally recognized political party in the country, and were cleared by the authorities. Of the country's 2 parliamentary bodies, the 2,500-member people's council is the supreme legislative body and surpasses the 50-member Mejlis (parliament) in authority. The judiciary was not independent and was under the control of the president. The civilian authorities generally maintained effective control of the security forces.

The government continued to commit serious abuses and its human rights record remained extremely poor. Authorities severely restricted political and civil liberties. The following human rights problems were reported:

- citizens' inability to change their government
- torture and mistreatment of detainees
- incommunicado and prolonged detention
- arbitrary arrest and detention of religious minority group members, civil society workers, and family members of accused criminals
- house arrest
- denial of due process and a fair trial
- arbitrary interference with privacy, home, and correspondence
- restrictions on freedom of speech, press, assembly, and association
- restrictions on religious freedom
- a government-maintained black list of individuals not permitted to travel abroad
- violence against women
- restrictions on free association of workers

Measured improvements in human rights included: government registration of five minority religious groups, release of four prisoners of conscience, the February ratification of new child labor laws, and less evidence of child labor during the cotton harvest.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reliable reports that the government or its agents committed any politically motivated killings, although soldiers in the state border service killed eight people attempting to cross the border illegally.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, security officials tortured, routinely beat, and used excessive force against criminal suspects, prisoners, and individuals critical of the government. Police abuse also targeted religious minorities (see section 2.c.).

For example in April police detained private educator Alexander Fataliyev for nine days, beat him, and threatened him with death.

Authorities detained people in psychiatric hospitals as punishment. On July 23, authorities detained Krishna Consciousness Society of Turkmenistan member Cheper Annaniyazova, who returned to the country during the year, in a psychiatric hospital for illegally leaving the country in 2000. Annaniyazova was charged with illegal departure, illegal entry, and conspiracy to commit illegal departure; she was sentenced to a seven-year prison term. At year's end conviction documents had not been released.

Gurbandurdy Durdykuliev remained in a psychiatric ward since his February 2004 detention in response to petitioning the government to hold a peaceful demonstration.

Unlike the previous year, there were no reports that Ministry of National Security (MNB) members beat Radio Free Europe/Radio Liberty (RFE/RL) associates. There were no developments nor were any expected in the case of the January 2004 abduction and beating of a RFE/RL associate.

No developments were expected in the case of the April 2004 beating of Mukhametgoldy Berdyyew, Moscow-based RFE/RL correspondent and executive director of the human rights organization Turkmen ili.

There was no government action taken in the following 2003 cases: the detention, beating, and injuring of a person suspected of buying a forged passport; the reported detention, torture, and severe injuring of five relatives or associates of Saparmurat Yklymov; and the abduction and beating of a local correspondent by suspected MNB officers.

Prison and Detention Center Conditions.—Prison conditions were poor; they were unsanitary, overcrowded, unsafe, and posed a threat to life. Disease, particularly tuberculosis, was rampant. International monitoring organizations continued to report that prisoners with tuberculosis were released untested and untreated into the general population. Government officials protested these allegations and the allegations of foreign diplomatic missions, but they refrained from responding to direct inquiries about prison conditions. Nutrition was poor, and prisoners depended on relatives to supplement inadequate food supplies, although prisoners convicted for treason were unable to receive supplies from relatives. The government defined treason as any opposition to the government.

Former government officials and others imprisoned for various alleged crimes, including those implicated in the 2002 armed attack against the president, were singled out for harsh treatment. There were no reports available on the conditions and treatment of prisoners arrested after the 2002 armed attack.

Local sources reported that authorities detained and threatened relatives of those implicated in the 2002 attack to coerce confessions and limit their contact with foreigners. Many were placed on a black list that prevented them from traveling outside of the country (see section 2.d.).

Government opponents reported that former high-level officials were denied proper medical treatment and suffered beatings while in detention. Security forces also denied them medical treatment and food, and used verbal intimidation to coerce confessions.

Unlike the previous year, members of minority religions did not report that they were singled out for harsher treatment than other prisoners (see section 2.c.). Four Jehovah's Witnesses imprisoned as conscientious objectors—three in 2004 and one

in February—were released in April. There were no remaining imprisoned conscientious objectors at the end of the year.

Family members and international publications claimed some prisoners died due to the combination of overcrowding, untreated illnesses, and lack of adequate protection from the summer heat. On August 23, the Helsinki Foundation reported that political prisoner Yazgeldi Gudogdyev died in prison due to an untreated illness.

In early November a presidential pardon amnestied 8,145 prisoners. Amnestied prisoners swore an oath of allegiance to the *Rukhnama*, President Niyazov's spiritual guidebook on the country's culture and heritage.

There were three types of incarceration facilities throughout the country: educational-labor colonies, correctional-labor colonies, and prisons. Some prisoners, usually former government officials, were sent into internal exile. In the correctional-labor colonies, relatives of prisoners reported excessive periods of prisoner isolation. There were reports that prisoners were forced to work under hazardous and unhealthy conditions in a kaolin mine in Gyzylgaya prison, near Dashoguz.

Prisoners connected with the November 2002 attack were reportedly held separately at the Owadan Depe prison. Government officials refused to respond to inquiries from family members and diplomats about political prisoners' location or condition. Government officials also refused to permit family members, foreign diplomats, or international observers, including the International Committee of the Red Cross (ICRC), access to detainees or prisoners associated with the November 2002 attack. During the year the ICRC did not conduct any prison visits, due to unacceptable government limitations on visiting certain types of prisons and prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, arbitrary arrest and detention were serious problems.

Role of the Police and Security Apparatus.—The Ministry of Internal Affairs (MVD) directs the criminal police, who worked closely with the MNB on matters of national security. The MNB exercises control over personnel changes in other ministries and enforces presidential decrees. Both the MNB and criminal police operated with impunity. Corruption existed in the security forces.

The government investigated some allegations of abuse and held some members of the security forces accountable for abuses. The MNB's primary responsibility was ensuring the government remained in power. The MNB limited personal freedoms and maintained a black list of citizens restricted from foreign travel. This list is enforced by the MVD's sixth department—the Department of Organized Crime and Terrorism Prevention.

Arrest and Detention.—A warrant is not required for an arrest. Authorities can detain individuals for 72 hours without a formal arrest warrant, but legally have to issue a formal bill of indictment within 10 days of arrest to hold detainees longer; these provisions were not always adhered to in practice. The chairman of the Cabinet of Ministers, a position held by the president, has sole authority for approving arrest warrants.

Detainees are entitled to immediate access to an attorney once a bill of indictment is issued and they were able to choose their counsel; however, in practice they did not have prompt or regular access to legal counsel. In some cases legal counsel ceased advising their clients after government officials altered the charges or case details initially provided to defendants. Incommunicado detention was a problem. By law detainees are to be charged within 72 hours; there was no evidence of authorities not respecting this right in practice. There was no bail system. Authorities denied some prisoners visits by family members during the year. Families sometimes did not know the whereabouts of imprisoned relatives (see section 1.c.).

The law characterizes any opposition to the government as an act of treason. Those convicted faced life imprisonment and were ineligible for amnesty or reduction of sentence. During the year approximately 50 to 60 persons were arrested or convicted under the law.

Those expressing views critical of or different from those of the government were arrested on charges of economic crimes against the state and various common crimes (see section 2.a.).

Representatives of minority religions claimed that law enforcement officers forcibly detained their members throughout the year (see section 2.c.).

Dunya Yklimova Mahtimagamedova, a relative of one of the convicted 2002 coup plotters who fled the country in 2004, reportedly also fled the country after security forces repeatedly detained her.

Opposition groups and international organizations, such as Amnesty International (AI), claimed the government held many political detainees, although the precise number was unknown. Several hundred relatives and associates of those implicated

in the November 2002 attack were held without charge for their perceived political opinions and possible involvement in the attack.

Pretrial detention may legally last no longer than two months, which in exceptional cases may be extended to one year. In practice pretrial detentions averaged two to three months; authorities often exceeded limits.

The government used house arrest without due process to control regime opponents and prevent citizens from meeting with foreign diplomats. Some nongovernmental organization (NGO) leaders were also discriminately placed under house arrest. During the year relatives of those suspected in the 2002 armed attack and some of the 100 individuals placed under house arrest in 2003 to prevent meeting with the Organization for Security and Cooperation in Europe (OSCE) remained under occasional or permanent house arrest or were restricted from traveling outside of certain regions.

During the year numerous former ministers and government officials were dismissed from their positions, sent into internal exile, placed under house arrest, or sentenced to jail terms, often for valid, though politically motivated, charges (see sections 2.d. and 3.).

Amnesty.—In early November the president amnestied 8,145 prisoners. No political prisoners were granted a pardon.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, in practice the judiciary was subordinate to the president. There was no legislative review of the president's judicial appointments, except for the chairman (chief justice) of the supreme court who was reviewed by the rubber stamp parliament. The president has the sole authority to dismiss all judges before the completion of their terms and has done so frequently down to the city level.

The court system consists of a supreme court, 6 provincial courts (including 1 for Ashgabat), and, at the lowest level, 61 district and city courts. Criminal offenses committed by members of the armed forces are tried in civilian courts under the authority of the office of the prosecutor general.

Trial Procedures.—In August 2004 the government released a revised draft criminal procedure code that could significantly alter the 1961 Soviet code, still in force. The proposal incorporated rights of the accused—including the introduction of the presumption of innocence, restraints on police searches, establishment of a bail mechanism, and limits on pretrial detention. The proposal was pending at year's end.

The law provides due process for defendants, including a public trial, access to accusatory material, the right to call witnesses to testify on their behalf, a defense attorney, a court-appointed lawyer if the defendant cannot afford one, and the right to represent oneself in court. In practice authorities often denied these rights, and there were few independent lawyers available to represent defendants. There is no jury system. At times defendants were not allowed to confront or question witnesses against them, defendants and their attorneys were denied access to government evidence against them, and defendants frequently did not enjoy a presumption of innocence. Even when due process rights were observed, the authority of the government prosecutor far exceeded that of the defense attorney, and it was very difficult for the defendant to receive a fair trial. Lower courts' decisions could be appealed, and the defendant could petition the president for clemency. Courts allegedly ignored allegations of torture that defendants raised in trial.

Foreign observers have been permitted at some trials, and some attended trials during the year.

There were regular reports of individuals being arrested and requested to pay fines for breaking specific laws; however, when asked to see the law, government officials refused or stated the laws were secret.

Political Prisoners.—The law characterizes any opposition to the government as an act of treason. Those convicted faced life imprisonment and were ineligible for amnesty or reduction of sentence.

The exact location of over 50 prisoners being held in connection with the 2002 attack remained unknown. There were reports they were being held at Owadan Depe prison outside of Ashgabat and subject to abuse.

At year's end the government held at least one political prisoner, Mukhametkuli Aimuradov, imprisoned since 1995.

Former mufti Nasrullah ibn Ibadullah was sentenced to 22 years imprisonment on charges of treason in March 2004. He was accused of involvement in the 2002 attack.

Property Restitution.—The government failed to enforce the law consistently with respect to restitution or compensation for confiscation of private property (see section 1.f.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, authorities frequently did not respect these prohibitions in practice. Authorities routinely, and in some cases forcibly, searched the homes of suspected regime opponents, minority religious groups, and relatives of those suspected in the 2002 attack. No evictions occurred during the year, but the threat persisted.

The law does not regulate surveillance by the state security apparatus, which regularly monitored the activities of officials, citizens, opponents and critics of the government, and foreigners. Security officials used physical surveillance, telephone tapping, electronic eavesdropping, and informers. There was one government-controlled Internet service provider. The government monitored citizens' e-mail and Internet usage and cut service for accounts used to visit sensitive sites. The government reportedly intercepted surface mail before delivery, and mail taken to the post office had to remain unsealed for inspection. The government closed the last remaining international courier service, DHL, and all business was diverted to state-run Turkmenpochta.

The government continued to engage in forcible resettlement, a practice observers stated was used to displace "internal enemies," political opponents, and ethnic minorities. According to the Turkmen Initiative for Human Rights and the Global IDP Project, during April the government forcibly resettled approximately 40, mostly ethnic Uzbek, families from border villages in Dashoguz Welayat to Balkan Welayat. In April 2004 the government took the homes and relocated the families of dismissed government officials to Dashoguz Welayat. Humanitarian conditions of the displaced persons were unknown, and international observers were unable to independently verify all reports of internal migration.

During the year the government continued to demolish large numbers of private homes, including those to which residents had valid legal title, as part of an urban renewal program to make way for construction in and around Ashgabat and elsewhere. In some of the worst cases, the government required evicted families to pay for removal of the rubble of their destroyed homes, reportedly gave persons as little as 12 hours to collect their belongings and vacate, and did not provide homeowners with alternate accommodations or compensation. Others were given two weeks notice to vacate and offered apartments or plots of land in compensation, albeit undeveloped or nonirrigated plots that resulted in the loss of livelihood for some.

In December authorities demolished a housing complex in the middle of Ashgabat, mostly inhabited by ethnic Russian retirees. Authorities gave less than two days notice of the demolition and no compensation other than a commitment to resettle the occupants in new housing within a year. Residents were told the demolition was in order to build new residential high-rises, but trees were planted at the location instead (see section 2.d.).

On April 18, the 2001 presidential decree restricting noncitizens from marrying citizens was amended to allow a noncitizen to marry a citizen after one year's residency in the country. There were no reports of such marriages under the new or the old law.

The government targeted family members of suspected or convicted criminals for abuse. In late March Major General Ruslan Tukhbatullin was forced to resign and vacate his military quarters with his family. His brother Farid Tukhbatullin was an exiled human rights defender and former prisoner of conscience.

On July 8, authorities prevented Larisa Aranbayeva from boarding a flight to Moscow because of charges against her former spouse who was living in St. Petersberg.

Authorities continued to punish individuals for the alleged violations of their family members, including with house arrest and detainment (see section 1.d.).

Harassment of the relatives of Saparmurat Yklymov, convicted as one of the primary plotters of the 2002 attack, continued.

Section 2. Respect for Civil Liberties, Including

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, but the government did not respect these rights in practice. Persons expressing views critical of or different from those of the government were arrested on false charges of committing common crimes and in some cases subject to abuse, harassment, and deprivation, including loss of opportunities for advancement and employment.

Almost all print media was government financed. Foreign newspapers were banned. The government completely controlled radio and local television, but use of satellite dishes and access to foreign television programming was widespread.

During the year government agents reportedly subjected journalists to arrest, harassment, intimidation, and violence. In May the government banned local journal-

ists from all contact with foreigners unless specifically permitted. Journalists who did not comply were threatened with losing their jobs. On March 12, the government deported Russian news agency RIA Novosti correspondent Viktor Panov, following his February 24 arrest and detainment, on suspicion of espionage.

The government denied telephone service to local RFE/RL correspondent Halmyrat Gylgychdurdyev for several months and dismissed his daughter from her position with the Ministry of Internal Affairs. The government continued to harass RFE/RL reporters and associates. There were no developments in the following RFE/RL cases: January 2004 MNB abduction and beating of an associate correspondent, March 2004 arrest of associate Ashyrguly Bayryev for smuggling novels into the country, April 2004 MNB beating of a Moscow-based correspondent, and the 2003 abduction and torture of Saparmurat Ovezberdyev, who received asylum overseas in 2004.

In March 78-year-old writer Rahim Esenov decided not to travel to Moscow for medical treatment, because of threats he received during the year connected with his February 2004 arrest on charges of instigating social, ethnic, and religious hatred. Esenov's crime was writing a biographical book about a medieval Turkmen figure, which was "inaccurate" according to President Niyazov. All copies of the book were confiscated.

The government censored newspapers; prepublication approval from the office of the president's press secretary was required.

To regulate domestic printing and copying activities, the government required all publishing houses and printing and photocopying establishments to obtain registration licenses for their equipment. The government required the registration of all photocopiers and mandated that a single individual be responsible for all photocopying activity.

All publishing companies were government-owned, and works on topics that were out of favor with the government, including fiction, were not published. The government-controlled Union of Writers expelled members who criticized government policy, and libraries removed their works.

The government kept Russian government-supported, Russian-language Radio Mayak transmissions off the air during the year.

The government required all foreign correspondents to apply for accreditation; however, there were no reported difficulties with foreign media outlet personnel changes during the year.

The government prohibited reporting the views of opposition political leaders or any criticism of the president. Criticism of officials was only permitted if directed at those who had fallen out of presidential favor; public criticism of officials was done almost exclusively by the president himself. Domestic journalists and foreign news correspondents engaged in self-censorship due to fear of government reprisal.

The government continued to dictate media focus on President Niyazov's achievements and his love of his people to amplify his cult of personality. The president personally approves the first page content every day of the major dailies, which always includes a prominent picture of him.

Journalists responded to the president's instruction to report on the poor cotton harvest openly, accurately, and critically.

Intellectuals and artists reported that security officials instructed them to praise the president in their work and warned them not to participate in receptions hosted by foreign diplomatic missions. Ministry of Culture officials temporarily were banned from attending foreign embassy functions after foreign embassy officials failed to attend official *Rukhnama* anniversary commemorative events. Plays required Ministry of Culture approval before opening to the public, to ensure against antigovernment or antipresidential content. Although classical music was still taught and performed throughout the country, there was little or no government support for non-Turkmen music.

While Internet access was available, government-owned Turkmen Telecom was the sole provider (see section 1.f.); generally only accredited journalists, embassies, and a few others had Internet access authority in Ashgabat. Access was prohibitively expensive for most citizens, and service was poor. Turkmen Telecom blocked access to RFE/RL's Turkmen Service Web site.

During the year the government increased already significant restrictions on academic freedom. It did not tolerate criticism of government policy or the president in academic circles, and it discouraged research into areas it considered politically sensitive, such as comparative law, history, ethnic relations, or theology. No master's degrees or doctorates were granted since 1998 and the degrees were no longer available in the country. Government permission is required to study abroad and receive recognition of foreign degrees. UNICEF reported university enrollment decreased from 40 thousand in the 1990s to 3 thousand in 2004.

In September 2004 the *Rukhnama, Volume II* was published and teachers reported having to spend more class time on the *Rukhnama* rather than traditional academic subjects. Niyazov's poetry volume *The Spring of My Inspiration* was released prior to the opening of the school year and was also added to the curriculum. A second poetry volume, *My Beloved*, was released in November and was slated for incorporation into the curriculum.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, but the government restricted this right in practice. Authorities did not grant the required permits for any public meetings and demonstrations during the year. Unregistered organizations, particularly those perceived to have political agendas, were not allowed to hold demonstrations.

In June 2004 the MVD detained 50 women assembled outside the UN office to request support and protest house demolitions; the women were subsequently allowed to present their grievances to the Hakim and were released.

In February 2004 retired citizen Gurbandurdy Durdykuliev was forcibly detained in a psychiatric hospital after requesting permission from authorities to conduct a peaceful demonstration against President Niyazov's policies (see section 1.c.). Durdykuliev remained incarcerated at year's end.

Freedom of Association.—Although the law provides for freedom of association, the government restricted this right in practice. The law requires all NGOs to register with the Ministry of Justice, and all foreign assistance be registered with the State Agency for Investment, the Ministry of Justice, and coordinated through the Ministry of Foreign Affairs. Criminal penalties for unregistered NGO activity were abolished in November 2004; the government continued to routinely deny registration to NGOs and other private organizations using subjective criteria.

Of 89 registered NGOs, international organizations considered 7 of the NGOs to be independent; the last registration completed occurred in January. While some groups reported good cooperation with the Ministry of Justice in the registration process, other NGOs reported difficulties registering, such as frequently having their applications returned on technical grounds. Some NGOs found alternative ways to carry out activities, such as registering as businesses or subsidiaries of other registered groups. Other groups considered themselves temporarily closed.

No political groups critical of government policy were able to meet the requirements for registration. The only registered political party was the Democratic Party, the former Turkmen Communist Party. The government did not prohibit membership in political organizations; however, in practice those who claimed membership in political organizations other than the Democratic Party of Turkmenistan were harassed.

In December a member of the Ikinciler Farmer's Cooperative was convicted of embezzlement. In the past the cooperative unsuccessfully attempted to run an independent candidate for local office and was critical of the government's agricultural policy. The collective farmers believed the conviction was politically motivated.

c. Freedom of Religion.—The law provides for freedom of religion, although the government restricted this right in practice. There is no state religion, but the majority of the population is Sunni Muslim. The government has incorporated some aspects of Islamic tradition into its efforts to redefine a national identity, but in practice the government closely controlled and monitored all religious activities and placed some restrictions on Muslims. The government required all religious groups and individual mosques and churches to register. Some groups reported confusion over registration requirements because of conflicting statements by government officials from different ministries.

In April five more religious groups were registered: Greater Grace Church, Church of Christ, Light of the East, Full Gospel Christians, and New Apostolic Church. At an October 20 government meeting with representatives of religious minority groups, the government explained that individual branches of religious groups could be temporarily registered by requesting representative powers of attorney from the registered branch of their particular group. Ten branch groups used this temporary registration mechanism, but only two groups met by the end of the year; the eight others were waiting for local government validation of the temporary registration process before meeting.

Nonregistered religious congregations such as Jehovah's Witnesses, a separate group of Baptists, and Evangelical Christian groups were present in the country, although the government restricted their activities. Nonregistered groups were officially prohibited from conducting religious activities.

The government-supported Council on Religious Affairs (CRA) was part of the government bureaucracy and appeared to exercise direct control over the hiring,

promotion, firing, and, in some cases, compensation of both Sunni Muslim and Russian Orthodox clergy.

Some members of minority religions claimed that law enforcement officers tortured and abused their members. During the year there were reports that government agents sexually harassed, detained, interrogated, evicted, and pressed religious minority group members to abandon their beliefs. Some were assessed fines.

On February 11, city officials warned Jehovah's Witness member Nazikgul Orazova to discontinue proselytizing; Orazova reported that, on March 2, MVD officers beat and threatened her with imprisonment and large fines while she was held for 8 hours in the sixth department of the MVD for questioning; she was detained again 4 times in March, and on April 5 was ordered to pay an approximately $50 fine (1,250,000 TM) for proselytizing and possessing religious literature. On May 26, the court ordered the confiscation of her property to pay the fine.

In July, August, and September several minority religious organizations, registered and unregistered, complained that local police increased harassment, particularly in areas outside of Ashgabat. Baptists, Jehovah's Witnesses, and Seventh-day Adventists experienced disrupted meetings, detainments (including of children), and administrative fines.

Between July and August security forces broke up at least three Baptist meetings in Turkmenabat, Mary, and Dashoguz; members described harassment, detention, questioning, and at least one beating. Jehovah's Witnesses reported eight incidents of harassment or short-term detention for the same time period.

On July 11, authorities did not allow Pentecostal Church pastor Victor Mokrousov to cross the border into Uzbekistan at the Farap checkpoint. Forum 18 reported that three members of two other religious minority groups were prevented from leaving the country in October.

On July 19, Forum 18 reported that hearing and speech-impaired Independent Baptist Church member Asiya Zasedatelevaya was hit with her Bible during a local police raid on a worship service in her home.

On July 23, Krishna Consciousness Society of Turkmenistan member Cheper Annaniyazova was detained in a psychiatric hospital for illegally leaving the country in 2000 (see section 1.c.).

There were no developments in the September 2004 case of police detaining, harassing, and beating Jehovah's Witnesses.

The government controlled the establishment of Muslim places of worship and limited access to Islamic education. In March 2004 President Niyazov announced no more mosques would be built in the country. During the year one mosque, in Turkmenbashy, was destroyed. Minority religious groups reported difficulties in finding appropriate places of worship.

At the end of the year, an imam placed under house arrest in March 2004 was no longer confined.

Local police officers subjected ethnic Turkmen who converted to Christianity to official harassment and mistreatment, such as verbal abuse for denying their heritage by converting.

Foreign missionary activity is prohibited, although both Christian and Muslim missionaries were present in the country.

There was no official religious instruction in public schools; however, students were required to study the *Rukhnama* at all public schools and institutes of higher learning. Observers maintained the president used these teachings in part to supersede other established religious codes, as well as historical and cultural texts, and thereby influence citizens' religious and cultural behavior. Extracurricular religious education was allowed only with CRA and presidential permission.

On June 30, the Turkmen State University Theological Faculty was dissolved and absorbed into the history faculty. Only one institution of Islamic education remained open and the government controlled the curriculum.

Government-supported mosques were required to display copies of the *Rukhnama*.

Religious literature was not published in the country. Government representatives informed religious groups they could only import as much religious literature as corresponded to registered congregants.

Ethnic Turkmen members of unregistered religious groups accused of disseminating religious material received harsher treatment than members of other ethnic groups, particularly if they received financial support from foreign sources.

During the year the government controlled the number of people allowed to participate in the annual Muslim pilgrimage to Mecca (the hajj), specifying that only 188 pilgrims would be allowed to journey to Mecca, out of the country's quota of 4,600 persons.

Four Jehovah's Witness conscientious objectors were released from prison in April. In contrast to previous years, they reported no discriminatory abuse during their detention.

Societal Abuses and Discrimination.—There were two thousand self-identified Jews and no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law does not provide for full freedom of movement.

Internal passports and residence permits were required. The government controlled travel to border cities and regions, and large parts of the country were considered restricted zones.

The government maintained a list of persons not allowed to travel within or depart the country, which included some members of minority religious groups, regime opponents, relatives of those implicated in the 2002 attack, and those considered to possess "state secrets." The December 5 migration law stipulates that people with access to state secrets involved in education and military training may be denied travel abroad.

The government also refused to allow some study abroad and exchange program participants to attend the programs.

Citizens may only spend three days a month in neighboring Uzbekistan, under a 2004 summit agreement between President Niyazov and President of Uzbekistan Karimov, which in some cases impeded citizens' ability to visit relatives.

The law permits forced exile, and some individuals remained in forced exile; the government also used forced and internal exile as punishment during the year. The government confiscated the passports of political opponents to enforce internal exile during the year. Numerous former ministers and government officials dismissed from their positions and sent into internal exile remained under house arrest. The president proposed that the officials, who were sometimes accompanied by their families, could work off their sentences in internal exile. Almost all prominent political opponents of the government chose to move to other countries for reasons of personal safety; none returned during the year.

In April Alexander Fataliyev was exiled after he was detained and beaten by security forces for receiving foreign funding for his private educational center.

Sazak Begmedov remained in internal exile after being forced to leave Ashgabat in late 2003 after his daughter founded the Turkmenistan Helsinki Foundation in Bulgaria. In November local authorities prevented Begmedov from traveling to Ashgabat for medical treatment.

Maral Yklymova, the daughter of one of the accused organizers of the November 2002 attacks, remained under house arrest in Mary where she was regularly watched by security officials and periodically had her passport confiscated and telephone lines cut.

There were reports that authorities harassed ethnic Russians and confiscated their property to hasten their migration. In contrast to previous years, the government did not overtly discourage emigration of ethnic Turkmen living in Iran, Iraq, Turkey, and other countries and emigration of non-Turkmen from the former Soviet Union.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee or asylum status to some ethnic Turkmen from Afghanistan and Tajikistan, including other groups of ethnic Uzbeks and Russians. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and granted citizenship or legal residency to over 16 thousand individuals during the year. Most of those granted citizenship included ethnic Turkmen who had fled conflict in Tajikistan in the early 1990s, ethnic Uzbeks, and Russians. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

Since the beginning of international military operations in Afghanistan, the government has cooperated with the UNHCR, the International Organization for Migration (IOM), and other international refugee and relief agencies to assist refugees from Afghanistan.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens could not freely choose and change the laws and officials that govern them. The constitution declares the country to be a secular democracy in the form of a presidential republic. It calls for the separation of powers among the various branches of government, but vests a disproportionate share of power in the presidency. In practice the president's power over the state was absolute; despite the appearance of decision making by consensus, all important and many minor decisions were made at the presidential level. Citizens swore a national oath of personal allegiance to President Niyazov, rather than just to the country or to the presidency as a general institution.

A constitutional amendment named President Niyazov chairman-for-life of the people's council, giving him substantial authority to approve any potential successor. A 1994 national referendum, which was neither free nor fair, extended the president's term to 2002, eliminating the 1997 scheduled presidential election. A 1999 law allowed an exception to constitutionally mandated term limits (normally two five-year terms) for President Niyazov, effectively permitting him a lifetime term in office. In effect, Niyazov makes the laws and determines candidates for elections.

Elections and Political Participation.—In 2004 parliamentary elections all candidates were pre-approved and were members of the Democratic Party. Many citizens had very little knowledge about the elections, including both the date and candidates' biographies. Foreign observers were not invited to monitor the elections.

Although the government did not prohibit membership in political organizations, political parties other than the president's Democratic Party were effectively banned, and those who claimed membership in political organizations other than the Democratic Party of Turkmenistan were harassed.

Authorities fired or threatened to fire supporters of opposition movements, removed them from professional societies, and threatened them with the loss of their homes. In addition some citizens who met with foreigners were subject to official intimidation.

There were 8 women in the 50-member parliament. Women were also represented in the 2,500-delegate people's council. Women served in a few government positions, including deputy chair of the parliament, acting chairman of the Central Bank (until she was removed in May), prosecutor general, minister of culture, and ambassador to the UN.

There was 1 member of a minority group in the 50-seat parliament. Ethnic minorities were also represented in the 2,500-delegate people's council. Preference for appointed government positions was given to ethnic Turkmen, but ethnic minorities occupied several high governmental positions. The largest tribe, the president's Teke tribe, held the most prominent roles in cultural and political life.

Government Corruption and Transparency.—Most statistical data was considered a state secret. There was no public disclosure of demographical data, and observers asserted that published economic and financial data was manipulated to justify state policies and expenditures.

While the president fired numerous officials of all ranks on justifiable charges of bribery, nepotism, abuse of office, and embezzlement, observers maintained that authorities used anticorruption campaigns to remove potential rivals.

Presidential apparatus chief administration officer and deputy chairman of the people's council Rejep Saparov was dismissed on July 1 and was serving a 20-year sentence for numerous convictions. Deputy Chairman for Energy and Industry Issues and Chief of the State Competent Agency for Exploration of Hydrocarbon Resources Yolly Gurbanmuradov was dismissed on May 20 and later sentenced to 25 years for crimes including embezzlement. Following Gurbanmuradov's purge, most of the Oil and Gas Ministry also was purged and the ministry was reorganized to deposit all decisions regarding the hydrocarbons industry with the president.

The president fired 15 officials for alleged corruption in the cotton harvest and state agricultural sector. The president also fired the head of the State Wheat Association, Kemal Atdayev, for receiving a bribe as well as his successor Tachberdy Shikhberdiyev for committing fraud.

On July 1, whistleblower Tachmyrat Shyhberdiyev was demoted from his post of Chairman of the Grain Products Association to Deputy Chairman and accused of embezzlement; Shyhberdiyev was reportedly demoted for telling the president that the year's harvest was actually lower than officially reported in the media. Shyhberdiyev was detained after the demotion but subsequently released and dismissed from the government.

There is no law that allows access to government information and in practice the government did not provide access. Requests for information were denied on the basis of information being a state secret.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no domestic human rights groups. The government warned its critics against speaking with visiting journalists or other foreigners wishing to discuss human rights problems. During the year the government maintained pressure on nonpolitical social and cultural organizations. This included detention and routine summoning for questioning at security services.

There were no international human rights NGOs with an ongoing permanent presence in the country; however, the government permitted international organizations, including the OSCE, UNHCHR, and the ICRC; international human rights groups monitored the situation from abroad. Government restrictions on freedom of speech, press, and association severely restricted international organizations' ability to investigate and criticize the government's human rights policies. Officials were somewhat responsive to questions regarding alleged human rights abuses; during the year diplomats engaged in dialogue with the government on a number of religious freedom and human rights cases.

The UN Committee on Elimination of Racial Discrimination wrote a number of concerns and recommendations on the country, published in November, and noted the need for respect of the rule of law.

On January 27, the government accredited a new OSCE country director, after it had declined to renew accreditation of the OSCE country director in 2004, accusing her of focusing on negative information.

The National Institute for Democracy and Human Rights (IDHR), nominally headed by President Niyazov, oversaw the work of law enforcement agencies, the military, and the judiciary, but appeared to have little real authority. On February 1, the Committee on the Protection of Human Rights and Liberties was established in the parliament to oversee human rights-related legislation. The IDHR was mandated to support democratization and monitor the protection of human rights. The IDHR also maintained a human rights library. In principle the institute reviewed citizens' complaints and returned its findings to the individual and the organizations involved; however, the institute was not an independent body, and its ability to obtain redress was limited.

In July the institute released and distributed *Democracy and Law 2004* in three languages: Turkmen, Russian and English. The book, which represented government views on human rights protection in the country, was distributed to diplomatic missions and international organizations.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law provides for equal rights and freedoms for all, independent of nationality, origin, language, and gender, violence against women and discrimination against ethnic minorities continued to be problems.

Women.—The law prohibits domestic violence, including spousal abuse, but is not effectively enforced. Anecdotal reports indicated that domestic violence against women was common; most victims of domestic violence kept silent, either because they were unaware of their rights or afraid of increased violence from husbands and relatives. There were a few court cases and occasional references to domestic violence in the media. One official women's group in Ashgabat and several informal groups in other regions assisted victims of domestic violence.

Rape, including spousal rape, is illegal, with penalties of between 3 to 25 years based on the level of violence of the incident and whether the attacker is a repeat offender. The government generally enforced it effectively against citizens; however, it used rape as a threat against female family members of persons held for religious offenses (see section 2.c.).

Prostitution is illegal, but remained a growing problem throughout the country that the authorities did not counter effectively.

There is no law specifically prohibiting sexual harassment, and there were anecdotal reports that sexual harassment existed in the workforce.

Women had equal rights under family law, property law, and in the judicial system. Women were underrepresented in the upper levels of government-owned economic enterprises and were concentrated in health care, education, and service professions. Women were restricted from working in some dangerous and environmentally unsafe jobs.

The government did not acknowledge or address discrimination against women.

Children.—The government did not take effective steps or have adequate resources to fully address the needs of children.

The government provided nine years of basic education for girls and boys. Primary and secondary education was free and compulsory. The government stated approximately 95 percent of children between the ages of 7 and 16 attended school on a regular basis; however, a 2003 UN Development Program report listed school attendance at 81 percent. Most children completed school and some went on to university and vocational schools. Although children no longer worked in the cotton fields in a number of agricultural areas, schools were disrupted because teachers were called to pick cotton.

A 2000 presidential decree continued to reduce the number of teachers; class sizes therefore continued to increase rapidly, facilities deteriorated, and funds for textbooks and supplies decreased (see section 2.a.). The amount of classroom time dedicated to learning the *Rukhnama I* and *II* and other books by Niyazov increased during the year, dramatically reducing the school time available for basic core academic subjects. During the year the government limited courses taught in non-Turkmen languages, further degenerating the secondary school system and educational opportunities. There were no Turkmen-language curricula or textbooks in many subject areas and at most grade levels.

Poverty and healthcare problems led to a high rate of infant mortality. By law the government provides free health care for children until the age of 18. Children are entitled to consultations with doctors and specialists, and vaccinations, except for hepatitis B, are free for children that are at least one-year old. Hospital care is also free; however, observers noted that parents regularly had to pay bribes for service and provide medicines and syringes necessary for treatment.

There were isolated reports of child abuse.

Some child labor was seen in the cotton fields during the harvest; however, this was not encouraged by the government and contrary to a presidential decree (see section 6.d.).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, articles in the criminal code deal with sexual exploitation and prostitution, slavery, and encouraging illegal border crossing prohibit trafficking de facto. Women were trafficked to, from, or within the country; however, trafficking was not a significant problem.

Traffickers are subject to between two and eight years' imprisonment and the confiscation of property, depending on which law they are convicted under.

The State Service for the Registration of Foreigners (SSRF) is responsible for combating trafficking, and officers participated in a July North Atlantic Treaty Organization/Partnership For Peace training of law enforcement officials hosted by the Turkish military.

In December 2004 the IOM reported that airport and border officials facilitated the repatriation of a trafficking victim from Turkey, whose traffickers had forcibly taken her passport and identification documents.

There were six known cases of trafficking in persons and one successful prosecution on charges of sexual exploitation, slavery, and encouraging deceitful border crossing.

Victims involved in these cases were reportedly trafficked to Turkey, although Iran was assumed also to be a trafficking destination. NGOs noted that young women from minority ethnic groups were most vulnerable to being trafficked.

The Ministry of Justice worked with foreign embassies and international organizations to promote public awareness of trafficking issues.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities, although various regulations contradict the law, in effect nullifying it. Persons with disabilities encountered discrimination in employment, education, access to health care, and other state services. Many persons with physical disabilities were systematically categorized as mentally disabled and housed at facilities for the mentally ill. The government provided subsidies and pensions for persons with disabilities, although they were inadequate to maintain a decent standard of living. Some groups of students with disabilities were unable to obtain education because there were no teachers. Students with disabilities did not fit the unofficial student university profile and were not admitted to universities. Children with disabilities, including those with mental disabilities, were placed in boarding schools. They were to be provided with educational and future employment opportunities if their condition allowed them to work; in practice neither was provided.

Although the law requires that new construction projects include facilities to allow access by persons with disabilities, compliance was inconsistent and older buildings were not accessible.

National/Racial/Ethnic Minorities.—The law provides for equal rights and freedoms for all citizens, although the president has previously made statements promoting the importance of ethnic purity. Approximately 77 percent of the population was Turkmen, 9 percent Uzbek, and 7 percent Russian. There were smaller numbers of Kazakhs, Armenians, Azeris, and many other ethnic groups. Turkmen themselves are divided into five main tribes: the Teke, the Yomut, the Ersary, the Yasyr, and the Goklen. Several minority groups tried to register as NGOs in order to have legal status for cultural events. No minority groups succeeded in registering by year's end, although the Polish minority application was pending.

During April approximately 40, mostly ethnic Uzbek, families from border villages in Dashoguz Welayat were reportedly forcibly resettled to Balkan Welayat (see section 1.f.).

The law designates Turkmen as the official language, although it also provides for the rights of speakers of minority languages. While Russian remained prevalent in commerce and everyday life, the government intensified its campaign to conduct official business solely in Turkmen. During the year the government required employees of ministries to pass tests demonstrating knowledge of the *Rukhnama*, state symbols, and professional subjects in Turkmen; employees who failed the exam were dismissed. Turkmen was a mandatory subject in school, although it was not necessarily the language of instruction. Teachers and staff at Turkish schools were systematically replaced with ethnic Turkmen teachers and administrators.

Non-Turkmen complained that some avenues for promotion and job advancement were closed to them and only a handful of non-Turkmen occupied high-level jobs in the ministries. In some cases applicants for government jobs had to provide family information on their ethnicity going back three generations. Non-Turkmen were often the first targeted for dismissal when government layoffs occurred. There was societal discrimination against ethnic minorities, specifically Russians.

Other Societal Abuses and Discrimination.—There was a strong societal dislike of homosexuality. Homosexuality between men is illegal and punishable by up to two years in prison; it was believed that homosexuality between women would also be considered illegal, although it is not specifically written in law.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form or join unions; however, in practice the government does not permit independent unions. Under the umbrella organization Center for Professional Unions of Turkmenistan, led by a presidential appointee, there were numerous professional unions in most fields, including medicine, construction, and banking. Some unions circumvented government restrictions on independent unions by registering as public associations (or NGOs), for example, the unions of accountants, economists, entrepreneurs, and leaseholders. The law does not prohibit antiunion discrimination by employers against union members and organizers and there were no mechanisms for resolving complaints of discrimination; however, there were no reports of discrimination.

b. The Right to Organize and Bargain Collectively.—Unions may not legally conduct activities, and the government controlled and interfered in union activities. The law does not protect the right of collective bargaining. There is no law regulating strikes or retaliation against strikers, and strikes were extremely rare.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were reports it occurred (see sections 1.c. and 6).

The government prohibits forced and compulsory labor by children, and on February 1, the president signed a law banning child labor and stated no children would participate in the cotton harvest. Journalists accused local officials of using children to complete the cotton harvest, and observers saw children working in fields. However, there was a dramatic decrease in the number of children working in the fields.

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace but they were not implemented effectively. The minimum age for employment of children is 16 years; in a few heavy industries, it is 18 years. The law prohibits children between the ages of 16 and 18 years from working more than 6 hours per day (the normal workday was 8 hours). A 15-year-old child may work 4 to 6 hours per day with parental and trade union permission, although such permission was rarely granted. Child labor laws were not effectively enforced in practice, although implementation appeared to have improved during the year.

e. Acceptable Conditions of Work.—The minimum monthly wage in the state sector of approximately 1 to 1.5 million TMM (approximately $40 to $60 at the unofficial rate) per month did not provide a decent standard of living for a worker and family.

The standard legal workweek is 40 hours with 2 days off. Individuals who worked fewer hours during the week or were in certain high-level positions can also work on Saturdays. The law states overtime or holiday pay should be double the regular payment; maximum overtime in a year is 120 hours and cannot exceed 4 hours in 2 consecutive days. This law, however, is not enforced.

The government did not set comprehensive standards for occupational health and safety. Industrial workers in older factories often labored in unsafe environments and were not provided proper protective equipment. Some agricultural workers were subjected to environmental health hazards. Workers did not always have the right to remove themselves from work situations that endangered their health or safety without jeopardy to their continued employment.

UKRAINE

Ukraine, which has a population of approximately 47 million, is a republic with a mixed presidential and parliamentary system, governed by a directly elected president and a unicameral Rada (parliament). A presidential election was held in October 2004, followed in November 2004 by a second-round runoff between Prime Minister Viktor Yanukovych and opposition leader Viktor Yushchenko. Massive fraud conducted on behalf of Yanukovych during the runoff election triggered the largest nonviolent protest movement in the country's modern history, known popularly as the Orange Revolution. The Supreme Court ruled the runoff to be invalid and ordered that a repeat runoff election take place in December 2004. The December 2004 runoff, which Yushchenko won, and the short campaign preceding it were substantial improvements. The civilian authorities generally maintained effective control of the security forces.

While the government's human rights performance significantly improved in important areas, most notably in freedom of expression and freedom of assembly, in a number of respects it remained poor. The following human rights problems were reported:

- three deaths in custody under suspicious circumstances
- torture in pretrial detention facilities
- violent hazing of conscripts
- wrongful confinement in psychiatric hospitals
- harsh conditions in the penal system and pretrial detention facilities
- arbitrary detention, lengthy pretrial detention, and long trial delays
- government monitoring of private communications and movements of individuals without judicial oversight
- limitations on press freedom through use by government employees and private individuals of punitive libel laws and intimidation of investigative journalists
- continuing registration difficulties for a few religious communities and property restitution difficulties for many others
- anti-Semitic acts
- abuse of refugees at detention facilities
- serious corruption in all branches of government and the military services
- violence and discrimination against children and women, including sexual harassment in the workplace
- trafficking in persons
- frequent harassment of minorities, including vigilante violence used against Tatars in Crimea
- inadequate labor legislation that permitted both government and companies to restrict legitimate labor activity
- government efforts to influence trade union elections

There were notable improvements following the Orange Revolution. There was increased accountability by police officers, and prison conditions continued gradually to improve. The mass media made significant gains in independence. Interference with freedom of assembly largely ceased, and most limitations on freedom of asso-

ciation were lifted. The government moved to reduce its role in the sphere of religion. A wide variety of domestic and international human rights groups generally operated without government harassment. The government also increased its investigation and prosecution of suspected human traffickers.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed politically motivated killings, but the media reported that the police beat to death at least three individuals while they were in custody.

On April 7, police officers in Zhytomyr beat to death an unidentified 36-year-old man while he was detained on charges of petty hooliganism. The media reported on July 23 that the Zhytomyr regional prosecutor opened a criminal case against an unspecified number of police officers for "deliberately inflicting injury on a person" and "exceeding authority."

On September 26, the newspaper *Kievskiy Vidomosti* reported that police in Kherson beat to death a suspected thief; the newspaper noted that a police officer involved in the incident had been detained.

According to media reports and a major human rights group, 21-year-old Armen Melkonyan was beaten to death by police in a Kharkiv pretrial detention center on December 17. According to media reports, the detention center director, Serhiy Tkachenko, attempted to cover-up the incident. Senior Kharkiv Region officials told members of the Kharkiv human rights non-governmental organization (NGO) community that an autopsy confirmed that Melkonyan's death was the result of physical violence, despite Tkachenko's claim that Melkonyan died of natural causes. The cause of death was "asphyxia and blockage of respiratory tract due to vomiting"; the results also showed that Melkonyan had suffered a serious head injury. In response to criticism from the press, the human rights community, and Melkonyan's family, the prosecutor's office opened a criminal investigation on December 23.

No further progress was reported in the case of Melitopol resident Mykola Zahachevsky, who died in April 2004 in the city's pretrial detention facility under suspicious circumstances.

The media reported that, on February 11, police questioned former governor of Zakarpattya Region, Ivan Rizak, for 10 hours about the suspicious May 2004 death of the longtime Rector of Uzhhorod State University, Volodymyr Slyvka. They released him following the questioning and, as of year's end, no criminal charges had been filed against him in connection with Slyvka's death.

Human rights groups asserted that soldiers continued to kill other soldiers during violent hazing events, although officials denied that any servicemen had died because of physical violence (see section 1.c.).

There were no indications that the authorities intended to investigate further a number of Kuchma-era killings that had earlier given rise to charges of foul play. They declined to release any additional information, either to the public or to a special parliamentary investigating commission, about the August 2003 death of Ivan Havdyda, deputy head of the Ukrainian People's Party. There were no indications that authorities were investigating the November 2003 death of Yuriy Bosak, a leader of the Reforms and Order Party in Khmelnytsky Region, who was found hanging in a forest. His death had been ruled a suicide. The Prosecutor General's Office (PGO) continued to decline to investigate the December 2003 death of Volodymyr Karachevtsev, head of Melitopol's independent journalists' union and a deputy editor at the independent newspaper *Courier*. Karachevtsev, who wrote frequently about corrupt local officials, was found hanging by his sweater on the handle of his refrigerator. Despite clear evidence to the contrary, local authorities ruled the case a suicide.

As of year's end there were no verdicts in cases related to the 2001 killing of Ihor Aleksandrov, the director of a Donetsk Regional television station, a crime that remains the subject of significant domestic interest. According to the media, trials of a group of 12 persons on a variety of charges related to the killing and a subsequent attempted cover-up were ongoing. The cases were being heard by the Luhansk Court of Appeals at the direction of the Supreme Court, which expressed a lack of confidence in the Donetsk Court of Appeals, the original venue for the trials. The killing of Aleksandrov, who had aired a number of critical reports about Donetsk-based politicians and was a noted critic of corruption within local law enforcement organizations, has been attributed to his professional activities.

During the year there were several major developments in the unresolved 2000 killing of prominent journalist Heorhiy Gongadze, whose decapitated body was iden-

tified in November 2000 after his disappearance two months earlier. On March 2, the PGO announced that three senior police officers who had taken part in the abduction of Gongadze had been arrested and had described the killing of the journalist in detail; their trial was scheduled for January 2006. The PGO also announced that an international arrest warrant had been issued for a fourth senior police official, General Oleksiy Pukach, who had fled the country. Authorities announced that, on March 4, the former minister of internal affairs, Yuri Kravchenko, shot himself to death at his home in Kiev on the morning he was to have faced questioning about his role in the Gongadze case. Authorities concluded this despite the fact that Kravchenko had two gunshot wounds in his head. According to the media and to Gongadze's widow, former minister Kravchenko was the official who ordered Gongadze's killing at the behest of then-President Leonid Kuchma.

Meanwhile, the European Court of Human Rights (ECHR) held unanimously that the Ukrainian authorities had violated the rights of Gongadze's widow, Myroslava, in several ways, including failing to protect Gongadze when he was alive and conducting an inadequate investigation into his death. The ECHR awarded Myroslava Gongadze $120 thousand (UAH 600 thousand) in damages. The results of a protracted parliamentary investigation into the case were delivered to members of parliament and made public September 20 by member of parliament Heorhiy Omelchenko.

In February, April, and May, major newspapers reiterated allegations that gangs of rogue officers of the Ministry of Internal Affairs (MOI), colloquially known as "werewolves," had been involved in previous years in killings and kidnappings connected to organized crime, but there were no indications that these allegations were being actively investigated.

During the year politicians, politically active businessmen, and journalists were the victims of attacks that sometimes were fatal and may have been politically motivated; however, business, government, and criminal activities were intertwined to such an extent that it was often difficult to determine the motives. For example, the press reported on November 29 that former Lviv Region Governor Stepan Senchuk had been shot and killed in an apparent contract killing by unidentified gunmen in a village outside Lviv. Senchuk, a businessman, had joined President Yushchenko's People's Union/Our Ukraine party earlier in the year.

b. Disappearance.—There were no reports of politically motivated disappearances.

There were no developments in the 2003 disappearance of Vasyl Hrysyuk, a reporter for the newspaper *Narodna Sprava* in the Lviv Region town of Radekhiv. There were no indications that the authorities were actively pursuing this case.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the law prohibits such practices, police frequently employed severe violence against persons in custody.

On September 24, Amnesty International released a report charging that law enforcement officers routinely extracted confessions and testimonies from detainees through force, often resorting to torture, and criticized the authorities for failing to clamp down on such behavior by police and prison officials. According to an August 2004 Fifth Channel television program, police frequently beat detainees, hung them upside down, and doused them with water. According to the program, police officers tortured individuals to extract confessions or simply to get money; a lawyer interviewed on the program said he had been taken into custody and beaten until he agreed to pay approximately $5 thousand (UAH 25 thousand) to a policeman. According to a survey of former police detainees published in October by the Kharkiv-based Institute for Social Research, approximately 62 percent reported that they had been ill-treated while in detention in Kharkiv. More than 44 percent said police officers had twisted their arms, legs, or necks during interrogation, while nearly 33 percent reported that they had been kicked or punched by police officers.

During an October 11 meeting with representatives from the Council of Europe, Human Rights Ombudsman Nina Karpachova acknowledged that torture continued to occur in pretrial detention facilities.

There were multiple and credible reports from human rights NGOs and diplomats that authorities regularly abused refugees during the year at refugee detention centers in Zakarpattya Region, which borders European Union (EU) member states Poland, Slovakia, and Hungary (see section 2.d.).

During the year authorities stepped up efforts to prosecute police officers who abused persons in detention. According to the media and Minister of Internal Affairs Yuriy Lutsenko, as of September 1, the PGO had opened 496 criminal cases against police officers for detention-related abuses, compared to 209 such cases opened during all of 2004. One human rights NGO official reported that, as a consequence of

greater scrutiny of police behavior, police engaging in mistreatment of detainees increasingly used masks or hoods to avoid identification.

The media reported that police in Uzhhorod struck opposition members of parliament Nestor Shufrych and Tamara Proshkuratova during a May 20 protest inside the hospital room of former Zakarpattya Region Governor Ivan Rizak. Shufrych and Proshkuratova were attempting to prevent police from moving Rizak, an accused criminal, to a pretrial detention facility; some scuffling reportedly ensued when Proshkuratova handcuffed herself to Rizak. On June 14, according to the media, Minister of Interal Affairs Lutsenko announced that an unspecified number of police officers involved in the incident had been reprimanded for misconduct.

The authorities charged former Sumy Region governor Volodymyr Shcherban with ordering a violent assault on unarmed student protesters in August 2004. He fled the country to avoid facing criminal charges.

As of year's end the investigation was continuing into the September 2004 poisoning of then-opposition presidential candidate Viktor Yushchenko.

There were no indications that the authorities intended to pursue the 2004 assault of Andriy Volynets, son of a prominent pro-Yushchenko member of parliament.

There were no developments in a number of 2003 incidents, including the torture of detainees by police officers in Poltava, the abuse of a criminal suspect by a senior police officer in Zaporizhzhya, and the severe beating of a prisoner in a Donetsk Region prison which resulted in the amputation of the prisoner's feet.

The law prohibits the abuse of psychiatry for political and other non-medical reasons and provides safeguards against such abuse, but on a few occasions, according to human rights groups, persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institutions. The confinement often resulted from the corruption of psychiatric experts and court officials. For example, the media reported on August 31 that local prosecutors in Kharkiv had opened a criminal case against an unspecified number of doctors at the city's main psychiatric hospital for accepting a $1,500 (UAH 7,500) bribe to prepare an official certificate falsely stating that a patient was mentally ill. The false certificate was prepared at the request of the patient's mother.

Persons diagnosed with mental illness risked being confined and treated by force, declared not responsible for their actions, and stripped of their civil rights and property without being present at the hearings or notified of the ruling. According to the director of a human rights organization that closely monitors the rights of the mentally ill, prominent Soviet-era dissident Seymon Gluzman, there were fewer cases of such abuse during the year than in 2004. In an October 7 interview with the national newspaper *Den*, Gluzman attributed the decline in abuse to increased press reporting on the subject and to better protection of the mentally ill by the country's legal community.

According to the Ukrainian Psychiatric Association, the Ministry of Health did not always cooperate with human rights groups attempting to monitor abuse of psychiatry.

Despite extensive legislation to protect the rights of service members and the existence of regulations governing relationships among military personnel, reports continued during the year of violence against conscripts in the armed forces. Although military officials reported there were no deaths due to soldier-on-soldier physical violence, the Association of Soldiers' Mothers (ASM) reported that violent hazing continued to be widespread and asserted that a Kiev-based soldier from Zhytomyr Region was beaten to death in a January hazing incident. Senior conscripts frequently beat recruits and forced them to give up money and gifts they received from home, a practice known as "*dedovshchina*." According to the ASM, garrison prosecutors often did not investigate complaints of hazing, accepted bribes not to press charges against the perpetrators of such violence, or delayed the start of trial proceedings until potential witnesses were discharged from the military. The ASM also asserted that in at least three cases in Simferopol, Luhansk, and Sumy, garrison prosecutors had soldiers who complained about hazing wrongfully confined to psychiatric hospitals. Punishment administered for committing or condoning hazing was insufficient to deter further abuses. For example, the Kharkiv Human Rights Protection Group reported in August that a Kharkiv-based junior sergeant was sentenced to only four months in detention for repeatedly assaulting lower-ranking soldiers.

Police abused Roma and harassed and abused dark-skinned persons. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, vigilante violence against them, especially in Crimea (see section 5).

A number of journalists were subjected to physical reprisals that may have been related to their professional work (see section 2.a.).

Prison and Detention Center Conditions.—Although prison conditions remained poor, they continued to improve slowly as a result of reforms in the penal system. Prison officials reported that, due in part to the decriminalization of many offenses and the increasing use of alternative sentencing practices, there was a reduction in the number of inmates in prison, which eased overcrowding. Nevertheless, prisons were sometimes overcrowded or lacked adequate sanitation and medical facilities.

According to official statistics from the State Penal Department (SPD), there were 708 deaths in prisons and 159 deaths at pretrial detention facilities during the year (see section 1.a.). Although tuberculosis in prisons continued to be of concern, officials stated that mandatory screening of all new inmates for the disease had reduced infection rates. SPD officials stated that inmates with tuberculosis were isolated from the general population and treated at one main prison hospital complex in Kharkiv Region. Human rights groups noted that only convicted criminals, and not persons in pretrial detention, had access to specialized tuberculosis care.

There were numerous press reports describing harsh prison conditions, and this issue was highlighted when President Yushchenko visited a prison in Zhytomyr Region on February 8. Inmates complained to him at length about poor living conditions, poor lighting, degrading treatment by prison guards, limitations on the number of parcels from relatives, and limitations on meetings with relatives. The president publicly acknowledged the need to improve prison conditions.

Conditions in pretrial detention facilities were harsher than in low and medium security prisons. There were reports that inmates in pretrial facilities were sometimes held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. In a January 27 incident reported in the national daily newspaper *Den*, the mother of a detainee in Kryvyy Rih threatened to set herself on fire to protest poor conditions and mistreatment at the city's pretrial detention facility. Overcrowding was more common in these centers than in prisons.

The SPD and the MOI, in cooperation with the NGO community and foreign governments, implemented a number of professional development programs for prison and police officials, most notably in Chernihiv Region and at the Lukyanivska pretrial detention facility in Kiev Region.

In contrast to 2004, the government allowed prison visits by human rights observers and granted full access to prisons and pretrial detention facilities. The Ukrainian Red Cross said that, unlike in the past, all of its prison and pretrial detention center access requests were granted. The Red Cross characterized its cooperation with the government as "excellent," noting, for example, that the government responded to its written inquiries about specific prisoners. Prisoners and detainees were permitted to file complaints with the ombudsman for human rights about the conditions of detention, but human rights groups reported that prisoners were sometimes punished for doing so.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, these remained problems.

Role of the Police and Security Apparatus.—The minister of internal affairs is responsible for the police. He is a member of the cabinet and reports to the prime minister. The Security Service of Ukraine (SBU) reports directly to the president. The State Tax Administration, which exercises law enforcement powers through the tax police, is accountable both to the president and the cabinet. The PGO prosecutes criminal cases. Legislation enacted in 2003 to provide civilian control over the army and law enforcement agencies authorizes parliamentarians to conduct investigations, including public hearings, into national security and defense issues. The legislation also broadened the authority of the human rights ombudsman to initiate investigations into the activities of the armed forces as well as those of law enforcement bodies.

Police corruption remained a problem. For example, many inhabitants encountered corruption in their dealings with the traffic police. A 2003 law prohibiting the police from stopping vehicles and levying immediate fines produced some positive results, but traffic-stop shakedowns still regularly occurred and prompted President Yushchenko to issue a decree abolishing the traffic police department in July and turning it into the State Service for Traffic Safety. However, the media reported that, as of year's end, the traffic police continued to function. The MOI asserted that the parliament needed to pass legislation to reform the traffic police.

Authorities, including the minister of internal affairs, made significant efforts to end police abuses, including taking disciplinary action against law enforcement authorities who committed them. According to the MOI, as of year's end, 190 police officers had been dismissed for cause, 2,072 were punished with administrative dis-

ciplinary actions and 683 were under investigation for corruption-related offenses. However, impunity still remained a serious problem (see section 1.c.).

Arrest and Detention.—By law, the authorities may detain a suspect for three days without a warrant, after which an arrest order must be issued. The courts may extend detention without an arrest warrant for an additional 10 days. Suspects who believe that further investigation may lead to their immediate exoneration may petition the court for an additional 15-day detention. The law permits citizens to contest an arrest in court or appeal it to the prosecutor. The law requires that officials notify family members immediately concerning an arrest, although human rights NGOs noted that sometimes the police did not do so.

The law stipulates that a defense attorney must be provided without charge to an indigent detainee from the moment of detention or the filing of charges, whichever comes first. However, on June 2, Deputy Minister of Justice Inna Yemelyanova noted that in practice this often did not occur, which legal observers said provided the police with critical time to coerce confessions. There were insufficient numbers of defense attorneys to protect suspects from unlawful and lengthy detention under extremely poor conditions. Moreover, attorneys often refused to defend indigents for the low fee the government provided. Member of parliament Mykola Onischuk asserted that access to a defense attorney was essentially dependent on the social status and financial resources of the accused.

The police arbitrarily detained persons, particularly dark-skinned persons, for extensive document checks and vehicle inspections (see sections 2.d. and 5).

Opposition politicians, many associated with the previous regime, accused the Yushchenko administration of continuing the practice of employing trumped-up criminal charges to detain persons who were openly critical of the government or challenged the interests of powerful business or political figures close to the government (see section 1.e.). For example, opposition politicians pointed to the April 6 detention of former Donetsk regional council head Borys Kolesnikov as an example of such an abuse. The government denied the accusations; major human rights organizations, moreover, uniformly concluded that the opposition claims had no merit.

Although the law provides for the imposition of monetary bail, it was rarely used; many defendants could not pay the monetary bail amounts imposed by law. Courts sometimes imposed restrictions on travel outside a given area as an alternative to pretrial confinement. Generally, however, they opted to place individuals in pretrial detention facilities, a practice that human rights observers criticized as costly and contributing to overcrowding.

Lengthy pretrial detention remained a problem. While the law provides that pretrial detention may not last more than 2 months, in cases involving exceptionally grave offenses a judge of the Supreme Court may extend detention to 18 months. Moreover, by law, a trial must begin no later than three weeks after criminal charges have been formally filed with the court, but this requirement was rarely met by the overburdened court system. Individuals remained in detention for protracted periods of time. Months, or at times years, may pass before a defendant finally is brought to trial, and the situation did not improve during the year (see section 1.e.) For example, a Kiev newspaper reported on November 10 about a man who was held at the Lukyanivska pretrial detention facility in Kiev for eight years without ever being tried or sentenced.

Amnesty.—In May the parliament passed an amnesty for 17 thousand prisoners that the president had proposed. The amnesty covered prisoners who were minors when they committed their crimes, parents with small children or children with disabilities. Also included were pregnant women, women over the age of 50, men over the age of 55, war veterans, persons with serious disabilities, prisoners with active tuberculosis, prisoners with cancer, and those infected with HIV/AIDS.

On September 22, the president proposed a blanket amnesty to individuals who violated electoral fraud laws during the 2004 presidential elections. The amnesty proposal was part of a broader political compromise with the supporters of opposition leader Yanukovych. The Committee of Voters of Ukraine (CVU), the country's top electoral watchdog organization, criticized the proposal, but observers noted that 2006 is the earliest that lawmakers could consider such an amnesty (see section 3).

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, but in practice, the judiciary remained dependent upon, and subject to various forms of pressure from the executive branch. At times the pressure included political interference in the form of phone calls to judges by government officials. However, the head of the Supreme Court emphasized to the press on June 11 that, in contrast to the Kuchma era, when he had been called by senior Kuchma administration officials and given instructions on how to rule in specific cases, he had received no such calls under the Yushchenko administration.

The judiciary also suffered from corruption and inefficiency.

There were indications that suspects often bribed court officials to drop charges before cases went to trial or to lessen or commute sentences. On October 7, President Yushchenko said that every month, four to seven prosecutors and several judges were arraigned for engaging in such corrupt conduct. For example, the media reported on September 23 that a criminal case was opened against the district prosecutor of Aleksandriya District, Kirovohrad Region, for demanding a bribe of $5 thousand (UAH 25 thousand) from a defendant in exchange for attempting to reduce the defendant's sentence.

Except for the Supreme Court, the courts were funded through the Ministry of Justice (MOJ), which controlled the organizational support of the courts. MOJ responsibilities included staffing matters, training for judges, logistics and procurement, and statistical and information support. The judiciary lacked adequate staff and funds, which engendered inefficiency and corruption and increased its dependence on the executive. In March 2004 the ECHR ruled that the country was failing to provide an effective way to secure defendants' rights to a fair trial in a reasonable length of time. However, the NGO Freedom House reported "judicial independence" improved during the year.

Failure to enforce court decisions in civil cases also undermined the authority and independence of the judicial system. The State Executive Service is responsible for enforcing most civil decisions, and the number of cases referred to it continued to grow. Existing provisions permitting criminal punishment for noncompliance with court decisions were rarely used. The chairs of the Supreme Court, the regional courts, and of the Kiev Municipal Court (or their deputies) have the authority to suspend court decisions, which provided additional opportunities for outside interference, manipulation, and corruption.

In contrast to 2004, there were no credible reports that the government sought to dismiss politically unsympathetic judges by selective charges of criminal or unethical behavior.

The law provides for a unified system of courts consisting of a Constitutional Court, a system of courts of general jurisdiction that includes the Supreme Court and specialized commercial courts, and military courts. General jurisdiction courts are organized on four levels: local courts, regional appellate courts, specialized high courts (the High Commercial Court), and the Supreme Court. Commercial courts were intended to operate as specialized courts within the single unified system of courts. As a result, the Supreme Court may review their judgments, including those rendered by the High Commercial Court. Military courts are specialized courts that hear only cases involving military personnel.

By law, the president has the authority, with the agreement of the MOJ and the chair of the Supreme Court, or of a corresponding higher specialized court, to establish and abolish courts of general jurisdiction. The president is empowered to determine the number of judges within the courts, upon the recommendation of the State Judicial Administration (SJA) and with the agreement of the chair of the Supreme Court. He is authorized to appoint and remove chairs and deputy chairs of courts, who serve five-year terms based on recommendations of the Judicial Council (the executive body of the Congress of Judges), and to establish appellate commercial and appellate administrative courts. The president, upon the recommendation of the prime minister and concurrence by the Judicial Council, appoints the head of the SJA.

Regional courts, including the Supreme Court of Crimea and the Kiev and Sevastopol city courts, serve as courts of appeal. They may examine evidence independently in a case, call for additional witnesses or evidence, and overrule the judgment of a lower court.

The Constitutional Court consists of 18 members appointed for 9-year terms, 6 each by the president, the parliament, and the Congress of Judges. The Constitutional Court is the ultimate interpreter of legislation and the constitution, and it determines the constitutionality of legislation, presidential edicts, cabinet acts, and acts of the Crimean Autonomous Republic.

The Supreme Court is the country's highest appellate body. Human rights groups, the media, and legal watchdog organizations noted that the court continued to show independence during the course of the year.

Trial Procedures.—The constitution includes procedural provisions intended to ensure a fair trial, including the right of suspects or witnesses to refuse to testify against themselves or their relatives; however, these rights were limited by the absence of implementing legislation, which left a largely Soviet-era criminal justice system in place. The defendant is formally presumed innocent, but the high conviction rates of the Soviet era continued to prevail. While these conviction rates suggested that judges gave excessive weight to the prosecution, they may also have re-

flected a traditional unwillingness of prosecutors bring cases to court that might result in acquittal.

The law provides for broad use of juries, but a system of juries had not been implemented, and as a result juries were not used during the year. Most cases were decided by judges who sit singly, although the law requires that two judges and three public assessors (lay judges or professional jurors with some legal training) must hear cases that involve the possibility of a life prison sentence, the maximum penalty in the country's criminal justice system.

In contrast to 2004, human rights organizations did not charge that the PGO practiced selective prosecution against the political or economic opponents of the president and his allies, although political opponents associated with the previous regime made such allegations. For example, a few opposition politicians asserted that only supporters of former prime minister Yanukovych were prosecuted for electoral fraud committed during the 2004 presidential elections. The government denied the charge, though it declined to provide information about the political affiliations of those convicted for such fraud. The CVU criticized the Yushchenko administration for prosecuting only low-level former government officials for electoral fraud.

While the law specifies that a suspect or prisoner may talk with a lawyer in private, human rights groups reported that prison or investigative officials occasionally denied this client-attorney privilege. To protect defendants, all investigative files must contain signed documents attesting that they have been informed of the charges against them, of their right to an attorney at public expense, and of their right not to give evidence against themselves or their relatives. However, officials sometimes verbally and physically abused defendants to obtain their signatures. An appeals court may dismiss a conviction or order a new trial if this document is missing. As defendants increasingly became aware of their rights, they insisted on observance of these procedures; however, many remained unaware of these safeguards.

The law provides that the names and addresses of victims and witnesses may be kept confidential if they request protection due to fear for their lives. However, criminal groups routinely used intimidation to induce victims and witnesses to withdraw or change their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives, but the unit had not begun operation by year's end, and trial participants were vulnerable to pressure. Because of lack of funding, a witness protection law was also in abeyance.

Citizens have the right to appeal criminal and civil verdicts to their local appellate courts. Appellate court decisions may also be appealed to the criminal chamber of the Supreme Court.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Although the law prohibits such actions, in practice authorities infringed citizens' privacy rights. By law, the SBU may not conduct intrusive surveillance and searches without a court-issued warrant; however, elements within the government reportedly continued to monitor arbitrarily the private communications and movements of individuals.

The PGO has the constitutional responsibility to ensure that law enforcement agencies, including the SBU, observe the law; however, the extent to which the prosecutor general used his authority to monitor SBU activities and to curb excesses by security officials was unknown. The constitution gives citizens the right to examine any dossier concerning them in the possession of the SBU and to sue for physical and emotional damages incurred by an investigation. Authorities did not respect this right in practice, however, as the necessary implementing legislation had not been enacted.

On February 15, President Yushchenko ordered the SBU and all government organizations to end illegal surveillance of any kind. Then-SBU Chief Oleksandr Turchynov told the press on July 19 that the SBU no longer engaged in illegal surveillance operations and had created an office for combating illegal wiretapping. He also instructed other government organizations to turn in their wiretapping equipment. However, Human Rights Ombudsman Karpachova asserted in a July 7 interview with Fifth Channel television that the practice of bugging telephone conversations was so widespread that the country was experiencing a "bug epidemic." Moreover, the head of the parliamentary committee on Combating Organized Crime and Corruption, Volodymyr Stretovych, stressed in an August 12 media interview that, despite President Yushchenko's February 15 order, "nobody in Ukraine is immune from eavesdropping." Parliamentary Speaker Lytvyn complained to the media in

April and May about continued police surveillance of him, but on November 4 told the press that the "surveillance and phone tapping" had ended.

An administrative decree, adopted by the State Committee on Communications in 2003, gives the SBU broad powers to monitor Internet publications and e-mail. Telecommunications operators are required to install at their own expense equipment allowing "authorized agencies" to monitor Internet activity conducted over their services. The stated goal of the requirement was to fight corruption and further the country's integration into the European Community, but human rights organizations have expressed concern that it gives the SBU broad authority and opportunity to monitor the activities of citizens without cause or judicial oversight.

Section 2. Respect for Civil Liberties, including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; in contrast to 2004, the authorities generally respected these rights in practice. Unlike the previous year, there were no reports that the central authorities attempted to direct media content; however, intimidation of journalists, often by local officials, as well as continued media dependence on government resources, inhibited investigative and critical reporting and sometimes led to self-censorship.

Individuals could, and did, criticize the government both publicly and privately without reprisal. The government did not attempt to impede such criticism.

Since the Orange Revolution, media outlets have been freer and politically more diverse than at any time in the country's post-Soviet history. The NGO Freedom House reported that media independence improved. Despite these improvements, however, less direct but nonetheless significant restrictions remain.

According to the Ukrainian Press Academy, at year's end there were 20,903 registered print publications. Of that number, 8,859 were national and regional and 12,044 were local. According to the academy's statistics, there were 1,260 licensed television and radio broadcasters in the country. These print and electronic media outlets reflected a wide variety of viewpoints. Many newspapers were financed by wealthy investors and reflected the political and economic interests of their owners. In contrast to 2004, these publications frequently criticized the government. However, their strong financial backing gave them an advantage over smaller, more independent, newspapers.

Foreign newspapers and periodicals circulated freely.

Broadcast media, the primary sources of news for most citizens, were either state-owned or owned by powerful business interests. There were 13 national television stations and 3 national radio stations. Of these, state-run television, UT–1, had the widest geographic coverage but relatively low viewership. Most local television stations were associated with political parties or powerful regional business interests.

On May 9, FM 98 began broadcasting the Ukrainian service of Radio Liberty in Kiev and other cities. In March 2004 the Kuchma government and its allies forced Radio Liberty off the air in a clear effort to deny citizens independent sources of information ahead of the 2004 presidential election.

The influential National Council for Television and Radio Broadcasting, comprised of four-members appointed by the parliament and four presidential appointees, issues licenses and allocates broadcasting time. Figures associated with the previous government charged that the council was being used by the Yushchenko government to punish its political opponents when it undertook to challenge court orders that had given frequencies to television stations affiliated with the previous government. In the most high-profile case, the Donetsk-based owners of the NTN television network denounced the council and the government for attempting to strip NTN of additional regional frequencies, which the government and many independent media analysts said were obtained illegally and without competition during the Kuchma era. The respected newspaper *Dzerkalo Tyzhnya* wrote on April 9 that there were "serious irregularities" in the process by which NTN obtained its additional frequencies; the newspaper also noted that other major television networks in the country also "cut similar corners" in the application process. In April the High Economic Court upheld the November 2004 Kiev Commercial Court of Appeals ruling that awarded NTN more than 70 additional frequencies. In October the Supreme Court overturned all previous court rulings and returned the case for reconsideration to the original court, which started the process over. In the meantime, NTN continued to broadcast without restrictions.

In addition, Donetsk-based TRK Ukraina television alleged that the council's strict enforcement of a licensing provision that requires national stations to broadcast a majority of their programs in Ukrainian is discriminatory, forcing the network to choose between having its license revoked and losing a large part of its predominantly Russian-speaking audience to Russian television stations. Based on com-

plaints from other national broadcasters from across the political spectrum, the enforcement of this language requirement was not unique to TRK Ukraina.

According to the national media watchdog NGO Institute for Mass Information (IMI), at least 15 journalists were subjected to physical attacks or intimidation during the year that were likely related to their professional activities. For example, the media reported that, on April 16, in Zakarpattya Region, three unnamed men beat up the editor of the newspaper *Stary Zamok*, Ivan Berets. He was hospitalized with a leg injury. Berets claimed the attack was politically motivated, noting that one of his alleged assailants was the son of a former Kuchma-era official in Tyachiv who was criticized by the newspaper.

In several cases the perpetrators appeared to be police or criminals acting on behalf of local officials. Human rights organizations expressed concern about a July 12 attack by police in Kherson on photographer Maxim Soloviev and reporter Natalia Kozarenko of the weekly *Vhoru*. Police roughed up the pair and seized Soloviev's camera while they were covering a dispute between local officials and the owners of a shop in the city center.

The media reported on August 6 and 9 that Human Rights Ombudsman Karpachova and the Crimean Committee for Monitoring Freedom of the Press had demanded the release from pretrial detention of *Yevpatoriyskaya Nedelya* editor Volodymyr Lutiev. Human rights groups and Lutiev's defense attorney accused corrupt local police officials in Sevastopol of fabricating attempted murder charges against Lutiev because of the newspaper's investigative reporting about the alleged illegal activities of Crimean member of parliament Mykola Kotliarevsky, who was widely believed to be an organized crime boss.

Vecherniye Vesti reporter Ludmyla Bashkyrova and her daughter were threatened with physical harm on August 13 by an anonymous caller. According to the Interfax news agency, the caller demanded that Bashkyrova retract an article critical of the governor of Kherson Region, Borys Silenkov. Interfax also reported that an unidentified person threw a rock, wrapped in the newspaper containing the offending article, through a window of Bashkyrova's apartment.

On October 4, in Dnipropetrovsk, an unidentified assailant attacked Natalia Vlasova, a news editor from the local television station 34th Channel. Vlasova was punched repeatedly in the head and sustained a concussion. The station's director told the Ukrainian Independent News and Information Agency (UNIAN) on October 5 that Vlasova was likely attacked because of her reporting on allegations that places on the local electoral list for the Batkivshchina political party were being sold. The Committee to Protect Journalists, which condemned the assault, reported on October 7 that Vlasova's attacker had told her to "stop poking her nose" into Batkivshchina's business affairs.

As of year's end the authorities continued to investigate a February 2004 incident in Brody, in which unidentified attackers broke into a warehouse and set fire to five thousand copies of two books that were highly critical of former presidential administration Chief of Staff Viktor Medvedchuk. The authorities also continued to investigate a related May 2004 incident in which unidentified assailants burned down the printing facility of the company that published the books.

Minister of Internal Affairs Lutsenko told the media on August 23 that an unspecified number of police officers from the Lviv Region police surveillance unit had been arrested in connection with an August 2004 incident in which unidentified attackers used Molotov cocktails to destroy an office at the independent Lviv newspaper *Postup*. The newspaper's editor said that the newspaper's coverage of two corrupt local officials, one of whom was allegedly involved in an illegal construction project in one of Lviv's parks, likely prompted the attack.

There were no indications of progress in investigating the attacks on journalists Yevgeny Savchenko, Anna Nizkodubova or Tatyana Goryacheva in 2004.

Passage in the parliament in July of a new election law, which among other things establishes strict procedures for political advertising and news coverage of political parties during the March 2006 parliamentary election campaign, drew widespread condemnation in the media. As originally approved, the law essentially prohibited media commentary on political parties without their express approval, and it gave authority for shutting down alleged violators to election officials. In response to the outcry, the parliament on November 17 amended the law to relax the requirements and shift responsibility for determining if violations had occurred to the judicial system. While the amended law is less restrictive, critics warned it is still imperfectly written and is open to potential abuse.

The media, both independent and government-owned, continued to demonstrate a tendency toward self-censorship on matters that the government deemed sensitive. Although private newspapers were free to function on a purely commercial basis, they were subject to various pressures, such as dependence on political patrons who

could facilitate financial support from the State Press Support Fund and close scrutiny from government officials, especially at the local level. The dependence of many media outlets on government patronage inhibited criticism, particularly at the local level.

At a July 25 press conference, President Yushchenko vociferously criticized a reporter from *Ukrainska Pravda* for reporting about his adult son Andriy's use of an expensive late-model car and his lavish lifestyle. The president was widely criticized by media outlets across the political spectrum. On July 28, the president apologized for his outburst at the press conference and reiterated his commitment to defending freedom of speech.

On September 30, Lebanese businessman Walid Harfouche, the editor of the celebrity publication *Paparazzi*, alleged that his car had been set on fire to discourage the publication in his magazine of photos of Andriy Yushchenko vacationing in Turkey. However, most media in the country portrayed the incident as the result of a business dispute rather than a freedom of press issue. President Yushchenko directed the minister of internal affairs to investigate the incident the day after it occurred; no arrests had been made by year's end.

Although there was no criminal penalty for libel, the use or even the threat of civil libel suits continued to inhibit freedom of the press. According to IMI, at least five libel actions were brought against the mass media and journalists during the year. Whether such a suit is successful or not, lower courts may order that a publication's accounts be frozen pending appeal, a step that can be financially ruinous for many publications. Government entities, in particular, continued to use civil suits based on alleged damage to a "person's honor and integrity" to influence or intimidate the press. In a case that received national coverage, the media reported on July 21 that the former editor of the popular Rivne weekly *Seven Days*, Vasyl Herus, was given a suspended sentence of three years in prison for slandering presidential candidate Viktor Yushchenko during the 2004 presidential election campaign. Herus appealed the verdict.

Despite laws that both limit the amount of damages that may be claimed in lawsuits for libel and free the press from responsibility for inoffensive, non-factual, judgments, including criticism, media watchdog groups and the ombudsman for human rights continued to express concern over extremely high monetary damages demanded, and sometimes awarded, for alleged libel. For example, the controversial governor of Rivne Region, Vasyl Chervoniy, sued the small independent newspaper *Rivnenska Hazeta* for $10 thousand (UAH 50 thousand) for allegedly slandering him in an editorial. On March 1, the newspaper's staff put up a tent city in downtown Rivne to protest the libel suit, calling it a blatant attempt to stifle legitimate criticism of the government. In May Chervoniy's lawsuit was dismissed by a local court in Volyn Region, which had reviewed the case at the direction of the Supreme Court.

In late December Kiev's Shevchenkivskyi District Court threw out a libel claim filed in April 2004 against the newspaper *Ukraina Moloda,* which frequently criticized the administration of then-President Kuchma. The lawsuit, filed by pro-Kuchma media advisors, demanded that the newspaper publish a retraction for a "libelous" interview and pay compensation of approximately $2 thousand (UAH 10 thousand); the plaintiffs had also asked the court to freeze the newspaper's assets during litigation. A similar lawsuit filed in May 2004 by the same Kuchma advisors against the independent Internet news website *Ukrainska Pravda* was also dismissed in late December. The suit against *Ukrainska Pravda* had sought approximately $4 thousand (UAH 20 thousand) in damages, plus the immediate confiscation of the website's assets in lieu of damages.

In July the government reopened a tax evasion investigation of the country's oldest and largest independent publishing house, Taki Spravy. Taki Spravy's Director General, Oleksandr Danilov, told the Interfax news agency on August 8 that the investigation was retaliation for his unwillingness to drop a compensation claim against the government, for $74 million (UAH 370 million) in damages suffered during the Kuchma era, filed with the International Center for the Settlement of Investment Disputes. On December 12, the press reported that the tax police had closed the case, a move that the media said may lead to a negotiated settlement.

The government did not restrict access to the Internet, but it had the ability to monitor all Internet publications and e-mail (see section 1.f.). Domestic and international human rights groups criticized a May 1 directive from the Ministry of Transportation and Communication that requires all Internet publications to register with the government. As of year's end the ministry was in the process of rescinding the directive; no Internet publications have been required to register.

The government did not restrict academic freedom, but academic freedom was an underdeveloped and poorly understood concept. Most major universities were state-

owned, but there were a growing number of privately-run institutions. University rectors had a reasonable amount of autonomy. Some schools have instituted admission by examination systems, but nepotism and bribery reportedly were common during entrance exams and also influenced the granting of degrees. For example, many applicants and their family members reported that entrance to Lviv National Medical University required an $8 thousand (UAH 40 thousand) bribe. Administrators of universities and academic and research institute directors possessed the power to silence colleagues by denying them the ability to publish, withholding pay and housing benefits, and directly terminating them. The SBU maintained offices for the protection of state secrets in state scientific and research institutes, including those not conducting any classified research.

Private and religiously affiliated universities reported that their work continued to be hindered by what they called the country's Soviet-style Ministry of Education. Although the ministry publicly maintains its commitment to reform, in reality educational reforms are being implemented very slowly. For example, the authorities still declined to give official recognition to foreign university degrees. Domestic institutions had little choice in the fields they were allowed to offer and in the requirements for a degree. For example, the ministry continued to refuse to recognize theology as a legitimate academic major; students in this and other non-recognized fields were unable to obtain student discounts on public transportation and were subject to the draft.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly and association, but in a few instances the government infringed on these rights.

The law requires that demonstrators inform the authorities of a planned demonstration in advance, and the law on public assembly stipulates that organizations must apply for permission to their respective local administrations at least 10 days before a planned event or demonstration. Permits were routinely granted to those who requested them, though the permits sometimes stipulated that demonstrators had, for example, to stay on the sidewalks and not block traffic in key downtown Kiev intersections. The law prohibits demonstrators from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice, unlicensed demonstrations were common. In contrast to 2004, they generally occurred without police interference, fines, or detention, but there were several exceptions.

For example, the media reported that, at 6 a.m. on April 9, police in Odesa forcibly dismantled a tent camp erected in the city center by supporters of former Prime Minister Yanukovych and former Odesa Mayor Bodelan; the demonstrators did not have a permit for the tent camp. The camp residents generally did not resist police. However, at least two Yanukovych supporters complained publicly that police officers had physically mistreated them during the dismantling process.

The media reported that police in Uzhhorod beat opposition members of parliament Nestor Shufrych and Tamara Proshkuratova during a protest inside the hospital room of former Zakarpattya Region Governor Ivan Rizak (see section 1.c.).

Freedom of Association.—The law provides for freedom of association and in contrast to 2004, the government generally respected this right in practice, but some restrictions remained. Registration requirements for organizations were extensive, but there were no reports that the government used them during the year to disband existing legitimate organizations or prevent new ones from forming.

The former youth movement Pora had difficulty registering as a political party, but was eventually registered by the MOJ on June 1. The media reported on October 28 that the MOJ refused to reregister the party Slavic People's Patriotic Union under a new name, Party of Putin's Policies; the MOJ cited "unspecified irregularities" in the party's application as the as the basis for the refusal. On November 18, the MOJ reversed its decision without explanation and registered the party under its new name.

The law places restrictions on organizations that advocate violence or racial and religious hatred or that threaten the public order or health. There were no reports during the year that the authorities used these criteria to restrict the activities of legitimate organizations that opposed the government.

There were a number of requirements for the formation of political parties (see section 3).

Two major opposition political parties associated with the previous government, the Social Democratic Party of Ukraine (United) and Regions of Ukraine, repeatedly and publicly complained that thousands of their supporters, many of them doctors and teachers, were dismissed from their government jobs during the year simply because of their association with anti-Yushchenko political parties. Human Rights

Ombudsman Karpachova told the media on July 7 that, during the first 6 months of the year, 1,243 individuals had complained to her office about being pressured or dismissed because of their political beliefs. However, widely respected human rights organizations rejected the characterization of the dismissals as persecution, noting that only approximately 5 percent of the country's 450 thousand civil servants had been dismissed and replaced by supporters of the Yushchenko administration. One major voter rights NGO also emphasized that the bulk of the dismissed officials were Kuchma-era political appointees generally of district-chief rank or higher.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. Nonetheless, there were isolated problems at the local level. Some local officials at times impeded attempts by minority and nontraditional religions to register and buy or lease property.

The law provides for the separation of church and state, and there is no state religion. But local authorities often sided with the religious majority in a particular region.

The law requires that to obtain the status of a "juridical entity," a religious organization must register its "articles and statutes" either as a local or national organization. To be registered it must have at least 10 adult members. Registration is necessary for many everyday business activities, including publishing, banking, and property transactions. Registration is also necessary to be considered for restitution of communal religious property. By law, the registration process should take one month, or three months if the government requests an expert opinion on the legitimacy of a group applying for registration. Denial of registration may be appealed in court. A few religious groups, most notably Muslims, indicated that they continued to encounter long delays in obtaining registration, and in some cases they were tantamount to denials. For example, the Kharkiv Region government has refused to register a Muslim community for the past 11 years.

The registration process underwent significant change during the year, sparked by the Orange Revolution and the election of President Yushchenko. In the past, the Soviet-legacy State Committee for Religious Affairs (SCRA) was the government entity responsible for registering religious organizations and, more broadly, for implementing state policy on religion.

President Yushchenko abolished the SCRA by presidential decree on April 22, transferring its functions to the MOJ and the Presidential Secretariat. The move was cautiously welcomed by representatives of many major religious organizations, NGOs, and think tanks, who generally viewed the SCRA as an antiquated, corrupt, Soviet-style organization. However a few major religious organizations criticized the move, noting that the SCRA, while flawed, played a valuable role as the religious community's voice in the government, helping to mediate disputes, for example, between religious organizations and various government agencies.

Major religious organizations expressed concern about the opaque way in which the SCRA was abolished and how its duties might eventually be divided between the MOJ and Presidential Secretariat. They also expressed concern that the process proceeded without their input.

The process of transferring the SCRA's functions to the MOJ and the Presidential Secretariat has moved slowly. As of year's end, the SCRA generally continued to perform its registration function, but no longer played a mediation role. The significantly weakened organization was renamed the "State Department for Religious Issues" and formally subordinated to the MOJ.

Leaders of the Church of Jesus Christ of Latter-day Saints (LDS) in Kiev complained about the government's unwillingness to allow a representative of their church to join the All-Ukraine Council of Churches and Religious Organizations, an influential, inter-confessional governmental advisory body. This refusal appeared to deny them legitimacy and discouraged broadcast media outlets from allowing the LDS to purchase airtime.

The government continued to facilitate the building of houses of worship but members of numerous religious communities, including Protestants and LDS, described difficulties in dealing with the municipal administrations in Kiev and other large cities to obtain land and building permits. These problems were not limited to religious groups.

The law restricts the activities of foreign-based religious organizations and narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other non-citizen representatives of foreign-based religious organizations; however, in practice there were no reports that the government used the law to limit the activities of religious organizations. Religious worker visas require invitations from registered religious organizations in the country and the approval of the government. Foreign religious workers may preach, administer religious ordinances,

or practice other canonical activities "only in those religious organizations which invited them to Ukraine and with official approval of the governmental body that registered the statutes and the articles of the pertinent religious organization."

At times local governments in regions that are traditionally dominated by one religious group discriminated against rival religious groups in restituting property and granting registration. Representatives of the Ukrainian Orthodox Church-Kiev Patriarchy (UOC–KP), the Ukrainian Autocephalic Orthodox Church, the Ukrainian Greek Catholic Church (UGCC), and the Roman Catholic Church alleged that local governments in the east favored the Ukrainian Orthodox Church-Moscow Patriarchy (UOC–MP) in matters of property restitution and registration. Similarly, representatives of Progressive Jewish communities have noted that the government of Dnipropetrovsk Region has only permitted the registration of Chabad communities.

Senior leaders of the UOC–MP complained that, in the wake of the Orange Revolution and the election of President Yushchenko, the UOC–MP has been discriminated against by the Rivne and Volyn regional governments. In particular, the UOC–MP has alleged that Rivne Governor Vasyl Chervoniy illegally issued orders in April transferring control of a UOC–MP church in Mylostiv village to the UOC–KP. UOC–MP representatives also asserted that local officials and UOC–KP supporters in Rivne Region have repeatedly threatened UOC–MP clergy and their family members.

The UOC–MP has also protested legal action initiated by the Sumy regional government on February 21; as of year's end local officials there were seeking to deregister the UOC–MP for alleged violations of criminal law.

Representatives from the UOC–KP complained that some local governments in regions with strong UOC–MP representation, including Odesa and Poltava, deliberately delayed registration of congregations that, in accordance with the law, had changed jurisdictions from the UOC–MP to the UOC–KP. Representatives from the UOC–KP also noted that local governments failed to return UOC–KP church buildings in Dnipropetrovsk, Kharkiv, and Zhytomyr.

Representatives of the UGCC complained of discrimination by the Odesa municipal government, which blocked the Church's efforts to obtain land in the city.

Evangelical Protestant leaders expressed concern about discrimination against them by the Kherson and Odesa regional and municipal governments, specifically complaining about interference with services, the authorities' refusal to sell property for the construction of churches, and the authorities' failure to protect legitimate Church property rights.

Despite requests from the Roman Catholic Church, including Pope John Paul II, the government has not yet transferred its ownership of St. Nicholas' Cathedral and a former residence of Roman Catholic bishops in Kiev to the Church. However, the Church was permitted to use the cathedral for daily morning Mass, on weekends, and during major religious holidays. Roman Catholic representatives also expressed frustration about unrealized restitution claims in Odesa, Mykolayiv, Sevastopol, Simferopol, Bila Tserkva, Uman, Zhytomyr, and Kiev.

There continued to be charges by representatives of the Jewish community that religious land was being used inappropriately. For example, there was no progress in a long-running dispute over a Jewish cemetery in the Volyn Region town of Volodymyr-Volynsky. Although a local court ordered a halt in the construction of an apartment building at the site in December 2002, according to the Volodymyr-Volynsky Municipal Council, apartment construction was completed during 2003, and most of the units were occupied. Local Jewish groups complained that the SCRA and the MOJ continued to refuse to help resolve this dispute. In addition, in June a hospital in the Ternopil Region town of Chortkiv carried out unauthorized construction work in part of a 17th-century Jewish cemetery. According to Jewish community leaders, the work was done despite a specific warning from the regional administration that the cemetery was a protected historical heritage site.

Muslim community leaders complained about unresolved restitution claims, including a 118-year-old mosque in Mykolayiv, a famed mosque in Dnipropetrovsk, as well as a 150-year-old mosque in the Crimean town of Masandra and the ruins of an 18th-century mosque in Crimean coastal city of Alushta.

Representatives of the Muslim community also asserted that the government's slow pace of communal property restitution undermined moderate Muslim leaders. A lack of results, they argued, made Muslims—particularly in Crimea—more willing to listen to persons with strident views, especially those espoused by followers of Hizb ut-Tahrir.

The media reported on May 20 that members of the Buddhist community staged a protest outside the headquarters of the SBU. They criticized the SBU for the May 4 detention of a Japanese Buddhist monk, Dzunsay Teresava-san, at a crossing point on the border with Poland. The authorities removed the monk from the train,

revoked his visa, banned him from entering the country for five years, and deported him back to Poland. According to press reports, the monk is on a Russian Federal Security Service (FSB) "black list" because of his outspoken criticism of Russian military operations in Chechnya. The media reported on May 30 that the ban was lifted and the monk had been given a visa.

Societal Abuses and Discrimination.—The generally amicable relationship among religions in society contributed to religious freedom, but conflicts between local representatives of contending religious organizations in some cases adversely affected broader ties among religions in society. Political events, particularly those that occurred during and after the 2004 presidential election campaign and Orange Revolution, served to increase religious tensions during the year.

During the year senior leaders of the UOC–MP publicly claimed that supporters of the UOC–KP, emboldened by the Orange Revolution, President Yushchenko's election, and indications that the Ecumenical Patriarch might recognize their church as the country's canonical Orthodox Church, attacked UOC–MP clergy and seized a number of UOC–MP churches—at times allegedly with the assistance of local police.

The UOC–MP cited numerous such incidents, including in Rivne, Kherson, Ternopil, Chernivtsi, Volyn, and Kiev regions. For example, the UOC–MP alleged that: on February 8, UOC–KP supporters set fire to UOC–MP property in Poliske village, Rivne Region; on March 6 and 8, local authorities incited the violent seizure of the UOC–MP's Holy Trinity church in Rokhmaniv village, Ternopil Region, severely injuring a UOC–MP priest; and on April 10, that UOC–KP supporters attempted to seize the UOC–MP's Chapel of the Kazan Icon of the Mother of God in Lukhche village, Volyn Region.

Representatives of the Russian Orthodox Church Abroad (ROCA) also voiced complaints about the UOC–KP, specifically asserting that UOC–KP believers had seized, with the help of local police officials, ROCA's Holy Trinity church in Odesa Region. ROCA was involved in a separate dispute with the UOC–KP over ownership of St. George's Church, also in Odesa Region.

In addition, ROCA representatives complained of pressure from the UOC–MP to surrender church buildings to the UOC–MP in Malyn, Zhytomyr Region.

The UOC–KP has rejected the ROCA and UOC–MP allegations, specifically noting that, during the year, many UOC–MP communities have exercised their legal right to change jurisdictions from the UOC–MP to the UOC–KP. The Kiev Patriarchate also alleged that, on October 27 in the Rivne Region town of Ostroh, UOC–MP priests and supporters brought in from Crimea physically intimidated and humiliated parishioners of the Church of the Holy Ascension, which switched jurisdictions from the UOC–MP to the UOC–KP.

The minister of internal affairs on May 25 denied that local police were taking sides in church property disputes. The ministry had instructed police officers to maintain peace and stability in cases of conflict between UOC–MP and UOC–KP supporters; the police were under orders to remain impartial and to prevent the seizure or destruction of church property. For example, he said that in May local police had prevented the seizure of a UOC–MP monastery in Rivne Region by UOC–KP believers.

Tensions remained between some adherents of the UGCC and the UOC–MP over control of property in the western part of the country, which is a legacy of the forced reunification of these two churches under the Soviet regime. For example, the UOC–MP complained that it was informed on April 6 by the government of Zakarpattya Region that it must vacate churches in the villages of Korolevo, Sasovo, Cherna, Veryatsya, Khyzha and Kelechyn; the church buildings were to be turned over to the UGCC.

The UOC–MP also publicly accused the UGCC of attempting to expand in regions where traditionally the Moscow Patriarchate was strong. This accusation appeared to be based on the UGCC's plans to establish a patriarchate, and on the August 21 move of Cardinal Husar's headquarters from Lviv to Kiev, which the UOC–MP strongly protested.

Evangelical Protestant leaders complained about the activities of the group "Dialogue," which they and human rights groups characterized as a front group for the UOC–MP that promotes hostility toward non-Orthodox Christians.

LDS leaders asserted that believers faced discrimination from some government officials and from the UOC–MP and UOC–KP. They expressed concern about efforts by these Churches to prevent the establishment of an LDS community in Chernivtsi. In official correspondence with the city government, UOC–MP and UOC–KP supporters accused the LDS of encroaching on an "Orthodox city."

Muslim leaders in Crimea, as well as members of the Crimean Tatar Mejlis, the major, but unofficial, organization representing Crimean Tatars, accused the UOC–MP of encouraging anti-Muslim and anti-Tatar violence in Crimea (see section 5).

The Jewish community has a long history in the country. Estimates on the size of the Jewish population varied. According to the State Committee of Statistics, the Jewish population during the 2001 census was estimated at 103,600, although some Jewish community leaders have said the number may be as high as 300 thousand.

There were a number of acts of anti-Semitism during the year; at least three of them involved physical attacks. On January 8 in Simferopol, a group of skinheads assaulted 13 students from a Chabad Jewish day school. Two of the students, girls aged 11 and 16, required hospitalization; one had a concussion, and another had a broken nose. Police were investigating at year's end. On August 28, a group of skinheads assaulted two Yeshiva students in Kiev. One of the students had his skull partially crushed with a beer bottle. On August 31, the police arrested three of the alleged assailants, who have been charged with criminal hooliganism. Deputy Minister of Internal Affairs Gennady Moskal told the press on September 1 that the attack was not motivated by anti-Semitism, an assertion that was publicly questioned by a few prominent members of the Jewish community. President Yushchenko publicly condemned the assault. On September 11, a group of skinheads assaulted a rabbi and his son at the Kiev Expo Center. Police on the scene detained a group of suspects; two have been charged with criminal hooliganism.

There were also several instances in which synagogues and cemeteries were vandalized; police follow-up often appeared to be ineffectual because of lack of evidence and/or indifference. However, there was an official response in some cases. For example, four neo-Nazis were sentenced on February 7 for vandalizing gravestones in a cemetery in the Donetsk Region in 2004. The court issued suspended sentences for the two adult defendants and ordered "compulsory educational measures" under parental supervision for the two juveniles. According to media reports, the local Jewish community requested light sentences for the vandals, who came from extremely poor families. In Rivne, municipal authorities restored the desecrated Sosonky memorial, vandalized in April 2004.

Issues involving anti-Semitism also appeared in public life. The media reported on February 26 that renowned accordion player and Yanukovych supporter Jan Tabachnyk, who is Jewish, accused Deputy Prime Minister Mykola Tomenko of making anti-Semitic comments about him. Tomenko had said in a radio interview that "Ukrainian artists, and not simply some Tabachnyks or Kobzons" (a reference to Jewish Russian entertainer and Yanukovych supporter Iosif Kobzon) should perform in Ukraine. Tomenko denied the charge. The Jewish community was split over whether Tomenko's comments were anti-Semitic in nature.

According to a report by the AEN news agency, a group calling itself the "Party of National Patriots" handed out leaflets in Donetsk's Lenin Square on May 9 calling for the murder of Jews. Specifically, the leaflets called for "death by shooting" for "conspirators and leaders of international Zionist political and religious organizations acting on the territory of Ukraine." There were no reports of official action taken against the group.

In July 2004 the then-main opposition bloc in parliament, Our Ukraine, expelled Oleh Tyahnybok, a member of parliament who made an anti-Semitic speech during a 2004 campaign rally in Ivano-Frankivsk Region. A regional court ordered that charges of inciting ethnic hatred against Tyahnybok be dropped because of a lack of sufficient legal grounds to open a criminal case. In a March 29 national television interview, Tyahnybok refused to apologize for his campaign speech.

Anti-Semitic articles appeared frequently in small publications and irregular newsletters, although such articles rarely appeared in the national press.

On March 28, a small, openly anti-Semitic, political party officially registered with the government. The Ukrainian Conservative Party was associated with the anti-Semitic Inter-Regional Academy of Personnel Management, known in Ukrainian as MAUP. The party's charter calls for "a struggle against Zionism and fascism" and a return to the Soviet-era practice of indicating a person's ethnicity on their passport. MAUP also sponsored a June 3 conference in Kiev at which speakers reportedly called for the deportation of all Jews from Ukraine. According to Jewish leaders, a UOC–MP priest participated in this conference.

MAUP was the most persistent anti-Semitic presence in the country. It was allegedly funded by Libyan, Syrian, Iranian, and Palestinian government sources. It published a monthly journal *Personnel* and a weekly newspaper *Personnel Plus*. Jewish organizations said that MAUP accounted for nearly 85 percent of all anti-Semitic material published in Ukraine during the year. On December 5, President Yushchenko issued a statement specifically criticizing MAUP for its anti-Semitic publications.

A longstanding dispute between nationalists and Jews over the erection of crosses in an old Jewish cemetery in Sambir remained unresolved, despite mediation efforts by local Jewish and Greek Catholic leaders.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice; however, there were some limitations.

A new system of registration was introduced during the year, replacing most elements of the "*propyska*" system that inhibited the free movement of individuals. Human rights groups stressed that a major difference between the new system and the *propyska* system is that a person may live, work, and receive services anywhere in the country. There was no indication that individuals were denied access to services because they were not registered in the locality where they resided.

Citizens who wished to travel abroad generally were able to do so freely. Exit visas were required for citizens who intended to take up permanent residence in another country, but there were no known cases of exit visas being denied to citizens during the year. The government could deny passports to individuals in possession of state secrets, but those denied had the possibility of appealing.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided limited protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee or asylum status infrequently. In an April 20 meeting with the minister of justice, the Office of the UN High Commissioner for Refugees (UNHCR) regional representative called on Ukraine to abide by international standards in protecting the rights of refugees.

The government provided temporary protection for up to one year to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

According to UNHCR, the EU, and human rights groups, border guards unlawfully returned an unspecified number of Chechens to Russia who had applied for, or wanted to apply for, asylum. For example, Chechens detained in Zakarpattya Region were frequently put on a train to Kharkiv and turned over to Russian border guards at the nearby border crossing point. Chechens were reportedly forcibly returned to Russia in keeping with an alleged secret government instruction issued after the September 2004 Beslan school massacre in Russia; it reportedly requires border guards to return all Chechens to Russia and to refuse them entry into Ukraine.

The government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers and operated refugee reception centers in Vinnytsya and Odesa. However, the State Committee for Nationalities and Migration at times showed little interest in refugee protection, poorly implemented agreements with the UNHCR, and often refused to share important information with the UNHCR.

According to UNHCR officials, one of the biggest obstacles to the implementation of the government's commitments to the protection of refugees is a law, which authorities strictly enforced, requiring applicants for refugee status apply within three working days of their illegal entry, or within five working days of their legal entry, into the country. This led the authorities to refuse to initiate asylum procedures for approximately 70 percent of all asylum seekers during 2003, the latest year for which statistics were available. As a result, many asylum seekers remained undocumented and faced arrest, detention, and deportation. In addition the law allows for the deprivation of refugee status for mere suspicion of involvement in activities that pose a threat to the national security, public order, or health of the population of the country.

Police harassment of refugees with dark skin, and, to a lesser degree, Asians, continued during the year. There were also multiple, credible reports from human rights NGOs and diplomats that refugees, especially those from Africa and Asia, were regularly abused at detention centers in Zakarpattya Region, which borders EU member states Poland, Slovakia, and Hungary.

There were reports that the makeshift Pavchino detention center received no state funds during the year. Border guards generated income, including their own salaries, by "leasing" migrants to a neighboring factory (see section 6.c.). Border guards also illegally released detained migrants whose families paid bribes, usually in the amount of $1,200 (UAH 6 thousand), transferred via wire. Border guards also stole

food packages and phone cards provided to refugees by the EU. Moreover, border guards only accepted asylum applications prepared by lawyers whom the migrants had to pay for their services; the lawyers then split their fees with the guards. Applications prepared, for example, by NGO lawyers working *pro bono* were not accepted.

According to human rights NGOs and foreign diplomats, conditions at the Chop detention center near the border with Hungary and Slovakia were equally bad. Refugees were crammed into tiny cells, given polluted drinking water, and had to use outdoor toilets. The center was unheated in winter and many refugees lacked warm clothing; some had no shoes.

Conditions at the Mukacheve detention center for migrant women and children were somewhat better than at Chop. According to human rights groups, the temporary accommodation/refugee processing center in Latoritsa, which opened in June, met all standards set by the Geneva Refugee Convention.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens with the right to change their government peacefully through periodic elections, and citizens exercised this right in practice during the year through a small number of by-elections held on the basis of universal suffrage. However, the country's top electoral watchdog NGO noted that these elections frequently were marred by controversy.

Elections and Political Participation.—A bitter and protracted presidential election between opposition leader Viktor Yushchenko and Prime Minister Viktor Yanukovych took place in the final months of 2004. The OSCE observer mission noted serious flaws in the October 2004 first round of voting, including a strong media bias in favor of Yanukovych, problems with voter lists, which excluded up to 10 percent of voters, and administrative pressure on students, government, and state enterprise employees to vote for Yanukovych. In the November 2004 second round held between the two frontrunners Yushchenko and Yanukovych, observers noted massive and systematic fraud through the abuse of mobile ballot boxes, absentee ballots, which were cast in exceedingly high numbers, and ballot stuffing. Following massive public protests against the electoral fraud, the Supreme Court invalidated the results and ordered a revote in December 2004. In order to reduce the scope for fraud, the parliament and president cooperated to amend the presidential election law to limit absentee and mobile ballot voting and appointed a new Central Election Commission (CEC). The December 2004 revote was judged by reputable international observers, including the OSCE, to have reflected the will of the voters and brought the country substantially closer to meeting international standards for free and democratic elections.

In recognition of the progress made in the December 2004 revote, the NGO Freedom House noted that Ukraine improved its electoral process.

According to the Committee of Voters of Ukraine (CVU), the country's top electoral watchdog NGO, the small number of local by-elections held during the hear were often marred by controversy. For example, on March 19, two national newspapers, *Den* and *Dzerkalo Tyzhnya,* accused President Yushchenko of manipulating the courts to oust Odesa Mayor Ruslan Bodelan and replace him with former mayor and Yushchenko ally Eduard Hurvits. On April 4, a judge in Odesa's Prymorsky District Court invalidated the results of the 2002 Odesa mayoral election, which was ruled to have been fraudulent and directed that Hurvits be officially registered as mayor. Hurvits had run against Bodelan in the 2002 election, which was widely recognized as fraudulent. Much of the non-partisan criticism of the move focused on the proper role of the judiciary in determining an electoral result, arguing that the court rightfully invalidated the 2002 election, but should have called for a new election instead of seating Hurvits as mayor. On April 28, the media reported that Bodelan fled to Russia to avoid facing criminal charges in Odesa.

The CVU also criticized President Yushchenko's September 22 decision to introduce an amnesty law that could include individuals who participated in electoral fraud during the 2004 presidential election. The proposed amnesty was part of a broad political deal with Yanukovych that helped secure parliamentary approval of Prime Minister Yekhanurov. The CVU said that such an amnesty would allow individuals who committed violations in 2004 to serve again on polling station commissions. On the other hand, opposition politicians connected to the previous regime and the head of the CEC welcomed the step. The media reported on September 30 that, according to Presidential Chief of Staff Oleh Rybachuk, the amnesty would not cover the organizers of the electoral fraud; he specifically mentioned former Kuchma chief of staff Viktor Medvedchuk and former CEC Chairman Serhiy Kivalov as individuals not covered by the proposed amnesty. Observers also noted that under

Ukrainian law, 2006 would be the earliest that the parliament could consider such an amnesty.

Individuals and parties could, and did, freely declare their candidacy and stand for election.

To be registered as a national-level party, political parties must maintain offices in one-half of the regions and may not receive financial support from the state or any foreign patron. The Supreme Court reserves the right to ban any political party upon the recommendation of the MOJ or the prosecutor general. No parties were banned during the year.

There were 25 women in the 450-seat parliament. Yuliya Tymoshenko served as prime minister in the Yushchenko administration until her dismissal on September 8. Oksana Bilozir served as minister of culture and tourism in the Yushchenko administration until she was dismissed along with the rest of the Tymoshenko cabinet. The 18-member Constitutional Court, which had 13 vacant seats as of year's end, had 1 female member.

The number of minorities in the parliament was not available due to privacy laws. Among parliament members there were ethnic Russians, Bulgarians, Crimean Tatars, Armenians, Hungarians, Georgians, and Jews. The prime minister at year's end, Yuriy Yekhanurov, is half ethnic Buryat. His cabinet included an ethnic Russian and an ethnic Hungarian.

Crimean Tatar leaders continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean Parliament; however, the representation of Crimean Tatars continued to increase in local and regional councils. According to statistics from the Mejlis, the Tatars, who comprise 13 percent of the population of Crimea, occupied 8 percent of the seats in the Crimean Parliament, 10.9 percent of the posts in the Crimean Ministry of Culture, 8.1 percent in the Crimean Ministry of Education, and 6.7 percent in the Crimean Ministry for Youth and Sport. Tatar representation in other Crimean ministries, including in law enforcement agencies, was 1 percent or less.

Government Corruption and Transparency.—Corruption remained a serious problem in the executive, legislative, and judicial branches of the government, including the armed services. According to a November public opinion survey by the Democratic Initiatives Foundation, 55 percent of the respondents described the government and 59 percent described the parliament as "seriously corrupt."

At a September 5 press conference, State Secretary Oleksandr Zinchenko resigned, complaining that key officials close to President Yushchenko were deeply corrupt. Zinchenko's resignation and his allegations of corruption triggered a political crisis that ended on September 8 with the resignation or dismissal of these officials and the firing of Prime Minister Yuliya Tymoshenko and her cabinet. Counteraccusations of corruption and abuse of authority were directed at Tymoshenko. On November 2, the media reported that head of an ad-hoc parliamentary commission investigating corruption among high-ranking officials, Volodymyr Zaplatynsky, confirmed "a number of the accusations" made by Zinchenko during his September 5 press conference. However, the government reported that the investigations did not find sufficient evidence of wrongdoing to pursue charges.

Human rights groups did note that the country made modest progress in combating corruption during the year. For example, the 2004 sale of the massive Kryvorizhstal steel works to government-connected insiders was invalidated by the courts. The government re-privatized the company during the year in an open and transparent process, whose proceedings were broadcast live on national television channels. The world's largest steel company, Mittal, acquired Kryvorizhstal for $4.8 billion (UAH 24 billion), $4 billion (UAH 20 billion) more than the "insiders" consortium (headed by President Kuchma's son-in-law) paid in the rigged 2004 privatization.

The law provides public access to certain government information, usually through websites, but Internet access was still relatively limited both in terms of technology and overall number of users. Prominent government watchdogs, including former member of parliament Inna Bogoslovska, noted that the government generally posted information on the Internet only after important decisions were made. Information on the process by which the government made important decisions usually was not available to the public.

The head of the nationally renowned Kharkiv Human Rights Protection Group, Yevhen Zakharov, criticized the Yushchenko government in October for continuing the Kuchma-era practice of limiting the public's access to official information. Zakharov noted that the "promises to ensure openness of information, transparency, and accountability of the government to society made on Independence Square during the Orange Revolution have largely not been kept."

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. In contrast to 2004, government officials met with domestic and international human rights NGOs and often appeared attentive to their views. The NGO community complained, however, that the authorities remained generally unwilling to make policy changes in response their recommendations. According to the Ukrainian Psychiatric Association, the Ministry of Health did not always cooperate with human rights groups attempting to monitor abuse of psychiatry (see section 1.d.).

Major independent, non-partisan, national human rights NGOs included the Committee of Voters of Ukraine, the Kharkiv Human Rights Protection Group, the Ukrainian Helsinki Human Rights Union, the Institute for Mass Information, Telekrytyka, and the Ukrainian-American Bureau for the Protection of Human Rights.

The government generally cooperated with international governmental organizations, including the UN and the Parliamentary Assembly of the Council of Europe (PACE). For example, senior government officials met on March 30 with the PACE rapporteur on the Gongadze case, and in July with members of a PACE delegation examining the progress of democratic reform in the country. However the authorities often refused to share important information regarding refugees with the UNHCR (see section 2.d.).

Citizens have the right to appeal to the ECHR about alleged human rights violations. The ECHR ruled on 21 Ukraine-related cases through October. On April 5, in a case that received national press attention, the ECHR determined that the government was obliged to pay Yevhen Nevmerzhytskiy $32,500 (UAH 162,500) in damages stemming from his "humiliating mistreatment" in a pretrial detention facility.

All citizens and residents may address their concerns to the ombudsman, and the ombudsman serves as an intermediary between citizens and the Constitutional Court, since citizens cannot address the court directly. The position of ombudsman, officially designated as the Parliamentary Commissioner on Human Rights, is mandated by the constitution. The incumbent, Nina Karpachova, was reelected in June 2003 to a second five-year term. The law provides the ombudsman with unrestricted and unannounced access to any public official, including the president, and to any government installation. It also gives her the authority to oversee the implementation of human rights treaties and agreements to which the country is a party; however, it provides no penalties for those who obstruct the ombudsman's investigations and does not create sufficient enforcement authority for the ombudsman.

The ombudsman's office consisted of approximately 100 full- and part-time workers, but according to the ombudsman, limited funding of the office continued to hamper its effectiveness. The ombudsman continued to make the combating of trafficking in persons and improving pretrial detention facility conditions major priorities during the year. Ombudsman Karpachova issued her annual human rights report to parliament on July 6. On December 29, a group of 18 major human rights groups called for Karpachova's resignation; the NGOs stressed that her decision to run in the March 2006 parliamentary elections on the Party of Regions ticket undermined the "impartiality and independence" of the ombudsman's office.

The parliament has a Committee on Human Rights, National Minorities, and Interethnic Relations chaired by former foreign minister Hennadiy Udovenko. Credible human rights NGOs considered the committee's work to be of significant value. For example, on April 12 the committee held, for the first time since independence, an extensive hearing on the situation of Roma in the country.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The laws prohibit discrimination on the basis of race, sex, and other grounds; however, the government did not enforce these provisions effectively, in part due to the continuing absence of an effective judicial system. Violence against women and children, trafficking in persons, and harassment and discrimination against ethnic minorities and homosexuals, were problems.

Women.—Violence against women remained a serious problem. Spousal abuse is illegal but was common, and the authorities often pressured women not to press charges against their husbands. An April 8 article in the national newspaper *Sehodnya* noted that domestic violence was rarely prosecuted in the country. One major NGO estimated that at least 50 percent of all Ukrainian women have been subjected to physical violence or psychological abuse at home.

According to the MOI, during the first 11 months of the year, 70,888 domestic violence complaints were made to Ukrainian law enforcement agencies. During that same period, courts issued rulings in 67,639 domestic violence cases. Warnings were issued to 5,412 people, 52,739 people were fined, 277 were sentenced to community service, and 8,973 were jailed.

State-run hotlines, shelters, and other forms of practical support for victims of abuse were few. Municipal authorities in Kiev ran a women's center, one of only two municipally-supported shelters in the country; the other, located in the Crimean town of Izumrudne, opened on February 23. The authorities in Izumrudne permitted women to stay at that shelter for up to three months, according to media reports. NGOs attempted to provide services for abused women through the establishment of women's support centers in nine cities. Violence against women did not receive extensive media coverage despite the efforts of human rights groups to highlight the problem.

The law prohibits rape but does not explicitly address spousal rape. A law against "forced sex with a materially dependent person" may allow prosecution for spousal rape. According statistics from the MOI, during the first 11 months of the year, there were 868 incidents of rape or attempted rape reported to the police.

Prostitution is illegal but widespread and largely ignored by the government. For example, the national newspaper *Den* reported on October 19 that since the 2001 introduction of criminal penalties for organized prostitution (payment of an unspecified fine or 120 hours of work on public projects, or both), no criminal cases for organized prostitution have been opened. However, the media reported on May 26 that two policemen were given seven-year prison sentences for protecting pimps and prostitutes in Mykolayiv. The English-language media reported that sex tourism was increasing in the country; there are no laws to address it.

Trafficking in women for sexual exploitation was a serious problem (see section 5, Trafficking).

Women's groups reported that there was continuing widespread sexual harassment in the workplace, including coerced sex. Apart from the law that prohibits forced sex with a materially dependent person, which applies to employees, legal experts regarded the safeguards against harassment as inadequate.

On September 8, President Yushchenko signed a law mandating equal legal rights for men and women and establishing legal protection against gender discrimination. However, human rights observers and women's groups noted that discrimination against women continued to be a common problem in the workplace. The government and private businesses regularly specified the gender of employees in their help-wanted advertisements, and employers frequently demanded information about a woman's family situation and subsequently used it to deny employment to women who were likely to become pregnant. Physical appearance and age were often taken into account in employment decisions involving women.

Labor laws establish the legal equality of men and women, including equal pay for equal work, a principle that generally was observed. However, industries that were dominated by female workers were also those with the lowest relative wages and the ones that were most likely to be affected by wage arrears problems.

Few women held top managerial positions in the government or in state-owned or private industry. However, for most of the year, a woman, Yuliya Tymoshenko, served as prime minister. President Yushchenko also appointed the first female governors in modern Ukrainian history, Nadiya Deyeva in Dnipropetrovsk Region and Nina Harkava in Sumy Region.

Children.—The government was publicly committed to the defense of children's rights, but budgetary considerations severely limited its ability to ensure these rights. Few government bodies or NGOs aggressively promoted children's rights, except for a small number of faith-based organizations that primarily worked with orphans and street children.

Education is free, universal, and compulsory until the age of 15; however, the public education system continued to suffer from chronic inadequate funding. Teachers were usually paid their salaries during the year, but other monetary benefits due them were not paid in some localities. Increasing numbers of children from poor families dropped out of school, and illiteracy, previously very rare, remained a problem. According to the State Statistics Committee, 5.731 million children attended primary and secondary school during the 2004–05 school year. The All-Ukraine Committee for the Protection of Children reported that lack of schooling remained a significant problem among the rural population. The problem of growing violence and crime in and outside of schools persisted, particularly in the notoriously violent vocational schools, and discouraged some children from attending school.

Health care was provided equally to girls and boys, but the overall quality of the health care system was poor.

Children continued to be victims of violence and abuse. The *Voice of Ukraine* newspaper reported that, in response to a January 2004 poll by the State Institute of Family and Youth, 43 percent of minors said that they had been victims of some form of violence. During 2003, 300 criminal cases were opened against parents for neglect of parental duties. The majority of complaints of abuse of children related to child prostitution, pornographic video sales, child molestation, and illegal child labor. For example, the media reported on February 9 that 2 adults in the Donetsk Region town of Snizhne were given suspended 4-year prison sentences for forcing their 11 foster children to work in an illegal coalmine. The MOI reported that during 2004, 6,200 parents received administrative sanctions, predominantly in the form of fines, for abusing their children.

The legal marriage age is 18 for males and 17 for females, but the law stipulates that a person who has reached the age of 14 may apply to a court for permission to marry if "it is established that marriage is in the person's best interest," a formulation not further defined. Women under the age of 18 entered into 9 percent of marriages registered in rural areas and 3.2 percent of those in urban areas. Experts stated that underage marriage was not a significant problem; however, media in Zakarpattya Region have characterized underage marriage among Roma as a problem.

Trafficking in children was a serious problem (see section 5, Trafficking).

The commercial sexual exploitation of children remained a serious problem. According to domestic and foreign law enforcement officials, a significant portion of the child pornography available on the Internet continued to originate in Ukraine.

In contrast to 2004, the government took steps to combat child pornography. For example, in March, Ukraine sent law enforcement representatives to work with colleagues from a number of foreign countries to investigate the cross-border sale of child pornography. According to the MOI, by the end of May, 87 criminal cases had been opened related to the manufacture and circulation of child pornography, and police had closed major child pornography studios in Dnipropetrovsk, Donetsk, Luhansk, and Lviv.

On April 11, the news website *Proua.com* also reported on criminal charges filed against the operators of a major child pornography studio in an unidentified city. The studio reportedly used approximately 1,500 girls between the ages of 8 and 16 to create pornographic images for the Internet.

Child labor was a problem (see section 6.d.).

The number of homeless children, usually children who fled poorly maintained orphanages or poor domestic conditions, remained high. Estimates of the number of homeless children varied widely. The vice premier for humanitarian and social affairs told the press on April 21 that there were approximately 150 thousand homeless children in the country, but the State Service for Minors reported on July 11 that there were only 30 thousand. In June the respected independent national newspaper *Ukraina Moloda* quoted experts as putting the number at 129 thousand.

During the year national political leaders gave significant attention to the issue of homeless children. On April 22, then-Prime Minister Tymoshenko held a day-long cabinet meeting on the issue. On June 7, the parliament held widely-publicized hearings on children's rights.

On August 31, Minister of Family, Youth and Sports Yuriy Pavlenko told a special rapporteur from PACE that the country was working to create a transparent system of adoption that protected children. The PACE rapporteur, Swiss lawmaker Ruth-Gaby Vermot-Mangold, visited the country to examine allegations of the trafficking of children (see section 5, Trafficking).

Trafficking In Persons.—The law prohibits trafficking in persons; however, there were numerous reports that persons were trafficked to, from, and within the country. There were also credible reports that local officials abetted or assisted organized crime groups involved in trafficking. Although trafficking may be prosecuted through a number of statutes, as of year's end the legal framework did not address the full scope of trafficking. Corruption within the government facilitated trafficking in persons.

The law provides for penalties of generally three to eight years' imprisonment for trafficking in persons, including for sexual exploitation, pornography, and forced labor. Under some circumstances—for example, trafficking of minors aged 14 to 18, or of groups of victims—traffickers may be sentenced to prison terms from 5 to 12 years, and traffickers of minors under the age of 14 or members of organized trafficking groups may be sentenced to terms from 8 to 15 years. Experts urged the authorities to improve their antitrafficking prosecutions by establishing a special witness protection program for trafficking victims and broadening the existing law to correspond to international norms. However, the MOI continued to cite insufficient

financial resources as the reason for not implementing a witness protection program in any sphere, beyond a limited protection detail for the duration of a trial.

The government increased its investigation and prosecution of suspected traffickers during the year, largely due to an increase in the resources allotted by the MOI to its newly created antitrafficking department. However, resources allotted to combating trafficking in persons by the PGO remained far from adequate. During the first 9 months of the year, according to statistics supplied by the MOI, 354 cases were filed involving 217 suspected traffickers and 390 victims, including 41 minors. The authorities broke up 32 organized criminal rings involved in human trafficking in the same period. During the first 6 months, at least 149 criminal cases were brought to trial. Sentences were handed down on 58 defendants, including 31 women; 38 defendants received suspended sentences, 4 were sentenced to up to 5 years in prison, 9 received 3-to-5-years, 6 received 5-to-7 years, and 1 was sentenced to 8 years.

At the beginning of the year, the MOI raised the status of its unit that specializes in antitrafficking matters to that of a stand-alone antitrafficking department; it had previously been part of the criminal investigation department. As of year's end the antitrafficking department had branches in each of the ministry's 27 regional directorates, and more than 500 officers are exclusively dedicated to combating trafficking in persons. In 2004, in contrast, only 200 officers were assigned to the trafficking unit, but they also worked on non-trafficking cases. The department received training and equipment from international donors.

The government reported that it regularly reviewed the licenses of domestic employment agencies. In a limited number of cases during the year, the Ministry of Labor and Social Policy withdrew agency licenses because of involvement in trafficking.

The government sought to cooperate with foreign governments to investigate and prosecute trafficking cases; however, efforts were hampered by a number of factors, including insufficient investigative resources, the reluctance of many victims to give evidence against traffickers, and a lack of timely cooperation from law enforcement officials in most destination countries.

The country remained a point of origin for internationally trafficked men, women, and children. The main destinations were Turkey, Russia, West and Central Europe, especially Poland, and the Middle East. There were also reports that women and girls were trafficked to South Korea, Japan, Nigeria, and Liberia.

The country also was increasingly a transit route for individuals from Central Asia, Russia, and Moldova. The International Organization for Migration (IOM) reported that as of September 30, at least 78 individuals from Moldova, Russia, Kyrgyzstan, and Uzbekistan had been trafficked through Ukraine to Turkey.

Ukraine was also a destination country for individuals trafficked from former Soviet republics and South Asia. For example, the IOM reported one case of trafficking from Moldova to Ukraine. A much larger problem involved trafficking of individuals within the country. As of September 30, the IOM reported three cases of internal trafficking. However, the IOM believed the actual number was 100 times greater. There were a few reports that mothers trafficked their underage children and forced them to beg.

There were also reports that both women and men were forced to work in agriculture, especially in the southern regions, in summer and autumn. Children were exploited in industrial cities in the east. For example, 2 adults in the eastern town of Snizhne, Donetsk Region, were arrested and given 4-year suspended sentences for creating a foster home and then forcing 11 foster children to work in their illegal coal mine (see section 5, Children).

Men were mainly trafficked as construction workers and miners. Children who were trafficked across the border or within the country were forced to provide sexual services, engage in unpaid work, or beg. The overwhelming majority of trafficking victims were women, who were used as sex-workers, housekeepers, seamstresses, and dishwashers. Trafficked women were also used to bear children for infertile couples. There was a lack of information regarding male victims of trafficking, because men generally did not recognize themselves as victims of trafficking. As a result, men rarely addressed complaints to law enforcement agencies.

Estimates regarding the number of trafficked citizens varied, but the IOM stated that one 1 of every 10 persons knew someone in their community who has been trafficked. According to Human Rights Ombudsman Karpachova, approximately five to seven million citizens lived and worked abroad, many without legal protection, and were therefore potentially vulnerable to traffickers.

Traffickers used a variety of methods to recruit victims, including advertisements in newspapers and on television and radio that offered jobs abroad with high salaries and promises of modelling contracts, marriage proposals, and trips through

travel agencies. Traffickers often presented themselves as friends of other friends and deceived the relatives of potential victims. Most of the traffickers were members of organized crime groups. The traffickers often paid for the processing of passports and travel documents for the victims, thus placing them into debt bondage. In some cases the traffickers simply kidnapped their victims.

Corruption in the judiciary and police continued to impede the government's ability to combat trafficking. Local officials reportedly aided organized crime groups involved in trafficking; a police officer, for example, allegedly assisted an organized crime gang that trafficked minors to Russian pedophiles. NGOs asserted that local police and border guards received bribes in return for ignoring trafficking. The authorities did not disclose official statistics on corruption related to trafficking, but some law enforcement investigations of human trafficking revealed abuses of power by governmental officials responsible for issuing passports. Officials issued passports to minors, for example, with false age or other information. The low number of prosecutions of government officials for such activities raised questions about whether the government was willing to take serious disciplinary action, especially against high-level officials.

Although some victims testified against traffickers during the year, victims often were reluctant to seek legal action against them. This reluctance was due largely to lack of trust in law enforcement agencies, negative public opinion toward trafficking victims, and the insufficient protection offered to witnesses as a result of budgetary considerations.

From January to October, the IOM helped 488 trafficking victims to return and reintegrate into society. The IOM continued to operate a comprehensive medical center and shelter for victims of trafficking in Kiev, providing medical and psychological services, including vocational counseling, to 174 individuals during the first 9 months of the year. However, these victims represented only a small percentage of the total number of Ukrainians trafficked abroad. Limited medical, psychological, and legal assistance was available, as was job skills training, job placement, and micro-credits. Psychological assistance was widely available through state institutions, but medical assistance was only available from shelters funded by international organizations and was not fully provided in all cases.

Between February and August, the international NGO Caritas provided 51 victims of trafficking with reintegration assistance in their shelter. Caritas also established a network of counseling centers providing social services to trafficked women in Khmelnytsky, Ivano-Frankivsk, Sokal, and Drohobych. Between February and August these centers provided 1,189 consultations regarding the prevention of trafficking.

Another 31 smaller NGOs facilitate cooperation between victims, communities, and law enforcement organizations in addressing trafficking issues. With foreign government assistance, the help of local administrations, and their own resources, local NGOs continued to serve as trafficking prevention and women's support centers in the regions. Among other things, the centers provided legal and psychological counseling to trafficking victims. NGOs also operated 18 regional hotlines for trafficking victims in different cities.

The government worked to improve assistance provided by its diplomatic missions to victims in destination countries. In 2004 the country's consulates abroad identified 560 missing citizens and helped repatriate 825 women who were victims of trafficking. The Ministry of Foreign Affairs set up a center in Kiev for the protection of citizens abroad. It provided free consultations regarding their rights in foreign countries.

During the year the Ministry of Family, Youth and Sports, in conjunction with the IOM and with funding provided by the European Commission, opened three shelters, in Odesa, Lutsk and Zhytomyr, for the rehabilitation and reintegration of trafficking victims.

Government cooperation with NGOs on trafficking issues was steady during the year. Local administrations continued to include NGOs as partner organizations in their regional action plans.

During the year several television stations broadcast documentary films and informational programs highlighting the danger of human trafficking. NGOs conducted general awareness campaigns throughout the country, often in cooperation with government entities. International organizations also started trafficking-prevention information campaigns featuring popular Ukrainian celebrities such as 2004 Eurovision contest winner Ruslana. At a nationally televised event, public figures, including First Lady Kateryna Yushchenko, urged the public to be supportive of trafficking victims.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or other state services.

However, the government did little to increase opportunities for persons with disabilities, and advocacy groups maintained that there was societal discrimination against persons with disabilities. The law mandates access to buildings and other public facilities for persons with disabilities but it was poorly enforced. The media reported on June 1 that President Yushchenko issued a decree ordering the government to ensure that persons with disabilities could physically access government and public buildings but, while there were some efforts made to comply with the decree, most public buildings remained inaccessible.

Only 14 percent of the country's 2.47 million persons with disabilities were employed, according to a September 21 report in the national newspaper *Den,* which cited the State Committee for Statistics.

At a September 29 press conference in Kiev, the head of the National Assembly of Ukrainian Invalids, member of parliament Valeriy Sushkevych, complained that the deaf continued to encounter problems in receiving high-quality education and good jobs. Sushkevych said that there were about 50 schools for children with hearing problems but teaching standards were very low. According to the Ukrainian Society for the Deaf, as of year's end, there were approximately 57 thousand persons with hearing problems, including approximately 2 thousand children under the age of 14. According to the society's statistics, 2,600 deaf children attended primary and secondary schools, while about 1 thousand were students of higher educational establishments.

In 2004 the government supported the efforts of the NGO Parostok to involve individuals with disabilities in politics and to help ensure that they were able to cast votes at polling stations during the presidential elections.

National/Racial/Ethnic Minorities.—Harassment of racial minorities was a continuing problem. The police routinely detained dark-skinned persons for arbitrary document checks, whereas document checks of light-skinned individuals were rare. Although the authorities disciplined police who engaged in this harassment when incidents were brought to their attention, such behavior remained common. There were multiple reports of racially motivated violence against persons of African and Asian heritage by skinheads. Representatives of minority groups claimed that police officials routinely ignored, and sometimes abetted, violence against them.

Roma are located throughout the country, but there are concentrations in Zakarpattya Region, Crimea, and around Odesa. Police continued to abuse them and use violence against them. For example, according to the human rights NGO Romani Yag, on January 20 police in Uzhhorod conducted early-morning raids on the homes of Romani families in the city's Radvanka and Telmana neighborhoods. All Romani men seized in the operation, including the elderly and the ill, were taken by the police for fingerprinting. At a February 8 roundtable with Romani leaders in the city, Deputy Uzhhorod Police Chief Myhailo Turzhanytsa defended the operation, characterizing it as a "prophylactic action which was carried out as a consequence of increased criminality" in the Romani community.

Roma also faced considerable societal hostility. Opinion polls indicated that social intolerance is greater toward Roma than toward any other ethnic group. The media reported on August 10 that riot police in Krasnoyilsk, Chernivtsi Region, deployed to protect a Roma camp from vigilante violence by local residents seeking the alleged killers of an eight-year-old girl.

The constitution provides for the "free development, use, and protection of the Russian language and other minority languages," but some pro-Russian organizations in the eastern part of the country and in Crimea complained about the increased use of Ukrainian in schools, the media, and the courts. These groups claimed, for example, that their children were disadvantaged when taking academic entrance examinations, since all applicants were required to take a Ukrainian language test. Government representatives disagreed. Deputy Minister of Education and Science Viktor Ohnevyuk noted in an August 31 interview with Interfax that "every fifth student in Ukraine is taught in Russian." According to Ohnevyuk, 1,500 schools teach students in the Russian language. In addition, he said that 550 schools teach students in two languages, either Russian and Ukrainian or Russian and Crimean-Tatar. Ohnevyuk also related that over 27 thousand schoolchildren studied in Romanian, around 20 thousand were taught in Hungarian (primarily in Zakarpattya Region), 6,500 in Moldovan (primarily in Odesa Region), 6 thousand in Crimean-Tatar, and 1,400 in Polish.

A poll conducted in April by the Democratic Initiatives Fund showed that 76 percent of the respondents supported the granting of official status to the Russian language.

The Russian cultural center in Lviv was vandalized multiple times during the year. The media reported that, on the night of June 7, a bust of the Russian writer Pushkin was destroyed. According to media reports, unidentified vandals spray-

painted a swastika on the center's facade on September 21 and on November 16 smashed several of the center's windows.

Ukrainian and Crimean Tatar minorities credibly complained of discrimination by the ethnic-Russian majority in Crimea and called for the Ukrainian and Crimean-Tatar languages to be given a status equal to Russian. Crimean Tatar leaders also continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean legislature (see section 3).

Crimean Tatar leaders complained that their community, whose members have returned to Ukraine over recent decades after having been forcibly exiled from their traditional Crimean homeland during World War II, were not receiving adequate assistance in resettling. Returning Tatars were given land plots on the peninsula, but only inland, and not along Crimea's desirable southern coast from which Tatars claimed they were exiled. The previously onerous process of acquiring citizenship excluded many of them from participating in elections and deprived them of a fair opportunity to participate in the privatization of land and state assets in the 1990's. The newly privatized land was subsequently priced beyond their means. They asserted that discrimination at the hands of (largely ethnic-Russian) officials in Crimea deprived them of employment in local administrations and that propaganda campaigns, particularly by Russian Cossacks, fomented hostility toward them among other inhabitants of Crimea.

Muslim leaders in Crimea, as well as members of the Crimean Tatar Mejlis, accused the UOC–MP of encouraging anti-Muslim and anti-Tatar violence in Crimea. UOC–MP priests in Crimea reportedly assured ethnic Russian vigilantes, who refer to themselves as Cossacks, that violence against Muslim Tatars was justified in order to "protect Orthodoxy" in Crimea.

Rusyns (Ruthenians) continued to call for status as an official ethnic group in the country, noting that neighboring countries accept them as minorities.

Other Societal Abuses and Discrimination.—The media reported on March 22 that the anti-Semitic MAUP expelled a gay student from its law college because the student had circulated leaflets among fellow students calling for the protection of the rights of gays and lesbians. The gay student sued MAUP. On August 19, the Holosivskiy District Court in Kiev ruled in favor of the student and ordered MAUP to pay him compensation of $120 (UAH 600). The student subsequently transferred to Kiev State University.

There were no indications that two cases of possible mistreatment of homosexuals were being pursued by the authorities. One case involved a February 2004 complaint to the ombudsman's office by two gay men about harassment by police in Volyn Region. The other was the suspicious death in September 2004 of a gay man in Kryvyy Rih while in police custody.

From September 30 until October 3, Nash Mir, the country's leading NGO that advocates for gays and lesbians, hosted a conference in Kiev to publicize the results of a one-year study, financed by the EU and the International Renaissance Foundation, on discrimination against homosexuals. The final results were based on more than 900 interviews and questionnaires involving homosexuals of different sexes, ages, places of residence, and social status. It concluded that homosexuals were generally treated with prejudice in Ukrainian society. It noted that homosexuals faced discrimination from law enforcement agencies and the country's health care workers, among others, and that the media frequently provided a "distorted representation" of persons with nontraditional sexual orientations.

Persons living with HIV/AIDS continued to face discrimination in the workplace, job loss without legal recourse, harassment by law enforcement, prosecutorial, and judicial authorities, and social isolation and stigmatization within their communities.

Incitement to Acts of Discrimination.—Mejlis members and Crimea-based human rights groups criticized the Crimean government for permitting schools to use officially-sanctioned textbooks that contain inflammatory and historically inaccurate material about Tatar Muslims. Human rights activists specifically noted that a popular textbook for fifth graders, Viktor Misan's *Stories on the History of Ukraine*, contains more than 20 pejorative references to Muslims, including the assertion that Tatar children had frequently used "elderly and disabled Ukrainian captives for archery and saber practice." Similarly, A.K. Shchvidko's eighth-grade textbook, *History of Ukraine, 16–18th Centuries*, depicts Muslims in a negative light, asserting, for example, that "there wasn't a year when Tatars didn't invade Ukraine, burn its villages and towns, slaughter its citizens, and take prisoners." One major Crimea-based human rights group noted that such misinformation collectively created an impression among young persons that "Tatars are bad for Ukraine and that to kill and rob them is a blessed deed."

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of most workers to join unions to defend professional, social and economic interests, and this right was generally respected in practice. The law prohibits certain categories of workers, such as nuclear power plant employees, from joining unions. Large companies and some local government officials continued to resist the formation of unions.

Under the law, all trade unions have equal status, and the establishment of a trade union does not require government permission. However, unions affiliated with the Federation of Trade Unions (FPU), which maintained strong ties with the government and inherited assets from the official Soviet-era unions, enjoyed an advantage in organizing workers.

Since 2003 unions no longer need prior approval from the Ministry of Justice to be established. But in order to function as an organization for all practical purposes, a union must obtain proof of registration as a legal entity. Unions report this registration process is extremely burdensome, entailing visiting up to 10 different offices, submitting extensive documentation, and paying a number of fees.

In order to acquire national status, which allows a union to negotiate directly and sign agreements with government ministries and to communicate officially with the cabinet and president, a union must either have branches in more than half of the administrative regions or have branches in more than half of the administrative regions where the enterprises of this sector are located. The Law on Citizens' Organizations (which include trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. There were both "official" and "independent" trade unions.

All unions affiliated with the FPU, which maintained strong ties to the government and inherited assets from the official Soviet-era unions, as well as several new, independent labor unions, were registered. However, some independent unions, including newer affiliates of the Independent Miners Union of Ukraine whose member unions represented a wide variety of trades and professions, chose not to register, considering themselves legal entities under the 2003 Law on Trade Unions and thus exempt from registration requirements. Although often coordinating its activities with the government, the FPU continued to work independently on some labor matters and advocated the right of workers to strike. The FPU has supported the protests of some professions over unpaid wages, but most FPU affiliates worked closely with management. Enterprise managers were free to join the FPU. The FPU leadership had a political party, the All-Ukrainian Party of Workers.

Independent unions provided an alternative to the official unions in many sectors of the economy. As of October 1, there were 109 trade unions registered with the MOJ, including 40 national-level industrial sector FPU unions and 69 new trade unions. The Confederation of Free Trade Unions of Ukraine (CFTU) reported that, as of October, they had only six national-level unions registered with the MOJ. The CFTU estimated its total membership at 211 thousand. While exact membership figures were unknown, there were estimated to be fewer than 2 million non-FPU members (down from 3 million in 2002) and 11 million (down from 14.5 million in 2002 and 12 million in 2004) members of FPU-affiliated unions. The drop in union membership was attributed to general apathy and cynicism regarding the benefits of union membership, as well as the fact that membership was no longer required for certain benefits, such as sick leave.

Despite heightened expectations of a change in policy following the Orange Revolution, independent unions continued to be denied a share of the former Soviet trade unions' huge property and financial holdings. These included the social insurance benefit funds, a Soviet-era legacy on whose boards FPU-affiliated unions held the majority of seats, giving them a benefit the independent unions could not offer.

Independent trade union leaders complained that government representatives sought to influence union votes and pressure members to report on union activities. At the same time, independent trade union leaders reported a decline in the intense level of harassment experienced prior to the 2004 presidential elections.

Despite the independent unions' strong efforts on behalf of President Yushchenko's presidential campaign, the new government did not enact any serious labor reforms. Some restructuring, such as the April 20 presidential decree that abolished the State Labor Safety Committee and incorporated its functions into the Ministry of Emergencies, was, in fact, detrimental to workers. Independent trade union leaders believed subordination to the Ministry of Emergencies meant labor safety officials were no longer able to act independently as the primary coalmine watchdogs.

Oleksandr Yurkin, former head of the Nuclear Power Workers Union, became chairman of the FPU on January 21. Yurkin was reportedly more open to reform

than prior leaders, but his actions were hampered by the rest of the FPU management that had not changed. Large companies and some local government officials continued to restrict union activities.

b. The Right to Organize and Bargain Collectively.—The law permits trade unions to organize and participate in collective bargaining, but these rights were not always respected in practice.

According to the law, joint worker-management commissions should resolve problems concerning wages, working conditions, and the rights and duties of management at the enterprise level. Although the law provides the right to collective bargaining, overlapping spheres of responsibility frequently impeded the collective bargaining process, and the manner in which the collective bargaining law was applied prejudiced the bargaining process against independent unions and favored the official unions (affiliates of the FPU). In the formal sector, collective barraging agreements covered 90 percent of unionized employees, according to a November World Bank study. Most workers were not informed that they were not obligated to join an official union. Renouncing membership in an official union and joining an independent union could be bureaucratically onerous and typically was discouraged by management. The law allows an independent union to be removed easily from the collective bargaining process at the enterprise level. Under the law, if several unions at an enterprise fail to agree on joint representation, the largest union—that is, the FPU—represents labor in the bargaining process.

The law established the National Mediation and Reconciliation Service to mediate labor disputes. According to official statistics, the service addressed 213 labor disputes during first nine months of the year, resolving 70 of them.

The law provides for the right to strike "to defend one's economic and social interests," as long as strikes do not jeopardize national security, public health, or the rights and liberties of others; the government generally respected this right. It does not extend the right to strike to personnel of the PGO, the judiciary, armed forces, security services, law enforcement agencies, the transportation sector, or public servants. Workers who strike in prohibited sectors may receive prison terms of up to three years. As of October, one enterprise (with 408 employees) had participated in a strike.

Approximately 90 thousand workers were employed in the country's 11 export processing zones. Tax and customs privileges granted to the companies in the zones were eliminated on March 29. The changes led to restructuring and job losses among enterprises in the zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see section 5 and section 6.d.).

Human rights groups asserted that alternative service military conscripts were used as compulsory labor in the construction and refurbishing of private houses for military and government officials. There were reports that, at Zakarpattya Region's Pavchino detention center, border guards generated income, including their own salaries, by "leasing" migrants to a neighboring factory. The migrants were forced to work long shifts, including at night, without compensation; those who refused to work were beaten and, in one case, mauled by a guard dog.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government recognized child labor problems but did not effectively enforce laws to protect children from exploitation in the workplace. The legal minimum age for employment in most spheres of the economy is 16, but in certain non-hazardous industries, enterprises may negotiate with the government to hire employees as young as 15 with the consent of one parent. Children aged 14 can legally work on a short-term basis in the social sector and agriculture with the consent of one parent.

The State Department for Monitoring Enforcement of Labor Legislation within the Ministry of Labor and Social Policy is responsible for enforcing child labor laws and was generally effective; however, some children under the minimum employment age worked in the informal sector. An amendment to the Law on Child Protection, adopted in February, prohibits trafficking in children and children working in hazardous conditions.

Children worked in the agricultural sector, and trafficking of children for the purpose of forced labor and sexual exploitation was a problem (see section 5). Begging by children existed, although it was limited. In the formal sector, the State Department of Surveillance Over Labor Legislation Observance and the State Labor Inspectorate are responsible for enforcing child labor laws and policies. The Department of Juvenile Affairs and the police are responsible for identifying children in the informal sector that are involved in worst forms of child labor. During the year enforcement measures were often inadequate to deter violations. The International

Labor Organization's International Program on the Elimination of Child Labor (ILO/IPEC) has a country-specific project aimed at eradicating the worst forms of child labor in the informal economy. The ILO/PEC also continued a project for prevention of trafficking in children.

e. Acceptable Conditions of Work.—The new government substantially increased the monthly minimum wage, pensions and other social payments with the March 29 budget. The government raised the minimum wage three times during the year, to $66 (UAH 330) to make it equal to the subsistence level for persons with disabilities set by the 2005 budget. Nonetheless, the minimum wage and associated pension levels did not provide a decent standard of living for a worker and family. The State Labor Inspectorate is responsible for enforcing the minimum wage but was unable to thoroughly monitor all employers. Many workers, especially in the informal sector, received far below the minimum wage.

Since the beginning of the year, wage arrears have increased by 15.9 percent and as of August 1 stood at $258 million (UAH 1.29 billion). Most arrears accumulated in industry (48.1 percent), agriculture (23.3 percent), and construction (10.1 percent).

The law provides for a maximum 40-hour workweek, a 24-hour period of rest per week, and at least 24 days of paid vacation per year. Stagnation in some industries significantly reduced the workweek for some categories of workers. The law provides for double pay for overtime work and regulates the amount of overtime hours allowed. However, regulations covering rest periods, maximum hours, and overtime were not always effectively enforced.

Although the law contains occupational safety and health standards, these frequently were ignored in practice. In particular, illegal coalmines connected to organized crime and corrupt leaders operated in unsafe conditions, resulting in scores of deaths. A 10-day inspection in Donetsk Region by officials in April uncovered 1,300 violations of labor safety and resulted in the closure of 60 facilities at 10 mining sites. Lax safety standards and aging equipment caused many injuries on the job. During the first 9 months of the year, there were 15,011 injuries (1,781 fewer than for the same period in 2004), including 762 job-related fatalities (96 fewer than in the previous year). The number of miners injured in the coal sector was 7,768 (down from 9,218 in 2004), including 157 fatalities (compared with 200 in 2004).

In the coalmining sector, experts estimated that in the first eight months of the year there were 1.98 deaths (down from 2.57 in 2004) for every million tons of raw coal extracted. Increased enforcement of safety regulations was a major factor in this reduction, although the numbers remained quite high. The new government established in May a coal industry development program, as well as working groups to analyze the situation in the mining and metallurgical sector, but these efforts have not yet resulted in any substantial improvements in health and safety in the mines.

In theory, workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment; however, independent trade unions reported that in practice, asserting this right would result in retaliation or perhaps dismissal by management.

UNITED KINGDOM

The United Kingdom of Great Britain and Northern Ireland, with a population of 60.4 million, is a constitutional monarchy with a democratic, parliamentary government. Citizens periodically choose their representatives in free and fair multiparty elections; a national parliamentary election took place on May 15. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; the law and judiciary provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- occasional abuse of detainees and other persons by individual members of the police and military
- overcrowded prison conditions and some inadequate prison infrastructure
- violence and discrimination against ethnic and religious minorities, women, and children
- trafficking of persons into the country

Although most paramilitary organizations in Northern Ireland continued to maintain a cease-fire, killings and "punishment attacks" continued in some areas under the influence of both republican and loyalist paramilitary groups.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the government or its agents.

According to the Independent Police Complaints Commission (IPCC), 106 people died between April 2004 and March while being arrested by the police or while in police custody, including road traffic fatalities and fatal shootings; since April, police shot and killed 5 persons. The IPCC investigates fatal shootings by the police and refers officers to the Crown Prosecution Service should there be an indication that the deaths resulted from police misconduct. There was no indication that deaths resulted from police misconduct among cases in which the IPCC completed its investigation.

Members of the Metropolitan Police Service (MPS) killed Jean Charles de Menezes on July 22, the day after failed bombing attempts in London and two weeks after the July 7 terrorist attacks in which 56 persons died. The police subsequently stated that de Menezes was not a suspect in the terrorist attacks. An IPCC investigation was pending at year's end.

In October the government responded to the Parliament's Joint Committee on Human Rights December 2004 call for a task force to develop guidelines on how to prevent deaths in custody with a commitment to build on its existing Ministerial Roundtable on Suicides and to strengthen the links between the Roundtable and other government structures which address prison suicides.

An independent review by the Devon and Cornwall police of the Surrey police investigation into the 1995–2002 deaths by gunshot of four soldiers at the Princess Royal Barracks, Deepcut, found no improper army influence on the Surrey investigation. However, the review criticized the leadership of the Surrey police investigation. An additional review initiated by the armed forces minister in December 2004 remained ongoing.

Authorities initiated judicial inquiries and preliminary proceedings into allegations of government involvement, collusion, or culpability in three controversial killings that took place in Northern Ireland in the 1980s and 1990s. A separate inquiry into the 1989 killing of Pat Finucane remained pending.

The Saville Inquiry chairman and two other judges continued drafting their report into the January 1972 "Bloody Sunday" events.

The Independent Monitoring Commission reported that paramilitary groups were thought to be responsible for seven killings in Northern Ireland from September 2004 to August.

In July dissident republican paramilitaries participated in a violent riot directed at police officers in Belfast. In September loyalist paramilitary groups participated in rioting in which more than 150 shots were fired. The Loyalist Ulster Volunteer Force and the Ulster Volunteer Force engaged in a feud marked by assassinations. In September the Independent International Commission on Decommissioning reported that the Provisional Irish Republican Army had put all of its weapons "beyond use."

On July 7, four terrorist attacks on London's public transportation system killed 56 people, and on July 21, terrorists attempted but failed to inflict additional casualties on the nation's capital. After the July terrorist attacks, the government proposed new laws and regulations, which were debated in Parliament and public.

At year's end two separate courts-martial were pending for 11 soldiers relating to the deaths of 2 Iraqi detainees in 2003. The charges in a case against seven paratroopers were dismissed in November. In January four soldiers were convicted and dismissed from the army in relation to abuse of Iraqis in their custody. The Crown Prosecution Service was considering charges in another case but had released no further details.

b. Disappearance.—There were no reports of politically motivated disappearances.

In June the Police Service of Northern Ireland (PSNI) recovered the remains of Gareth O'Connor, who disappeared in 2003.

The government and the Republic of Ireland hired a forensic expert to assist in the possible recovery of remains of nine victims killed and secretly buried by the Provisional Irish Republican Army in the 1970s.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, there were complaints that individual members of the police occasionally abused detainees. On December 8, the House of

Lords Judicial Committee reversed an appeals court decision and ruled that even in terrorism cases no court could consider evidence obtained through torture.

A March report by the Adult Learning Inspectorate, citing Armed Forces surveys, stated that 10 percent of the personnel (or 20 thousand individuals) in the three military services had suffered bullying and harassment. The abuses were attributed to hazing or punishment by peers or commanders for minor infractions, such as not making a bed correctly. The report recommended zero tolerance for such abuses.

From April through December 2004 (the most recent period for which statistics were available), 1,103 complaints against police were referred to the IPCC. Between April 2004 and March, the police ombudsman for Northern Ireland received 2,885 complaints that involved 4,206 allegations of police misconduct. The chief constable also referred 72 matters to the ombudsman, and the ombudsman investigated 4 other matters deemed to be in the public interest. The ombudsman stated that "a significant change in the nature of allegations" had taken place over the last 4 years, noting that the percentage of allegations regarding oppressive behavior (for example, assault, intimidation, and harassment) had fallen from 51 percent to 36 percent of the total number of allegations received. The ombudsman recommended seven cases to the director of public prosecutions for possible legal action.

Both loyalist and republican paramilitary groups in Northern Ireland continued to intimidate or carry out killings or "punishment attacks" in areas under paramilitary influence. The attacks often aimed to maintain or extend the control of paramilitary groups in an area. The PSNI reported that, through November, 111 paramilitary-style attacks had occurred in Northern Ireland; of these, 58 were shootings and 53 were beatings. Human rights groups stated that available statistics underreported the casualties because many intimidated victims did not report the attacks. Sinn Fein continued to withhold support for the police service, which contributed to the refusal of many republicans to assist with PSNI investigations into serious crime, including murder and sexual assault.

Prison and Detention Center Conditions.—Prison conditions generally met international standards; however, overcrowding, poor facilities, and suicides occurred. As of December 23, the Prison Service reported 75,561 prisoners in England and Wales, an increase of 1,500 from the same date in 2004. A July Prison Reform Trust (PRT) report recorded that 82 of 142 prisons in England and Wales suffered from overcrowding, down from 91 in 2004.

As of November 8, there were 6,932 prisoners in Scotland, an increase of approximately 150 compared with the previous year. Hundreds of prisoners in Scottish prisons have sued the Scottish Executive (government) over conditions that do not meet European Union standards, particularly by not offering plumbing in individual cells. A prisoner in Barlinnie Prison received a court-ordered financial award during the year when the judges ruled that prison conditions had aggravated the prisoner's medical problems.

A May report by the chief inspector of prisons and the chief inspector of criminal justice criticized conditions for female inmates at the Hydebank Wood Centre in Belfast. The report highlighted inadequate sanitation and shortages of trained staff to deal with inmates who are at risk for suicide or self-harm. The report recommended construction of a new prison for female inmates. The Northern Ireland Prison Service announced that it accepted most of the report's recommendations.

During the year 78 prisoners in England and Wales committed suicide in jail, a decrease of 18 percent from 2004; an additional 131 prisoners were resuscitated after serious self-harm incidents. The July PRT report stated that the institutions with the highest number of suicides were generally the most overcrowded and that nearly two-thirds of those who committed suicide in prison had a history of drug abuse. By year's end 41 prisons had implemented a new care plan for at-risk prisoners. In Scotland four prisoners committed suicide between April 2004 and March.

The government permitted independent human rights observers and the media to visit prisons and immigration detention centers.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest or detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—In Great Britain, regional police forces (44 in England and Wales and 8 in Scotland) are responsible for maintaining law and order. In Northern Ireland the PSNI has that responsibility. In some areas of Northern Ireland, because of the continuing threat of violence, army units reinforced the PSNI.

In August the National Criminal Intelligence Service reported that organized criminals could exploit individual corrupt officials. The Inspectorate of Constabulary promotes efficient and effective police practices and inspects police units for compliance with relevant laws and procedures, including police corruption. The IPCC in-

vestigates specific allegations against police officials, including supervising the investigation of five Gwent police officers arrested in June for misconduct in public office and corruption.

There were incidents of racial discrimination by the police, which authorities took steps to address (see section 5).

Arrest and Detention.—Generally, police officers may only arrest persons if they have reasonable grounds for suspecting that someone has committed or is about to commit one or more listed "arrestable offenses." Even if the crime in question is not an arrestable offense, a police officer may arrest a person without a warrant, provided the officer believes the arrest is necessary to prevent damage to property or physical injury. The law provides for certain exceptions related to terrorism, particularly in Northern Ireland.

The law limits the amount of time that a suspect can be detained without a formal charge for a criminal offense, generally to less than 24 hours, and requires that an inspector review the detention at set intervals to ensure that it is necessary and lawful. The law also provides law enforcement authorities with the power to detain for up to 48 hours without charge individuals suspected of having committed a terrorism-related offense, which a court may extend for a maximum of 14 days. Suspects are promptly informed of the criminal offenses for which they are being investigated.

Defendants awaiting trial have a statutory right to bail except when there is a risk that they would flee, commit another offense, or in other limited circumstances. Detainees are allowed to make telephone calls and have legal representation, including state-provided counsel if indigent.

The law permits extended detention of foreigners suspected of being terrorists but who cannot be removed from the country immediately, due to concerns that they will be subjected to torture in their country of origin. Such detainees have the right to appeal their certification by the government as a terror suspect, and all the detainees are free to leave the country at any time. In March the government enacted the Prevention of Terrorism Bill, which permits a judge (or the home secretary with a judge's permission) to impose "control orders" on individuals suspected of involvement with terrorism-related activities regardless of nationality or perceived terrorist cause. The control orders include a range of restrictions up to house arrest.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

There are several levels of courts. In England and Wales, most criminal cases are heard by magistrates' courts, which were managed by locally-based committees. Their decisions may be appealed to one of 90 crown courts, which also hear criminal cases requiring a jury trial, or to the high courts. Crown court convictions may be appealed to the Court of Appeal, which may in turn refer cases involving points of law to the Lords of Appeal in Ordinary (the Law Lords), who constitute the country's final court of appeal. The Criminal Cases Review Commission is an additional appellate body in England, Wales, and Northern Ireland and considers cases after the judicial appeals process is exhausted, but where significant new evidence casts doubt on the conviction.

In Scotland the High Court of Justiciary acts as a court of first instance for serious crimes, such as rape and murder, and also serves as an appellate body. There are 49 sheriff courts, which handle lesser crimes. District courts in each local authority handle crimes such as breach of peace, minor assaults, and petty theft. Civil matters can be handled in the first instance by either the Court of Session, which is the supreme civil court in Scotland, or by sheriff courts. Decisions by the Court of Session can be appealed to the Law Lords.

Trial Procedures.—The law allows for jury trials, except in England and Wales when the jury has been intimidated, when "compelling new evidence" arises after a previous acquittal, or when evidence of a defendant's previous misconduct is to be introduced. In Northern Ireland trials for certain terrorism-related crimes also do not allow juries.

Criminal proceedings must be held in public except those in juvenile court and those involving public decency or security. In a trial under the Official Secrets Act, the judge may order the court closed, but sentencing must be public.

Defendants have the right to be present and consult with an attorney in a timely manner, to question witnesses against them, and to appeal to successively higher courts; they also enjoy a presumption of innocence until proven guilty. Indigent defendants have the right to free counsel of their choice, with some exceptions.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

A 2002 case brought before the European Court of Human Rights by three nongovernmental organizations (NGOs) which stated that the government had intercepted their telephone calls to clients in Ireland without a warrant, remained pending at year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to secure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

In Northern Ireland residents in some Catholic communities perceived certain parades to be threatening or provocative. The law grants responsibility for ruling on "contentious" marches to a parades commission, which may not ban marches, but may impose conditions, such as route restrictions. Of the 3,041 legal parades between April 2004 and March, the parades commission re-routed 30 and imposed other conditions on 90. Serious rioting by republicans and loyalists in connection with contentious parades took place on July 12 in the Ardoyne area of north Belfast and from September 10 to 13 in several areas in north and west Belfast. Police showed notable restraint in both July and August given the level of violence directed toward them.

In an August update on its investigation concerning the September 2004 foxhunting protest, the IPCC reported that disciplinary investigations against 15 MPS officers had been withdrawn with the remainder subject to ongoing investigation. Nine of the 17 cases submitted to the Crown Prosecution Service remained pending; four cases were sent to the metropolitan police for consideration of disciplinary action.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

There are two established (or state) churches, the Church of England (Anglican) and the Church of Scotland (Presbyterian). The monarch is the "Supreme Governor" of the Church of England and always must be a member of the church and promise to uphold it. Two Anglican archbishops and 24 bishops receive automatic membership in the House of Lords, while clergy from other faiths are not automatically granted this privilege.

The government does not consider the Church of Scientology and the Unification Church as religions for the purpose of visas for ministers of religion or missionaries. In October the Home Office lifted the exclusion order against Unification Church leader Reverend Sun Myung Moon.

The law requires religious education in publicly maintained schools throughout the country. The content of religious instruction is decided on a local basis and must be nondenominational and refrain from attempting to convert pupils. All parents have the right to withdraw a child from religious education, but the school must approve this request.

In addition, schools in England and Wales must provide a daily act of collective worship, which may be waived if a school's administration deems it inappropriate for some or all of the students. Under some circumstances, non-Christian worship may be allowed.

While most state-supported schools were Protestant or Roman Catholic, there were 45 Jewish, 5 Muslim, 2 Sikh, 1 Greek Orthodox, and 1 Seventh-day Adventist state-supported schools. Funding for the first Hindu state-supported school was announced in October.

Societal Abuses and Discrimination.—The Forum Against Islamophobia and Racism reported approximately 168 anti-Islamic incidents between January and September.

Attacks against mosques and individuals increased after the July 7 and 21 bombings in London. In the first 3 days after the first attack, 180 racial incidents were reported. Arson and criminal damage was done to mosques in Leeds, Tower Ham-

lets, Merton, Telford, and Birkenhead. A Pakistani man died after what police called a racially aggravated attack.

Between April and the end of the year, the MPS recorded 12,432 hate crimes (related to both race and faith), down from 13,082 in the same period of 2004; 919 of the incidents were faith hate crime, compared with 497 in the same period in 2004.

In December 2004 police arrested the leader of the British National Party (BNP) on suspicion of incitement to racial hatred. His arrest was the twelfth following the July broadcast of a BBC documentary *Secret Agent,* which covertly recorded BNP members as they called Islam a "vicious, wicked faith" and admitted to their participation in racially motivated crimes. The court case remained pending at year's end.

Fear of intercommunal violence continued a decades-old pattern of segregated communities in Northern Ireland. The Northern Ireland police reported 222 attacks against both Catholic and Protestant churches, schools, and meeting halls during the year. Such sectarian violence often coincided with heightened tensions during the spring and summer marching seasons.

The Community Security Trust recorded 455 anti-Semitic incidents during the year, including 80 assaults, 2 cases of extreme violence, and 48 instances of desecration and damage to property. For example, Jewish graves in a cemetery in Aldershot, Hampshire, were desecrated with Nazi symbols (including the swastika) twice early in the year. In January eight assaults were recorded against Hackney's Jewish community. Additionally, in June approximately 100 gravestones were pushed over, damaged, and defaced at the West Ham Jewish Cemetery. Six members of an extreme right wing group were convicted in November of plotting to publish material designed to stir up racial hatred and received sentences of up to five years in prison.

The law prohibits offenses aggravated by religious hostility and extends a prohibition against incitement to racial hatred to include cases where the incitement to hatred is directed against groups abroad. Between April 2004 and March, the Crown Prosecution Service prosecuted 34 defendants for religiously aggravated cases, down from 49 for the corresponding period in the previous year. Muslim cleric Abu Hamza al-Masri was charged with 14 counts of solicitation and race hate and 1 under the Terrorism Act; his trial was postponed to early 2006. The mayor of London was widely criticized for making allegedly anti-Semitic comments to a Jewish journalist in February and faced a disciplinary panel over whether his statement brought disrepute to his office.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

Although there is no law prohibiting exile, the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution; however, the government limited this right for persons from "safe countries of origin." The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol. In 2004 approximately 7,110 persons were not recognized as refugees but were granted permission to remain in the country.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The law authorizes the home secretary to institute a list of safe countries of origin (or safe parts of certain countries) for all residents or for particular classes of people. The government considered asylum claims from such individuals as unfounded.

The law also casts doubts on the credibility of applicants who claim asylum in the country after having passed through a safe country of transit. Furthermore, the law permits asylum seekers to be removed to a third country deemed responsible for adjudicating an applicant's claim.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The government is formed on the basis of a majority of seats in the House of Commons, which are contested in elections held at least every five years; elections for members of Parliament took place on May 5. The other chamber of Parliament, the House of Lords, is appointed. Participation in the political process is open to all persons and parties. Other elected bodies, such as the Scottish Parliament and the Welsh Assembly, control matters of regional importance, such as education, health, and some economic matters.

The overseas territories, with an aggregate population of approximately 212 thousand, enjoyed varying degrees of self-government based on the United Kingdom model, with appointed governors.

There were 127 women in the 659-seat House of Commons. There were 6 women in the 23-member cabinet. There was 1 woman among the 12 Law Lords. There were 15 members of minorities in the 659-seat House of Commons and 1 member of a minority group in the 23-member cabinet. There were 24 minority members of the House of Lords and no minorities among the 12 Law Lords.

Government Corruption and Transparency.—There were no reports of high-profile government corruption cases during the year.

The law allows for public access to information held by public authorities. Anyone can request information, regardless of age, nationality or location. There was a mechanism to appeal denials.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases, including the first Northern Ireland Victims Commissioner, who was named in October. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, nationality, gender, sexual orientation, or disability; however, some groups continued to experience societal discrimination.

Women.—The law prohibits domestic violence against women, including spousal abuse, and the government strictly enforced the law with penalties ranging up to life imprisonment. Nonetheless, violence against women continued to be a problem. According to the Home Office, two women per week died from domestic violence in England and Wales, which accounted for 16 percent of all violent crime. The Home Office's crime statistics for April 2004 through March recorded 24,120 indecent assaults on women. The law provides for injunctive relief, personal protection orders, and protective exclusion orders (similar to restraining orders) for women who are victims of violence.

The law, which was enforced strictly, criminalizes rape, including spousal rape, and provides substantial penalties ranging up to life imprisonment. The Home Office's crime statistics for April 2004 through March recorded 14,002 rapes of women. The government provided shelters, counseling, and other assistance for victims of battery or rape and offered free legal aid to battered women who were economically reliant on their abusers.

While the law makes it a crime to practice female genital mutilation, or to assist another person in its practice, either domestically or abroad, NGOs reported that the practice continued in isolated incidents among immigrant communities during the year. In May the Scottish Parliament passed the "Prohibition of Female Genital Mutilation (Scotland) Act 2005," providing similar definitions and punishments as in the laws for England and Wales.

While the government does not collect statistics on "honor killings," it has identified 12 such cases in the past 5 years. In November a Bangladeshi father and his two sons were sentenced for up to 20 years' imprisonment for killing an Iranian after learning that his daughter, whom he had already promised to marry to someone else, had become pregnant by the victim.

While prostitution involving consenting adults is legal, offenses such as loitering for the purpose of prostitution and maintaining a brothel are prohibited. A 2004 Home Office report estimated that there were 80 thousand prostitutes in the country. Organized international gangs continued to traffic women into the country for exploitation in the sex industry (see section 5, Trafficking). The law also prohibits child sex tourism and allows authorities to prosecute citizens or residents for offenses committed abroad.

The law prohibits sexual harassment and provides penalties of up to five years' imprisonment for sexual harassment in public or in the workplace.

Although women enjoy the same rights as men, including rights under family and property law and in the judicial system, in practice women experienced some discrimination. According to a December Equal Opportunities Commission report, women's hourly earnings for full-time, private sector employment were 22.5 percent lower than those of men; in full-time public sector jobs, women earned 13.3 percent less than men.

There is a cabinet-level minister for women, a deputy minister for women and equality, and two independent bodies for women's issues: the Equal Opportunities Commission (EOC) and Women's National Commission (WNC). The EOC supported women in discrimination cases before industrial tribunals and courts and produced guidelines for employers. The WNC is an umbrella organization representing women and women's organizations to ensure women's views are taken into account by the government and are heard in public debate.

Children.—The government was strongly committed to children's rights and welfare. The government provided free, universal, and compulsory education until age 16 and further free education until age 18. UN Educational, Scientific, and Cultural Organization statistics recorded 100 percent enrollment of children of primary school age and over 90 percent for those of secondary school age.

The government amply funded medical care for children.

Child abuse remained a problem. As of March there were 25,900 children on child protection registers (locally maintained lists of children whom social-services authorities judged to be at continuing risk of significant harm due to neglect or to physical, sexual, or emotional abuse). Several NGOs and charities, the most prominent of which was the National Society for the Prevention of Cruelty to Children, campaigned against child abuse and neglect.

The minister for children coordinated government policy concerning children and young persons in England and Wales. In Scotland the ministries for education, young people, and communities supervised similar programs designed to protect and provide assistance to minors. In Scotland the Protection of Children and Prevention of Sexual Offences (Scotland) Act went into effect in July. During the year a commissioner for children was appointed in Northern Ireland.

Some children were subjected to forced labor or trafficked into the country for sexual exploitation (see section 5, Trafficking). In July the children's charity, Bernardo's, estimated that at least one thousand children were sexually exploited in London annually.

The armed forces accept recruits from age 16, although they are not deployed on operations until age 18.

Trafficking in Persons.—Although prohibited by law, trafficking in persons, particularly for sexual exploitation, remained a problem.

The law prohibits trafficking in persons for the purposes of prostitution, sexual exploitation, or forced labor. The law criminalizes trafficking offenses by citizens and residents, whether committed domestically or abroad, and carries a maximum sentence of 14 years' imprisonment. The law also prohibits such related acts as keeping a brothel and causing, inciting, or controlling prostitution for gain. There were severe penalties for such offenses as causing, inciting, controlling, arranging, or facilitating the prostitution of a child. The law also criminalizes paying for sexual services of a child.

The "Reflex" task force, which brings together agencies that combat trafficking in persons, reported that in the 12 months ending in March the authorities were responsible for 149 disruptions and 1,456 arrests, resulting in seizures of $10 million (5.5 million pounds).

Operation Maxim targets organized immigration crime in London. It is a MPS program which works with and is funded in part by Reflex and involves a team of police and immigration officers from the passport service and the Crown Prosecution Service. From January to November, it arrested 143 people and charged 49 people, of whom 32 were convicted and 17 are awaiting trial.

The Home Office, which includes the Immigration and Nationality Directorate, had the lead in efforts to combat trafficking. Other cabinet-level departments involved in antitrafficking efforts include the Foreign and Commonwealth Office, Department of Trade and Industry, Department for Education and Skills, the Crown Prosecution Service, and the Department for International Finance and Development.

The government assisted with international investigations of trafficking.

The country is primarily a destination for trafficking in persons and occasionally a transit point. There was no comprehensive official estimate of the number of victims of trafficking or the annual number of persons trafficked into the country.

Women were trafficked for sexual exploitation from Central and Eastern Europe (primarily the Balkans and the former Soviet Union) and Asia, including China. While many or most trafficked women worked in the sex industry, women, men, and children were also trafficked for labor exploitation in domestic service, agricultural and rural labor, construction, and catering.

Trafficking victims were most often subject to debt bondage, the withholding of travel documents, false information about law enforcement and immigration penalties, or threats of violence against them or their families. Traffickers less frequently employed physical and sexual violence.

Organized international gangs allegedly were responsible for most trafficking for commercial sexual exploitation.

Several NGOs criticized the government for not "opting in" on the European Council directive on providing "reflection periods"—short-term residence permits for victims of trafficking who cooperate with the authorities. However, the government thoroughly considered each instance on a case-by-case basis. Victims were able to make claims for asylum or humanitarian protection. In many cases the government also granted "exceptional leave to remain," thereby permitting victims to obtain government benefits, including housing, education, and health care. The government did not prosecute victims of trafficking who were violating prostitution or immigration laws; however, they could face repatriation to their country of origin.

Local social services authorities and various charities provided services to trafficking victims. A program run by the Poppy Project received government funding to operate a shelter with capacity for 25 persons. Children who may be victims of trafficking are the responsibility of local social service agencies and were generally placed in the foster care system. The government and the NGO community maintained an active dialogue on victim protection services.

The Foreign and Commonwealth Office and the Department for International Development distributed antitrafficking material in countries of origin. Immigration intelligence assets were deployed across Europe on the main routes for illegal migration and trafficking under the Immigration Liaison Officer program. The National Criminal Intelligence Service engaged in exchange programs in which its officers aided in preventive antitrafficking efforts in Central and Eastern Europe. The government also funded a communication campaign, in partnership with an NGO, which was intended to increase general public awareness, potential victim awareness, and to give trafficked women access to the resources available to them.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law also mandates access to buildings for persons with disabilities, and the government effectively enforced these provisions in practice.

The law mandates that all public service providers (except in the transportation sector) make "reasonable adjustments" to make their services available to persons with disabilities. The law also forbids employers to harass or discriminate against job applicants or employees with disabilities.

The Disability Rights Commission (DRC), an independent organization funded by the government, worked on behalf of persons with disabilities to stop discrimination and promote equality of opportunity. The DRC provided a hot line for persons with disabilities and employers, legal advice and support for individuals, and policy advice to the government. The DRC may also conduct formal investigations, arrange conciliation, require persons to adopt action plans to ensure compliance with the law, and apply for injunctions to prevent acts of unlawful discrimination.

National/Racial/Ethnic Minorities.—Despite legal prohibitions against racial discrimination, persons of African and Afro-Caribbean, South Asian, or Middle Eastern origin, and Travellers—itinerant populations consisting of Roma, Irish, and other ethnic groups estimated to number 300 thousand persons—were occasionally the victims of societal violence and some discrimination. Of the country's estimated 4.6 million minorities, 2.3 million persons described themselves as Asian, 1.1 million as Black Caribbean or Black African, and 700 thousand as mixed.

Victim Support, a charity assisting persons affected by crime, received 21,103 referrals for assistance in cases of racially motivated crime between April 2004 and March. The Crown Prosecution Service, which covers England and Wales, prosecuted 4,660 defendants for racially aggravated crimes between April 2004 and March, up from 3,616 during the previous year. The PSNI reported 813 racial incidents in the year ending in April, up from 453 such incidents during the preceding 12-month period. PSNI reported 634 racial crimes, including 187 injuries or assaults, during the same period. From April 2004 to March, there were 3,959 racial complaints in Scotland, resulting in 1,961 prosecutions and 993 guilty verdicts.

There were cases of discriminatory or racist police conduct. In March, 12 police officers were disciplined in connection with a 2003 documentary recording police officers making explicitly racist statements. In July four Greater Manchester police officers were dismissed after a 10-month investigation regarding a racist text message. After a December 2004 inquiry into allegations of racism within the MPS found "clear disproportionality in the way black and minority ethnic officers are treated in relation to the management of their conduct," the MPS began public discussions on implementing the 37 recommendations from the inquiry.

Since the December 2004 release of the report of the independent Morris Inquiry, the MPS monitored progress on implementing its proposals. Actions taken included establishing a leadership academy and adopting new diversity and recruitment strategies.

Other Societal Abuses and Discrimination.—The law prohibits discrimination and harassment based on sexual orientation; however, sporadic incidents of homophobic violence were reported, including the killing of a man in Clapham in October; three individuals under the age of 18 were arrested in connection with this case. The law encourages judges to impose a greater sentence in assault cases where the victim's sexual orientation is a motive for the hostility, and many local police forces demonstrated an increasing awareness of the problem and trained officers to identify and moderate these attacks. In January a former executive became the first person to use successfully the Employment Equality (Sexual Orientation) Act in an employment tribunal to receive compensation for unfair dismissal, harassment, and discrimination.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of workers, except those in the armed forces, public sector security services, and police forces, to form and join unions, and workers exercised this right in practice. Approximately 29 percent of the workforce was unionized. Coverage was most widespread in the public sector, where 57 percent of workers were unionized. In contrast, 17 percent of private sector workers were unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. Collective bargaining is protected in law and was freely practiced. Unions and management typically negotiate so-called "collective agreements," less formal than collective bargaining contracts. Collective agreements are considered as "implied" into individual work contracts and legally enforceable as such. About 35 percent of the workforce was covered by collective agreements. Under the law a strike must be confined to workers and their own employers; the dispute must be wholly or mainly about employment-related matters (for example, pay and conditions); workers must be properly and secretly balloted before striking (with notice to the employer); and mass picketing is prohibited. Workers freely exercised the right to strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—While the government prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government effectively implemented laws and policies to protect children from exploitation in the workplace.

The law prohibits employment in any capacity of children under age 13. Those under age 16 are not permitted to work in an industrial enterprise, including transportation or street trading; their total work hours are strictly limited and may not interfere with school attendance. They may work as part of an educational course. Independent NGOs claimed that up to two million school-age children were involved in part-time employment. A child age 13 to 16 must apply for a work permit from a local authority and the local authority's education and welfare services have primary responsibility for oversight and enforcement. Authorities effectively enforced these laws. The following central government ministries have additional regulatory responsibilities: the Departments of Health; Trade and industry; and Education and Skills.

There were reports that children were trafficked into the country and forced to work as domestic servants, beggars, pickpockets, drug couriers, or in sweatshops and restaurants (see section 5).

e. Acceptable Conditions of Work.—The national minimum wage, which ranged from $7.45 to $8.82 (3.00 pounds to 5.05 pounds) depending on the age of the employee, did not provide a decent standard of living for a worker and family; however,

other government benefits filled the gap, including free universal access to the National Health Service. Tax authorities may issue compliance orders against employers not paying the minimum wage, but employment tribunals handle disputes. The government aggressively monitored employer efforts to bring pay practices into compliance with minimum wage law. Unions and NGOs were also actively involved in ensuring employees' awareness of their rights.

The law limits the workweek to 48 hours averaged over a 17- to 26-week period; however, the regulations do not apply to senior managers and others who can exercise control over their own hours of work. The law provides for one day's rest per week, 11 hours daily rest, and a 20-minute in-work rest break where the working day exceeds 6 hours. The law also mandates a minimum of four weeks paid annual leave, including eight national bank holidays. However, the average worker nationwide receives five weeks of paid annual leave plus eight bank holidays as part of collective agreements. An individual employee may agree through a contract to work overtime for premium pay. The law does not prohibit compulsory overtime, but overtime is limited by the 48-hour week restriction.

The law stipulates that the health and safety of employees not be placed at risk, and it was effectively enforced by the Health and Safety Executive (an arm of the Department of Work and Pensions), which could initiate criminal proceedings in appropriate cases. Workers' representatives also actively monitored enforcement of the law. Workers may legally remove themselves from dangerous work conditions without jeopardy to their continued employment.

UZBEKISTAN

Uzbekistan is an authoritarian state with a population of approximately 26.9 million. The constitution provides for a presidential system with separation of powers between the executive, legislative, and judicial branches; however, in practice President Islam Karimov and the centralized executive branch dominated political life and exercised nearly complete control over the other branches. The two-chamber Oliy Majlis (parliament) consisted almost entirely of officials appointed by the president and members of parties that supported him. The most recent elections in 2004, for seats in the lower chamber of the parliament, fell significantly short of international standards. The civilian authorities generally maintained effective control over the security forces.

The government's human rights record, already poor, worsened considerably during the year. High and growing unemployment, as well as continuing high levels of corruption, had a negative impact on the economy and contributed to social unrest. These factors likely played a role in precipitating a violent uprising in May in the city of Andijon, which in turn led to a wave of repressive government reaction that dominated the remainder of the year. The Andijon uprising grew out of a series of daily peaceful protests in support of 23 businessmen on trial for Islamic extremism between February and May. By May 10, according to eyewitnesses, the protests grew to between 500 and 1 thousand participants. On the night of May 12–13, an unknown number of unidentified individuals seized weapons from a police garrison, stormed the city prison where the defendants were being held, and released several hundred inmates. According to witnesses and press reports, armed men also attacked and occupied the Hokimiyat (regional administration) building and took hostages. Armed men also attacked a Ministry of Defense garrison, as well as the city Hokimiyat and a theater in Andijon. On May 13, according to several witnesses including locals, and foreign and domestic journalists, a crowd of several thousand civilians, mostly unarmed but encircled by armed civilians, gathered on the square in front of the regional Hokimiyat building, where several demonstrators spoke through a megaphone to protest injustice and economic hardship. That evening, according to several eyewitness accounts, government forces fired indiscriminately and without warning into the crowd. There were credible reports of many more civilians killed while fleeing the scene. The total number of dead was estimated, depending upon the source, at between the government's total of 187, including 31 members of government security forces, and over 700. The government portrayed the events as an attempted coup by Islamic militants seeking to establish a caliphate. Authorities claimed that the majority of those killed were terrorists or other criminals, and that government forces were not responsible for deaths of innocent civilians. Government trial witnesses later testified in court that government forces did not fire until alleged armed rebels in the square had fired upon them for at least 20 minutes, and that government forces only fired upon militants. In the aftermath of the events, authorities jailed hundreds of suspects, including human

rights defenders and independent journalists who conveyed information about the events to foreign media. The government rejected calls by foreign governments, intergovernmental organizations, and NGOs for an independent investigation of the events.

During the year the following human rights problems were reported:

- inability of citizens to change their government through peaceful and democratic means
- prison deaths under suspicious circumstances
- lack of due process
- routine and systematic torture and abuse of detainees by security forces
- intentional and involuntary committal of sane persons to psychiatric treatment as a form of detention or punishment
- poor and life-threatening prison conditions
- increased incidents of arbitrary arrest and detention, including house arrest, sometimes on falsified charges
- politically motivated arrests and incommunicado detention
- impunity of officials responsible for abuses
- lengthy pretrial detention
- infringement of the right to a fair public trial and restricted access to independent monitors
- approximately five thousand political prisoners
- frequent searches of homes by authorities
- occasional eviction of residents from their homes without due process
- regular or frequent detention or mistreatment of family members of persons under criminal investigation
- government limitations on the freedom of speech and press
- arrest, harassment, intimidation, and violence by police and other government forces against journalists
- self-censorship by journalists
- blocked public access to Internet content objectionable to the government
- restricted freedom of assembly and association
- blocked registration of many religious congregations
- societal discrimination against ethnic Uzbek Christians
- limited freedom of movement through the use of exit visas, a local registration regime, and deportation on political grounds
- no formal recognition of asylum or refugee status or established system for providing protection to refugees
- frequent harassment of members of unregistered parties
- widespread public perception of government corruption
- limited respect for constitutional rights to access government information affecting the public
- regular threats and intimidation by police and security forces to prevent human rights activists from conducting activities
- restrictions on human rights and other activities of international bodies and foreign diplomatic missions
- persistent societal discrimination against women
- societal discrimination against persons with disabilities
- trafficking in women and girls for sexual exploitation, and men for labor exploitation
- denial of workers' rights to associate and bargain collectively
- reports of forced or compulsory labor; continued mobilization of youth for work in the cotton harvest

The government made positive steps during the year to reduce human trafficking. In conjunction with the International Organization for Migration (IOM), the government sponsored training for consular officers abroad, which streamlined the repatriation process for victims of trafficking and significantly improved efforts to free victims, resulting in increased numbers of victims returning to the country.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports of political killings by the government or its agents. There were, however, numerous eyewitness reports that security forces killed unarmed civilians during the violent disturbances of May 13 in Andijon, although it was difficult to confirm the number of such killings or to attribute responsibility, as the government refused to permit an open investigation with the participation of independent international monitors. Observers estimated at least several hundred were killed, while the government set the number at 187 (including 31 members of government security forces), of which the majority were allegedly armed militants rebelling against state authority. In a May 14 press conference, President Karimov initially denied responsibility for the events, stating, "we don't shoot at women and children in Uzbekistan."

The government alleged that militants killed numerous civilians and law enforcement officers in the course of the May events while attempting to seize power from the government and establish an Islamic state. Government sources, including the president, stated that government forces did not fire on unarmed civilians during the Andijon events. However, eyewitnesses reported that soldiers returned to the scene of the shootings on the morning of May 14 and summarily executed wounded persons who remained among the dead. Several other witnesses reported that after the shooting, government workers loaded victims' bodies onto trucks, transported them to makeshift morgues, and buried many in unmarked graves. Independent eyewitnesses and journalists reported activity by armed civilians during the Andijon events, but it was difficult to determine the number of killings by rebels.

There was one report of a death in prison which may have involved torture, and another in which torture was initially alleged, but unsubstantiated in an independent investigation (see section 1.c.). On September 14, Islamic cleric Shavkat Madumarov died in prison, three days after he was sentenced to seven years' imprisonment for membership in a banned Islamic group. Madumarov's family alleged authorities subjected him to torture (see section 1.c.). Madumarov's death certificate recorded "HIV and anemia" as the causes of death. By year's end the government had not opened an investigation of the case.

On January 2, Samandar Umarov died in custody at prison number 64/29 in Navoi. Since 2000 Umarov had been serving a 17-year sentence for membership in the prohibited extremist Hizb ut-Tahrir (HT) extremist political movement. Umarov was beaten by prison guards several months before his death. The initial government autopsy indicated a stroke as the cause of death, but Umarov's family believed that torture was the primary cause. The government authorized an independent forensic review, conducted by a foreign pathologist and a foreign criminal investigations expert under the auspices of Freedom House, which ultimately confirmed the conclusions of the original autopsy. However, the foreign pathologist suspected that effects of the stroke were aggravated by the negligence of prison doctors, who administered high doses of aspirin to treat Umarov's heart condition.

The government previously allowed international experts to investigate the May 2004 death in custody of Andrei Shelkavenko. In that case also, experts concluded that death did not result from police mistreatment.

The absence of independent medical examiners, and frequent official pressure on families to bury bodies quickly in accordance with Islamic traditions, made it difficult to confirm reports of deaths in custody as a result of torture or mistreatment.

Local and international observers reported that persons sentenced to death were often not given an adequate opportunity to mount a defense or to appeal their sentence. The government provided no notification of execution to the families of condemned persons, and treated the execution dates and places of burial of executed persons as state secrets, a practice the UN Special Rapporteur on Torture condemned as "cruel and inhuman." The government considered the number of prisoners executed each year to be a state secret. Amnesty International (AI) estimated that scores were executed each year, and the local nongovernmental organization (NGO) Mothers against the Death Penalty and Torture put the number at well over a hundred and estimated the number would increase as a result of new terrorism trials stemming from the May events in Andijon. However, as of the end of the year courts had not issued death sentences in any Andijon-related trials. According to the UN Rapporteur, at least nine inmates, whose death sentences were allegedly based on forced confessions, had been executed from 2002 through September 2004 despite UN Commission on Human Rights' (UNCHR) requests for their cases to be reviewed. In March authorities told the UNCHR the government had executed a total of 15 individuals in 2003 and 2004 on whose behalf the committee had intervened.

There were no developments and none were expected in the following 2003 deaths: Otamirza Gafarov, who died in custody in Chirchiq prison; or Orif Ershanov, who was severely beaten and died in National Security Service (NSS) detention in Karshi; Nodir Zamonov of Bukhara, who died shortly after police detained him on charges of vandalism.

b. Disappearance.—There was one politically motivated disappearance reported during the year. In August Holiqnazar Ganiev, Ezgulik's Samarkand regional chairman, disappeared near his home and was reported missing for several days until he was dropped on a roadside near Samarkand. An Ezgulik-affiliated attorney who attempted to investigate the case reported that he requested, but did not receive, assistance from local authorities. Human rights activists suspected that authorities kidnapped Ganiev as a means of intimidation.

There were no developments in the 2004 disappearance of Farukh Haydarov, Okiljon Yunusov, and Husnuddin Nazarov.

There were no developments and none were expected in the 2003 disappearance of Sadykhan Rahmanov.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, police and the NSS routinely tortured, beat, and otherwise mistreated detainees to obtain confessions or incriminating information. Police, prison officials, and the NSS allegedly used suffocation, electric shock, deprivation of food and water, and sexual abuse, with beating the most commonly reported method of abuse. Torture and abuse were common in prisons, pretrial facilities, and local police and security service precincts. Several cases of medical abuse were reported, including forced psychiatric treatment on political grounds and alleged sterilization of women without notification or medical need. Defendants in trials often claimed that their confessions, on which the prosecution based its cases, were extracted as a result of torture (see section 1.e.). A 2003 UN Special Rapporteur on Torture report concluded torture and abuse was systematic throughout the investigative process. During the year the government took a few steps towards reform confined to education and outreach, while in large part it showed little will to address UN conclusions. The office of the prosecutor general blocked a Ministry of Interior (MVD) initiative to create an independent body to investigate the most serious allegations of physical abuse by officials. During the year government officials confirmed that prison regulations permit beatings under the supervision of medical doctors, and prison authorities document all such incidents in detail for prison records. Judges rarely pursued allegations of torture.

Authorities treated individuals suspected of extreme Islamist political sympathies, particularly alleged members of HT, more harshly than ordinary criminals. There were credible reports that investigators subjected pretrial detainees suspected to be HT members to particularly severe interrogation. After trial, authorities reportedly used disciplinary and punitive measures, including torture, more often with prisoners convicted of extremism than with ordinary inmates. Local human rights workers reported that common criminals were often paid or otherwise induced by authorities to beat HT members. As in previous years there were numerous credible reports that officials in several prisons abused HT members to obtain letters of repentance, which are required for a prisoner to be eligible for amnesty. According to prisoners' relatives, amnestied prisoners, and human rights activists, inmates who refused to write letters disavowing their connection to HT were often beaten or sent into solitary confinement. During the year inmates and a guard at one prison corroborated reports that prison guards systematically beat suspected HT members following the March and April 2004 terrorist attacks.

In February two Sufi Muslims claimed authorities tortured them while in detention (see section 2.c.). In a February trial in Tashkent of six defendants charged with terrorism in connection with the March and April 2004 terrorist bombings and the July 2004 suicide bombings in Tashkent, one defendant testified that he had been beaten repeatedly while in custody (see section 1.e.). In June MVD officers allegedly subjected Yakubjon Aliev to repeated severe beatings during interrogation. Aliev was under arrest on charges that included religious extremism and anticonstitutional activity. On July 18, Aliev's lawyer protested this treatment in writing to the office of the prosecutor general. At year's end the government had not taken action on the case.

The death certificate of Shavkat Madumarov, who died in prison on September 14, reported the cause of his death as HIV and anemia, but his family alleged authorities subjected him to debilitating torture during interrogation and in prison. The family reported government officials delivered Madumarov's body to their home in a sealed casket, monitored the funeral, and warned the family not to open the

casket, or they would face prosecution. The government did not allow an independent investigation into the case.

During the year outside monitors, including the International Committee of the Red Cross (ICRC), were unable to gain access to visit the Tashkent MVD, where in 2004 eyewitnesses, family members, defense attorneys, and representatives of human rights groups claimed authorities frequently and systematically applied torture following the March and April 2004 terrorist attacks.

As in previous years, there were reports that police beat Jehovah's Witnesses.

There were confirmed instances of politically motivated medical abuse. As in past years law enforcement authorities attempted to have local political and human rights activists declared insane and committed to institutions to stop their activities. On August 27, police in Tashkent forcibly committed human rights activist Elena Urlayeva to a psychiatric hospital while preparing criminal charges against her for allegedly distributing caricatures of the national seal. Her confinement continued for two months and her treatment included forcible administering of antipsychotic drugs, despite a medical review panel's finding that she was mentally competent. Independent press, a national human rights NGO, and at least one healthcare worker reported that hospitals in the Ferghana Valley and other regions performed hysterectomies on women shortly after they had given birth, and without their prior knowledge or consent, as part of a systematic effort to reduce the birth rate. Although authorities claimed that hysterectomies were only performed in cases of medical need, NGO and other sources reported several cases of medically unnecessary procedures. In other cases it was reported that doctors implanted contraceptive devices in women who had recently given birth, without their prior knowledge or consent.

On October 22, the attorney of Sanjar Umarov, an arrested opposition political leader found him naked and unresponsive in his cell (see section 1.d.). Human rights organizations and foreign governments called for immediate medical attention in response. Attorneys visited him and found his condition improved. Umarov was given access to doctors who treated him for high blood pressure. Umarov himself denied any mistreatment or drugging at the hands of authorities.

There were several instances in which unidentified assailants attacked human rights activists, journalists, and persons planning or participating in public demonstrations (see sections 2.a, 2.b., and 4). On several occasions police forcibly dispersed public demonstrations, beating protesters and causing varying degrees of injuries. In two instances unknown assailants attacked and beat Jizzakh-based independent journalist Ulugbek Haydarov. On April 23, a single attacker beat Haydarov at his home in Jizzakh, leaving him with a broken collarbone; on June 24, two assailants attacked him during a visit to the city of Karshi. On August 2, an unknown assailant attacked and beat Gavhar Yo'ldosheva, a member of Ezgulik, a human rights association, in the Jizzakh region, the day after she met with a visiting diplomat. The effects of the beating reportedly kept her confined to a hospital for two weeks. On September 8, an Ezgulik member in the Andijon region was dragged from a taxi and beaten by unknown assailants while traveling to Tashkent.

Prison and Detention Center Conditions.—Prison conditions remained poor and life threatening, and there continued to be reports of severe abuses in prisons. According to reports by human rights activists and relatives of prisoners, prison overcrowding remained a problem. Tuberculosis and hepatitis were endemic in the prisons, making even short periods of incarceration potentially life threatening. Prisoners often relied on visits of relatives for food and medicine, which were reportedly in short supply in several prisons.

Official negligence, aggravated in some cases by poor prison conditions, may have contributed to the deaths of at least one inmate. There were also reports that inmates died of communicable diseases such as tuberculosis. The death of Samandar Umarov in Navoi prison 64/29 on January 2 was confirmed by an official autopsy as well as an independent foreign forensic review to have been caused by a stroke, although doctors believed the effects of the stroke were aggravated by prison doctors administering high doses of aspirin to treat a heart condition (see section 1.a.). There was no investigation, and none was expected, into the March 2004 death of Abdurrahman Narzullayev at a Karshi prison due to an acute bronchial infection family members asserted resulted from improper insertion of a feeding tube.

There were reports of inmates working in harsh circumstances and in some cases being beaten in these facilities.

During the year the MVD's Directorate of Prisons (GUIN) continued to operate a new prison training center in Tashkent which opened in October 2004. The center, which will eventually train all of the country's prison guards, utilized a curriculum that included human rights training and basic courses in psychology and prison management.

The government did not grant full access to outside monitors to prisons and detention centers. However, in January the government allowed a group of diplomats, local human rights defenders, and NGOs to visit prison 64/29 in Navoi, where the group conducted several interviews with prison guards and inmates. Similar access was not given to pretrial detention facilities, which are not under GUIN authority. Unlike in previous years independent human rights organizations did not visit detention facilities to monitor conditions. Throughout the year the ICRC pursued negotiations with the government with the aim of securing access to all detained persons consistent with ICRC's usual practices.

Human Rights Watch and other NGOs reported that government agents arrested and physically abused several Andijon residents who returned from Kyrgyzstan after having fled there in the wake of the May events in Andijon (see section 2.d.).

There were no further developments in 2004 criminal proceedings against four police officers in Andijon accused of torturing suspects in a murder investigation.

d. Arbitrary Arrest or Detention.—The law does not provide adequate protection against arbitrary arrest and detention, and these remained problems.

Role of the Police and Security Apparatus.—The MVD controls the police, which are responsible for law enforcement and maintenance of order within the country. The NSS, headed by a chairman who is answerable directly to the president, deals with a broad range of national security questions, including corruption, organized crime, and narcotics. Corruption among law enforcement personnel remained a problem. Police routinely and arbitrarily detained citizens to extort bribes. Impunity remained a problem, and officials responsible for abuses were rarely punished. However in May, two police officers were convicted and sentenced to prison in connection with an incident in which they attempted to rape a newlywed bride at gunpoint, and the bride's sister was shot and killed. The MVD's main investigations directorate has procedures to investigate abuse internally and discipline officers accused of rights violations and has done so in several isolated cases. However, there is no independent body charged with investigating such allegations on a systematic basis. The MVD main investigations directorate incorporated human rights training into officers' career development.

Arrest and Detention.—The law grants wide discretion as to the proper basis for an arrest, but requires the arresting authority to forward a report justifying the arrest to a prosecutor within 24 hours of a person being taken into custody. The law also mandates that all detainees, whether they are considered suspects or accused, be questioned within 24 hours; however, suspects have the right to remain silent. Detention without formal charges is limited to 72 hours, although a prosecutor may extend it for an additional 7 days, at which time the person must either be charged or released. In practice authorities continued detaining suspects after the allowable period through various means, including filing false charges, or detaining suspects as witnesses in other cases. Once charges are filed, a suspect may be held in pretrial detention at the prosecutor's discretion during an investigation. A prosecutor may release a prisoner on bond pending trial, although in practice authorities frequently ignored these legal protections. Those arrested and charged with a crime may be released until trial on the condition that they provide assurance that they will appear at trial. In such cases the accused is not required to post bail money, but must register each day at a local police station.

A 2003 supreme court decree stated that a defendant has a right to counsel from the moment of detention. In practice access to counsel often was denied or delayed. In several cases investigators pressured defendants to sign statements refusing the services of private attorneys whom family members had hired to defend them. In their place authorities appointed state attorneys, who did not provide effective defense for clients. For example in the August 26 trial in Namangan of Radio Free Europe/Radio Liberty (RFE/RL) journalist Nosir Zokir, the presiding judge denied Zokir's request to allow his own attorney to defend him, and instead appointed a state attorney who was unfamiliar with the case (see sections 1.e. and 2.a.).

In several cases during the year persons were arrested secretly, without providing suspects with access to an attorney or communication with their families. Examples of such treatment occurred in the cases of human rights activists Saidjahon Zaynabitdinov and Hamdam Sulaymonov, as well as several other human rights and political activists who were arrested following the May events in Andijon. There is no judicial supervision of detention, such as habeas corpus.

During the year police frequently and arbitrarily arrested or detained individuals for expressing views critical of the government. On May 27 and July 7, police detained Tashkent-based human rights activist Elena Urlayeva to prevent her participation in a protest action. On May 30, police detained Vasila Inoyatova, head of the human rights association Ezgulik, and more than two dozen other members of

Ezgulik and the opposition political party Birlik to prevent their participation in a Tashkent protest. On September 11, authorities detained Namangan-based human rights activist Olimjon Qosimov as he left a meeting at Freedom House in Tashkent, interrogated him, and kept him in detention overnight without filing charges. On October 7, police arrested human rights activist Mutabar Tojibayeva while she prepared to travel to an international human rights conference (see section 4); she was charged with 20 different crimes including extortion, fraud, tax evasion, forgery, slander, and organizing riots. Human rights groups asserted the accusations were politically motivated. She remained in pretrial detention at year's end.

On October 22, authorities arrested Sanjar Umarov, a businessman and leader of the opposition Sunshine Uzbekistan Coalition, on what his supporters said were politically motivated charges of corruption and other economic crimes related to his private business ventures. On December 19, Sunshine Coalition cofounder Nodira Khidoyatova was arrested and charged with similar crimes. Umarov initially had no contact with family or legal counsel. During a visit by his attorney, Umarov exhibited peculiar behavior, although Umarov later denied any mistreatment or drugging by authorities (see section 1.c.). According to family and attorneys investigators pressured both Umarov and Khidoyatova to sign statements refusing the services of their attorneys in order to speed their trials, and Khidoyatova reportedly signed such a statement. Their cases were still pending at year's end.

Following the May events in Andijon, police detained dozens of human rights activists, journalists, and other Andijon residents who had spoken to the press or reported on the events. On May 21, police arrested human rights activist Saidjahon Zaynibitdinov after he posted on the Internet an essay and several information bulletins disputing the government's claim that the organizers of the Andijon protests were Islamic extremists. Zaynabitdinov was among the most outspoken human rights activists following the Andijon events, and spoke extensively with journalists and diplomats regarding the events. Authorities charged him with slander and preparing and distributing materials constituting a threat to public security and public order, among other criminal charges. At year's end he was held in incommunicado detention pending trial. On May 29, police arrested Andijon-based human rights and political activists Dilmurod Muhiddinov, Muhammad Otakhonov, Muzaffamirzo Iskhoqov, Musajon Bobojonov, Nurmuhammad Azizov, and Akbar Oripov. Muhiddinov, Otakhonov, and Bobojonov had gathered information about victims of the May events. Iskhoqov had written articles condemning the Andijon events. Most or all had been in possession of an opposition Birlik party statement that condemned the killings and the government's role in the events. All were charged with slander against the president, conspiracy to overthrow the constitutional order, and preparing and distributing printed materials constituting a threat to public security and public order. Iskhoqov was later released from pretrial detention for health reasons and left the country. On September 8, Otakhonov was released, and charges against him were dropped. Muhiddinov, Bobojonov, Azizov, and Oripov were still in pretrial detention at year's end. On June 4, journalist Tulqin Qorayev, who reported from Andijon on the May events, was subjected to 10 days' administrative detention on charges of petty hooliganism. On August 26, a Namangan criminal court convicted RFE/RL journalist Nosir Zokir of insulting a NSS officer and sentenced him to six months' imprisonment. In October, authorities charged him with insulting the president, an offense that carries a penalty of up to five years' imprisonment (see sections 1.e. and 2.a.). Zokir had reported on the Andijon events, and later conducted a radio interview with a local poet who read a poem criticizing the government role in the events. In October Zokir's son, human rights activist Zokhid Zokir, was jailed for one week on charges of slander toward the government.

In February two Sufi Muslims were given six-year prison sentences; the defendants claimed authorities planted HT leaflets on them during their arrest (see section 2.c.).

During the year there were several arrests on political grounds, in which authorities for extended periods failed to inform the families of arrest and provided no opportunity for detainees to contact relatives or attorneys. On July 4, Hamdam Sulaymonov, Ferghana regional coordinator for the Ezgulik human rights association and member of the opposition Birlik party, was arrested on charges virtually identical to those filed against the six activists arrested by Andijon police on May 29. Police charged Sulaymonov in connection with the Birlik statement condemning actions by government forces during the Andijon events. His family reported him missing and was not informed of his arrest for several days.

There were reports that police arrested persons on false charges as an intimidation tactic to prevent them or their family members from exposing corruption or interfering in local criminal activities. In December Dildora Mukhtarova, the sister of human rights activist Jamshid Mukhtarov of the NGO Ezgulik, was arrested in

Jizzakh in connection with a murder. Mukhtarov and the family's attorney maintained that the charges were fabricated as a means of intimidating Mukhtarov, who had attempted to defend local farmers against alleged illegal land seizures.

Authorities continued to arbitrarily arrest persons on charges of extremist sentiments or activities, or association with banned religious groups. Local human rights activists reported that police and security service officers, acting under pressure to break up HT cells, frequently detained family members and close associates of suspected members, even if there was no direct evidence of their involvement (see section 1.f.). Authorities made little distinction between actual members and those with marginal affiliation with the group, such as persons who had attended Koranic study sessions with the group.

As in previous years, there were reports that authorities arrested and prosecuted persons based on the possession of HT literature. Coerced confessions and testimony were commonplace. Even persons generally known to belong to HT stated that the cases against them were built not on actual evidence, which would have been abundantly available, but on planted material or false testimony.

Police harassed and sometimes arbitrarily detained members of the opposition Birlik, Free Farmers, and Erk parties (see section 3).

During the year pretrial detention for individuals suspected of Islamic extremism, as for other crimes, typically ranged from one to three months. The number of such prisoners in pretrial detention was unknown.

In general prosecutors exercised near total discretion over most aspects of criminal procedure, including pretrial detention. Detainees had no access to a court to challenge the length or validity of pretrial detention. Even when no charges were filed, police and prosecutors sought to evade restrictions on the duration a person could be held without charges by holding persons as witnesses rather than as suspects.

Local police regularly employed house arrest without due process. In most cases police surrounded the homes of human rights activists and government critics to prevent them from participating in public demonstrations or other activities. Bakhtiyor Hamroyev of the Human Rights Society of Uzbekistan, farmers' rights activist Muhiddin Kurbanov, and other human rights activists in Jizzakh Province reported that local police surrounded their homes on a regular basis to prevent their departure. Tashkent-based human rights activist Surat Ikramov reported similar surveillance of his home to prevent him from monitoring trials of religious extremists in Tashkent. On July 6, and other instances, police detained Elena Urlayeva at her home to prevent her participation in protest actions.

Amnesty.—On March 1, the government completed the three-month amnesty declared in December 2004. Of the reported 5,040 prisoners eligible for amnesty, the government announced that 361 prisoners convicted of involvement in extremist organizations or anticonstitutional activity were released. The exact number of eligible prisoners who were actually released was unknown. As in previous amnesties, prisoners were reportedly forced to sign letters of repentance as a condition of release. There were allegations that authorities physically mistreated some prisoners who refused to sign such letters (see section 1.c.) and accounts of many inmates not being released despite having signed such letters. Despite established conditions allowing release, local prison authorities had considerable discretion in determining who was reviewed for amnesty, and, as in previous years, there were reports of corruption. Amnestied prisoners stated that government-approved imams were sent to some prisons to make the final determination whether a prisoner had truly repented. This decision was reportedly frequently made in consultation with local *mahalla* (neighborhood) committees.

On December 2, on the occasion of the Constitution Day holiday, the senate announced the annual amnesty for the year to be implemented over a three-month period. Unlike previous amnesty acts, the new amnesty did not apply to those convicted of religious extremism. Official media reported that over 10 thousand prisoners were released under the new amnesty before year's end.

e. Denial of Fair Public Trial.—While the constitution provides for an independent judiciary, the judicial branch took its direction from the executive branch, particularly the general prosecutor's office, and exercised little independence in practice.

Under the law, the president appoints all judges for five-year terms and has the power of removal. Removal of supreme court judges must be confirmed by parliament, which is obedient to the president's wishes.

Courts of general jurisdiction are divided into three tiers: district courts, regional courts, and the supreme court. Decisions of district and regional courts may be appealed to the next level within 10 days of a ruling. In addition, a constitutional court reviews laws, decrees, and judicial decisions to ensure compliance with the

constitution. Military courts handle all civil and criminal matters that occur within the military, and a system of regional economic courts handles commercial disputes between legal entities.

Trial Procedures.—Most trials are officially open to the public, although access was often restricted in practice. Trials may be closed in exceptional cases, such as those involving state secrets, or to protect victims and witnesses. A June 13 supreme court decision required all observers to obtain prior written approval from the supreme court to attend trial proceedings. Permission was difficult and time-consuming to obtain, with the result that international observers in many cases missed important portions of trial proceedings. Local observers were often barred entry into trials.

During the supreme court trial of Andijon suspects, which took place between September 20 and November 14, there were multiple reports of police detaining members of human rights NGOs who planned to observe the trial. Organization for Security and Cooperation in Europe (OSCE) trial monitors, accredited journalists, and foreign diplomats were permitted to attend. However, subsequent Andijon-related trials of an additional 172 defendants were closed to outside observers.

The government generally announced trials, including those of alleged religious extremists, only at the court in which the trial was to take place and only a day or two before the trial began. Closed trials related to the Andijon events, which began in November and December, were not publicly announced, and the government did not provide information about the defendants or charges until the trials had ended.

Either workers' collectives' committees or neighborhood committees selected three-judge panels of one professional judge and two lay assessors that generally preside over trials. The lay judges rarely speak, and the professional judge usually defers to the recommendations of the prosecutor on legal and other matters. Jury trials are not used.

Defendants have the right to attend court proceedings, confront witnesses, and present evidence. These rights were generally observed, including in high-profile human rights and political cases. In almost all cases, however, the verdict was guilty. Defendants have the right to hire an attorney, and the government provides legal counsel without charge when necessary. However, state-appointed attorneys routinely acted in the interest of the government rather than of their clients. Authorities often violated the right to an attorney during pretrial detention, and judges in several cases denied defendants the right to an attorney of choice. Defense counsel was often incompetent and in most cases, the role of defense counsel was limited to submitting confessions and pleas for mercy. Lawyers from the Legal Aid Society (LAS), as well as public defender centers financed through international contributions, provided pro bono defense counsel, although resources were limited.

Government prosecutors order arrests, direct investigations, prepare criminal cases, and recommend sentences. Defendants do not enjoy a presumption of innocence. If a judge's sentence does not agree with the prosecutor's recommendation, the prosecutor has a right to appeal the sentence to a higher court. Defendants are almost always found guilty, often based solely on confessions. On the rare occasions when a guilty verdict is not pronounced, the judge seldom acquits the defendant; rather, the case is sent back for further investigation. Legal protections against double jeopardy do not apply in practice.

The law provides a right of appeal to defendants. Appeals rarely, if ever, resulted in convictions being reversed, but more often, a successful appeal resulted in a reduced sentence.

During the August 25 and 26 trial of RFE/RL journalist Nosir Zokir, the court denied his request for a defense attorney of his choice, and instead appointed a state attorney who was not informed of the details of the case (see sections 1.d. and 2.a.). The court sentenced Zokir to a six-month jail term, which an appellate court upheld on September 19. In November and December, after Sunshine Coalition leaders Nodira Khidoyatova and Sanjar Umarov were arrested on charges of corruption and other economic crimes, prosecutors reportedly pressured them to refuse the services of their attorneys and to accept government-appointed lawyers instead.

Defense attorneys had limited access in some cases to government-held evidence relevant to their clients' cases. However, in most cases a prosecution was based solely upon defendants' confessions or incriminating testimony from state witnesses. Defendants often claimed that the confessions on which the prosecution based its cases were extracted by torture (see section 1.c.). During the year the BBC quoted a former Interior Ministry official who claimed that investigators often used beatings, psychotropic drugs, or threats against family members to obtain confessions from defendants. However, the Interior Ministry in a public statement strongly denied the allegation. In many cases, particularly those involving suspected HT members,

when the prosecution failed to produce confessions it relied solely on witness testimony, which was reportedly often also coerced. Lawyers may, and occasionally did, call on judges to reject confessions and to investigate claims of torture. Judges routinely ignored such claims or dismissed them as groundless.

On February 21, the Tashkent Criminal Court convicted 6 defendants and sentenced them to between 7 and 16 years' imprisonment on charges of terrorism in connection with the March and April 2004 terrorist bombings and the July 2004 suicide bombings in Tashkent. Lawyers and trial observers asserted that the prosecution did not prove any connection between the defendants and the crimes of which they were accused. One defendant testified that he had been beaten repeatedly while in custody (see section 1.c.). Several other defendants stood trial during the year on charges that included alleged connections to the 2004 terrorist bombings. Observers noted that the evidence presented in court consisted almost exclusively of confessions, and in most cases did not prove a connection between the defendants and the terrorist bombings.

International and local human rights groups monitoring the supreme court trial of defendants accused in connection with the May events in Andijon concluded it failed to meet international standards. The prosecution's cases relied primarily on confessions, which human rights groups maintained were coerced or obtained under torture. All 15 defendants were found guilty on charges including membership in an extremist organization, murder, and terrorism, and sentenced to between 14 and 20 years' imprisonment.

Political Prisoners.—It was impossible to estimate the exact number of political prisoners. In 2004 there were an estimated 5 thousand to 5,500 political prisoners, including alleged HT members, as well as those who were committed to psychiatric institutions as a form of confinement (see section 1.c.). It was believed that the number of political prisoners remained constant or rose during the year as the number of new prisoners sentenced likely exceeded the number of prisoners who were amnestied or completed their sentences. From December 2004 to March 1, the government reportedly amnestied 361 political prisoners (see section 1.d.). Most persons convicted of political crimes were charged with the actual crime for which they were arrested (rather than false charges of common crimes), for example anticonstitutional activity, involvement in illegal organizations such as prohibited religious or political groups, or the preparation or distribution of material that threatened public security. The government did not allow any independent monitoring groups to visit political prisoners during the year (see section 1.c.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such action; however, in practice authorities did not respect these prohibitions. The law requires a search warrant for electronic surveillance by the prosecutor, but there is no provision for a judicial review of such warrants. Citizens generally assumed that security agencies routinely monitored telephone calls and employed surveillance and wiretaps of persons involved in opposition political activities. On one occasion, a police official confirmed in writing to human rights activist Elena Urlayeva that she was part of a "special category" of citizens who were subject to close monitoring, in response to a complaint from Urlayeva regarding her frequent house arrest.

The government continued to use an estimated 12 thousand local neighborhood committees as a source of information on potential extremists. Committees served varied legitimate social functions, but also functioned as a link between local society, and government and law enforcement. Neighborhood committees' influence varied widely, with committees in rural areas tending to be much more influential than those in cities. Each neighborhood committee assigned a *posbon* (neighborhood guardian) whose job it was to ensure public order and maintain a proper moral climate in the neighborhood. In practice this meant preventing young persons in the neighborhood from joining extremist Islamic groups. According to a 2003 Human Rights Watch (HRW) report, the committees kept extensive files on families and collected information on individual religious practices. Neighborhood committees also frequently identified for police those residents who appeared suspicious and, working with local MVD and NSS representatives, reportedly paid particular attention to recently amnestied prisoners and the families of individuals jailed for alleged extremism.

In several instances during the year local authorities or neighborhood committees evicted local residents from their homes citing suspected illegal activity. On August 12, a committee in Tashkent threatened to expel independent journalist Bobomurod Abdullayev from his home after a radio interview in which he compared citizens to sheep. In late August police in the rural Gallaorol District of Jizzakh Province ordered human rights activist Gavhar Yo'ldosheva to leave her home after she met

with a foreign ambassador. Also in late August, police in the Bo'ston District of Jizzakh Province ordered human rights activist Muhiddin Kurbonov to leave his home or face arrest, and in a separate incident, the Jizzakh regional administration ordered independent journalist Jamshid Karimov to leave the province on the August 30 Independence Day holiday.

In August in Samarkand, approximately 100 local residents and human rights activists protested the demolition of blocks of houses to make way for a road expansion. Protest organizers told journalists and diplomats that the government had begun demolishing the homes without sufficient warning for residents to vacate and had offered residents vacant plots of land or small apartments as compensation.

Authorities frequently detained and mistreated family members of persons wanted or jailed for Islamic activities, even if there was scant evidence of their involvement (see section 1.d.). There were numerous credible reports that police, employers, and neighborhood committees also harassed and arrested family members of human rights activists (see section 1.d. and 2.b.). Following the Andijon unrest in May, there were numerous reports that officials harassed relatives of residents who had fled into Kyrgyzstan and coerced them into traveling to the refugee camps in Kyrgyzstan to persuade their family members to return to the country.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Whereas the law provides for freedom of speech and the press, the government generally did not respect these rights in practice.

The law limits criticism of the president, and public insult to the president is a crime punishable by up to five years in prison. Citizens did not criticize the president or the government on television or in the press, although they continued to do so occasionally in private. The law also specifically prohibits articles that incite religious confrontation and ethnic discord or advocate subverting or overthrowing the constitutional order (see section 2.b.).

The government continued to characterize the distribution of pamphlets by HT members as incitement for political and terrorist purposes; HT is a banned organization. During the year police reportedly arrested several people for possessing HT literature.

Following the May violence in Andijon, the government arrested several prominent human rights and political activists and others who spoke to journalists and made public statements suggesting abuse by government forces or criticizing the role of the president or other government officials in the events, charging them with slander against the president (see section 1.d.). Following the May events, criticism of the government, particularly by religious figures, journalists, and human rights activists, became more restricted. In one example, on August 27, police arrested human rights activist Elena Urlayeva and forcibly committed her to a psychiatric institution for two months for allegedly distributing leaflets with caricatures of the national seal (see section 1.c.).

The government tightly controlled information. The Uzbekistan News Agency cooperated closely with presidential staff to prepare and distribute all officially sanctioned news and information. The government's press and information agency is responsible for monitoring all media. The cabinet of ministers owned and controlled three of the country's most influential national daily newspapers, *Pravda Vostoka* (Russian language), *Halq So'zi* (Uzbek language), and *Narodnoe Slovo* (Russian language). The government, government-controlled political parties or social movements, and the Tashkent municipal government owned or controlled several other daily and weekly publications.

There were no private publishing houses; government-owned printing houses generally printed newspapers. Private citizens and journalist collectives may not establish newspapers unless they meet the media law's standards for establishing a "mass media organ," including naming a board of directors acceptable to the government. The government allowed a small number of private newspapers containing advertising, horoscopes, and similar features, but no news or editorial content. Three private national Russian-language newspapers—*Novosti Uzbekistana*, *Noviy Vek*, and *Noviy Den*—carried news and editorials favorable to the government, as did two Uzbek-language newspapers: *Hurriyat* (owned by the Journalists' Association) and *Mohiyat* (owned by Turkiston-Press, a nongovernmental information agency which was loyal to the state). The government did not allow the general distribution of foreign newspapers and publications. However, two or three Russian newspapers and a variety of Russian tabloids and lifestyle publications were available, and a very modest selection of foreign periodicals was available in major hotels and at other locations in Tashkent.

The four state-run channels, all fully supporting the government, dominated television broadcasting nationwide. There were 30 to 40 privately-owned regional tele-

vision stations and 7 privately-owned radio stations. The government controlled information even more tightly in the broadcast media than in print journalism. Journalists and senior editorial staff in state media organizations reported there were officials at the national television stations whose responsibilities included actual black-pen censorship. Nevertheless, there were also reports that regional television media outlets were able to broadcast some moderately critical stories on local issues.

A presidential decree signed on November 8 provided for further consolidation of the management of broadcast mass media under government control, with the stated goal of promoting patriotism.

The government continued to refuse to allow RFE/RL and the Voice of America to broadcast from within the country. The BBC World Service was permitted to broadcast on a very low FM frequency and only in the Ferghana Valley, which limited the potential audience, up to three hours per day. Immediately following the May 13 events in Andijon, the government blocked broadcasts of BBC, CNN, and Deutsche Welle, as well as several Russian channels. In June the government expelled BBC World Service correspondent Monica Whitlock from the country. Whitlock had reported extensively on the May violence in Andijon. On October 26, the BBC announced a suspension of its operations in the country in response to harassment and intimidation of its journalists and concerns for their safety. On December 12, the government refused to reaccredit RFE/RL correspondents and ordered the organization to shut its operations, claiming that RFE/RL's use of unaccredited stringers was a violation of Uzbek law.

Both print and broadcast journalists were subject to arrest, harassment, intimidation, and violence by police and security services. The May events in Andijon sparked a wave of government harassment against journalists that continued until year's end. Immediately after the outbreak of violence, the government ordered all foreign journalists to leave Andijon. Moreover, in a series of print articles and television programs throughout the summer, official media publicly attacked independent journalists, including specific correspondents of RFE/RL, BBC, and the Associated Press (AP).

On May 17, two unidentified gunmen detained and searched Andijon-based RFE/RL correspondent Gofurjon Yo'ldoshev at gunpoint for half an hour. On May 21, several unidentified men attacked and beat Yo'ldoshev in the town of Qora Suv as he interviewed local residents about events. On July 1, unidentified assailants attacked Guliston-based RFE/RL correspondent Lobar Qaynarova, who was four months' pregnant at the time, as she returned home from covering a trial proceeding. Four days later security officers searched her home, confiscated Islamic literature, and threatened to charge her husband with Islamic extremism. On August 26, a Namangan court sentenced Nosir Zokir to six months' imprisonment for insulting a security official in a telephone conversation. The conviction came after several weeks of government pressure against Zokir for conducting an on-air interview with a local poet who had criticized the government. In October authorities charged Zokir with insulting the president. In August airport authorities detained and deported Russian citizen Igor Rotar, a Tashkent-based journalist with the Forum 18 information service, who had reported extensively on abuses of religious freedom. In the autumn trials of those accused of terrorist acts in connection with the Andijon violence, prosecutors, defendants, and witnesses identified specific journalists, including BBC correspondent Monica Whitlock, Institute for War and Peace Reporting (IWPR) country director Galima Bukharbayeva, AP correspondent Bagila Bukharbayeva, Deutsche Welle correspondent Natalia Bushuyeva, and others as having had advance notice of the Andijon events and conspiring to defame Uzbekistan in world opinion. On April 23 near his home in Jizzakh, and again on June 24 in Karshi, unknown assailants attacked and severely injured independent journalist and human rights activist Ulugbek Haydarov after he wrote news articles critical of the Jizzakh regional government. On November 9, independent journalist Aleksei Volosevich received a call from an unknown individual claiming he had information to share regarding Andijon and asking to meet him. Volosevich was then ambushed and assaulted by unidentified men en route to the designated meeting place; he stated the attack was retribution for his reporting on Andijon.

The government subjected international media-support NGO Internews Network to continual harassment based on charges that the organization attempted to interfere in the country's internal politics and monopolize the country's broadcast media. The government withheld accreditation from the organization's in-country director and maintained a freeze on its bank accounts until the organization was liquidated, at which time it was given limited access to meet outstanding liabilities. On July 4, a district prosecutor opened a criminal case against two locally employed staff of the organization on an array of charges. Government officials forced the employees to sign confessions, and on August 4, a Tashkent criminal court convicted the two

employees. On September 9, a Tashkent civil court ordered Internews to close its operations in the country.

Tuhtamurad Toshev and Boimamat Jumaev, journalists arrested in 2003 and convicted of bribery, remained in prison at year's end.

Observers viewed the charges as selective prosecution.

A government agency, the Interagency Coordination Committee (MKK), issues the required broadcast and mass media licenses to approved media outlets and could revoke licenses and close media outlets without a court judgment. The Center for Electromagnetic Compatibility issues frequency licenses. During the year MKK threatened to shut down some privately owned regional television stations on technical grounds to enforce control by the National Association of Electronic Mass Media (NAESMI).

The NAESMI reportedly used its directors' close relations with the government to coerce local television stations to join the association and restrict the content of their programming. Stations that resisted joining NAESMI were subjected to tax inspections and in some cases lost their broadcast licenses. In many cases NAESMI required affiliated local stations to broadcast prescribed programming instead of locally produced content, thus limiting the freedom of broadcasters.

Government security services and other offices regularly gave publishers articles and letters to publish under fictitious bylines, as well as explicit instructions about the types of stories permitted for publication. Often there was little distinction between the editorial content of a government- or privately owned newspaper. There was very little, if any, independent investigative reporting. During the year self-censorship expanded. The number and scope of critical newspaper articles declined. In early December the Uzbekistan Press and Information Agency ordered the legal affairs newspaper *Advokat Press* to shut down after it published a series of articles criticizing government officials for violations of the law.

The law holds journalists, as well as editors and publishers, responsible for the accuracy of news stories that appear in their publications, exposing them to risk of criminal prosecution for their reporting. In addition, the law establishes the right of government-accepted newspaper boards of directors to influence the editorial content of media reports. These legal provisions establish mechanisms by which the government can indirectly influence media content and further encourage members of the media to practice self-censorship. Television and radio stations practiced self-censorship and therefore carried critical reporting only occasionally.

On December 28, the president signed into law amendments to the criminal and administrative liability codes, which significantly increased fines for libel and defamation. In general the government used charges of libel, slander, and defamation to punish journalists, human rights activists, and others who criticized the president or government.

The government allowed limited access to the Internet, although Internet service providers routinely blocked access to websites the government considered objectionable. The government sporadically blocked access to opposition party operated websites. Immediately following the May events in Andijon, the government blocked access to certain news websites.

The government limited academic freedom. Authorities generally required university professors to have their lectures or lecture notes approved. Although authorities implemented the requirement inconsistently, university professors generally practiced self-censorship. In September one professor was reportedly fired in response to a critical article he had written about the government, which was printed in a foreign publication.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, but in practice the government often restricted this right and authorities also have the right to suspend or prohibit rallies, meetings, and demonstrations on security grounds. The government did not routinely grant the required permits for demonstrations. Under the December 28 amendments to the criminal and administrative liability codes, citizens are liable to large fines for facilitating unsanctioned rallies, meetings, or demonstrations by providing space or other facilities or materials. The amendments also significantly increased fines for violations of procedures concerning the organizing of meetings, rallies, and demonstrations.

In several cases authorities used a variety of tactics to prevent or stop peaceful protests. According to human rights activists' reports, on February 1 in the rural Do'stlik District of Jizzakh Province, police blocked roads into the district's center in an attempt to prevent a planned protest over illegal land seizures. During the event a group of unidentified people attacked and beat the protestors while police observed without taking action. On February 9, a group of women physically at-

tacked a group of protesters in Tashkent who were demanding the release of political prisoners. Human rights activists alleged authorities incited the women to attack protesters as a provocation to prevent further demonstrations.

In April authorities broke up a demonstration of agrarian activists in rural Jizzakh Province who were protesting the beating of human rights activist Egamnazar Shaymonov. In May police forcibly broke up a silent demonstration of farmers from the Surkhandarya region who were protesting illegal land seizures in front of a foreign embassy, beating and severely injuring several protestors.

From February until May, small groups of protesters demonstrated at a district courthouse in Andijon in support of 23 men on trial for Islamic extremism. The protests continued without incident until May 12, when an unknown number of individuals seized weapons from a police garrison, stormed the city prison where the defendants were being held, and released several hundred inmates. On May 13, government forces intervened with deadly force against a crowd of between 5 and 10 thousand demonstrators that had gathered in the square in front of Andijon's regional administration building. The number of resulting deaths varied between the government's estimate of 187 and eyewitness reports of several hundred. Following the Andijon demonstrations, authorities suppressed almost all protest activity by systematically detaining organizers. In the weeks following the Andijon events, there were reports of police preventing or forcibly breaking up several demonstrations that were organized to express concern over the events, including planned demonstrations in Tashkent on May 16, 17, and 19, and in Jizzakh on May 23–25.

On and immediately before May 30, police in several localities prevented a planned Tashkent demonstration by activists of the opposition Birlik party by placing participants under house arrest in advance. The demonstration was intended to protest the government's refusal to register the party. Samarkand police arrested Samarkand-based human rights activist Holiqnazar Ganiev, who had planned to join the May 30 protest, and charged him with petty hooliganism.

In June police disbanded a small demonstration in Tashkent intended to commemorate the victims of the Andijon events by detaining demonstrators and destroying signs and banners. In June and July police in Tashkent placed human rights defenders under house arrest to prevent them from organizing a protest picket against the trials of accused religious extremists. In August in Samarkand, police broke up a demonstration of human rights activists and local residents protesting the demolition of area homes; several injuries were reported resulting from police beatings (see section 1.f.).

Freedom of Association.—While the law provides for freedom of association, the government continued to restrict this right in practice. The law broadly limits the types of groups that may form and requires that all organizations be formally registered with the government. Registration of NGOs and other public associations was difficult and time consuming, with many opportunities for government obstruction. Nonpolitical associations and social organizations usually were allowed to register, although complicated rules and a cumbersome government bureaucracy made the process difficult. All local NGOs were required to register with a government-controlled NGO association, whose purpose was to control all funding and NGO activities. On December 28, the president signed new amendments to the administrative liability code into law, which impose large fines for violations of procedures governing NGO activity, as well as for "involving others" in illegal NGOs. The law does not specify whether "illegal NGOs" are those that were forcibly suspended or closed, or those that were simply unregistered. The amendments also increased penalties against international NGOs for engaging in political activities, for activities inconsistent with their charters, or for activities not approved in advance by the government. The law allows independent political parties, but also gives the Ministry of Justice (MOJ) broad powers to interfere with parties and to withhold financial and legal support to those opposed to the government. Registered parties received funding from the government. All five registered political parties were controlled by the government; none of the four opposition parties were registered at year's end (see section 3).

The law criminalizes membership in organizations it deemed extremist. Under the law the extremist Islamist political organization HT was banned. HT promoted hate and praised acts of terrorism, although it maintained that it was committed to nonviolence. The party's virulently anti-Semitic and anti-Western literature called for the overthrow of secular governments, including those in Central Asia, to be replaced with a worldwide Islamic government called the caliphate.

Aside from two previously registered human rights groups, the government continued to deny registration to such organizations, including the Human Rights Society of Uzbekistan, Mazlum, and Mothers against the Death Penalty and Torture. Registration was denied for a variety of reasons, including for grammatical errors

in applications. Although these organizations did not exist as legal entities, they continued to function, albeit with difficulty (see section 4). Starting in August, the government forced more than 200 local NGOs to close. During the year the Women's Committee, a government-controlled organization, monitored and often hampered the activities of women's NGOs, particularly those promoting women's political participation.

The government has denied registration to the Islamic group Akromiylar (Akromiya) since 1997. Religious experts claimed that Akromiylar is a movement that promotes business along Islamic religious principles, while the government claimed that the group is a branch of the extremist political movement HT and that it attempted, together with the Islamic Movement of Uzbekistan, to overthrow the government through armed rebellion in May in Andijon (see section 2.c.).

During the year the government took continued tightening its control over the activities of international NGOs. The government required all international NGOs to reregister with the MOJ. During the year the ministry conducted a series of exhaustive audits of international NGOs, which also suffered visa, accreditation, and automobile registration problems. During the audits, MOJ officials repeatedly referred to an unpublished 2003 cabinet of ministers decree that outlined new registration requirements for international NGOs. The government used the decree as a basis for requiring prior government approval for a broad range of program activities and detailed reports on activities, program participants, and finances.

In February 2004 the cabinet of ministers passed a banking decree requiring a government commission to review all foreign funding before it is disbursed to local NGOs, which severely impeded the ability of local and international NGOs to function. Although the measure was ostensibly to fight money laundering, the commission used political criteria to determine which programs receive funds. NGOs focusing on human rights and democratic reform were particularly affected.

As a result of the banking decree, the Civil Society Support Centers (CSSC) operated in six cities by the International Research and Exchanges Board (IREX) were unable to receive funding. During the year the government withheld accreditation from the CSSC program manager. In September the MOJ suspended IREX operations for six months because it refused to provide specific information about program participants during an audit. On December 27, based primarily on the charge that the organization had provided Internet access without a license, a Tashkent civil court ordered IREX's closure. The case was under appeal at year's end.

The government subjected the prodemocracy NGO Freedom House and its employees to frequent harassment, by closing the organization's Samarkand and Namangan offices, threatening to suspend its activities on the grounds that it provided training and assistance to unregistered organizations, and demanding information about participants in the organization's programs during an audit. Official television stations publicly accused Freedom House of supporting suspected terrorists in documentaries on the May violence in Andijon. At year's end Freedom House's status was under judicial review, with the government recommending a six-month suspension of activities.

The government subjected Internews Network to continual harassment, withheld accreditation from the organization's country director, and froze its bank account. In August a criminal court convicted two local employees on criminal charges of publishing without a license, but immediately granted them amnesty. In September a civil court ordered Internews to close its operations, citing numerous violations of national law, including failure to register the organization's logo with the MOJ, conducting activities without prior MOJ approval, and attempting to "monopolize the media" (see section 2.a.). The court decision was upheld on appeal in October and Internews closed its office in November.

The government pressured many NGOs to obtain official permission to conduct training sessions or seminars. NGOs under the auspices of the government-controlled Institute of Civil Society were allowed to conduct events.

c. Freedom of Religion.—While the law provides for freedom of religion and separation of church and state, in practice the government restricted religious activity.

The law treats all religious groups equally; however, the government supported the country's Muslim heritage by funding an Islamic university and providing logistical support for citizens' participation in the hajj. The government sought to promote what it considered a moderate version of Islam through the control and financing of the Muslim Board of Uzbekistan (the Muftiate), which in turn controls the Islamic hierarchy, the content of imams' sermons, and published Islamic materials. A small number of unofficial, independent mosques were allowed to operate under the watch of official imams.

The law requires all religious groups and congregations to register and provides strict and burdensome registration criteria, including a requirement that each group

present a list of at least one hundred national citizen members to the local branches of the MOJ. This and numerous other provisions, such as a requirement that a congregation already have a valid legal address, enabled the government to find technical grounds for denying a group's registration petition, such as grammatical errors in a group's charter. This suppressed the activities of Muslims who sought to worship outside the system of state-sponsored mosques, as well as members of unregistered Christian churches and other groups.

Any religious service conducted by an unregistered religious organization is illegal. Police occasionally broke up meetings of unregistered groups. Members of some Christian evangelical congregations were detained during the year and occasionally beaten by authorities. Religious groups are prohibited from forming political parties and social movements.

In May, 20 of the 125 members of the unregistered Baptist church in Surkhandarya Province were detained and questioned. Credible reports alleged that in June, two Baptist pastors and four church members were arrested after plainclothes police officers raided their church in Tashkent. On March 9, police raided an unauthorized Protestant meeting involving citizens and South Korean missionaries outside Tashkent; the citizens were fined.

During the year the number of registered religious congregations increased by 32 to 2,201 registered religious groups, of which 2,016 were Muslim. Local authorities continued to block the registration or reregistration of evangelical Christian congregations in Tashkent, Samarkand, Guliston, Gazalkent, Andijon, and Nukus. During the year the MOJ denied registration to the Pentecostal Church in Chirchiq and deregistered Emmanuel Church in Nukus, the city's only registered Protestant church. The International Church of Tashkent, a Protestant nondenominational church ministering exclusively to the international community, has been unable to obtain registration for several years, in part due to its inability to meet the legally required minimum of 100 members who are citizens of the country. Jehovah's Witnesses in Tashkent were unable to obtain registration; out of the 11 Jehovah's Witnesses' churches in the country, only those in Chirchiq and Ferghana were registered. Police routinely questioned, searched, and arbitrarily fined individual members of Jehovah's Witnesses throughout the country. On March 24, police and security personnel disrupted Jehovah's Witnesses meetings in Tashkent and eight other cities, arresting approximately 200 church members. Most were released soon afterwards, but some were subjected to longer administrative detention, some were reportedly beaten by police, and several were required to pay small fines.

Almost all of those arrested for religious reasons were tried for anticonstitutional activity and participating in "religious extremist, separatist, fundamentalist, or other banned organizations," a charge that encompasses both political and religious extremism. The overwhelming majority of those arrested were suspected HT members, but the government also arrested members of Tabligh, an Islamic group with origins in South Asia, as well as others the government broadly labeled Wahhabi. Individuals arrested on suspicion of extremism often faced severe mistreatment including torture, beatings, and particularly harsh prison conditions, and were typically sentenced to between 7 and 12 years in jail (see sections 1.c. and 1.d.). Prison authorities reportedly did not allow many prisoners suspected of Islamic extremism to practice their religion freely and, in some circumstances, did not allow them to own a Koran. Authorities reportedly punished inmates who attempted to fulfill their religious obligations against prison rules or who protested the rules themselves with solitary confinement and beatings.

The government did not consider repression of groups such as HT and Tabligh to be a matter of religious freedom but directed against those who allegedly advocated overthrowing the government. However, the government's campaign against extremists resulted in official suspicion of more religiously observant (yet nonextremist) persons, including frequent mosque attendees, bearded men, and veiled women. In practice, this approach often resulted in the government singling out observant Muslims for surveillance or harassment based on outward expressions of their religious belief. The government's harsh treatment of suspected extremist Islamic political groups tended to suppress outward expressions of religious piety. While many young men attended Friday prayers, hardly any were bearded. The law prohibits the wearing of "cult robes" (religious clothing) in public except by those serving in religious organizations; however, this provision did not appear to be enforced. There were no prohibitions against the wearing of headscarves by women.

During the year members of Tabligh were tried on charges of Islamic extremism. In two separate cases in January and March, seven and four members were amnestied. All but one defendant in the January trial, Jamoliddin Aminov, were released, and two of those tried in March were fined instead of imprisoned. In February, according to the Forum 18 news service, two Sufi Muslims were given six-

year prison sentences; the defendants claimed authorities planted HT leaflets on them during their arrest and that they were tortured in detention.

During the year several persons were prosecuted and convicted of religious extremism and membership in an unregistered religious group for their affiliation with Akromiylar. Religious experts claimed that Akromiylar is a religious association that promotes business, not extremism. On March 29, a court in Syrdarya Province sentenced seven food vendors from Bakht to prison sentences of eight to nine years for anticonstitutional activity, religious extremism, and tax evasion, based on their alleged membership in Akromiylar. Family members of the defendants claimed the men were not members, and that the court's decision was based entirely on forced confessions. The decision was upheld by an appellate court on May 3, and by the supreme court on May 21. On July 25, the Tashkent criminal court convicted alleged Akromiylar members Akhad Ziyodkhojayev, Bokhodir Karimov, and Abdubosid Zakirov of participation in a religious extremist group, conspiracy to overthrow the constitutional order, establishing a criminal group, and disseminating materials constituting a threat to public order. The defendants were given prison sentences from 15½ to 16 years. Trial observers noted that the convictions were based almost entirely on defendants' confessions and witness testimony, and that evidence presented in court did not suggest the defendants were involved in criminal activity.

In February intermittent peaceful demonstrations began outside Andijon's Oltinko'l district court in support of 23 alleged Akromiylar members on trial for anticonstitutional activity, possession of banned religious materials, and extremism. In March RFE/RL reported an investigation of an additional 17 persons on similar charges. Protesters staged public demonstrations in Andijon until early May in support of the defendants. These protests led to the violence of May 12–14 (see section 1.a.). In public statements about the events, the government referred to those on trial, in prison, as well as most of those killed on May 13, as "religious extremists."

Following the May violence in Andijon, some journalists and human rights activists were arrested on charges that cited religious extremism. There were also credible reports of *mahalla* committee chairmen delivering special lectures to community gatherings in which they actively discouraged worshiping in mosques.

Christians who tried to convert Muslims or who had among their congregations members of traditionally Muslim ethnic groups often faced official harassment, legal action, or, in some cases, mistreatment.

The law prohibits proselytizing and severely restricts activities such as the import and dissemination of religious literature. On August 10, a criminal court in Navoi convicted Jehovah's Witness Azim Klichev of teaching religion without government authorization and fined him approximately $70 (78,350 soum), or 10 times the minimum monthly wage. The decision was upheld on appeal. On August 30, a criminal court in Karshi convicted Jehovah's Witnesses Bakhrom Pulatov and Feruza Mamatova of conducting illegal religious meetings and proselytizing. Pulatov was fined approximately $640 (705,150 soum), or 90 times the minimum monthly wage; Mamatova was fined approximately $500 (548,450 soum), or 70 times the minimum monthly wage. The fines, although within the amount prescribed by law, were far beyond that normally imposed for religious crimes. The decisions were upheld on appeal.

On March 24, over 200 members of Jehovah's Witnesses were detained in several coordinated raids in Tashkent, Kogon, Bukhara, Samarkand, Navoi, and Bekobod during Good Friday worship services; in addition, 120 persons were questioned in Angren. Jehovah's Witnesses reported several instances of police brutality in the course of the raids. Police also reportedly confiscated religious materials. Most detainees were released early on March 25; in Tashkent, 2 remained in custody longer and were released 24 hours after the arrest. Authorities brought 34 administrative cases against individuals in relation to the raids. On May 2, a Bukhara court fined six male members each approximately $11.50 (13,060 soum) and five women approximately $6 (6,530 soum) on charges resulting from the nationwide March 24 operation. On May 3, one member in Urgench was fined approximately $6 (6,530 soum) in connection with the raids. Forum 18 News Service quoted an official of the State Committee on Religious Affairs as saying that police often staged raids on unregistered Christian congregations on Good Friday, as police were aware that Christians gather on that date for the pre-Easter worship services. An additional three Jehovah's Witnesses members, who were also picked up in the March 24 sweep, each received an official warning.

The law limits religious instruction to officially sanctioned religious schools and state-approved instructors, and permits no private instruction or the teaching of religion to minors without parental consent. However, there were no reports of active efforts to prevent parents teaching religion to their children. On March 26, authori-

ties closed an unlicensed Islamic kindergarten in Ferghana Province, according to the newspaper *Voice of Uzbekistan*.

A state religious censor approved all religious literature. The government controlled the publication, import, and distribution of religious literature, discouraging and occasionally blocking the production or import of Christian literature in the Uzbek language, although Bibles in many other languages were available. The Muftiate sporadically issued an updated list of all officially sanctioned Islamic literature. Possession of literature deemed extremist could lead to arrest and prosecution. Religious literature imported illegally was subject to confiscation and destruction.

On March 6, police reportedly confiscated over one thousand officially approved religious booklets from Baptists belonging to an unregistered congregation in Tashkent. Seven members were detained and questioned for six hours before being released.

A 2003 OSCE expert panel that reviewed the 1998 Religion Law and associated criminal and civil statutes concluded that they were in violation of international norms. It submitted a number of recommendations, including lifting the bans on proselytizing and private religious instruction and decriminalizing activities of unregistered religious organizations. The government, through its Committee on Religious Affairs, agreed to consider the recommendations, but took no action to enact them by the end of the period covered by this report.

Societal Abuses and Discrimination.—There were persistent reports of discrimination against Muslims, particularly ethnic Uzbeks, who converted to Christianity. On April 3, the Forum 18 news service reported authorities failed to respond to Christian convert Khaldibek Primbetov's complaint that villagers in Yanboshkala outside of Nukus had beaten him and told him to "return to Islam" or leave the village. Bakhtitor Tuychiyev, the ethnic Uzbek pastor of a Full Gospel Pentecostal Church in Andijon, reported frequent harassment by authorities. On December 23, Tuychiyev was attacked by unidentified assailants who reportedly reviled him as a "traitor to the faith."

There was no pattern of discrimination against Jews. There were eight registered Jewish congregations and the World Jewish Congress estimated the Jewish population at approximately 20 thousand, concentrated mostly in Tashkent, Samarkand, and Bukhara. Their numbers were declining due to emigration, largely for economic reasons. HT members distributed anti-Semitic fliers, the text of which generally originated abroad; however, observers did not believe such fliers represented the feelings of the vast majority of the country's population.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for free movement within the country and across its borders, although the government severely limited this right in practice. Permission from local authorities is required to move to a new city. The government rarely granted permission to move to Tashkent, and local observers reported that persons had to pay bribes of up to $90 (100 thousand soum) to obtain registration documents required to move.

The government required citizens to obtain exit visas for foreign travel or emigration, and while it generally granted these routinely, local officials often demanded a small bribe. In the past, authorities did not require an exit visa for travel to most countries of the former Soviet Union; however, during the year the government introduced a new registration system requiring citizens to obtain a special stamp from local authorities in their place of residence in order to leave the country. Citizens continued generally to be able to travel to neighboring states, and the new stamp requirement was not uniformly enforced. Land travel to Afghanistan, however, remained difficult, as the government maintained travel restrictions on large parts of Surkhandarya Province bordering Afghanistan, including the border city of Termez. Uzbeks needed permission from the NSS to cross the border, while Afghans easily crossed into Uzbekistan to trade. Immediately following the May events in Andijon, the government temporarily closed border crossings to some neighboring states. Movement to and from the Ferghana Valley provinces was closely monitored for a short time and reportedly limited on a selective basis to prevent journalists and human rights activists from entering to report on the unrest (see section 4). However, the government reopened some formerly closed border crossings to Kyrgyzstan, allowing for cross-border trade.

Foreigners with valid visas generally could move within the country without restriction; however, visitors required special permission to travel to certain areas, such as Termez. Authorities in some cases prevented entry of foreign nationals on

political grounds. On August 11–13, authorities detained journalist Igor Rotar at the Tashkent airport and subsequently deported him (see section 2.a.). Also in August a Canadian citizen affiliated with the NGO Central Asian Free Exchange was barred re-entry from abroad because he had failed to apply for accreditation as an NGO representative.

The law does not explicitly prohibit forced exile, and the government did not employ it. At year's end several opposition political figures and human rights activists remained in voluntary exile.

Emigration and repatriation were restricted in that the law does not provide for dual citizenship. In practice returning Uzbek citizens had to prove to authorities that they did not acquire foreign citizenship while abroad, or face prosecution. However in practice, Uzbek citizens often possessed dual citizenship and traveled without issue.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice, the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not force persons given refugee status by the UN High Commissioner for Refugees (UNHCR) to leave the country, according to a 1999 agreement. Although it does not formally recognize asylum or refugee status, the government in practice cooperated with the UNHCR in allowing it to provide assistance to refugees and asylum seekers.

The government considered the Afghan and Tajik refugee populations economic migrants and subjected them to harassment and bribe demands when they sought to regularize their status as legal residents. Such persons could be deported if their residency documents were not in order. Most Tajik refugees were ethnic Uzbeks; unlike their Afghan counterparts, Tajik refugees were able to integrate into and were supported by the local population. Although most Tajik refugees did not face societal discrimination, many of them faced the possibility of becoming officially stateless, as many carried only old Soviet passports rather than Tajikistan passports. Although the government generally tolerated the presence of Afghan refugees, they faced protection problems. For example the UNHCR reported that 15 Afghans were detained over the course of the year, 14 of whom were released. Of the detainees, nine were registered refugees, and six were seeking asylum through UNHCR. The UNHCR reported that Afghan refugees had no access to the legal labor force and therefore had limited means to earn a livelihood. The UNHCR reported that police rarely harassed UNHCR-mandated refugees.

Human Rights Watch, Amnesty International, and other sources reported that authorities pressured relatives of citizens who had fled the country following the events in Andijon and coerced them to travel to refugee camps in Kyrgyzstan to ask them to return (see section 1.f.). Uzbek security forces were also seen outside camps in Kyrgyzstan, and in some cases plainclothes officers infiltrated the refugee population. There were reports that in some instances plainclothes officers attempted to remove persons from a refugee camp by force. In one case in June, Kyrgyz authorities returned to Uzbek custody four of those who had fled after the Andijon events. The returnees were held in incommunicado detention, and the government did not allow relatives or other outsiders to monitor their condition. There were reports that others who fled and returned voluntarily were arrested and physically abused in detention (see section 1.c.).

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens with the right to change their government; in practice this was not possible through peaceful and democratic means. The government severely restricted freedom of expression and repressed the political opposition (see sections 1.c., 1.d., and 2.a.). The government was highly centralized and was ruled by President Karimov and the executive branch through sweeping decree powers, primary authority for drafting legislation, and control of government appointments, most of the economy, and the security forces.

Elections and Political Participation.—President Karimov was reelected in 2000 to a second term. The OSCE declined to monitor this presidential election, determining preconditions did not exist for it to be free and fair. A 2002 referendum, which multilateral organizations and foreign embassies also refused to observe, extended the term of the presidency from five to seven years. In December 2004 parliamentary elections were held for representatives to the lower chamber; an OSCE limited observer mission concluded the election fell significantly short of international standards for democratic elections. In January a new upper chamber, or

senate, of the parliament was formed; 84 of the 100 members of the chamber were selected by regional legislatures, and President Karimov personally appointed the remaining 16. Five registered progovernment political parties held the majority of seats in the directly elected lower house of parliament; the remainder consisted of nominally independent politicians tied to these progovernment parties. These parties, created with government assistance and loyal to President Karimov, were the only ones permitted to participate in the 2004 parliamentary elections. Many government officials were members of the People's Democratic Party of Uzbekistan, the country's largest party. The party did not appear to play a significant role in government decision making, which President Karimov and other government leaders dominated.

The law makes it extremely difficult for opposition parties to organize, nominate candidates, and campaign. Twenty thousand signatures are required on any application to register a new party. The procedures to register a candidate are burdensome, and the Central Election Commission (CEC) may deny registration. A presidential candidate must present a list of 700 thousand signatures in order to register and is prohibited from campaigning without registration. The CEC may deny registration of presidential candidates if they would "harm the health and morality of the people." Parties and candidates that are denied registration have no right of appeal. The law allows the MOJ to suspend parties for up to six months without a court order. The government also exercised control over established parties by controlling their financing. On March 16, the Cabinet of Ministers issued a decree giving the MOJ control over state funds to parties. Under the decree, the MOJ may adjust funding on a monthly basis according to the size of a party's parliamentary caucus and the ministry's judgment as to whether the party is acting in accordance with its charter, among other factors.

In addition to registered political parties, only citizen initiative groups with 300 or more members may nominate parliamentary or presidential candidates. Initiative groups may nominate parliamentary candidates by submitting signatures of at least 8 percent of the voters in an election district. For presidential candidates a list of 150 thousand signatures is required. Except for registered political parties or initiative groups, organizations were prohibited from campaigning, and candidates were allowed to meet with voters only in forums organized by precinct election commissions. Only the CEC may prepare and release presidential campaign posters.

The law prohibits judges, public prosecutors, NSS officials, servicemen, foreign citizens, and stateless persons from joining political parties. The law prohibits parties based on religion or ethnicity; those that oppose the sovereignty, integrity, and security of the country and the constitutional rights and freedoms of citizens; or those that promote war, or social, national, or religious hostility, or those that seek to overthrow the government.

The government frequently harassed members of unregistered political organizations (see section 2.b.). On April 20, authorities denied registration to the Birlik opposition political party for the fifth time; they continued harassing the party during the year. The government also continued to harass members of unregistered opposition party Erk. The leaders of three of the four unregistered opposition political parties—Mohammed Solikh of Erk (convicted on terrorism charges in absentia), Abdurakhim Polat of Birlik, and Babur Malikov of the Free Farmers Party—remained in voluntary exile.

There were 21 women in the 120-member lower chamber of the parliament, and 15 in the 100-member senate. There was 1 woman in the 28-member cabinet.

There were 9 members of ethnic minorities in the lower house of parliament and 15 minorities in the senate; the number of members of ethnic minorities in the cabinet was unknown.

Government Corruption and Transparency.—There was a widespread public perception of corruption throughout society, including in the executive branch. It was widely reported that applicants could buy admission to prestigious educational institutions with bribes. Likewise, bribery was widespread in the traffic enforcement system, and there were several reports that bribes to judges influenced the outcomes of civil suits. However, it was also reported that local administrative or police officials were removed from office in isolated cases in response to charges of corruption.

The law states that all government agencies must provide citizens with the opportunity to examine documents, decisions, and other materials affecting their freedoms. In practice the government seldom respected these rights. The public generally did not have access to government information, and information normally considered in the public domain were seldom reported. In June 2004 the NGO Article 19 Global Campaign for Free Expression released an analysis of the country's secrecy and freedom of information laws, which concluded that the types of informa-

tion that can be considered classified, and thus protected by the state, were so broad as to include virtually all information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic human rights groups operated in the country, although they were hampered by a fear of official retaliation. The government tended to harass, arrest, and prosecute human rights activists. Two domestic NGOs were registered with the government; however, others were unable to register but continued to function (see section 2.b.). The unregistered groups had difficulty renting offices or conducting financial transactions and could not open bank accounts, making it difficult to receive funds. Operating an unregistered group was technically subject to government prosecution.

Government officials occasionally met with domestic human rights defenders, and individual rights defenders noted that they were able to successfully resolve some cases of abuse through direct engagement with authorities. A foreign NGO continued an initiative, begun in 2004, which provided a forum for domestic human rights defenders to meet with members of the police, prison directorate, and security services. The government cooperated on a limited basis with the NGO.

Police and security forces increased harassment of domestic human rights activists and NGOs during the year. Following the May violence in Andijon, authorities arrested several activists on charges of anticonstitutional activity and conspiracy to incite public disorder. Government officials publicly accused specific activists of conspiring with international journalists to discredit the government (see section 1.d.). The February 2004 banking decree, although ostensibly designed to combat money laundering, was selectively enforced to prevent both registered and unregistered NGOs involved in human rights or political work from receiving outside funding (see section 2.b.). Following the May events in Andijon, over 200 NGOs, including many human rights groups, were forced to close.

Police and security forces regularly used threats and intimidation to prevent human rights activists from conducting their activities. In several cases local authorities evicted human rights activists from their homes, as in the cases of Muhiddin Kurbanov and Gavhar Yo'ldosheva of Jizzakh Province (see section 1.f.). Unknown assailants frequently attacked human rights activists, including Gavhar Yo'ldosheva, Egamnazar Shaymonov, and Ulugbek Haydarov of Jizzakh Province, and Ulugbek Bakirov of Andijon Province (see section 1.c.). Authorities regularly detained or arrested human rights activists and subjected them to house arrest, and in some cases committed them to involuntary psychiatric treatment, as in the case of Elena Urlayeva (see section 1.c.), or filed false criminal charges against them. Following the May violence in Andijon, the government filed criminal charges against several human rights activists, including Saidjahon Zaynabitdinov, accusing them of complicity in terrorist acts aimed at overthrowing the regime (see section 1.d.). On several occasions government agents employed similar tactics against domestic journalists who reported on human rights issues (see section 2.a.). Following the Andijon unrest, there were reports that police threatened and detained journalists; denied journalists and international monitoring organizations access to hospitals, morgues, and various other sites in Andijon; and prevented human rights activists and journalists from entering Andijon (see section 2.d.). Several members of the human rights NGO Ezgulik and other human rights groups who spoke to the public or disseminated information about the events were arrested and prosecuted for slander against the government or disseminating information that presented a threat to public order (see section 1.d.).

The government severely restricted activities of international human rights NGOs and subjected their employees to frequent harassment and intimidation. Official media accused Freedom House of supporting terrorist organizations that plotted to overthrow the government. The government forced the closure of Freedom House resource centers in Samarkand and Namangan (see section 2.b.), maintaining that the existence of such "affiliate structures" violated Freedom House's charter. At year's end a trial to rule on the suspension of Freedom House continued. The office of the prosecutor general, in the trial of suspects in the Andijon unrest, accused HRW of participating in an international "information war" against Uzbekistan. In June police briefly detained a four-person delegation of the International Helsinki Federation visiting Andijon, subsequently sending them back to Tashkent. After the May violence in Andijon, police pressured lawyers affiliated with a foreign NGO-funded public defender center in Andijon, who had represented most of the 23 defendants in the trial of Akromiylar businessmen in Andijon from February to May.

The government withheld registration of the IWPR, a London-based NGO dedicated to the training and protection of journalists in areas of conflict, on the grounds

that it was engaging in journalism rather than training. IWPR continued to work with local and international journalists to produce critical stories about the country's politics, judicial system, and human rights practices until May. Following the May events in Andijon, IWPR journalist Galima Bukharbayeva fled the country in response to threats of prosecution. Independent journalists who contributed stories to IWPR experienced frequent intimidation, harassment, and occasional violent attacks by unidentified assailants throughout the year. In early December IWPR terminated all activity in the country in response to the security threat to its stringers.

In August authorities deported Russian citizen and journalist Igor Rotar, who had reported on violations of religious freedom for the Forum 18 news service (see section 2.a.).

In contrast to previous years, the government restricted the activities of international bodies and foreign diplomatic missions and severely criticized their human rights monitoring activities and policies. On February 17, President Karimov insisted that the OSCE "rebalance" its priorities away from human rights and democratization. In August the government denied accreditation to the OSCE's newly arrived human dimension officer. In the wake of the Andijon violence, the government criticized the UNHCR for having given refugee status to over 200 persons who fled into Kyrgyzstan following the events, accused UNHCR of supporting terrorist groups, and pressured foreign governments to return to the country's mandate refugees under their care. In September the Ministry of Foreign Affairs threatened to expel certain foreign diplomats who had met with human rights activists in Andijon. From September to November, during the supreme court trial of defendants accused in connection with the Andijon events, government prosecutors and state witnesses accused foreign diplomats of cooperating with foreign journalists and human rights activists in Andijon to discredit the country in world opinion.

Following the May violence in Andijon, foreign governments, the UN, the OSCE, the European Union, and other international organizations called on the government to allow an independent international investigation into the events. The government repeatedly refused to do so and instead formed a "diplomatic monitoring group" consisting of selected foreign diplomatic representatives who were invited to periodic meetings to hear the conclusions of the prosecutor general's own investigation. According to participants in the group, the process was not transparent. On July 12, the UNHCR released a report on the Andijon violence, based on a mission to refugee camps in neighboring Kyrgyzstan, which concluded: "Consistent, credible eyewitness testimony strongly suggests that grave human rights violations . . . were committed by Uzbek military and security forces . . . It is not excluded . . . that the incidents amounted to a mass killing."

The human rights ombudsman's office, affiliated with the parliament, had the stated goal of promoting observance of fundamental human rights and resolving cases of alleged abuse. The ombudsman may make recommendations to modify or uphold decisions of government agencies, but its recommendations are not binding. The ombudsman has eight regional offices outside Tashkent. During the year the office handled hundreds of cases, a large majority of which dealt with abuse of power and various labor and social welfare issues. The ombudsman published reports identifying the most serious violations of human rights by government officials; the majority of these involved procedural violations and claims of abuse of power by police and local officials. Due to its limited authority, most of the cases the ombudsman successfully resolved appeared to have been relatively minor. In December the ombudsman's office hosted a conference with law enforcement, judicial representatives, and limited international NGO participation, to discuss its mediation work and means of facilitating protection of human rights.

The National Human Rights Center is a government agency responsible for educating the population and officials on the principles of human rights and democracy and for ensuring the government complies with its international obligations to provide human rights information. In the view of many observers, the center was neither independent nor effective.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, disability, language, or social status; however, societal discrimination against women and persons with disabilities, and child abuse persisted.

Women.—The law does not specifically prohibit domestic violence, which remained a common problem. While the law punishes physical assault, police often discouraged women from making complaints against abusive husbands, and abusers were rarely taken from home or jailed. Wife beating was considered a personal family affair rather than a criminal act; such cases were usually handled by family members or elders within the neighborhood committee and rarely came to court. Local au-

thorities emphasized reconciling husband and wife, rather than addressing the abuse. A 2002 HRW report on neighborhood committees concluded that although the committees play no formal role in divorce proceedings, in practice, women frequently were unable to obtain a divorce without the committee's approval, which was seldom granted even in cases of obvious abuse. Most NGOs working on domestic violence problems reported that local government cooperation on education programs increased, with a number of initiatives taken to increase cooperation with neighborhood committees. Some police participated in NGO training.

The law prohibits rape. Marital rape is implicitly prohibited under the law, although there were no cases known to have been tried in court. Cultural norms discouraged women and their families from speaking openly about rape and instances were almost never reported in the press.

In parts of the country in past years, some women and girls committed suicide by self-immolation. Most cases went unreported and there were no reliable statistics on the problem's extent. Observers cited conflict with a husband or mother-in-law, who by tradition exercised complete control over a young bride, as the usual reason for suicide. The NGO Umid in Samarkand ran a shelter for survivors of self-immolation and reported varying degrees of cooperation from individual officials, neighborhood committees, and local governments. There were no reports of similar instances during the year as a result of domestic abuse; however, in April a Tashkent woman attempted suicide by self-immolation to protest the destruction of a vegetable garden at her apartment building by the city government.

The law prohibits prostitution; however, it was an increasing problem, particularly among ethnic minorities. Police enforced the laws against prostitution unevenly; some police officers used harassment and the threat of prosecution to extort money from prostitutes.

Trafficking in women for sexual exploitation remained a problem (see section 5, Trafficking).

The law does not prohibit sexual harassment. Social norms and the lack of legal recourse made it difficult to assess the scope of the problem.

The law prohibits discrimination against women; traditional, cultural, and religious practices limited their role in society, however, and women were severely underrepresented in high-level positions and in the industrial sector. A deputy prime minister at the cabinet level was charged with furthering the role of women in society and headed the National Women's Committee. In practice the committee was widely viewed as ineffective, and at times even obstructed the work of NGOs promoting women's rights.

Children.—The government was generally committed to children's rights and welfare, although it did not adequately fund public education and health care.

The law provides for children's rights and for free compulsory education through secondary school. In practice shortages and budget difficulties meant that many education expenses had to be paid by families. Teachers earned extremely low salaries and routinely demanded regular payments from students and their parents. According to government statistics, 98 percent of children completed secondary school. However, anecdotal evidence indicated that children increasingly dropped out of middle and high schools as economic circumstances continued to deteriorate.

The government subsidized health care, including for children, and boys and girls enjoyed equal access. As with education, low wages for doctors and poor funding of the health sector led to a widespread system of informal payments for services; in some cases this was a barrier to access for the poor. Those without an officially registered address, such as street children and children of migrant workers, did not have access to government health facilities.

Child abuse was a problem that was generally considered an internal family matter, although elders on neighborhood committees frequently took an interest at the local level in line with the committees' responsibilities to maintain harmony and order within the local community. There were no government-led campaigns against child abuse, although efforts against trafficking involved the protection of underage victims.

Child marriage is not prevalent in the country, although in some rural areas girls as young as 15 sometimes married in religious ceremonies not officially recognized by the state. According to the MOJ, an average of 10 underage (under 17 for girls and under 18 for boys) marriages were reported each year.

There were reports that girls were trafficked from the country for the purpose of sexual exploitation and that girls were engaged in forced prostitution (see section 5, trafficking).

During the harvest some school children, particularly in rural areas, were forced to work in the cotton fields (see section 6.d.).

Trafficking in Persons.—.—The law prohibits trafficking in persons. Trafficking in women and girls for the purpose of sexual exploitation, and men for labor exploitation, was a problem. A few NGOs reported that some local officials were involved in trafficking on a limited basis.

The law prohibits all forms of trafficking and provides for prison sentences of five to eight years for international trafficking. Recruitment for trafficking is punishable by six months' to three years' imprisonment and fines of up to approximately $820 (900 thousand soum). The recruitment charge may be brought against international or domestic traffickers. All law enforcement agencies are charged with upholding the antitrafficking provisions of the criminal code. During the year law enforcement authorities improved their focus on trafficking offenses somewhat. In the first 9 months of the year authorities stated they initiated criminal proceedings in 165 cases against 290 suspects. Enforcement was generally effective, but convicted traffickers were often amnestied and served little or no jail time. The government annually amnestied first offenders and those with sentences of less than 10 years; almost every convicted trafficker fell into one of these categories.

During the year the government continued its focus on trafficking prevention. A specialized antitrafficking unit in the MVD established in 2004 continued to cooperate with NGOs and, on a more limited basis, with the OSCE on antitrafficking training for law enforcement and consular officials, and worked with NGOs to produce public awareness campaigns.

The country was primarily a source for the trafficking of women and girls for the purpose of sexual exploitation and men for labor. There were no reliable statistics on the extent of the problem, although NGOs reported labor trafficking was much more prevalent than trafficking for sexual exploitation, and was likely rising due to poor economic conditions. There were credible reports that women traveled to the United Arab Emirates, Kuwait, Bahrain, India, Israel, Georgia, Malaysia, South Korea, Thailand, Turkey, Japan, and Western Europe for the purpose of prostitution; some of them reportedly were trafficking victims. Labor trafficking victims were typically trafficked to Kazakhstan and Russia to work in the construction, agricultural, and service sectors. Some transit of trafficked persons may also have taken place from neighboring countries and to or from countries for which the country was a transportation hub—Thailand, Malaysia, Indonesia, India, South Korea, and the United Arab Emirates (UAE). Women between the ages of 17 and 30 were highly susceptible to sexual trafficking and men of all ages were targets for labor trafficking.

Traffickers operating within nightclubs, restaurants, or prostitution rings solicited women, many of whom had engaged in prostitution. In large cities such as Tashkent and Samarkand, traffickers used newspaper advertisements for marriage and fraudulent work opportunities abroad to lure victims. Travel agencies promising tour packages and work in Turkey, Thailand, and the UAE were also used for solicitation. In most cases traffickers confiscated travel documents once the women reached the destination country. Victims of labor trafficking were typically recruited in local regions and driven to Kazakhstan or Russia where they were often sold to "employers." Traffickers held victims in a form of debt bondage, particularly in the case of those trafficked for sexual exploitation.

Recruiters tended to live in the same neighborhood as the potential victim and often may even have known the victim. These recruiters introduced future victims to the actual traffickers, who provided transportation, airline tickets, visas, and instructions about meeting a contact in the destination country.

Some local officials working at the MVD, customs, and border guards reportedly accepted bribes in return for ignoring instructions to deny exit to young women suspected to be traveling to work as prostitutes. Local sources claimed that officials were involved in document fraud and accepted bribes from persons attempting to travel illegally or from the traffickers themselves.

The government did not prosecute victims of trafficking for violating country laws in the course of being trafficked. Repatriated victims often faced societal and familial problems upon return. In January the government, in conjunction with the IOM, sponsored training for consular officers, which streamlined the repatriation process for trafficking victims and significantly improved efforts to free victims discovered abroad, reducing the process from months to only days.

IOM operated a shelter to help victims reintegrate. As of the end of the year, the shelter had assisted over 60 returned victims. The IOM reported that police, consular officials, and border guards regularly referred women returning from abroad who appeared to be trafficking victims to the organization for services. The government also routinely allowed the IOM to assist groups of returning women at the airport, help them through entry processing, and participate in the preliminary statements the victims gave to the MVD.

During the year some of the local partners that had operated trafficking hot lines in cooperation with the IOM were closed in the post-Andijon crackdown on civil society.

In October the government, in conjunction with the IOM and a local NGO, held a regional antitrafficking conference in Tashkent. In addition the government included neighborhood committee officials in training on identifying and protecting victims of trafficking.

The OSCE Tashkent office cooperated with foreign embassies, NGOs, and the government to hold training seminars for law enforcement, including officers from the NSS, Interior Ministry, Ministry of Foreign Affairs, the customs service, border guards, and the general prosecutor's office. It also provided training for several antitrafficking NGOs, organized roundtables to discuss projects, and provided small grant funding to NGOs. A working group of representatives from the MOJ, Interior Ministry, NSS, and the prosecutor's office, with OSCE support, coordinated antitrafficking work among government agencies.

Government-controlled newspapers carried targeted articles on trafficked women and prostitution; ironically, in some cases, the same publications also carried advertisements soliciting women. In several cases during the year victims cited these awareness campaigns as their first contact with IOM and other antitrafficking NGOs. Government radio continued a weekly call-in program for women who were involved in the sex trade, and government television broadcast documentary features on trafficking. Government-owned television stations worked with local NGOs to broadcast antitrafficking messages and to publicize the regional NGO hot lines that counseled actual and potential victims. The government worked with NGOs to place posters on trafficking hazards on public buses, in passport offices, and in consular offices abroad. As a result, the IOM reported an increase in the number of calls to its antitrafficking hot lines that were specifically directed at victim assistance.

Persons with Disabilities.—Although the law prohibits discrimination against persons with disabilities in the workplace and in education, there is no law specifically prohibiting such discrimination in housing or in access to state services. There was some societal discrimination against persons with disabilities, and children with disabilities were generally segregated into separate schools. The government cared for persons with mental disabilities in special homes. The law does not mandate access to public places for persons with disabilities; however, there was some wheelchair access throughout the country. The law does not provide effective safeguards against arbitrary involuntary institutionalization. A special department and commission under the Ministry of Health was responsible for facilitating access for disabled citizens to health care and a special department under the Ministry of Labor and Social Protection was responsible for facilitating employment of disabled persons.

National/Racial/Ethnic Minorities.—The population was mainly Uzbek, with significant numbers of Russians, Tajiks, Tatars, and Kazakhs as well as ethnic Koreans, Meskhetian Turks, and Germans.

The law prohibits employment discrimination on the basis of ethnicity or national origin. However, Russians and other minorities frequently complained about limited job opportunities. Senior positions in the government bureaucracy and business generally were reserved for ethnic Uzbeks, although there were numerous exceptions.

The law does not require Uzbek language ability to obtain citizenship; however, language remained a sensitive issue. Uzbek is the state language, and the constitution requires that the president speak it. The law also provides that Russian is "the language of interethnic communication." Russian was spoken widely in the main cities, and Tajik was spoken widely in Samarkand and Bukhara.

Other Societal Abuses and Discrimination.—There was social stigma against HIV/AIDS patients. However, there were NGOs that assisted and protected the rights of persons with HIV/AIDS. In October the government, in cooperation with UN agencies and NGOs, launched a national HIV/AIDS prevention program aimed at increasing awareness of the disease and curbing its spread. President Karimov's daughter, Lola Karimova, was a prominent spokesperson for the campaign.

Homosexual activity is a crime punishable by up to three years' imprisonment. Some homosexuals reportedly left the country seeking a more tolerant environment.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers the right to form and join unions of their choice, although workers were unable to exercise this right in practice. The law declares unions independent of governmental administrative and economic bodies, except where provided for by other laws. In practice, unions remained centralized and dependent on the government. There were no independent unions.

The law prohibits discrimination against union members and officers; however, this prohibition was irrelevant due to unions' close relationship with the government.

b. The Right to Organize and Bargain Collectively.—Unions and their leaders were not free to conduct activities without interference from the government. The law provides the right to organize and to bargain collectively; in practice the government did not respect these rights. Unions were government-organized institutions that had little power, although they did have some influence on health and work safety issues.

The law states that unions may conclude agreements with enterprises, but because unions were heavily influenced by the state, collective bargaining in any meaningful sense did not occur. The Ministry of Labor and Social Protection and the Ministry of Finance, in consultation with the Council of the Federation of Trade Unions (CFTU), set wages for government employees. In the small private sector, management established wages or negotiated them individually with persons who contracted for employment.

The law neither provides for nor prohibits the right to strike. In late April approximately 500 workers at the Shorsuv metals plant in Ferghana Province staged a hunger strike to protest plant managers, whom workers accused of cheating them out of shares in the enterprise.

There were no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, except as legal punishment or as specified by law; however, there were reports that such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The government did not effectively implement laws and policies to protect children from exploitation in the workplace. The law establishes the minimum working age at 14 and provides that work must not interfere with the studies of those under 18. Children between the ages of 14 and 16 may work a maximum of 20 hours per week when school is not in session and 10 hours per week when school is in session. Children between the ages of 16 and 18 may work 30 hours per week while school is not is in session and 15 hours per week while school is in session. In rural areas younger children often helped to harvest cotton and other crops.

The large-scale compulsory mobilization of youth and students to help in the fall cotton harvest continued in most rural areas. Such labor was poorly paid. There were occasional reports from human rights activists that local officials in some areas pressured teachers into releasing students from class to help in the harvest and in many areas, schools closed for the harvest. In 2000 UNICEF estimated that 22 percent of children ages 5 to 14 worked at least part time, primarily in family organized cotton harvesting.

There were reports that girls were trafficked from the country for the purpose of sexual exploitation and that girls were engaged in forced prostitution (see section 5).

Enforcement of child labor laws is under the jurisdiction of the prosecutor general and the Ministry of Interior and its general criminal investigators. The law provides both criminal and administrative sanctions against violators, but authorities did not punish violations related to the cotton harvest and there were no reports of inspections resulting in prosecutions or administrative sanctions. Enforcement was limited due to insufficient resources.

e. Acceptable Conditions of Work.—The Ministry of Labor and Social Protection, in consultation with the CFTU, sets and enforces the minimum wage. At year's end the minimum wage was approximately $8.25 (9,400 soum) per month, which did not provide a decent standard of living for a worker and family.

The law establishes a standard workweek of 41 hours and requires a 24-hour rest period. Overtime pay exists in theory but was not usually paid in practice. Payment arrears of four to six months were common for workers in state-owned industries, including government office workers and officials.

The labor ministry established and enforced occupational health and safety standards in consultation with unions, but reports suggest that enforcement was not particularly effective. The press occasionally published complaints over the failure of unions and the government to promote worker safety. While regulations provide for safeguards, workers in hazardous jobs often lacked protective clothing and equipment. Workers legally may remove themselves from hazardous work without jeopardizing their employment, although few workers, if any, attempted to exercise this right, as it was not effectively enforced.